

THE NATIONAL ARCHIVES
LITTERA
SCRIPTA
MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 2 NUMBER 232

Washington, Wednesday, December 1, 1937

TREASURY DEPARTMENT.

Bureau of Internal Revenue.

[T. D. 4779]

REGULATION OF TRAFFIC IN CONTAINERS OF DISTILLED SPIRITS AMENDMENT OF REGULATIONS 13

To District Supervisors and Others Concerned:

Paragraph (1) of Article 5 of Regulations 13,¹ under the provisions of Joint Resolution approved June 18, 1934, entitled "Joint Resolution to Protect the Revenue by Regulation of the Traffic in Containers of Distilled Spirits", is amended to read as follows:

"ART. 5. *Imports and exports.*—(1) The importation into the United States of containers of one-half pint capacity or greater for use in packaging distilled spirits for sale at retail, except in connection with the importation of the liquor contained therein, is prohibited: *Provided*, That upon application by any importer the Supervisor of the district in which the port of entry is situated may in his discretion, by the issuance of an appropriate permit, authorize the importation of empty liquor bottles, or other containers, for packaging distilled spirits imported by him; and there shall be blown legibly either in the bottom or in the body of all empty bottles imported under this provision, the name, and the name of the city of address, of the importer thereof, and there shall be blown legibly in the shoulder of each such bottle the words 'Federal Law Forbids Sale or Reuse of This Bottle': *Provided further*, That upon application by any distiller, rectifier, or wholesale liquor dealer authorized to bottle distilled spirits, the Supervisor of the district in which the applicant is situated may in his discretion, by the issuance of an appropriate permit, authorize the importation, for the packaging of domestic distilled spirits, of empty liquor bottles which are ascertained by the Commissioner to be of distinctive shape or design, and in regard to which satisfactory evidence is submitted that they cannot be obtained in the United States. The District Supervisor issuing the permit will furnish a copy to the Supervisor of the district in which the port of entry is situated. There shall be blown legibly in the shoulder of each such bottle imported under this provision, the words 'Federal Law Forbids Sale or Reuse of This Bottle', and in the body thereof, the name, and the name of the city or country of address of the glass manufacturer. The permit symbol and number of the bottler shall be blown either in the body or in the bottom of each such bottle.

"(a) After the issuance of the permit authorizing the importation of liquor bottles for packaging imported or domestic distilled spirits, the importer, distiller, rectifier or wholesale liquor dealer shall forward a certified copy of the order to the Supervisor of the district in which the

applicant is situated. The certified copy of the order shall show the name, and the name of the city and country of address, of the glass manufacturer abroad, the date of the order, the place from which shipped, the name and address of the consignee, the method of forwarding, the size, quantity, and description of the bottles ordered, and the shipment or delivery date requested by the consignee. Upon receipt of any shipment or delivery of such liquor bottles, the importer, distiller, rectifier or wholesale liquor dealer placing the order shall forward to the Supervisor of the district in which the applicant is situated a notice of the receipt of shipment or delivery, showing the name, and the name of the city and country of address, of the glass manufacturer abroad, the date of the order, the place from which shipped, the date of receipt, the name and address of the consignee, the method of forwarding, and the size, quantity, and description of the bottles furnished."

[SEAL]

ROSSELL MAGILL,
Acting Secretary of the Treasury.

Approved, November 27, 1937.

[F. R. Doc. 37-3461; Filed, November 30, 1937; 12:33 p. m.]

DEPARTMENT OF THE INTERIOR.

Division of Grazing.

GRAZING DISTRICT NOTICE, NEVADA

NOVEMBER 24, 1937.

Pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), notice is hereby given that a hearing will be held in Austin, Nevada, at 10 a. m. on December 11, 1937, and on any subsequent date or dates to which the said hearing may be adjourned, by the Department of the Interior, for the purpose of considering the establishing of a grazing district to include the following:

NEVADA

Mount Diablo Meridian

Public lands in Esmeralda, Eureka, Lander, and Nye Counties exclusive of established grazing districts and national forests.

This hearing will be open to the attendance of State officials and settlers, residents, and livestock owners of the vicinity where the establishment of such grazing district is proposed.

The publication of this notice has the effect, in accordance with the provisions of the aforesaid act, of withdrawing the above-described lands from all forms of entry and settlement.

CHARLES WEST,
Acting Secretary of the Interior.

[F. R. Doc. 37-3458; Filed, November 30, 1937; 9:58 a. m.]

¹ 2 F. R. 1070 (DI).



Published by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the **FEDERAL REGISTER** will be furnished by mail to subscribers, free of postage, for \$1 per month or \$10 per year; single copies 5 cents; payable in advance. Remit by money order payable to Superintendent of Documents, Government Printing Office, Washington, D. C.

Correspondence concerning the publication of the **FEDERAL REGISTER** should be addressed to the Director, Division of the Federal Register, The National Archives, Washington, D. C.

TABLE OF CONTENTS

Department of Agriculture:	
Agricultural Adjustment Administration:	
Agricultural conservation program, 1937:	Page
Southern region, Bulletin 101, Amendment 16, correction.....	2984
Department of the Interior:	
Division of Grazing:	
Nevada, grazing district notice.....	2977
National Bituminous Coal Commission:	
Marketing rules and regulations incidental to sale and distribution of coals of code members, Districts Nos. 1-13, inclusive.....	2979
Order closing proceedings under Order directing District Boards in Minimum Price Areas Nos. 3-7, 9, and 10, to propose minimum prices, etc..	2978
Securities Exchange Commission:	
Securities Exchange Act of 1934, amendment of Rule CB4.....	2984
Treasury Department:	
Bureau of Internal Revenue:	
Traffic in containers of distilled spirits, regulations amended.....	2977

National Bituminous Coal Commission.

[Order No. 87]

AN ORDER CLOSING PROCEEDINGS UNDER ORDER NUMBER 42

The National Bituminous Coal Commission having by its Order Number 42¹ directed all District Boards within Minimum Price Areas Numbers Three, Four, Five, Six, Seven, Nine and Ten to propose minimum prices for all kinds, qualities, and sizes of coal produced by code members in said Districts, and directed said District Boards to coordinate such proposed minimum prices in conformity with Section 4, Part II (b) of the Bituminous Coal Act of 1937, and to propose such prices as coordinated to the Commission, and directed that a hearing be held for the purpose of receiving evidence to enable the Commission to establish and make effective minimum prices in accordance with the standards set forth in subsections (a) and (b), Part II, Section 4, of the Act; and it appearing that the aforesaid District Boards

have proposed minimum prices as directed, and coordinated same in common consuming marketing areas, and having submitted such coordinated prices to the Commission, and the Commission having determined that further proceedings under said Order Number 42 would serve no useful purpose.

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

1. That proceedings under Order Number 42 be and the same are hereby closed.

2. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, to the Secretaries of all District Boards within Minimum Price Areas Numbers Three, Four, Five, Six, Seven, Nine and Ten, and to all code members in each of said Minimum Price Areas.

By order of the Commission.

Dated this 29th day of November, 1937.

[SEAL]

F. WITCHER McCULLOUGH, *Secretary*.

[F. R. Doc. 37-3459; Filed, November 30, 1937; 11:43 a. m.]

[Order No. 88]

AN ORDER PRESCRIBING AND ESTABLISHING MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COALS OF CODE MEMBERS WITHIN DISTRICTS NUMBERS ONE TO THIRTEEN INCLUSIVE, PURSUANT TO SECTION 4, PART II, OF THE BITUMINOUS COAL ACT OF 1937

The National Bituminous Coal Commission having by its Orders Nos. 9 and 25¹ directed all District Boards to propose reasonable rules and regulations incidental to the sale and distribution of coal of code members produced within their respective districts, and to coordinate such marketing rules and regulations in the manner therein provided, and submit same to the Commission; and the said District Boards having proposed such rules and regulations, as directed, and the District Boards having coordinated the rules and regulations as proposed by them, with certain exceptions, which exceptions were submitted to the Commission, together with coordination agreements, and statements of the reasons therefor having been submitted to the Commission at a hearing; the Commission having given due consideration to the marketing rules and regulations as proposed and coordinated by the District Boards, as well as to the exceptions made thereto, and all other evidence and pertinent data submitted to it, and having conformed said marketing rules and regulations to the standards as set forth in Section 4, Part II of the Bituminous Coal Act of 1937.

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

1. That the Marketing Rules and Regulations, incidental to the sale and distribution of coals of Code Members within Districts Numbers 1 to 13 inclusive as set forth in the document so captioned, and filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, shall be and hereby are established and prescribed as the Marketing Rules and Regulations incidental to the sale and distribution of coals of Code Members in said Districts Numbers 1 to 13 inclusive, and said Marketing Rules and Regulations shall be and become effective at 12:01 A. M. on the 16th day of December, 1937.

2. That any Code Member or District Board or member thereof, or any State or political subdivision of a State, or the Consumers' Counsel who shall be dissatisfied with the Marketing Rules and Regulations may at any time after this date make complaint by petition to the Commission,

¹ 2 F. R. 2148 (DI).

² 2 F. R. 1312, 1521 (DI).

pursuant to Section 4, Part II, (d), and in conformity with the Commission's Rules of Practice and Procedure, and the Commission shall after notice and hearing make such further order as may be required to effectuate the purpose of subsection (b) of Part II of Section 4 of the Act. Pending final disposition of such petition and upon reasonable showing of necessity therefore, the Commission may at any time make such preliminary or temporary order as in its judgment may be appropriate, and not inconsistent with the provisions of the Act.

3. That the Secretary of the Commission shall forthwith mail copies of this order and the Marketing Rules and Regulations incidental to the sale and distribution of coals of Code Members of Districts 1 to 13, inclusive, to the Consumers' Counsel, the Secretaries of Bituminous Coal Producers Boards for Districts Numbers 1 to 13, inclusive, and to all Code Members within said Districts, shall cause copies of this order and said Marketing Rules and Regulations and copies of the Commission's Rules of Practice and Procedure to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all statistical bureaus of the Commission, and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 29th day of November, 1937.

[SEAL]

F. WITCHER McCULLOUGH, Secretary.

MARKETING RULES AND REGULATIONS, INCIDENTAL TO THE SALE AND DISTRIBUTION OF COALS OF CODE MEMBERS WITHIN DISTRICTS NUMBERS 1 TO 13, INCLUSIVE

Marketing Rules and Regulations, Incidental to the Sale and Distribution of Coals of Code Members within Districts Numbers 1 to 13, inclusive, as set forth herein have been prescribed and established by Order of the Commission, subject to such modification and revision as the Commission may establish by further Orders.

F. WITCHER McCULLOUGH, Secretary.

Dated, November 29, 1937.

SECTION I. DEFINITIONS

1. The term "person" as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, co-operatives, receivers and trustees in bankruptcy and in other legal proceedings, and any other recognized forms of business organizations.

2. A "Sales Agent" is a person who as agent, in law or in fact, sells coal for or on behalf of a code member.

3. A "commission" is the total of all compensations and allowances for services received by a sales agent from a code member for the sale of coal.

4. A "Wholesaler" is a person who purchases coal for resale and who resells such coal in lots of not less than a cargo or railroad carload, without physically handling such coal.

5. A "Farmers' Cooperative Organization" is a bona fide and legitimate cooperative organization duly organized under the laws of any State, Territory, the District of Columbia, or the United States, and composed of local farmers' cooperative organizations, and which purchases coal for resale and resells it in lots of not less than a cargo or railroad carload to its member farmers' organizations, without physically handling such coal.

6. A "wholesale discount" is the total of all allowances or reductions from minimum or other prices allowed to a wholesaler or farmers' cooperative organization by a code member or his sales agent.

7. "Retailing" is the selling of coal in lots of less than a cargo or railroad carload.

8. A "spot order" is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the date upon which the order was accepted.

9. A "contract" is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than that specified for a spot order.

10. A "commitment" is a contract or spot order after a quotation is accepted or an option is exercised and not reduced to writing.

11. A "quotation" is an offer for the sale of coal at a price which the offeror may withdraw prior to its being acted upon by the offeree.

12. An "option" is an offer for the sale of coal at a price to be accepted within a time certain, during which time the offeror may not withdraw the offer without consent of the offeree.

13. "Coal Commission" as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

14. "Act" as used herein, shall mean the Bituminous Coal Act of 1937.

15. "District Board" as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.

16. "Statistical Bureau" shall mean, unless otherwise specifically stated, the statistical bureau of the Commission for the district in which the coal involved in any transaction is produced, or the district in which is located a mine of a code member affected by any order or regulation.

17. "Minimum Price" shall mean a minimum price established and made effective by the Coal Commission.

18. "Maximum Price" shall mean a maximum price established and made effective by the Coal Commission.

19. "Registration and Register" as used herein, shall refer to registration with the Coal Commission pursuant to rules and regulations prescribed by the Commission for the administration of Section 4 of the Act.

SECTION II. SALES AGENTS

1. All appointments of sales agents by code members or their agents or authorized representatives, and the terms and conditions of such appointments shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.

2. Each code member shall be responsible for the compliance by all his sales agents and agents and employees of sales agents with the provisions of the Bituminous Coal Code and of all rules and regulations, promulgations and determinations of the Coal Commission.

3. All contracts for the appointment of sales agents by code members or by agents or authorized representatives of code members shall be in writing. Certified copies of all such agency contracts entered into and in effect prior to the effective date of these rules and regulations shall be filed by the code member with the statistical bureau or bureaus for the district in which the code member produces coal, on or before December 31, 1937.

Certified copies of all contracts appointing sales agents made subsequent to the effective date of these rules and regulations, shall be similarly filed by the code member within ten (10) days after the date upon which such contracts have been entered into.

4. As to all coal sold by a code member otherwise than through a sales agent or through sales representatives regularly employed as salesmen by the code member, such code member shall, not later than the tenth day of each calendar month, file with the statistical bureau, a list of all his sales representatives and all wholesalers through whom, directly or indirectly, any such coal was sold, with a statement (as to sales representatives) of the duration and character of their employment, the tonnage sold by each such sales representative and wholesaler, and the amount of compensation or discounts paid to and allowed by them.

Each code member shall file monthly similar information obtained from his sales agents with the statistical bureau, concerning sales of coal made by the sales agents' representatives other than salesmen regularly employed.

5. A list showing the names and addresses of sales agents and the code members for whom such agents act shall be published by the Coal Commission from time to time.

6. All agency contracts and other information filed by code members in conformity with the foregoing regulations, other

than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the code member from whom the same shall have been obtained, except where such disclosure is required in any proceeding before the Coal Commission by way of enforcement of the Act or upon the order of any court of competent jurisdiction.

7. On and after January 1, 1938, no code member shall pay any commission or make any allowance to any sales agent unless the contract of agency shall have been filed with the Coal Commission as hereinbefore required and unless the sales agent shall have agreed in writing with the code member to conform to and observe the minimum prices and Marketing Rules and Regulations established by the Coal Commission and shall have conformed to the Fair Trade Practice provisions of the Code, as well as to these Marketing Rules and Regulations and all other proper orders of the Coal Commission.

SECTION III. REGISTRATION OF WHOLESALERS

I. From and after the date hereinafter provided no code member or sales agent of a code member shall pay or allow any discount from minimum or other prices to any wholesaler as herein defined unless such wholesaler shall be registered with the Coal Commission at the time of the sale.

II. Wholesalers of coal desiring to qualify themselves so as to be entitled to receive from code members or their sales agents discounts from minimum prices established by the Coal Commission shall make application to be designated as Registered Wholesalers.

III. The form of application to be filed for approval as a Registered Wholesaler shall among other things set forth:

"(a) The name of the applicant.
 "(b) The address of his principal place of business together with the address of each branch office maintained.
 "(c) The form of organization of applicant's business, whether corporate, partnership, individual or any other form.

"(d) The names and addresses of all officers, directors, managers and other parties in interest, including in the case of a corporation, the names of all stockholders, bondholders and other persons having a substantial interest.

"(e) The total tonnage of bituminous coal handled by the applicant in the years 1934; 1935; 1936 and the first six (6) months of 1937, together with a schedule of tonnage handled in 1936 and in the first six (6) months of 1937 for each code member.

"Also a list showing the names and addresses of any person to whom the wholesaler sold more than ten percent of the coal of any code member handled by applicant in the year 1936.

"(f) A statement of the applicant's affiliation, if any, with any coal producer, whether or not a code member, or any transporter, processor, distributor or consumer of coal.

"(g) Each application must be accompanied by duplicate copies of the 'Terms of Registration' hereinafter set forth, each properly signed and acknowledged.

"A. On behalf of corporations, by a principal officer or officers of the corporation duly authorized to act.

"B. On behalf of a partnership, by one or more of the partners duly authorized for that purpose.

"C. On behalf of an individual, by the applicant or his attorney duly empowered for that purpose.

"D. In the case of any other form of business organization, by a person or persons legally authorized to execute an application on behalf of the applicant."

IV. Each such application shall be accompanied by the following agreement, executed in duplicate and properly signed and acknowledged on behalf of applicant.

"Terms of Registration"

"The undersigned wholesaler agrees upon being registered as a 'Registered Wholesaler' by the Coal Commission and

there becoming entitled to discounts authorized by the Coal Commission:

"(1) Not to sell, deliver, resell or offer for sale any coal at a price less than the minimum price nor greater than the maximum price established by the Coal Commission for such coal and in effect on the date of delivery.

"(2) To comply with the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 relating to unfair methods of competition.

"(3) To accept no discount on coal unless such coal is purchased for bona fide resale in conformity with these rules and regulations and the orders of the Coal Commission.

"(4) To abide by the Marketing Rules and Regulations from time to time established by the Coal Commission governing the sale and distribution of coal.

"(5) To furnish or cause to be furnished to the Coal Commission at any time upon its direction, a copy of every resale contract or order; a copy of each invoice to wholesaler's vendee, together with copies of each credit memorandum and such other information concerning the sale and distribution of coal as the Coal Commission may require.

"(6) To include in every spot order and contract made or entered into by the Registered Wholesaler, the following provision:

"This contract (or order) is made and accepted subject to the Marketing Rules and Regulations established by the National Bituminous Coal Commission and now in effect, and particularly to the terms of registration of wholesalers as set forth herein."

V. After receipt of any such application, the Coal Commission upon a determination that the applicant is a bona fide wholesaler agreeing to conform to its Marketing Rules and Regulations, shall register such person as a Registered Wholesaler and shall issue to the applicant a certificate of registration accordingly. The Coal Commission shall promptly notify each District Board of such registration and shall publish from time to time for the information of code members, a list of Registered Wholesalers, which list shall be amended from time to time as the Coal Commission may direct, to show additions, withdrawals or removals.

VI. At any time upon complaint or upon its own motion, the Coal Commission, may investigate and determine whether a Registered Wholesaler has violated the rules and regulations prescribed by the Coal Commission governing the resale of coal by such Registered Wholesaler.

The registration of any such wholesaler, may be suspended by the Coal Commission after hearing, held upon twenty (20) days written notice by mail to the wholesaler, and upon proof of failure or refusal to comply with any duty or requirement imposed upon the wholesaler by reason of his registration with the Coal Commission, the registration of the offending wholesaler may be suspended for such period of time as the Coal Commission in its discretion may deem proper. Each District Board and all code members in the districts in which the Registered Wholesaler has been purchasing coal for resale shall be duly notified by the Coal Commission of any suspension, including the effective date and the period thereof.

SECTION IV. FARMERS' COOPERATIVE ORGANIZATIONS

I. Farmers' Cooperative Organizations as hereinbefore defined shall, in order to obtain the privileges granted by the second paragraph of Number 13, subsection (1) of Part II—Marketing—of Section 4 of the Act, be registered with the Coal Commission as herein required and no code member or his sales agent shall pay or allow any discount from minimum prices to any farmers' cooperative organization on or after the first day of February 1938, unless such farmers' cooperative organization shall be so registered at the time of the sale.

II. Each such farmers' cooperative organization desiring to obtain such privileges and discounts shall make application to the Coal Commission for registration as bona fide and

legitimate farmers' cooperative organization. Such application shall among other things set forth:

"(1) The name and Post Office address of the applicant, date of organization and the names and addresses of the officers and directors, if any.

"(2) The names of the local farmers' cooperatives which are members of applicant organization.

"(3) The form of organization of applicant's business, with a reference to the law or laws under which such organization was formed.

"(4) A statement of the purpose for which such organization is formed, as set forth in its Charter or Articles of Association.

"(5) A statement of the qualifications for membership in such organization, as set forth in its Charter or Articles of Association, together with a specific statement as to whether membership is actually limited to bona fide local farmers' cooperatives.

"(6) A statement of the terms and conditions under which such organization grants rebates, discounts, patronage dividends or other similar benefits to its members and the amount of rate thereof.

"(7) A statement setting forth the territories in which applicant operates or proposes to operate.

"(8) A statement showing the tonnages of bituminous coal purchased and resold by applicant in the calendar years 1934; 1935; 1936 and the first six (6) months of 1937."

III. Each such application shall have attached thereto duplicate copies of the following agreement, duly authorized, executed and acknowledged on behalf of applicant:

"The undersigned Farmers' Cooperative Organization agrees, upon being registered as a Farmers' Cooperative Organization by the Coal Commission and thereby becoming entitled to discounts authorized by the Commission:

"(1) Not to sell, deliver, resell or offer for sale any coal at a price less than the minimum price nor greater than the maximum price established by the Coal Commission for such coal and in effect on the date of delivery.

"(2) To comply with the provisions of Section 4, Part II (i) of the Bituminous Coal Act of 1937 relating to Unfair Methods of Competition.

"(3) To accept no discount on coal from a code member unless such coal is purchased for bona fide resale in conformity with the rules and regulations and orders of the Coal Commission.

"(4) To abide by the Marketing Rules and Regulations from time to time established by the Coal Commission governing the sale and distribution of coal.

"(5) To furnish or cause to be furnished to the Coal Commission at any time upon its direction, such information as to sales of coal made by applicant as the Coal Commission may require."

IV. After receipt of any such application the Coal Commission, upon a determination that the applicant is a bona fide and legitimate farmers' cooperative organization as defined in said Act and in these regulations, shall register such applicant as a Registered Farmers' Cooperative Organization and shall issue to the applicant a certificate of Registration accordingly. The Commission shall promptly notify each District Board of such registration and shall publish from time to time for the information of code members, a list of Registered Farmers' Cooperative Organizations, which list shall be amended from time to time as the Coal Commission may direct in order to show additions, withdrawals or removals.

V. At any time upon complaint or upon its own motion, the Coal Commission may investigate and determine whether a Registered Farmers' Cooperative Organization has violated the rules and regulations prescribed by the Coal Commission governing the resale of coal by such Registered Farmers' Cooperative Organization.

The registration of any such Registered Farmers' Cooperative Organization may be revoked by the Coal Commission

after hearing, held upon twenty (20) days written notice by mail, upon proof that such Registered Farmers' Cooperative Organization no longer complies with the requirements of the Act and of the Coal Commission, and in case of failure or refusal to comply with any duty or requirement imposed upon the Registered Farmers' Cooperative Organization by reason of its Registration with the Coal Commission having been established, the Coal Commission may suspend the Registration for such period of time as the Coal Commission in its discretion may deem proper. Each District Board and all code members in which the Registered Farmers' Cooperative Organization has been purchasing coal for resale shall be notified by the Coal Commission of any revocation or suspension, including the effective date and the period of any suspension.

SECTION V. DISCOUNTS AND ALLOWANCES

Section 4, Part II, subsection (i) of the Act provides:

"(i) The following practices with respect to coal shall be unfair methods of competition and shall constitute violations of the code:

"1. The consignment of unordered coal, or the forwarding of coal which has not actually been sold, consigned to the producer or his agent: Provided, however, That coal which has not actually been sold may be forwarded, consigned to the producer or his agent at rail or track yards, tidewater ports, river ports, or lake ports, or docks beyond such ports, when for application to any of the following classes: Bunker coal, coal applicable against existing contracts, coal for storage (other than in railroad cars) by the producer or his agent in rail or track yards or on docks, wharves, or other yards for resale by the producer or his agent.

"2. The adjustment of claims with purchasers of coal in such manner as to grant secret allowances, secret rebates, or secret concessions, or other price discrimination.

"3. The prepayment of freight charges with intent to or having the effect of granting a discriminatory credit allowance.

"4. The granting in any form of adjustments, allowances, discounts, credits, or refunds to purchasers or sellers of coal, for the purposes or with the effect of altering retroactively a price previously agreed upon, in such manner as to create price discrimination.

"5. The predating or postdating of any invoice or contract for the purchase or sale of coal, except to conform to a bona fide agreement for the purchase or sale entered into on the predate.

"6. The payment or allowance in any form or by any device of rebates, refunds, credits, or unearned discounts, or the extension to certain purchasers of services or privileges not extended to all purchasers under like terms and conditions, or under similar circumstances.

"7. The attempt to purchase business, or to obtain information concerning a competitor's business by concession, gifts, or bribes.

"8. The intentional misrepresentation of any analysis or of analyses, or of sizes, or the intentional making, causing, or permitting to be made, or publishing, of any false, untrue, misleading, or deceptive statement by way of advertising, invoicing, or otherwise concerning the size, quality, character, nature, preparation, or origin of any coal bought, sold, or consigned.

"9. The unauthorized use, whether in written or oral form, of trade-marks, trade names, slogans, or advertising matter already adopted by a competitor, or any deceptive approximation thereof.

"10. Inducing or attempting to induce, by any means or device whatsoever, a breach of contract between a competitor and his customer during the term of such contract.

"11. Splitting or dividing commissions, brokers' fees, or brokerage discounts, or otherwise in any manner directly or indirectly using brokerage commissions or jobbers' arrangements or sales agencies for making discounts, allow-

ances, or rebates, or prices other than those determined under this Act, to any industrial consumer or to any retailers, or to others, whether of a like or different class.

"12. Selling to, or through, any broker, jobber, commission account, or sales agency, which is in fact or in effect an agency or an instrumentality of a retailer or an industrial consumer or of any organization of retailers or industrial consumers, whereby they or any of them secure either directly or indirectly a discount, dividend, allowance, or rebates, or a price other than that determined in the manner prescribed by this Act.

"13. Employing any person or appointing any sales agent, at a compensation obviously disproportionate to the ordinary value of the service or services rendered, and whose employment or appointment is made with the primary intention and purpose of securing preferment with a purchaser or purchasers of coal."

1. Effective January 1, 1938, no code member or sales agent of a code member shall allow or pay, directly or indirectly, any compensation for the selling of coal, whether by way of commission or allowance, to any sales agent whose contract of agency shall not have been filed with the Coal Commission.

2. Effective January 1, 1938, no code member or sales agent of a code member shall pay or allow any discount to any wholesaler or farmers' cooperative organization who shall not have filed an application for registration with the Coal Commission in the manner provided in Sections III and IV of these Marketing Rules and Regulations.

3. Effective February 1, 1938, no code member or sales agent of a code member shall pay or allow any discount to any wholesaler or farmers' cooperative organization which shall not be registered with the Coal Commission in the manner provided in Sections III and IV of these Marketing Rules and Regulations.

4. No commission shall be paid or discount allowed by a code member on any coal sold for locomotive fuel purposes.

5. No discount from minimum or other prices shall be paid or allowed on coal sold to any person for retailing by him.

6. Subject to further order of the Coal Commission, the amount of commission to be paid by the code member to his sales agent and the amount of the discount to be allowed to a Registered Wholesaler or Registered Farmers' Cooperative Organization by a code member or his sales agent shall be fixed by agreement of the parties subject, however, to review as to the reasonableness of such commission or discount by the Coal Commission upon complaint or upon its own motion. In every case reviewed by the Coal Commission, the code member, sales agent or Registered Wholesaler or Registered Farmers' Cooperative Organization shall have the burden of establishing that the commission paid or discount allowed was a reasonable charge commensurate with the service actually rendered and did not exceed the fair cost of the service plus a reasonable profit on the transaction involved, and that the commission or discount so allowed was in conformity with the provisions of the Bituminous Coal Code and the Marketing Rules and Regulations of the Coal Commission.

7. No commission shall be paid to a sales agent or discount allowed to a wholesaler by a code member, where the coal is delivered or resold to any person who controls in whole or in part the sales agent or wholesaler.

SECTION VI. LIMITATIONS OF ORDERS, AGREEMENTS, AND QUOTATIONS

1. Until further order of the Coal Commission no code member or sales agent of a code member and no wholesaler or farmers' cooperative organization, registered or proposing to register shall enter into any agreement or order for the sale or delivery of coal for a period in excess of thirty (30) days from the date of such agreement or order, and no prices shall be less than the minimum prices in effect at the time of delivery; Provided, however, that contracts for periods not exceeding one (1) year at prices not less than the minimum prices established by the Coal Commission, in effect at

the time of delivery, may be made with agencies of the Federal Government or with such agencies of State or local governments as are required by law to purchase coal for periods in excess of thirty (30) days. In the case of governmental agencies options may be given for a period not exceeding forty-five (45) days. No option for the sale of coal may be given, except as herein specifically provided.

2. All quotations shall be made or confirmed in writing, and shall, without notice, become null and void immediately upon the establishment by the Coal Commission of a revised minimum price for the coal covered by the quotation.

SECTION VII. SPOT ORDERS

1. Spot orders shall be acknowledged or accepted in writing within three (3) business days from the date of their receipt.

2. Every acceptance of a spot order shall contain the following clauses:

(a) "If the price herein named is f. o. b. any point other than the originating mine, such price shall be increased or decreased by the amount and at the time of any change in the published freight rate included in such price and becoming effective during the period of the order.

(b) "No shipment consigned to any destination point may be reconsignment en route or otherwise without the consent of the seller. In case of any reconsignment the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered.

(c) "The coal shipped pursuant to this order is sold and purchased upon the condition that it shall be used in the plant or plants and at the destination named herein and for the use stated herein and is not to be sold or diverted by the buyer to other destinations or uses without the consent of the seller. In case of diversion the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery at such other destinations and for the use to which actually applied.

(d) "If shipments called for by this order are not completed within thirty (30) days from the date of this order, the unfilled portion of the order shall be cancelled and no delivery of such tonnage shall be made."

3. In any case where a sale is made by a sales agent of a code member or by a Registered Wholesaler or Registered Farmers' Cooperative Organization, such sales agent or Registered Wholesaler or Registered Farmers' Cooperative Organization shall not exercise the rights of the seller as defined in items 2 (b) and 2 (c) of this section without first securing the consent in writing of the code member producing such coal.

4. All terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the acceptance. Any modification must be made in writing and filed in the same manner as an order.

SECTION VIII. USE OF COAL ANALYSES

1. No analysis of coal shall be utilized by a code member, sales agent, sales representative or wholesaler, or farmers' cooperative organization making a resale, in selling or offering for sale any coal produced by the code member, unless such code member shall have previously filed with the Statistical Bureau of the Coal Commission and the District Board for the district in which the coal is produced, copies of such analysis, together with a certificate setting forth the time and manner of obtaining the sample analyzed, the name and address of the person or firm making the analysis and stating that such analysis is truly representative of the grade and size of coal as regularly produced by the code member. Each such analysis shall be not less than a proximate analysis showing ash, volatile matter, fixed carbon, sulphur and British Thermal Units and ash softening temperature. Each analysis shall further show whether made on an "as received" or "moisture free" basis and if on

an "as received" basis, the analysis shall include moisture content.

2. All analyses so filed shall be subject to inspection at the office of the Statistical Bureau at any time during office hours by any interested person, and may be used by the District Board and the Coal Commission in determining from time to time proper classifications of the coals produced by the code member.

3. Any analysis of the coal of a code member made by or on behalf of a consumer and accepted by the code member as the basis for an adjustment of price under any contract or order shall be filed by the code member with the proper Statistical Bureau and District Board, within ten (10) days after such adjustment is made and shall be subject to the provisions of Rule No. 2 herein.

4. No agreement or order for the sale of coal produced by a code member, made upon a premium and penalty basis, shall be entered into or accepted by a code member or wholesaler unless the analysis upon which the premium and penalty clause is based has been previously filed as required in Rule No. 1. Such analysis shall be accompanied by a statement setting forth in full the terms of the premium and penalty provisions of the proposed contract or order.

5. In the case of premium and penalty agreements entered into prior to the effective date of these regulations, and claimed to be continuing in effect, the code member, sales agent or wholesaler, party to the agreement, shall file a statement containing the information required under Rule No. 4, within fifteen (15) days from such effective date.

SECTION IX. TERMS OF PAYMENT

The price and fair trade practice provisions of the Act shall not be evaded or violated by a code member, his sales agent or any Registered Wholesaler or Registered Farmers' Cooperative Organization through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

1. On rail, river, or ex-river shipments the date of payment of invoices for coal sold shall be on or before the 20th day of the month following shipment.

2. On tidewater cargo shipments the date of payment shall be not more than thirty (30) days from date of vessel bill of lading and where coal is sold f. o. b. mines for tidewater cargo shipment, on or before the 20th day of the month following the month in which the coal is dumped.

3. Payment for all bunker coal supplied for foreign vessels shall be by cash on delivery or by master's draft on owners in United States currency at not exceeding fifteen (15) days sight at supplier's option. When the drafts are accepted by suppliers, all bank charges for collection, exchange, etc., shall be for owner's account; for American vessels, on or before the 20th day of the month following delivery.

4. On railroad locomotive fuel, the date of payment shall be on or before the 25th of the month following the date of shipment.

5. Payment shall be made in full and on a net cash basis. No portion of the invoice price may be withheld by agreement by reason of any unadjusted claim of the buyer nor shall any portion be withheld or deposited in escrow by reason of any alleged agreement relating to the constitutionality of any provision of the Act or the validity of any order of the Coal Commission.

6. Where payment is made by note, trade acceptance or other form of indebtedness, the seller shall charge and the buyer shall pay interest at the current market rate.

7. Freight on all-rail or ex-river shipments shall not be paid by a code member, his sales agent, or a Registered Wholesaler or Registered Farmers' Cooperative Organization, except to prepaid stations as published in current railway tariffs or to the United States Government, States, or political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

SECTION X. CRUSHING AND PULVERIZING COAL

1. Each code member who maintains and operates at his mine or at any facility used in preparing coals for market, any crushing or pulverizing device, shall register such device with the Statistical Bureau of the Coal Commission, on or before the Twentieth (20th) day of January 1938, on forms submitted by the Coal Commission.

2. Such forms shall include the following:

"1. Name and address of code member.

"2. Name of mine or facility at which device is located.

"3. Name and style or type of crushing or pulverizing device.

"4. Hourly capacity of device.

"5. Sizes of coal which device can crush or pulverize.

"6. Sizes of coal resulting from crushing or pulverizing.

"7. Number of tons crushed in 1936 and in each month of 1937.

"8. Cost per ton of crushing or pulverizing in 1936."

3. Beginning with the month of January 1938, each code member shall on or before the tenth (10th) day of each succeeding month, file with the Statistical Bureau on forms to be provided by the Coal Commission, a statement verified by affidavit, setting forth the following information for the preceding calendar month:

(a) Number of tons of each size crushed or pulverized.

(b) Number of tons of each size resulting from crushing or pulverizing.

4. No code member shall sell any coal crushed or pulverized at a price less than the minimum price established for the grade and size of coal before the crushing or pulverizing process plus five cents (5¢) per net ton.

SECTION XI. MISCELLANEOUS

1. No deduction or allowance shall be granted from invoice prices by any code member or sales agent, wholesaler or farmers' cooperative organization to any purchaser for advertising.

2. The price and fair trade practice provisions of the Act shall not be evaded by any payment or allowance by a code member to any purchaser or purchaser's representative covering advertising and the amount of expenditures for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

3. Where coal is refused by a consignee in transit or at destination the code member may, and in the case where the coal was sold by a sales agent or registered wholesaler or registered farmers' cooperative organization of the code member, such sales agent or registered wholesaler or registered farmers' cooperative organization, with the approval of the code member, may sell the same at the best obtainable price, provided that in each case the code member shall file with the statistical bureau of the Coal Commission, within five (5) days from the date of such resale, a statement giving the name and address of the consignee and the reasons for the refusal, the name and address of the purchaser upon resale and the price received by the seller upon resale, a copy of the carrier's notice of refusal or notice of reconsignment and such other pertinent facts as may be offered in proof of the necessity of such resale and that in making such resale, the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

4. All code members and all Registered Wholesalers and Registered Farmers' Cooperative Organizations shall promptly furnish to the statistical bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments and shall authorize the carrier making such reconsignments to furnish complete information thereon to such statistical bureau.

5. Where any allowance is requested by a buyer of coal on any shipment claimed to be substandard in preparation or quality, the code member or the sales agent or registered wholesaler or registered farmers' cooperative organization,

with the prior approval of the code member, may on or before the maturity date of the invoice, make settlement and agree with the buyer upon an amount reasonably to be deducted for such inferior coal and accept payment therefor at less than the minimum prices; provided, however, that in each such case the code member shall within five (5) days after granting such allowance file with the statistical bureau of the Coal Commission in the District in which the coal originates:

(a) A statement giving the name of the consignee and the reason for the request for the allowance.

(b) A formal claim duly executed by or on behalf of the buyer and verified by affidavit setting forth the amount claimed by way of deduction and the reasons for the complaint.

(c) The amount of allowance or adjustment made.

(d) A statement that the adjustment has not been made with the purpose or intent of evading the price provisions of the Act. All such adjustments and allowances shall be subject to review by the Coal Commission.

6. The screening of mine run or re-screening of other grades of coal sold and billed as such for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited. All coal must be sold and invoiced under the designation shown therefor in the price schedule published by the Coal Commission.

7. All coal confiscated or lost in transit shall be invoiced to the carrier at the market value of the coal but in no event at less than the minimum price therefor, established by the Coal Commission.

8. Failure to file information required by the within Marketing Rules and Regulations or the filing of false information, wilfully made, will subject the party failing to file the information required or the party so filing, to the penalties of the Act and other penalties imposed by law.

9. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

[F. R. Doc. 37-3460; Filed, November 30, 1937; 11:43 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

1937 AGRICULTURAL CONSERVATION PROGRAM, SOUTHERN REGION, AMENDMENT 16

Correction

The county and rate of payment per acre under "Texas" on Page 2932 of the issue for Saturday, November 20, 1937 (F. R. Doc. 37-3376; Filed, November 19, 1937; 12:39 p. m.), should read "Erath, \$5.85" instead of "Erath, \$5.25", and "Zapata, \$6.80; Zavala, \$6.55" instead of "Zepata, \$6.80; Zevala, \$6.55".

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES EXCHANGE ACT OF 1934

AMENDMENT OF RULE CB4

The Securities and Exchange Commission deeming it necessary for the execution of the functions vested in it, and necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, hereby amends Rule CB4¹ by adding to paragraph (b) thereof the following sentence:

"Current supplements filed to report the termination of listed or unlisted trading privileges in any security admitted to dealing on the exchange shall include a brief statement of the reasons for such termination."

The foregoing amendment shall be effective on December 10, 1937.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-3462; Filed, November 30, 1937; 12:46 p. m.]

¹ 2 F. R. 1622 (DI).