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DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 56]

AN ORDER REQUIRING EACH DISTRICT BOARD WITHIN MINIMUM PRICE AREAS NUMBERS THREE, FOUR, FIVE, SIX, SEVEN, NINE AND TEN TO DETERMINE FROM COST DATA SUBMITTED BY THE PROPER STATISTICAL BUREAU OF THE COMMISSION THE WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE ASCERTAINABLE TONNAGE PRODUCED IN THEIR RESPECTIVE DISTRICTS IN THE CALENDAR YEAR 1936, AND TO ADJUST SUCH WEIGHTED AVERAGE COSTS SO DETERMINED AS MAY BE NECESSARY TO GIVE EFFECT TO CHANGES WHICH MAY HAVE BEEN ESTABLISHED SINCE JANUARY 1, 1936, AND RESTRICTING PUBLICATION OF INFORMATION RELATIVE THERETO

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

1. That each District Board within Minimum Price Areas Numbers Three, Four, Five, Six, Seven, Nine and Ten shall, as soon as possible, determine the weighted average of the total costs of the ascertainable tonnage produced in its district in the calendar year 1936, using as the basis for such determination cost data hereinafter made available to it. Each District Board shall adjust the average costs so determined, as may be necessary to give effect to any changes in wage rates, hours of employment, or other factors substantially affecting costs, exclusive of seasonal changes, so as to reflect as accurately as possible any change or changes which may have been established since January 1, 1936.

2. That the Secretary of the Commission shall immediately transmit to each District Board the proper statistical bureau's compilation of the cost data furnished, pursuant to Order No. 15¹ of the Commission, by the producers whose mines are located within the district.

3. That the compilations of cost data submitted by the proper statistical bureaus of the Commission to the respective District Boards and the data of the District Boards upon which adjustments of the average costs are to be made, shall be deemed confidential and shall not be made public.

4. That on or before October 27th, 1937, each District Board shall submit to the Commission such determinations and all computations upon which they are based in order that the Commission, after review, may proceed to a determination of the weighted averages of the total costs of the tonnages of Minimum Price Areas Numbers Three, Four, Five, Six, Seven, Nine and Ten.

¹ 2 F. R. 1477 (DI).

The Secretary of the Commission shall forthwith mail a copy of this order to the Secretaries of the respective District Boards within Minimum Price Areas Numbers Three, Four, Five, Six, Seven, Nine and Ten.

By order of the Commission.

Dated this 13th day of October, 1937.

[SEAL]

F. WITCHER McCULLOUGH, *Secretary.*

[F. R. Doc. 37-3037; Filed, October 15, 1937; 11:56 a. m.]

[Order No. 57]

AN ORDER PROVIDING FOR A PUBLIC HEARING TO RECEIVE EVIDENCE ON THE PROPOSED CLASSIFICATIONS OF COALS OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NUMBER 10, AND TO RECEIVE EVIDENCE FROM PROTESTANTS AND OTHER INTERESTED PARTIES CONCERNING THE PROPOSED CLASSIFICATION OF COALS IN SAID DISTRICT

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 directed, pursuant to Orders No. 38 and No. 43,¹ that all District Boards propose initial classifications of coals of all code members within their respective districts, classified in conformity with the standards, methods of applying such standards and rules of procedure established by the Commission, and provided that a hearing should be held for the purpose of receiving evidence to enable the Commission to establish the initial classifications of coals of all code members within the several districts.

At the hearing held pursuant to Orders No. 38 and No. 43, protests were made in the matter of the proposed initial classification of Bituminous Coal Producers Board for District Number 10. The Commission, therefore, orders and directs:

That a hearing be held in the City of Washington, D. C., commencing at 9 o'clock A. M., on the 15th day of October, 1937, at the Hearing Room of the Commission in the Walker Building, before a Board of Examiners designated by the Commission, for the purpose of receiving evidence from all interested parties to enable the Commission to establish the initial classification of coals of all code members within District Number 10, and that said hearing shall continue and be open for the purpose of receiving evidence on the subject from all interested parties until October 22nd, 1937.

The Secretary of the Commission shall forthwith give notice of the time, place, and purpose of the hearing to be held under this order by publishing a copy of this order for two days in a newspaper of general circulation in District Number 10, and by mailing a copy of this order to the Sec-

¹ 2 F. R. 1688, 2149 (DI).



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retary of District Board Number 10, to the Consumers' Counsel, and to all code members within District Number 10.

By order of the Commission.

Dated this 14th day of October, 1937.

[SEAL]

F. WITCHER McCULLOUGH, *Secretary*.

[F. R. Doc. 37-3038; Filed, October 15, 1937; 11:57 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

ORDER INCREASING THE ALLOWANCES, DEDUCTIONS, AND RATES OF PAYMENT UNDER THE 1937 AGRICULTURAL CONSERVATION PROGRAM IN THE EAST CENTRAL, NORTHEAST, NORTH CENTRAL, SOUTHERN, AND WESTERN REGIONS

Whereas, under the 1937 Agricultural Conservation Program the existing rates of payments, deductions, and allowances in the East Central, Northeast, North Central, Southern, and Western Regions were based upon an estimate of available funds and an estimate of 85 percent participation by farmers, and are subject to increase or decrease by not more than 10 percent, depending upon the extent of participation;

Whereas, farmers participating in said program have largely completed the farming practices in connection with which payments may be made thereunder; and

Whereas, judging from the facts shown by the applications for payment which have been submitted in connection with said program and the facts which it is believed will be shown by applications for payment estimated to be submitted hereafter in said program, it reasonably appears that participation by farmers will be less than 85 percent to such extent, and the payments to such participants based upon existing rates, deductions, and allowances will in the aggregate be such an amount, that taking into consideration the available funds the existing rates of payments, deductions, and allowances under said program in the East Central, Northeast, North Central, Southern and Western Regions may be increased by as much as 10 percent:

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, as amended, do hereby order that said existing rates of payments, deductions, and allowances be, and the same hereby are, increased 10 percent.

Done at Washington, D. C., this 14th day of October 1937. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-3047; Filed, October 15, 1937; 12: 49 p. m.]

DETERMINATION OF THE SECRETARY WITH RESPECT TO A PROPOSED ORDER REGULATING THE HANDLING OF POTATOES GROWN IN CERTAIN COUNTIES IN THE STATES OF COLORADO, NEBRASKA, AND WYOMING

Whereas, the Secretary of Agriculture, pursuant to the provisions of Public No. 10, 73rd Congress, as amended, and as reenacted and further amended by the Agricultural Marketing Agreement Act of 1937, having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of potatoes grown in the counties of Alamosa, Conejos, Costilla, Delta, Eagle, Garfield, Larimer, Montrose, Morgan, Pitkin, Rio Grande, Saguache, and Weld in the State of Colorado; the counties of Sioux, Morrill, Banner, Dawes, Box Butte, Kimball, Sheridan, Cheyenne, and Scotts Bluff in the State of Nebraska, and the counties of Goshen, Niobrara, Parke, and Laramie in the State of Wyoming, would tend to effectuate the declared policy of said acts, gave, on the 14th day of August, 1937, notice of hearings¹

¹ 2 F. R. 1682 (DI).

which were held in the Senate Chamber, State Capitol, Denver, Colorado, on the 24th day of August, 1937, and in the Oddfellows Hall Auditorium, Scotts Bluff, Nebraska, on the 25th day of August, 1937, on a proposed marketing agreement and a proposed order regulating the handling of potatoes grown in the above-mentioned areas, at which times and places all interested parties were afforded an opportunity to be heard on a proposed marketing agreement and proposed order; and

Whereas, after such hearings and after the tentative approval by the Secretary of Agriculture of a marketing agreement on the 3rd day of September, 1937, handlers of more than fifty per centum of the volume of potatoes covered by such proposed order, which are produced or marketed within the aforementioned areas, refused or failed to sign such marketing agreement relating to potatoes;

Now, therefore, the Secretary of Agriculture, by virtue of the authority vested in him by Public No. 10, 73rd Congress, as amended, hereby determines:

1. That the refusal or failure of the said handlers to sign the said marketing agreement tends to prevent the effectuation of the declared policy of the above-mentioned acts with respect to potatoes grown in the aforementioned areas; and

2. That the issuance of the proposed order is the only practical means, pursuant to such policy, of advancing the interests of producers of potatoes in said areas; and

3. That the issuance of the proposed order is approved or favored by over two-thirds of the producers who, during the marketing season 1936, said season being here and now determined by the Secretary to be a representative period, have been engaged in the aforementioned areas in the production for market of potatoes.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture, have executed this determination and have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the City of Washington, District of Columbia, this 11th day of October, 1937.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
President of the United States.

Dated, October 12, 1937.

[F. R. Doc. 37-3051; Filed, October 15, 1937; 12:54 p. m.]

ORDER OF THE SECRETARY OF AGRICULTURE REGULATING THE HANDLING IN INTERSTATE AND FOREIGN COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS OR AFFECTS INTERSTATE OR FOREIGN COMMERCE, OF POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN THE STATES OF COLORADO, NEBRASKA AND WYOMING

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

Whereas, the Secretary, having reason to believe that the issuance of an order would tend to effectuate the declared policy of the act with respect to the establishment and maintenance of such orderly marketing conditions in interstate and foreign commerce for potatoes grown in the Counties of Alamosa, Conejos, Costilla, Delta, Eagle, Garfield, Larimer, Montrose, Morgan, Pitkin, Rio Grande, Saguache and Weld in the State of Colorado; Sioux, Morrill, Banner, Dawes, Box Butte, Kimball, Sheridan, Cheyenne and Scotts Bluff in the State of Nebraska; and Goshen, Niobrara, Parke

and Laramie in the State of Wyoming (hereinafter referred to as the "area"), as would establish prices to the producers of such potatoes at a level that would give such potatoes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such potatoes during the base period August 1919-July 1929, conducted public hearings at Denver, Colorado, on August 24, 1937, and at Scotts Bluff, Nebraska, on August 25, 1937, pursuant to due notice given to all interested parties on August 14, 1937,¹ on a proposed order regulating such handling of such potatoes as is in the current of interstate and foreign commerce, or which directly burdens, obstructs or affects such commerce in the said potatoes, at which hearings all interested persons in attendance were afforded due opportunity to be heard concerning the proposed order; and

Whereas, the Secretary finds upon the basis of the evidence introduced at the hearings and the record thereof:

(1) That at the time of the hearings the prices received by the producers of such potatoes were at a level that gave such potatoes a purchasing power with respect to articles that such producers buy appreciably below the purchasing power of such potatoes during the base period;

(2) That the regulation of shipments by grades and sizes of the potatoes covered by this order, as prescribed herein, will serve to prevent marked fluctuations in prices to the producers thereof, and will establish and maintain a more stabilized market for such potatoes, tending to establish prices to such producers at a level that will give such potatoes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such potatoes during the base period;

(3) That this order is limited in its application to the smallest regional production area and to the smallest regional marketing area that is practicable, consistently with carrying out the declared policy of the act, and that the issuance of several orders applicable to any subdivision of such regional production and marketing areas would not effectively carry out the declared policy of the act;

(4) That the pro rata contribution of handlers to the expenses of the administrative agency herein created, based upon the quantity of potatoes shipped, as provided in this order, is fair and equitable; and

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

Whereas, the Secretary finds that after the said hearings and after the tentative approval by the Secretary, on September 3, 1937, of a marketing agreement which regulates the handling of such potatoes in the same manner as this order, upon which hearings were held on August 24 and August 25, 1937, handlers (excluding cooperative associations of producers who are engaged in processing, distributing or shipping the potatoes covered by this order) who handled more than fifty (50) percent of the volume of the potatoes covered by this order, and marketed during the 1936 season in the current of interstate or foreign commerce, refused or failed to sign the said marketing agreement with the Secretary; and

Whereas, the Secretary determined on the 11th day of October 1937, said determination being approved by the Presi-

¹ 2 F. R. 1682 (DI).

dent of the United States on the 12th day of October 1937, that such refusal or failure to sign the tentatively approved marketing agreement tends to prevent the effectuation of the aforesaid declared policy of the act, and that the issuance of this order is the only practical means, pursuant to such policy, of advancing the interests of producers of potatoes in the said area and is approved or favored by over two-thirds of the producers who, during the 1936 marketing season, said season being herewith determined by the Secretary to be a representative period, have been engaged in the said area in the production for market of potatoes; and

Whereas, the Secretary finds that this order regulates the handling of such potatoes in the same manner as the aforesaid tentatively approved marketing agreement, and that it is made applicable only to persons in the respective classes of industrial and commercial activity specified in the said tentatively approved marketing agreement;

Now, therefore, it is ordered by the Secretary, acting under the authority vested in him by the act, that such handling of the said potatoes as is in the current of interstate or foreign commerce or which directly burdens, obstructs or affects interstate or foreign commerce in such potatoes, from and after the date hereinafter specified, shall be in conformity to and in compliance with the terms and conditions of this order.

ARTICLE I—DEFINITIONS

SECTION 1. As used herein, the following terms have the following meanings:

1. "Secretary" means the Secretary of Agriculture of the United States;

2. "Act" means Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937;

3. "Person" means individual, partnership, corporation, association, or any other business unit;

4. "Potatoes" means and includes all varieties of white (Irish) potatoes grown within the area described in paragraph 8 of this section, during 1937;

5. "To ship" or "to handle" means to put such potatoes into the channels of trade by conveying or causing them to be conveyed by railroad, truck, boat, or any other means whatsoever in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce; "to ship" or "to handle" does not include the act of a grower in merely transferring ownership or title to a shipper, nor does it include acting as a common carrier for another person;

6. "Producer" means any person who produces potatoes for sale;

7. "Handler" means any person who ships or otherwise handles potatoes or permits another person to ship or otherwise handle potatoes in the name of such first person; and

8. "Area" means and includes the following geographical areas: The counties of Alamosa, Conejos, Costilla, Delta, Eagle, Garfield, Larimer, Montrose, Morgan, Pitkin, Rio Grande, Saguache and Weld in the State of Colorado; Sioux, Morrill, Banner, Dawes, Box Butte, Kimball, Sheridan, Cheyenne and Scotts Bluff in the State of Nebraska; and Goshen, Niobrara, Parke and Laramie in the State of Wyoming.

ARTICLE II—GENERAL CULL REGULATIONS

SECTION 1. *Limitation on Shipments.*—No handler shall ship or handle in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce any lot of potatoes which does not at least meet the requirements for U. S. No. 2 potatoes as defined in the "Official Standards for Potatoes", issued by the United States Department of Agriculture, effective September 15, 1936, except that a mixture of varieties is permitted and except that under no circumstances shall the size be less than 1½ inches in diameter with the standard tolerance of 5 percent by weight.

SEC. 2. *Inspection.*—During any period in which the Secretary has limited the shipment of potatoes as provided in article II or in article III hereof, no handler shall ship or

handle any potatoes unless they are inspected by an authorized representative of the Federal-State Inspection Service and a certificate is issued showing the necessary information to determine whether such potatoes conform with the requirements of article II and of the regulations, if any, made effective under article III.

ARTICLE III—GRADE AND SIZE REGULATION

SECTION 1. *Regulations.*—Whenever the Secretary shall find, upon the basis of the recommendations of the Control Committee and other available information, that to limit further the shipments of grades or sizes of potatoes in accordance with such recommendations would tend to effectuate the declared policy of the act, he shall limit the shipment of such grades or sizes of potatoes harvested during 1937, during a specified period or periods, by (1) prohibiting handlers from handling potatoes of the United States grade or grades other than the grade or grades specified by the Secretary; or by (2) prohibiting handlers from handling potatoes of a size smaller than the size or sizes specified by the Secretary; or by (3) both methods; provided, that the Secretary shall not limit, or provide methods for limiting, the shipment of potatoes which are at least 1⅞ inches in diameter and otherwise grading U. S. Fancy, U. S. Extra No. 1, U. S. No. 1, and U. S. No. 1, Size A, as described in the "Official Standards for Potatoes" issued by the United States Department of Agriculture, effective September 15, 1936. Any such limitation shall become effective three days after determination thereof by the Secretary, unless the Secretary announces that a longer period shall elapse.

SEC. 2. *Exemptions.*—(1) Before instituting any limitation of shipments pursuant to section 1 of this article, the Secretary, upon the basis of available information and findings by the Control Committee, shall determine for the area the percentage which the quantity of potatoes available for shipment under such limitation is of the total quantity of potatoes which would be available for shipment if there were no such limitation.

(2) Any producer who would, because of such limitation, be unable to dispose of as large a percentage of the potatoes produced by him as the percentage which the Secretary, pursuant to subsection (1) of this section, has determined can be properly shipped from such area, may apply to the Control Committee, whereupon the Control Committee shall investigate the facts presented by such producer and shall transmit to the Secretary its recommendations and all data in connection therewith. The Secretary may, after consideration of the Control Committee's recommendation and data, together with other information available to him, issue a certificate, through the Control Committee, to such producer which will permit the producer, either himself or through a handler, to dispose of a percentage of the potatoes produced by him and available for shipment during the limitation period, which will be equal to the percentage determined by the Secretary pursuant to subsection (1) of this section.

(3) *Charitable purposes.*—Nothing contained in this article shall be construed to authorize any limitation of the right to ship potatoes for consumption to charitable institutions or to relief agencies. The Secretary may, from time to time, prescribe proper safeguards to prevent potatoes shipped for such purposes from being introduced into the commercial channels of trade contrary to the provisions hereof.

(4) *Seed potatoes.*—Upon recommendation by the Control Committee, approved by the Secretary, officially certified seed potatoes or other potatoes shipped for seed purposes shall be exempt from the provisions of this article provided that such recommendation includes adequate safeguards to prevent such potatoes from being used for other than seed purposes.

(5) *Manufacture.*—Subject to such regulations as the Control Committee, with the approval of the Secretary, may prescribe, any limitation of shipments pursuant to section 1 of this article shall not be applicable to potatoes shipped for manufacture into alcohol, starch, flour, or vinegar, or any other manufacturing purpose approved by the Secretary, or for feed for livestock, and which are in due course so manufactured, or so used for livestock feed.

SEC. 3. Compliance.—Except as provided in section 2 of this article, no handler shall ship or contract to ship potatoes of a size or grade the shipment of which has been prohibited by the Secretary pursuant to this article.

SEC. 4. Notice.—The Control Committee shall give notice of any regulation of shipments by the Secretary at least thirty (30) hours before the time it becomes effective by issuing a press release, posting a notice in the office of the Control Committee or by such other available means as the Control Committee deems necessary to give producers and handlers immediate information of such regulation.

ARTICLE IV—CONTROL COMMITTEE

SECTION 1. Membership and organization.—(1) The Secretary shall select a Control Committee consisting of ten members, of whom seven shall be producers and three shall be handlers. Three producers and two handlers shall be selected from the Colorado counties, two producers and one handler shall be selected from the Nebraska counties, and two producers shall be selected from the Wyoming counties designated in paragraph 8, section 1, article I. The Secretary shall likewise select for each member of the committee an alternate with the same qualifications, and in like manner shall select successors.

(2) Any person selected as a member or an alternate shall qualify by filing a written acceptance of this selection with the Secretary or with the Secretary's designated representative.

(3) An alternate for a member of the Control Committee shall act in the place and stead of such member, in his absence or in the event of his death, removal, resignation, or disqualification.

(4) The members of the Control Committee and their alternates shall serve without compensation, but may be allowed their necessary expenses.

(5) The members of the Control Committee shall select a chairman from their membership, and all communications from the Secretary to the Committee may be addressed to the chairman at such address as may, from time to time, be filed with the Secretary. The Committee shall select such other officers and adopt such rules for the conduct of its business as it may deem advisable. The Committee shall give to the Secretary, or his designated agents or representatives, the same notice of meetings of the Committee as is given to members of the Committee.

SEC. 2. Powers.—The Control Committee shall have power:

(1) To administer, as herein specifically provided, the terms and provisions hereof;

(2) To make, in accordance with the provisions herein contained, administrative rules and regulations;

(3) To receive, investigate, and report to the Secretary complaints of violations hereof; and

(4) To recommend to the Secretary amendments hereto.

SEC. 3. Duties.—It shall be the duty of the Control Committee:

(1) To act as intermediary between the Secretary and any handler;

(2) To keep minute books and records which will clearly reflect all of its acts and transactions, and such minute books and records shall, at any time, be subject to examination by the Secretary;

(3) To furnish the Secretary such available information as he may request;

(4) To appoint such employees as it may deem necessary, and to determine the salaries and define the duties of such employees;

(5) To consult, during the effective period hereof, with any other Control Committee established pursuant to any marketing agreement or order, or with handlers operating under any marketing agreement or order of the Secretary, with respect to shipping or handling potatoes grown in any region covered by such other marketing agreements or orders, to the end that the administration hereof may be coordinated with the administration of such other agreements or orders so as best to effectuate their respective purposes; and

(6) To cause the books of the Control Committee to be audited by one or more competent accountants at least once each year, and at such other times as the Control Committee deems necessary, or as the Secretary may request, and to file with the Secretary copies of all such audit reports.

SEC. 4. Procedure.—(1) For any decision of the Control Committee to be valid, a majority of the votes of all members of the Committee shall be necessary.

(2) Upon the selection of a majority of its members, the Control Committee may organize and commence to function. A majority of all members shall constitute a quorum.

(3) The Control Committee may provide for voting by mail, telegram, or radiogram, upon due notice to all members eligible to vote.

(4) The members of the Control Committee (including successors and alternates) and any agent or employee appointed or employed by the Control Committee shall be subject to removal or suspension by the Secretary at any time.

(5) Each and every order, regulation, decision, determination, or other act of the Control Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time and, upon his disapproval, shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith.

SEC. 5. Funds.—All funds received by the Control Committee pursuant to any provision hereof shall be used solely for the purposes herein specified and shall be accounted for in the following manner:

(1) The Secretary may, at any time, require the Control Committee and its members to account for all receipts and disbursements;

(2) Upon the removal, or expiration of the term of office, of any member of the Control Committee, such member shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person full title to all of the property, funds, or claims vested in such member.

ARTICLE V—FUNDS AND EXPENSES

SECTION 1. Expenses.—The Control Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out its functions hereunder. The funds to cover such expenses shall be acquired by the levying of assessments as hereinafter provided.

SEC. 2. Funds.—Each handler shall pay to the Control Committee on demand as his pro rata share of the expenses, which the Secretary may find will necessarily be incurred by the Control Committee for the maintenance and functioning of the Control Committee, a sum not exceeding 50 cents (the exact amount to be recommended by the Control Committee and subject to approval by the Secretary) for each car or truck of potatoes shipped or handled by such handler.

SEC. 3. Shipping permits.—The Secretary may, in his discretion and for the purpose of collecting money for administrative expenses hereunder, require handlers to purchase from the Control Committee permits to be affixed to each package, lot, carload, or shipment of potatoes before the same shall be handled; provided, however, that any payments received for such permits shall be used for the purpose set forth in section 1 of this article, and shall, in no event, exceed the pro rata share of expenses required to be paid by any handler.

ARTICLE VI—REPORTS

SECTION 1. Reports.—Upon the request of the Control Committee made with the approval of the Secretary, every handler shall furnish the Control Committee, in such manner and at such times as it prescribes, such information as it deems necessary to enable it to exercise its powers and perform its duties hereunder.

ARTICLE VII—LIABILITY OF CONTROL COMMITTEE MEMBERS

SECTION 1. *Liability.*—No member or alternate of the Control Committee, nor any employee thereof, shall be held liable individually, in any way whatsoever, to any party hereto or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee except for acts of dishonesty. The liability of the parties hereunder is several and not joint, and no party shall be liable for the default of any other party.

ARTICLE VIII—DURATION OF IMMUNITIES

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

ARTICLE IX—EFFECTIVE TIME AND TERMINATION

SECTION 1. *Effective time.*—This order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereafter specified.

SEC. 2. *Suspension and termination.*—This order, any provision hereof or any amendment hereto, may be suspended or terminated by the Secretary, as to any or all handlers, after such reasonable notice as the Secretary may give, and shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

SEC. 3. Unless sooner terminated, this order shall terminate at 11:59 p. m., July 31, 1938.

SEC. 4. *Proceedings after termination.*—(1) Upon the termination hereof, the members of the Control Committee then functioning shall continue to function for the purpose of liquidating its affairs and shall keep the funds and property then in their possession as members of such Control Committee, including claims for any funds unpaid or property undelivered at the time of such termination. Said members (a) shall continue to function until discharged by the Secretary, (b) shall, from time to time, account for all receipts and disbursements, and deliver all property on hand, together with all books and records of the Control Committee, to such person or persons as the Secretary may direct, and (c) shall, upon the request of the Secretary, execute such assignments or other instruments as may be necessary or appropriate to vest in such person or persons full title to all of the funds, property, and claims vested in the Control Committee. Any funds collected pursuant to article V hereof, over and above amounts necessary to meet outstanding obligations and the expenses necessarily incurred during the operation hereof and during the liquidation period shall, as soon as practicable after the termination thereof, be returned to handlers. The refund to each handler shall be represented by the excess of the amount paid by him over and above his pro rata share of the expenses.

(2) Any person to whom funds, property, or claims have been transferred or delivered by the members of the Control Committee upon direction of the Secretary, as herein provided, shall be subject to the same obligations and duties with respect to the said funds, property, or claims as were hereinabove imposed upon members of said committee.

ARTICLE X—AGENTS

SECTION 1. *Agents.*—The Secretary may, by designation in writing, name any persons, including any officers or employees of the Government, or name any bureaus or divisions in the Department of Agriculture, to act as his agents or representatives in connection with any of the provisions hereof.

ARTICLE XI—SEPARABILITY

SECTION 1. *Separability.*—If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the

remainder hereof or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

ARTICLE XII—DEROGATION

SECTION 1. *Derogation.*—Nothing contained herein is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States:

(1) To exercise any powers granted by the act or otherwise;

(2) In accordance with such powers to act in the premises whenever such action is deemed advisable.

In Witness Whereof, H. A. Wallace, Secretary of Agriculture, has executed this order in duplicate and has caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, on the 15th day of October 1937, and declares this order to be effective on and after 12:01 a. m., m. s. t., October 19, 1937.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-3050; Filed, October 15, 1937; 12:52 p. m.]

DETERMINATION OF THE SECRETARY WITH RESPECT TO A PROPOSED ORDER REGULATING THE HANDLING OF POTATOES GROWN IN CERTAIN COUNTIES IN THE STATE OF IDAHO

Whereas, the Secretary of Agriculture, pursuant to the provisions of Public No. 10, 73rd Congress, as amended, and as reenacted and further amended by the Agricultural Marketing Agreement Act of 1937, having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of potatoes grown in the counties of Ada, Adams, Bannock, Bingham, Bear Lake, Blaine, Boise, Bonneville, Butte, Camas, Canyon, Caribou, Cassia, Clark, Custer, Elmore, Franklin, Fremont, Gem, Gooding, Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Owyhee, Payette, Power, Teton, Twin Falls, Valley, and Washington, in the State of Idaho, would tend to effectuate the declared policy of said acts, gave, on the 14th day of August, 1937, notice of hearings¹ which were held in the Latter Day Saints Tabernacle, Idaho Falls, Idaho, on the 27th day of August, 1937, and in the Auditorium, American Legion Building, Twin Falls, Idaho, on the 28th day of August, 1937, on a proposed marketing agreement and a proposed order regulating the handling of potatoes grown in the above-mentioned areas, at which times and places all interested parties were afforded an opportunity to be heard on a proposed marketing agreement and a proposed order; and

Whereas, after such hearings and after the tentative approval by the Secretary of Agriculture of a marketing agreement on the 3rd day of September, 1937, handlers of more than fifty per centum of the volume of potatoes covered by such proposed order, which are produced or marketed within the aforementioned areas, refused or failed to sign such marketing agreement relating to potatoes;

Now, therefore, the Secretary of Agriculture, by virtue of the authority vested in him by Public No. 10, 73rd Congress, as amended, hereby determines:

1. That the refusal or failure of the said handlers to sign the said marketing agreement tends to prevent the effectuation of the declared policy of the above-mentioned acts with respect to potatoes grown in the aforementioned areas; and

2. That the issuance of the proposed order is the only practical means, pursuant to such policy, of advancing the interests of producers of potatoes in said areas; and

3. That the issuance of the proposed order is approved or favored by over two-thirds of the producers who, during the marketing season 1936, said season being here and now determined by the Secretary to be a representative period, have been engaged in the aforementioned areas in the production for market of potatoes.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture, have executed this determination and have here-

¹ 2 F. R. 1683 (DI).

unto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the City of Washington, District of Columbia, this 11th day of October, 1937.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States.

Dated, October 12, 1937.

[F. R. Doc. 37-3052; Filed, October 15, 1937; 12:55 p. m.]

ORDER OF THE SECRETARY OF AGRICULTURE REGULATING THE HANDLING IN INTERSTATE AND FOREIGN COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS OR AFFECTS INTERSTATE OR FOREIGN COMMERCE, OF POTATOES GROWN IN THIRTY-FOUR DESIGNATED COUNTIES IN THE STATE OF IDAHO

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

Whereas, the Secretary, having reason to believe that the issuance of an order would tend to effectuate the declared policy of the act with respect to the establishment and maintenance of such orderly marketing conditions in interstate and foreign commerce for potatoes grown in the counties of Ada, Adams, Bannock, Bingham, Bear Lake, Blaine, Boise, Bonneville, Butte, Camas, Canyon, Caribou, Cassia, Clark, Custer, Elmore, Franklin, Fremont, Gem, Gooding, Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Owyhee, Payette, Power, Teton, Twin Falls, Valley, and Washington, in the State of Idaho, as would establish prices to the producers of such potatoes at a level that would give such potatoes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such potatoes during the base period August 1919-July 1929, conducted public hearings at Idaho Falls, Idaho, on August 27, 1937, and at Twin Falls, Idaho, on August 28, 1937, pursuant to due notice given to all interested parties on August 14, 1937,¹ on a proposed order regulating such handling of such potatoes as is in the current of interstate and foreign commerce, or which directly burdens, obstructs or affects such commerce in the said potatoes, at which hearings all interested persons in attendance were afforded due opportunity to be heard concerning the proposed order; and

Whereas, the Secretary finds upon the basis of the evidence introduced at the hearings and the record thereof:

(1) That at the time of the hearings the prices received by the producers of such potatoes were at a level that gave such potatoes a purchasing power with respect to articles that such producers buy appreciably below the purchasing power of such potatoes during the base period;

(2) That the regulation of shipments by grades and sizes of the potatoes covered by this order, as prescribed herein, will serve to prevent marked fluctuations in prices to the producers thereof, and will establish and maintain a more stabilized market for such potatoes, tending to establish prices to such producers at a level that will give such potatoes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such potatoes during the base period;

(3) That this order is limited in its application to the smallest regional production area and to the smallest regional marketing area that is practicable, consistently with carrying out the declared policy of the act, and that

the issuance of several orders applicable to any subdivision of such regional production and marketing areas would not effectively carry out the declared policy of the act;

(4) That the pro rata contribution of handlers to the expenses of the administrative agency herein created, based upon the quantity of potatoes shipped, as provided in this order, is fair and equitable; and

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

Whereas, the Secretary finds that after the said hearings and after the tentative approval by the Secretary, on September 3, 1937, of a marketing agreement which regulates the handling of such potatoes in the same manner as this order, upon which hearings were held on August 27 and August 28, 1937, handlers (excluding cooperative associations of producers who are engaged in processing, distributing or shipping the potatoes covered by this order) who handled more than fifty (50) percent of the volume of the potatoes covered by this order, and marketed during the 1936 season in the current of interstate or foreign commerce, refused or failed to sign the said marketing agreement with the Secretary; and

Whereas, the Secretary determined on the 11th day of October 1937, said determination being approved by the President of the United States on the 12th day of October 1937, that such refusal or failure to sign the tentatively approved marketing agreement tends to prevent the effectuation of the aforesaid declared policy of the act, and that the issuance of this order is the only practical means, pursuant to such policy, of advancing the interests of producers of potatoes in the said counties in the State of Idaho and is approved or favored by over two-thirds of the producers who, during the 1936 marketing season, said season being herewith determined by the Secretary to be a representative period, have been engaged in the said counties in the State of Idaho in the production for market of potatoes; and

Whereas, the Secretary finds that this order regulates the handling of such potatoes in the same manner as the aforesaid tentatively approved marketing agreement, and that it is made applicable only to persons in the respective classes of industrial and commercial activity specified in the said tentatively approved marketing agreement;

Now, therefore, it is ordered by the Secretary, acting under the authority vested in him by the act, that such handling of the said potatoes as is in the current of interstate or foreign commerce or which directly burdens, obstructs or affects interstate or foreign commerce in such potatoes, from and after the date hereinafter specified, shall be in conformity to and in compliance with the terms and conditions of this order.

ARTICLE I—DEFINITIONS

SECTION 1. As used herein, the following terms have the following meanings:

1. "Secretary" means the Secretary of Agriculture of the United States;

2. "Act" means Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937;

¹ 2 F. R. 1683 (DI).

3. "Person" means individual, partnership, corporation, association, or any other business unit;

4. "Potatoes" means and includes all varieties of white (Irish) potatoes grown within the area described in paragraph 8 of this section, during 1937;

5. "To ship" or "to handle" means to put such potatoes into the channels of trade by conveying or causing them to be conveyed by railroad, truck, boat, or any other means whatsoever in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce; "to ship" or "to handle" does not include the act of a grower in merely transferring ownership or title to a shipper, nor does it include acting as a common carrier for another person;

6. "Producer" means any person who produce potatoes for sale;

7. "Handler" means any person who ships or otherwise handles potatoes or permits another person to ship or otherwise handle potatoes in the name of such first person; and

8. "Area" means and includes the following geographical areas: The counties of Ada, Adams, Bannock, Bingham, Bear Lake, Blaine, Boise, Bonneville, Butte, Camas, Canyon, Caribou, Cassia, Clark, Custer, Elmore, Franklin, Fremont, Gem, Gooding, Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Owyhee, Payette, Power, Teton, Twin Falls, Valley, and Washington, in the State of Idaho.

ARTICLE II—GENERAL CALL REGULATIONS

SECTION 1. *Limitation on shipments.*—No handler shall ship or handle in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce any lot of potatoes which does not at least meet the requirements for U. S. No. 2 potatoes as defined in the "Official Standards for Potatoes", issued by the United States Department of Agriculture, effective September 15, 1936, except that a mixture of varieties is permitted and except that under no circumstances shall the size be less than 1½ inches in diameter with the standard tolerance of 5 percent by weight.

SEC. 2. *Inspection.*—During any period in which the Secretary has limited the shipment of potatoes as provided in article II or in article III hereof, no handler shall ship or handle any potatoes unless they are inspected by an authorized representative of the Federal-State Inspection Service and a certificate is issued showing the necessary information to determine whether such potatoes conform with the requirements of article II and of the regulations, if any, made effective under article III.

ARTICLE III—GRADE AND SIZE REGULATION

SECTION 1. *Regulations.*—Whenever the Secretary shall find, upon the basis of the recommendations of the Control Committee and other available information, that to limit further the shipments of grades or sizes of potatoes in accordance with such recommendations would tend to effectuate the declared policy of the act, he shall limit the shipment of such grades or sizes of potatoes harvested during 1937, during a specified period or periods, by (1) prohibiting handlers from handling potatoes of the United States grade or grades other than the grade or grades specified by the Secretary; or by (2) prohibiting handlers from handling potatoes of a size smaller than the size or sizes specified by the Secretary; or by (3) both methods. Any such limitation shall become effective three days after determination thereof by the Secretary, unless the Secretary announces that a longer period shall elapse.

SEC. 2. *Exemptions.*—(1) Before instituting any limitation of shipments pursuant to section 1 of this article, the Secretary, upon the basis of available information and findings by the Control Committee, shall determine for the area the percentage which the quantity of potatoes available for shipment under such limitation is of the total quantity of potatoes which would be available for shipment if there were no such limitation.

(2) Any producer who would, because of such limitation, be unable to dispose of as large a percentage of the pota-

atoes produced by him as the percentage which the Secretary, pursuant to subsection (1) of this section, has determined can be properly shipped from such area, may apply to the Control Committee, whereupon the Control Committee shall investigate the facts presented by such producer and shall transmit to the Secretary its recommendations and all data in connection therewith. The Secretary may, after consideration of the Control Committee's recommendation and data, together with other information available to him, issue a certificate, through the Control Committee, to such producer which will permit the producer, either himself or through a handler, to dispose of a percentage of the potatoes produced by him and available for shipment during the limitation period, which will be equal to the percentage determined by the Secretary pursuant to subsection (1) of this section.

(3) *Charitable purposes.*—Nothing contained in this article shall be construed to authorize any limitation of the right to ship potatoes for consumption to charitable institutions or to relief agencies. The Secretary may, from time to time, prescribe proper safeguards to prevent potatoes shipped for such purposes from being introduced into the commercial channels of trade contrary to the provisions hereof.

(4) *Seed potatoes.*—Upon recommendation by the Control Committee, approved by the Secretary, officially certified seed potatoes or other potatoes shipped for seed purposes shall be exempt from the provisions of this article provided that such recommendation includes adequate safeguards to prevent such potatoes from being used for other than seed purposes.

(5) *Manufacture.*—Subject to such regulations as the Control Committee, with the approval of the Secretary, may prescribe, any limitation of shipments pursuant to section 1 of this article shall not be applicable to potatoes shipped for manufacture into alcohol, starch, flour, or vinegar, or any other manufacturing purpose approved by the Secretary, or for feed for livestock, and which are in due course so manufactured, or so used for livestock feed.

SEC. 3. *Compliance.*—Except as provided in section 2 of this article, no handler shall ship or contract to ship potatoes of a size or grade the shipment of which has been prohibited by the Secretary pursuant to this article.

SEC. 4. *Notice.*—The Control Committee shall give notice of any regulation of shipments by the Secretary at least thirty (30) hours before the time it becomes effective by issuing a press release, posting a notice in the office of the Control Committee or by such other available means as the Control Committee deems necessary to give producers and handlers immediate information of such regulation.

ARTICLE IV—CONTROL COMMITTEE

SECTION 1. *Membership and organization.*—(1) The Secretary shall select a Control Committee consisting of 8 members, of whom 5 shall be producers and 3 shall be handlers. Two producers shall be selected to represent the producing district commonly known as the "Idaho Falls district", two producers to represent the district commonly known as the "Twin Falls district", and one producer to represent the district commonly known as the "Caldwell district." One handler shall be selected to represent each of the three preceding producing districts. The Secretary shall likewise select an alternate with the same qualifications for each member of the Committee.

(2) Any person selected as a member or an alternate shall qualify by filing a written acceptance of his selection with the Secretary or with the Secretary's designated representative.

(3) An alternate for a member of the Control Committee shall act in the place and stead of such member, in his absence or in the event of his death, removal, resignation, or disqualification.

(4) The members of the Control Committee and their alternates shall serve without compensation, but may be allowed their necessary expenses.

(5) The members of the Control Committee shall select a chairman from their membership, and all communications from the Secretary to the Committee may be addressed to

the chairman at such address as may, from time to time, be filed with the Secretary. The Committee shall select such other officers and adopt such rules for the conduct of its business as it may deem advisable. The Committee shall give to the Secretary, or his designated agents or representatives, the same notice of meetings of the Committee as is given to members of the Committee.

SEC. 2. Powers.—The Control Committee shall have power:

- (1) To administer, as herein specifically provided, the terms and provisions hereof;
- (2) To make, in accordance with the provisions herein contained, administrative rules and regulations;
- (3) To receive, investigate, and report to the Secretary complaints of violations hereof; and
- (4) To recommend to the Secretary amendments hereto.

SEC. 3. Duties.—It shall be the duty of the Control Committee:

- (1) To act as intermediary between the Secretary and any handler;
- (2) To keep minute books and records which will clearly reflect all of its acts and transactions, and such minute books and records shall, at any time, be subject to examination by the Secretary;
- (3) To furnish the Secretary such available information as he may request;
- (4) To appoint such employees as it may deem necessary, and to determine the salaries and define the duties of such employees;
- (5) To consult, during the effective period hereof, with any other Control Committee established pursuant to any marketing agreement or order, or with handlers operating under any marketing agreement or order of the Secretary, with respect to shipping or handling potatoes grown in any region covered by such other marketing agreements or orders, to the end that the administration hereof may be coordinated with the administration of such other agreements or orders so as best to effectuate their respective purposes; and
- (6) To cause the books of the Control Committee to be audited by one or more competent accountants at least once each year, and at such other times as the Control Committee deems necessary, or as the Secretary may request, and to file with the Secretary copies of all such audit reports.

SEC. 4. Procedure.—(1) For any decision of the Control Committee to be valid, a majority of the votes of all members of the Committee shall be necessary.

(2) Upon the selection of a majority of its members, the Control Committee may organize and commence to function. A majority of all members shall constitute a quorum.

(3) The Control Committee may provide for voting by mail, telegram, or radiogram, upon due notice to all members eligible to vote.

(4) The members of the Control Committee (including successors and alternates) and any agent or employee appointed or employed by the Control Committee shall be subject to removal or suspension by the Secretary at any time.

(5) Each and every order, regulation, decision, determination, or other act of the Control Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time and, upon his disapproval, shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith.

SEC. 5. Funds.—All funds received by the Control Committee pursuant to any provision hereof shall be used solely for the purposes herein specified and shall be accounted for in the following manner:

(1) The Secretary may, at any time, require the Control Committee and its members to account for all receipts and disbursements;

(2) Upon the removal, or expiration of the term of office, of any member of the Control Committee, such member shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books

and records in his possession, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person full title to all of the property, funds, or claims vested in such member.

ARTICLE V—FUNDS AND EXPENSES

SECTION 1. Expenses.—The Control Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out its functions hereunder. The funds to cover such expenses shall be acquired by the levying of assessments as hereinafter provided.

SEC. 2. Funds.—Each handler shall pay to the Control Committee on demand as his pro rata share of the expenses, which the Secretary may find will necessarily be incurred by the Control Committee for the maintenance and functioning of the Control Committee, a sum not exceeding 50 cents (the exact amount to be recommended by the Control Committee and subject to approval by the Secretary) for each car or truck of potatoes shipped or handled by such handler.

SEC. 3. Shipping permits.—The Secretary may, in his discretion and for the purpose of collecting money for administrative expenses hereunder, require handlers to purchase from the Control Committee permits to be affixed to each package, lot, carload, or shipment of potatoes before the same shall be handled: *Provided, however,* That any payments received for such permits shall be used for the purpose set forth in section 1 of this article, and shall, in no event, exceed the pro rata share of expenses required to be paid by any handler.

ARTICLE VI—REPORTS

SECTION 1. Reports.—Upon the request of the Control Committee made with the approval of the Secretary, every handler shall furnish the Control Committee, in such manner and at such times as it prescribes, such information as it deems necessary to enable it to exercise its powers and perform its duties hereunder.

ARTICLE VII—LIABILITY OF CONTROL COMMITTEE MEMBERS

SECTION 1. Liability.—No member or alternate of the Control Committee, nor any employee thereof, shall be held liable individually, in any way whatsoever, to any party hereto or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee except for acts of dishonesty. The liability of the parties hereunder is several and not joint, and no party shall be liable for the default of any other party.

ARTICLE VIII—DURATION OF IMMUNITIES

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

ARTICLE IX—EFFECTIVE TIME AND TERMINATION

SECTION 1. Effective time.—This order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereafter specified.

SEC. 2. Suspension and termination.—This order, any provision hereof or any amendment hereto, may be suspended or terminated by the Secretary, as to any or all handlers, after such reasonable notice as the Secretary may give, and shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

SEC. 3. Unless sooner terminated, this order shall terminate at 11:59 p. m., July 31, 1938.

SEC. 4. Proceedings after termination.—(1) Upon the termination hereof, the members of the Control Committee then functioning shall continue to function for the purpose of liquidating its affairs and shall keep the funds and property then in their possession as members of such Control Com-

mittee, including claims for any funds unpaid or property undelivered at the time of such termination. Said members (a) shall continue to function until discharged by the Secretary, (b) shall, from time to time, account for all receipts and disbursements, and deliver all property on hand, together with all books and records of the Control Committee, to such person or persons as the Secretary may direct, and (c) shall, upon the request of the Secretary, execute such assignments or other instruments as may be necessary or appropriate to vest in such person or persons full title to all of the funds, property, and claims vested in the Control Committee. Any funds collected pursuant to article V hereof, over and above amounts necessary to meet outstanding obligations and the expenses necessarily incurred during the operation hereof and during the liquidation period shall, as soon as practicable after the termination hereof, be returned to handlers. The refund to each handler shall be represented by the excess of the amount paid by him over and above his pro rata share of the expenses.

(2) Any person to whom funds, property, or claims have been transferred or delivered by the members of the Control Committee upon direction of the Secretary, as herein provided, shall be subject to the same obligations and duties with respect to the said funds, property, or claims as were hereinabove imposed upon members of said committee.

ARTICLE X—AGENTS

SECTION 1. *Agents*.—The Secretary may, by designation in writing, name any persons, including any officers or employees of the Government, or name any bureaus or divisions in the Department of Agriculture, to act as his agents or representatives in connection with any of the provisions hereof.

ARTICLE XI—SEPARABILITY

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

ARTICLE XII—DEROGATION

SECTION 1. *Derogation*.—Nothing contained herein is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States:

(1) To exercise any powers granted by the act or otherwise;

(2) In accordance with such powers to act in the premises whenever such action is deemed advisable.

In witness whereof, H. A. Wallace, Secretary of Agriculture, has executed this order in duplicate and has caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, on the 15th day of October 1937, and declares this order to be effective on and after 12:01 a. m., m. s. t., October 19, 1937.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-3053; Filed, October 15, 1937; 12:55 p. m.]

DETERMINATION OF THE SECRETARY WITH RESPECT TO A PROPOSED ORDER REGULATING THE HANDLING OF POTATOES GROWN IN THE STATES OF MICHIGAN, WISCONSIN, AND MINNESOTA, AND CERTAIN COUNTIES IN THE STATE OF NORTH DAKOTA

Whereas, the Secretary of Agriculture, pursuant to the provisions of Public No. 10, 73rd Congress, as amended, and as reenacted and further amended by the Agricultural Marketing Agreement Act of 1937, having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of potatoes grown in the States of Michigan, Wisconsin, and Minnesota, and the Counties of Towner, Cavalier, Pembina, Pierce, Benson, Ramsey, Walsh, Nelson, Grand Forks, Wells, Eddy, Foster, Griggs, Steele, Traill, Barnes, Cass, and Richland, in the State of North Dakota, would tend to effectuate the declared policy of said acts, gave, on the 14th day of August, 1937, notice of

hearings, which were held in the Court Room, County Court House, Waupaca, Wisconsin, on the 24th day of August, 1937, in the Armory, Princeton, Minnesota, on the 26th day of August, 1937, in the City Hall Auditorium, Grand Forks, North Dakota, on the 28th day of August, 1937, and in the Court Room, County Court House, Cadillac, Michigan, on the 28th day of August, 1937, on a proposed marketing agreement and a proposed order regulating the handling of potatoes grown in the above-mentioned areas, at which times and places all interested parties were afforded an opportunity to be heard on a proposed marketing agreement and proposed order; and

Whereas, after such hearings and after the tentative approval by the Secretary of Agriculture of a marketing agreement on the 3rd day of September, 1937, handlers of more than fifty per centum of the volume of potatoes covered by such proposed order, which are produced or marketed within the aforementioned areas, refused or failed to sign such marketing agreement relating to potatoes;

Now, therefore, the Secretary of Agriculture, by virtue of the authority vested in him by Public No. 10, 73rd Congress, as amended, hereby determines:

1. That the refusal or failure of the said handlers to sign the said marketing agreement tends to prevent the effectuation of the declared policy of the above-mentioned acts with respect to potatoes grown in the aforementioned areas; and

2. That the issuance of the proposed order is the only practical means, pursuant to such policy, of advancing the interests of producers of potatoes in said areas; and

3. That the issuance of the proposed order is approved or favored by over two-thirds of the producers who, during the marketing season 1936, said season being here and now determined by the Secretary to be a representative period, have been engaged in the aforementioned areas in the production for market of potatoes.

In Witness Whereof, I, H. A. Wallace, Secretary of Agriculture, have executed this determination and have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the City of Washington, District of Columbia, this 11th day of October, 1937.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,

The President of the United States.

Dated, October 12, 1937.

[F. R. Doc. 37-3049; Filed, October 15, 1937; 12:52 p. m.]

ORDER OF THE SECRETARY OF AGRICULTURE REGULATING THE HANDLING IN INTERSTATE AND FOREIGN COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS OR AFFECTS INTERSTATE OR FOREIGN COMMERCE, OF POTATOES GROWN IN THE STATES OF MICHIGAN, WISCONSIN, AND MINNESOTA AND IN CERTAIN DESIGNATED COUNTIES IN THE STATE OF NORTH DAKOTA.

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

Whereas, the Secretary, having reason to believe that the issuance of an order would tend to effectuate the declared policy of the act with respect to the establishment and maintenance of such orderly marketing conditions in interstate and foreign commerce for potatoes grown in the States of Michigan, Wisconsin and Minnesota and in the counties of Towner, Cavalier, Pembina, Pierce, Benson, Ramsey, Walsh,

Nelson, Grand Forks, Wells, Eddy, Foster, Griggs, Steele, Traill, Barnes, Cass and Richland, in the State of North Dakota hereinafter referred to as the "area", as would establish prices to the producers of such potatoes at a level that would give such potatoes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such potatoes during the base period August 1919-July 1929, conducted public hearings at Waupaca, Wisconsin, on August 24, 1937, Princeton, Minnesota, on August 26, 1937, and at Grand Forks, North Dakota, and Cadillac, Michigan, on August 28, 1937, pursuant to due notice given to all interested parties on August 14, 1937,¹ on a proposed order regulating such handling of such potatoes as is in the current of interstate and foreign commerce, or which directly burdens, obstructs or affects such commerce in the said potatoes, at which hearings all interested persons in attendance were afforded due opportunity to be heard concerning the proposed order; and

Whereas, the Secretary finds upon the basis of the evidence introduced at the hearings and the record thereof:

(1) That at the time of the hearings the prices received by the producers of such potatoes were at a level that gave such potatoes a purchasing power with respect to articles that such producers buy appreciably below the purchasing power of such potatoes during the base period;

(2) That the regulation of shipments by grades and sizes of the potatoes covered by this order, as prescribed herein, will serve to prevent marked fluctuations in prices to the producers thereof, and will establish and maintain a more stabilized market for such potatoes, tending to establish prices to such producers at a level that will give such potatoes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such potatoes during the base period;

(3) That this order is limited in its application to the smallest regional production area and to the smallest regional marketing area that is practicable, consistently with carrying out the declared policy of the act, and that the issuance of several orders applicable to any subdivision of such regional production and marketing area would not effectively carry out the declared policy of the act;

(4) That the pro rata contribution of handlers to the expenses of the administrative agency herein created, based upon the quantity of potatoes shipped, as provided in this order, is fair and equitable; and

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

Whereas, the Secretary finds that after the said hearings and after the tentative approval by the Secretary, on September 3, 1937, of a marketing agreement which regulates the handling of said potatoes in the same manner as this order, upon which hearings were held on August 24, 26 and 28, 1937, handlers (excluding cooperative associations of producers who are engaged in processing, distributing or shipping the potatoes covered by this order) who handled more than fifty (50) percent of the volume of the potatoes covered by this order, and marketed during the 1936 season in the current of interstate or foreign commerce, refused

or failed to sign the said marketing agreement with the Secretary; and

Whereas, the Secretary determined on the 11th day of October 1937, said determination being approved by the President of the United States on the 12th day of October 1937, that such refusal or failure to sign the tentatively approved marketing agreement tends to prevent the effectuation of the aforesaid declared policy of the act, and that the issuance of this order is the only practical means, pursuant to such policy, of advancing the interests of producers of potatoes in the said area and is approved or favored by over two-thirds of the producers who, during the 1936 marketing season, said season being herewith determined by the Secretary to be a representative period, have been engaged in the said area in the production for market of potatoes; and

Whereas, the Secretary finds that this order regulates the handling of such potatoes in the same manner as the aforesaid tentatively approved marketing agreement, and that it is made applicable only to persons in the respective classes of industrial and commercial activity specified in the said tentatively approved marketing agreement;

Now, therefore, It is ordered by the Secretary, acting under the authority vested in him by the act, that such handling of the said potatoes as is in the current of interstate or foreign commerce or which directly burdens, obstructs or affects interstate or foreign commerce in such potatoes, from and after the date hereinafter specified, shall be in conformity to and in compliance with the terms and conditions of this order.

ARTICLE I—DEFINITIONS

SECTION 1. As used herein, the following terms have the following meanings:

1. "Secretary" means the Secretary of Agriculture of the United States;

2. "Act" means Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937;

3. "Person" means individual, partnership, corporation, association, or any other business unit;

4. "Potatoes" means and includes all varieties of white (Irish) potatoes grown within the area described in paragraph 8 of this section, during the year 1937;

5. "To ship" or "to handle" means to put such potatoes into the channels of trade by conveying or causing them to be conveyed by railroad, truck, boat, or any other means whatsoever in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce; "to ship" or "to handle" does not include the act of a grower in merely transferring ownership or title to a shipper, nor does it include acting as a common carrier for another person;

6. "Producer" means any person who produces potatoes for sale;

7. "Handler" means any person who ships or otherwise handles potatoes, or permits another person to ship or otherwise handle potatoes in the name of such first person; and

8. "Area" means and includes the following geographical areas: The States of Michigan, Wisconsin and Minnesota; and the counties of Towner, Cavalier, Pembina, Pierce, Benson, Ramsey, Walsh, Nelson, Grand Forks, Wells, Eddy, Foster, Griggs, Steele, Traill, Barnes, Cass and Richland, in the State of North Dakota.

ARTICLE II—GENERAL CULL REGULATIONS

SECTION 1. *Limitation on shipments.*—No handler shall ship or handle in the current of interstate or foreign commerce, or so as directly to burden, obstruct or affect interstate or foreign commerce any lot of potatoes which does not at least meet the requirements for U. S. No. 2 potatoes as defined in the "Official Standards for Potatoes", issued by the United States Department of Agriculture, effective September 15, 1936, except that a mixture of varieties is permitted and except that under no circumstances shall the size be less than 1½ inches in diameter with the standard tolerance of 5 percent by weight.

¹ 2 F. R. 1684 (DI).

Sec. 2. *Inspection.*—During any period in which the Secretary has limited the shipment of potatoes as provided in article II or in article III hereof, no handler shall ship or handle any potatoes unless they are inspected by an authorized representative of the Federal-State Inspection Service and a certificate is issued showing the necessary information to determine whether such potatoes conform with the requirements of article II and of the regulations, if any, made effective under article III.

ARTICLE III—GRADE AND SIZE REGULATION

SECTION 1. *Regulations.*—Whenever the Secretary shall find, upon the basis of the recommendations of the Control Committee and other available information, that to limit further the shipments of grades or sizes of potatoes would tend to effectuate the declared policy of the act, he shall limit the shipment of such grades or sizes of potatoes harvested during 1937, during a specified period or periods, by (1) prohibiting handlers from handling potatoes of the United States grade or grades other than the grade or grades specified by the Secretary; or by (2) prohibiting handlers from handling potatoes of a size smaller or larger than the size or sizes specified by the Secretary; or by (3) both methods; provided, that the Secretary shall not limit, or provide methods for limiting, the shipment of potatoes which are at least $1\frac{1}{8}$ inches in diameter, and otherwise grading U. S. Fancy, U. S. Extra No. 1, U. S. No. 1, and U. S. No. 1, Size A, as described in the "Official Standards for Potatoes" issued by the United States Department of Agriculture, effective September 15, 1936. Any such limitation shall become effective three days after determination thereof by the Secretary, unless the Secretary announces that a longer period shall elapse.

SEC. 2. *Exemptions.*—(1) Before instituting any limitation of shipments pursuant to section 1 of this article, the Secretary, upon the basis of available information and findings by the Control Committee, shall determine for the area the percentage which the quantity of potatoes available for shipment under such limitation, is of the total quantity of potatoes which would otherwise be available for shipment if there were no such limitation.

(2) Any producer who would, because of such limitation, be unable to dispose of as large a percentage of the potatoes produced by him as the percentage which the Secretary, pursuant to subsection (1) of this section, has determined can be properly shipped from such area, may apply to the Control Committee, whereupon the Control Committee shall investigate the facts presented by such producer and shall transmit to the Secretary its recommendations and all data in connection therewith. The Secretary may, after consideration of the Control Committee's recommendation and data, together with other information available to him, issue a certificate, through the Control Committee, to such producer which will permit the producer, either himself or through a handler, to dispose of a percentage of the potatoes produced by him and available for shipment during the limitation period, which will be equal to the percentage determined by the Secretary pursuant to subsection (1) of this section.

(3) *Charitable purposes.*—Nothing contained in this article shall be construed to authorize any limitation of the right to ship potatoes for consumption to charitable institutions or to relief agencies. The Secretary may, from time to time, prescribe proper safeguards to prevent potatoes shipped for such purposes from being introduced into the commercial channels of trade contrary to the provisions hereof.

(4) *Seed potatoes.*—Potatoes which are officially certified for seed purposes by the respective official state seed potato certification agencies, shall be exempt from the provisions of this article.

(5) *Manufacture.*—Subject to such regulations as the Control Committee, with the approval of the Secretary of Agriculture, may prescribe, any limitation of shipments pursuant to section 1 of this article shall not be applicable to potatoes shipped for manufacture into alcohol, starch, flour, or vinegar or any other manufacturing purpose approved by

the Secretary, or for feed for livestock, and which are in due course so manufactured, or so used for livestock feed.

SEC. 3. *Compliance.*—Except as provided in section 2 of this article, no handler shall ship or contract to ship potatoes of a size or grade the shipment of which has been prohibited by the Secretary pursuant to this article.

SEC. 4. *Notice.*—The Control Committee shall give notice of any regulation of shipments by the Secretary at least thirty (30) hours before the time it becomes effective by issuing a press release, posting a notice in the office of the Control Committee, or by such other available means as the Control Committee deems necessary to give producers and handlers immediate information of such regulation.

ARTICLE IV—CONTROL COMMITTEE

SECTION 1. *Membership and organization.*—The Secretary shall select a Control Committee consisting of twelve members, of whom eight shall be producers and four shall be handlers. Two producers and one handler shall be selected from each of the states of Michigan, Wisconsin, and Minnesota, and from the counties in North Dakota designated in paragraph 8, section 1, article I. The Secretary shall likewise select for each member of the committee an alternate with the same qualifications, and in like manner shall select successors.

(2) Any person selected as a member or an alternate shall qualify by filing a written acceptance of his selection with the Secretary or with the Secretary's designated representative.

(3) An alternate for a member of the Control Committee shall act in the place and stead of such member, in his absence or in the event of his death, removal, resignation or disqualification.

(4) The members of the Control Committee, and alternates when acting in the place and stead of members, shall receive compensation at the rate of \$5.00 per day when engaged, and shall be reimbursed for expenses necessarily incurred, in the performance of their duties hereunder.

(5) The members of the Control Committee shall select a chairman from their membership, and all communications from the Secretary to the committee may be addressed to the chairman at such address as may, from time to time, be filed with the Secretary. The committee shall select such other officers and adopt such rules for the conduct of its business as it may deem advisable. The committee shall give to the Secretary, or his designated agents or representatives, the same notice of meetings of the committee as is given to members of the committee.

SEC. 2. *Powers.*—The Control Committee shall have power:

(1) To administer, as herein specifically provided, the terms and provisions hereof;

(2) To make, in accordance with the provisions herein contained, administrative rules and regulations;

(3) To receive, investigate and report to the Secretary complaints of violations hereof; and

(4) To recommend to the Secretary amendments hereto.

SEC. 3. *Duties.*—It shall be the duty of the Control Committee:

(1) To act as intermediary between the Secretary and any handler;

(2) To keep minute books and records which will clearly reflect all of its acts and transactions, and such minute books and records shall, at any time, be subject to examination by the Secretary;

(3) To furnish the Secretary such available information as he may request;

(4) To appoint such employees as it may deem necessary, and to determine the salaries and define the duties of such employees;

(5) To consult, during the effective period hereof, with any other Control Committee established pursuant to any marketing agreement or order, or with handlers operating under any marketing agreement or order of the Secretary, with respect to shipping or handling potatoes grown in any region covered by such other marketing agreements or orders, to the end that the administration hereof may be

coordinated with the administration of such other agreements or orders so as best to effectuate their respective purposes; and

(6) To cause the books of the Control Committee to be audited by one or more competent accountants at least once each year, and at such other times as the Control Committee deems necessary, or as the Secretary may request, and to file with the Secretary copies of all such audit reports.

Sec. 4. *Procedure.*—(1) For any decision of the Control Committee to be valid, a majority of the votes of all members of the committee shall be necessary.

(2) Upon the selection of a majority of its members, the Control Committee may organize and commence to function. A majority of all members shall constitute a quorum.

(3) The Control Committee may provide for voting by mail, telegram or radiogram, upon due notice to all members eligible to vote.

(4) The members of the Control Committee (including successors and alternates) and any agent or employee appointed or employed by the Control Committee shall be subject to removal or suspension by the Secretary at any time.

(5) Each and every order, regulation, decision, determination or other act of the Control Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and upon his disapproval, shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith.

Sec. 5. *Funds.*—All funds received by the Control Committee pursuant to any provision hereof shall be used solely for the purposes herein specified and shall be accounted for in the following manner:

(1) The Secretary may, at any time, require the Control Committee and its members to account for all receipts and disbursements;

(2) Upon the removal, or expiration of the term of office, of any member of the Control Committee, such member shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person full title to all of the property, funds or claims vested in such member.

ARTICLE V—FUNDS AND EXPENSES

SECTION 1. *Expenses.*—The Control Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out its functions hereunder. The funds to cover such expenses shall be acquired by the levying of assessments as hereinafter provided.

Sec. 2. *Funds.*—Each handler shall pay to the Control Committee on demand as his pro rata share of the expenses, which the Secretary may find will necessarily be incurred by the Control Committee for the maintenance and functioning of the Control Committee, a sum not exceeding 60 cents (the exact amount to be determined by the Control Committee subject to review by the Secretary) for each car or truck of potatoes shipped or handled by such handler.

Sec. 3. *Shipping permits.*—The Secretary may, in his discretion and for the purpose of collecting money for administrative expenses hereunder, require handlers to purchase from the Control Committee permits to be affixed to each package, lot, carload, or shipment of potatoes before the same shall be handled; provided, however, that any payments received for such permits shall be used for the purpose set forth in section 1 of this article, and shall, in no event, exceed the pro rata share of expenses required to be paid by any handler.

ARTICLE VI—REPORTS

SECTION 1. *Reports.*—Upon the request of the Control Committee made with the approval of the Secretary, every handler shall furnish the Control Committee, in such manner and at such times as it prescribes, such information as it

deems necessary to enable it to exercise its powers and perform its duties hereunder.

ARTICLE VII—LIABILITY OF CONTROL COMMITTEE MEMBERS

SECTION 1. *Liability.*—No member or alternate of the Control Committee, nor any employee thereof, shall be held liable individually, in any way whatsoever, to any party hereto or any other person for errors in judgment, mistakes or other acts, either of commission or omission, as such member, alternate or employee except for acts of dishonesty. The liability of the parties hereunder is several and not joint, and no party shall be liable for the default of any other party.

ARTICLE VIII—DURATION OF IMMUNITIES

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

ARTICLE IX—EFFECTIVE TIME AND TERMINATION

SECTION 1. *Effective time.*—This order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereafter specified.

Sec. 2. *Suspension and termination.*—This order, any provision hereof or any amendment hereto, may be suspended or terminated by the Secretary, as to any or all handlers, after such reasonable notice as the Secretary may give, and shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

Sec. 3. Unless sooner terminated, this order shall terminate at 11:59 p. m., July 31, 1938.

Sec. 4. *Proceedings after termination.*—(1) Upon the termination hereof, the members of the Control Committee then functioning shall continue to function for the purpose of liquidating its affairs and shall keep the funds and property then in their possession as members of such Control Committee, including claims for any funds-unpaid or property undelivered at the time of such termination. Said members (a) shall continue to function until discharged by the Secretary, (b) shall, from time to time, account for all receipts and disbursements, and deliver all property on hand, together with all books and records of the Control Committee, to such person or persons as the Secretary may direct, and (c) shall, upon the request of the Secretary, execute such assignments or other instruments as may be necessary or appropriate to vest in such person or persons full title to all of the funds, property, and claims vested in the Control Committee. Any funds collected pursuant to article V hereof, over and above amounts necessary to meet outstanding obligations and the expenses necessarily incurred during the operation hereof and during the liquidation period shall, as soon as practicable after the termination hereof, be returned to handlers. The refund to each handler shall be represented by the excess of the amount paid by him over and above his pro rata share of the expenses.

(2) Any person to whom funds, property, or claims have been transferred or delivered by the members of the Control Committee upon direction of the Secretary, as herein provided, shall be subject to the same obligations and duties with respect to the said funds, property, or claims as were hereinabove imposed upon members of said committee.

ARTICLE X—AGENTS

SECTION 1. *Agents.*—The Secretary may, by designation in writing, name any persons, including any officers or employees of the Government, or name any bureaus or divisions in the Department of Agriculture, to act as his agents or representatives in connection with any of the provisions hereof.

ARTICLE XI—SEPARABILITY

SECTION 1. *Separability.*—If any provision hereof is declared invalid, or the applicability thereof to any person, circumstances, or thing is held invalid, the validity of the re-

remainder hereof or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

ARTICLE XII—DEROGATION

SECTION 1. *Derogation.*—Nothing contained herein is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States:

(1) To exercise any powers granted by the act or otherwise; or

(2) In accordance with such powers to act in the premises whenever such action is deemed advisable.

In witness whereof, H. A. Wallace, Secretary of Agriculture, has executed this order in duplicate and has caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, on the 15th day of October 1937, and declares this order to be effective on and after 12:01 a. m., c. s. t., October 19, 1937.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-3048; Filed, October 15, 1937; 12:51 p. m.]

Bureau of Animal Industry.

[Amendment 10 to B. A. I. Order 353]

AMENDMENT OF ORDER TO PREVENT THE INTRODUCTION INTO THE UNITED STATES OF RINDERPEST AND FOOT-AND-MOUTH DISEASE

Under authority conferred by law upon the Secretary of Agriculture by Section 306 of the Tariff Act of 1930 (46 Stat. 590-689), the order to prevent the introduction into the United States of rinderpest and foot-and-mouth disease (B. A. I. Order 353), dated June 1, 1935, and effective August 1, 1935, as amended, is hereby further amended by including the name of "Switzerland" in the list of countries in said order, as I have determined that foot-and-mouth disease now exists in said country of Switzerland and I have so officially notified the Secretary of the Treasury.

This amendment, which for purpose of identification is designated Amendment 10 to B. A. I. Order 353, shall be effective on and after October 18, 1937.

Done at Washington this 15th day of October 1937.

Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-3046; Filed, October 15, 1937; 12:49 p. m.]

Bureau of Entomology and Plant Quarantine.

[B. E. P. Q.—Q64]

MEXICAN FRUIT FLY QUARANTINE

REVISION OF QUARANTINE AND REGULATIONS

Effective Oct. 15, 1937

INTRODUCTORY NOTE

The following revision of Federal Domestic Plant Quarantine No. 64 and regulations supplemental thereto adds a portion of Jim Wells County in Texas to the regulated area; fixes a host-free period from May 1 to August 31, inclusive, of each year, subject to such modifications as to duration and dates of commencement and termination as may be authorized by the Chief of the Bureau of Entomology and Plant Quarantine; designates the insect formerly known as Mexican fruit worm under the more appropriate title of Mexican fruit fly; adds fruits of species of the genus *Sargenia* to the list of hosts; modifies former specific restrictions as to containers; and provides that the Chief of the Bureau of Entomology and Plant Quarantine may specify the conditions and period for the maintenance of sanitary

requirements in groves, and may modify, by administrative instructions, any of the restrictions contained in the regulations, other than those pertaining to extension or reduction of the regulated area, when in his judgment such action is necessary to prevent the spread of the Mexican fruit fly.

SUMMARY

These regulations as revised prohibit the interstate shipment of grapefruit, oranges, and all other citrus fruits except lemons and sour limes, from the counties of Brooks, Cameron, Hidalgo, Willacy, and a portion of Jim Wells County, Tex., unless a Federal permit (Form 443) has been issued therefor. The permits may be limited as to destination, and when so limited, are not valid for shipment to other destination points or areas (except to diversion points for diversion to authorized destinations only). (Regulation 5 (a).)

Peaches, apples, pears, plums, quinces, apricots, mangoes, sapotas, quavas, mameys, ciruelas, and fruit of species of the genus *Sargenia* are prohibited interstate shipment from the regulated area. (Regulations 1 (c) and 5 (b).)

There are no restrictions on the shipment of lemons or sour limes. (Regulation 5 (c).)

Sterilization may be required as a condition for interstate movement of host fruits from defined infested zones. (Regulation 6 (e).)

A host-free period is to be maintained from May 1 to August 31, inclusive. (Regulation 7 (Sec. A).)

Information relative to the issuance and use of permits is given in regulations 6 and 7.

LEE A. STRONG,

Chief, Bureau of Entomology and Plant Quarantine.

NOTICE OF QUARANTINE No. 64 (REVISED)

I, Henry A. Wallace, Secretary of Agriculture, have determined that it is necessary to quarantine the State of Texas to prevent the spread of an injurious insect known as the Mexican fruit fly (*Anastrepha ludens* Loew), new to and not heretofore widely prevalent or distributed within and throughout the United States.

Now, therefore, under authority conferred by the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended by the Act of Congress approved March 4, 1917 (39 Stat. 1134, 1165), and having duly given the public hearing required thereby, I do quarantine the said State of Texas, effective on and after October 15, 1937, and by this Notice of Quarantine No. 64 do order that no fruits of any variety shall be shipped, offered for shipment to a common carrier, received for transportation, or carried by a common carrier, or carried, transported, moved, or allowed to be moved interstate from the said quarantined State in manner or method or under conditions other than those prescribed in the rules and regulations promulgated pursuant thereto or under such modification thereof as may be issued by the Chief of the Bureau of Entomology and Plant Quarantine as hereinafter provided: *Provided*, That the restrictions of this quarantine and of the rules and regulations supplemental thereto or modification thereof as hereinafter provided, may be limited to the areas in the State of Texas now, or which may hereafter be, designated by the Secretary of Agriculture as regulated areas: *Provided further*, That such limitation of the restrictions to the regulated areas shall be conditioned upon the said State providing for and enforcing such control measures with respect to such regulated areas, including the control of intrastate movement of host fruits from such areas, as in the judgment of the Secretary of Agriculture shall be deemed adequate to prevent the spread of the Mexican fruit fly thereto from other parts of the State: *And provided further*, That, except as to extension or reduction of the regulated area, the Chief of the Bureau of Entomology and Plant Quarantine may modify by administrative instructions any of the restrictions of the regulations supplemental hereto when in his judgment such action is necessary to prevent the spread of the Mexican fruit fly.

Done at the city of Washington this 14th day of October 1937.

Witness my hand and the seal of the United States Department of Agriculture

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

RULES AND REGULATIONS (SECOND REVISION) SUPPLEMENTAL TO NOTICE OF QUARANTINE No. 64

REGULATION 1. DEFINITIONS

For the purpose of these regulations, the following words shall be construed respectively to mean:

(a) *Mexican fruit fly*.—The insect known as the Mexican fruit fly (*Anastrepha ludens* Loew).

(b) *Regulated areas*.—The areas in the State of Texas now, or which may hereafter be, designated as such by the Secretary of Agriculture in accordance with the provisos to Notice of Quarantine No. 64.

(c) *Host fruits*.—Fruits susceptible to infestation by the Mexican fruit fly, namely, mangoes, sapotas (including sapodillas and the fruit of all members of the family Sapotaceae and of the genus *Casimiroa* and all other fruits commonly called sapotas or sapotes), peaches, guavas, apples, pears, plums, quinces, apricots, mameys, ciruelas, fruit of species of the genus *Sargentia*, and all citrus fruits except lemons and sour limes, together with any other fruits which may later be determined as susceptible and of which due notice will be given.

(d) *Host-free period*.—A period of time during which no host fruits are produced or permitted to exist within the regulated area, except immature fruit in such stage of development, and mature fruit held or stored under such conditions as are prescribed by the Chief of the Bureau of Entomology and Plant Quarantine, which in his judgment do not convey risk of propagating the Mexican fruit fly.

(e) *Inspector*.—An inspector of the United States Department of Agriculture.

(f) *Moved interstate*.—Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from the area designated as regulated in the State of Texas into or through any other State or Territory or District.

REGULATION 2. LIMITATION OF RESTRICTIONS TO REGULATED AREAS

Conditioned upon the compliance on the part of the State of Texas with the provisos to Notice of Quarantine No. 64, the restrictions provided in these regulations or subsequent administrative instructions on the production or interstate movement of fruit will be limited to fruit produced in or moving interstate from the areas in Texas now or hereafter designated by the Secretary of Agriculture as regulated areas.

REGULATION 3. REGULATED AREA

In accordance with the provisos to Notice of Quarantine No. 64, the Secretary of Agriculture designates as "regulated area" the counties of Brooks, Cameron, Hidalgo, and Willacy in the State of Texas, and that portion of Jim Wells County, Tex., lying south of Highway 141 and a line projected due west to the Jim Wells-Duval County line from the point where Highways 141 and 66 intersect, including all cities, towns, townships, and other political subdivisions within this area.

REGULATION 4. EXTENSION OR REDUCTION OF REGULATED AREAS

The regulated areas designated in regulation 3 may be extended or reduced as may be deemed advisable by the Secretary of Agriculture in accordance with the provisions of the Plant Quarantine Act of August 20, 1912, as amended.

REGULATION 5. RESTRICTIONS ON THE INTERSTATE MOVEMENT OF FRUIT FROM THE REGULATED AREA

(a) *Permits required*.—Grapefruit, oranges, and other citrus fruits (except as provided in paragraph (c) hereof)

shall not be moved interstate from a regulated area into or through any point outside thereof unless a permit has been issued therefor by the United States Department of Agriculture.

(b) *Movement of noncitrus hosts prohibited*.—Peaches, apples, pears, plums, quinces, apricots, mangoes, sapotas (see regulation 1 (c)), guavas, mameys, ciruelas, and fruits of species of the genus *Sargentia* shall not be moved interstate from the regulated area and no permits will be issued for such movement.

(c) *No restrictions on immune and manufactured fruits*.—No restrictions are placed by these regulations on the interstate movement of lemons, sour limes, or other non-host fruits, nor on the interstate movement of host fruits which have been manufactured or processed in such manner as to eliminate danger of carrying the Mexican fruit fly.

(d) *Movement through regulated area*.—No restrictions are placed by these regulations on the interstate movement of restricted articles from an area not under regulation through a regulated area when such movement is on a through bill of lading.

REGULATION 6. CONDITIONS GOVERNING THE ISSUANCE OF PERMITS

Permits for the interstate movement of grapefruit, oranges, and other restricted citrus fruits from the regulated area may be issued upon determination by the inspector that the proposed movement does not involve risk of spread of the Mexican fruit fly. Such determination will be based on compliance with the following conditions:

(a) *Grove inspection and sanitation*.—The grove in which the fruit was produced shall be maintained in compliance with the host-free requirement of these regulations and shall be kept free from drops and windfalls during such periods and time as the Chief of the Bureau of Entomology and Plant Quarantine may direct. Such drops and windfalls shall be buried under at least 18 inches of tamped soil or otherwise disposed of in manner and method prescribed by the Chief of the Bureau of Entomology and Plant Quarantine. The grove shall further be maintained in compliance with such other requirements as may be enforced by the State of Texas for the suppression of Mexican fruit fly infestation. Permits may be issued for the interstate movement of fruit produced only in such groves as have been inspected within 30 days prior to the movement of the fruit concerned and have been found free from Mexican fruit fly infestation.

(b) *Packing house requirements*.—The packer and shipper shall maintain his packing plant in compliance with the sanitation requirements of the State of Texas issued for the suppression of the Mexican fruit fly. The packer shall also maintain a complete record of all receipts and sales or shipments of host fruits, subject to examination by the inspector.

(c) *Applications*.—Persons desiring to purchase, pack, or move grapefruit, oranges, or other restricted citrus fruits interstate from the regulated area shall make application for a permit to the office of the Bureau of Entomology and Plant Quarantine, Harlingen, Texas, as far as possible in advance of the probable date of shipment. Application shall show the nature and quantity of the fruit it is proposed to move, together with the location at which it will be packed, the name and address of the shipper, and a list of all groves, together with the names and addresses of the owners, from which fruit for packing will be secured. Each applicant shall file with his application a signed statement in which he agrees to notify the inspector of all additional groves from which fruit for packing will be secured, not to pack or ship fruit from any grove until he has received written notification from the inspector that the grove has been maintained in compliance with the regulations issued under this quarantine, and to discontinue packing and shipping the fruit from any grove on notification from the inspector of the discovery of an infestation of the Mexican fruit fly in such grove or adjoining groves or of failure on the part of the owner or manager of such grove to comply with any condition of these regulations.

(d) *Containers*.—Permits will be issued for the interstate movement of only such fruit as is packed in containers

customarily used in the regulated area for the commercial shipment of citrus fruits, and which are of such nature as will permit the inspector to identify the contents thereof.

(e) *Sterilization may be required.*—Sterilization of host fruits in manner and by method prescribed by the Chief of the Bureau of Entomology and Plant Quarantine may be required as a condition for the issuance of permits for interstate movement thereof when in his judgment the shipments concerned might involve risk of spread of the Mexican fruit fly.

(f) *Destination limitations.*—Permits may be limited as to destination and when so limited the fruits covered thereby shall not be moved interstate from the regulated area, directly or indirectly, either in the original containers or otherwise, to destinations other than those authorized in such permits, except to the usual diversion points for diversion to authorized destinations only.

(g) *Cancellation of permits.*—Any permits issued under these regulations may be withdrawn or canceled and further permits refused either for any failure of compliance with these regulations or violation of them, or whenever in the judgment of the inspector the further use of such permits might result in the dissemination of infestation.

REGULATION 7. CONDITIONS REQUIRED IN THE REGULATED AREAS

The interstate movement of grapefruit, oranges, and other restricted citrus fruit from the regulated areas under permits issued by the United States Department of Agriculture will be conditioned on the State of Texas providing for and enforcing the following control measures in manner and by method approved by the United States Department of Agriculture, namely:

SECTION A. Host-free period

A host-free period shall be maintained each year beginning on the first day of May and continuing until the first day of September, subject to such modification as to duration and dates of commencement and termination as may be authorized by the Chief of the Bureau of Entomology and Plant Quarantine when in his judgment such modification does not involve increased risk of spread of the Mexican fruit fly.

Prior to the commencement of such host-free period each year, all restricted citrus fruit shall be removed from the tree for immediate sale or shipment, or for retention in fly-proof storage approved by the Chief of the Bureau of Entomology and Plant Quarantine, and all other host fruits shall be destroyed either following removal from the trees or by destruction of the trees themselves.

No host fruits shall be permitted to remain on trees or to exist elsewhere within a regulated area at any time during such host-free period except immature citrus fruits which in the judgment of the Chief of the Bureau of Entomology and Plant Quarantine are not susceptible to infestation by the Mexican fruit fly.

Section B. Inspection

A system of inspection shall be carried on throughout the year to provide for the efficient enforcement of Sections A and C of this regulation, for the prompt discovery of any infestations which occur, and for the enforcement of such conditions in and around citrus groves and packing and processing plants as shall be necessary to prevent the dissemination of Mexican fruit fly through the interstate movement of citrus host fruits.

Section C. Infested Zones

Upon the determination of a Mexican fruit fly infestation within a regulated area, which in the judgment of the Chief of the Bureau of Entomology and Plant Quarantine constitutes a risk of spread of such fly, an infested zone shall be designated by the State of Texas subject to approval by the United States Department of Agriculture and all host fruits in susceptible stages of maturity produced within such zone and existing in the regulated area shall be destroyed or processed in such a manner as to render them free from infestation.

REGULATION 8. MARKETING REQUIREMENTS

Every crate, box, or other container of host fruit moved interstate under these regulations shall have securely attached thereto a shipping permit (Form 443) issued under the provisions of regulation 6, and shall be subject to such other marking as may be required by the inspector.

Each shipment of six or more crates, boxes, or other containers of host fruit moved interstate under these regulations shall, in addition to the shipping permit on each such container, be accompanied by a master permit (Form 515) showing the number of containers and either the license number and destination of the vehicle or the name, number, and destination of the freight car or other carrier, as the case may be.

REGULATION 9. INSPECTION IN TRANSIT

Any car, vehicle, basket, box, crate, or other container, moved interstate, which contains or which the inspector has probable cause to believe contains articles the movement of which is prohibited or restricted by these regulations, shall be subject to inspection by inspectors at any time or place.

REGULATION 10. SHIPMENTS BY THE UNITED STATES DEPARTMENT OF AGRICULTURE

Articles subject to restriction in these regulations may be moved interstate by the United States Department of Agriculture for experimental or scientific purposes, on such conditions and under such safeguards as may be prescribed by the Chief of the Bureau of Entomology and Plant Quarantine. The container of articles so moved shall bear, securely attached to the outside thereof, an identifying tag from the Bureau of Entomology and Plant Quarantine showing compliance with such conditions.

These revised rules and regulations shall be effective on and after October 15, 1937, and shall supersede the rules and regulations promulgated August 12, 1932, as amended.

Done at the city of Washington this 14th day of October 1937.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-3045; Filed, October 15, 1937; 12:48 p. m.]

FARM CREDIT ADMINISTRATION.

[FCA 62]

LOANS TO DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS OF THE FARM CREDIT ADMINISTRATION, THE PRODUCTION CREDIT CORPORATION, AND THE PRODUCTION CREDIT ASSOCIATION

REVISION OF SECTION 218 OF THE RULES AND REGULATIONS FOR PRODUCTION CREDIT ASSOCIATIONS

Pursuant to the authority conferred upon the Governor of the Farm Credit Administration by the Farm Credit Act of 1933, particularly sections 20 and 23 thereof, section 218 of the Rules and Regulations for Production Credit Associations¹ is hereby revised as follows:

Subject to the prior approval of the Production Credit Commissioner, loans that are otherwise eligible may be made by the association to a director, officer, employee, or agent of the corporation, or to an officer (as distinguished from an employee) of the Farm Credit Administration, or to a member of the immediate family of any of the aforesaid persons, who is otherwise eligible, on the same terms and conditions as to other borrowers. Such prior approval must likewise be obtained: (a) Where the proceeds of a loan, if made by the association to a person, partnership, or corporation, otherwise eligible, are to be used in connection with property in which any of the aforesaid persons has a present legal or

¹ 2 F. R. 603 (DI).

equitable interest; or (b) where any of the aforesaid persons is a member of a partnership or a stockholder in a corporation to which the association desires to make a loan. Loans to an employee of the Farm Credit Administration who is not an officer thereof, or to a member of his immediate family, may be made without the approval of the Production Credit Commissioner.

Subject to the limitations contained in the bylaws of the association and subject to the prior approval of the corporation, loans that are otherwise eligible may be made to a director or officer of the association or to a member of the immediate family of such a director or officer who is otherwise eligible on the same terms and conditions as to other borrowers. Such prior approval must likewise be obtained: (a) Where the proceeds of a loan, if made by the association to a person, partnership, or corporation, otherwise eligible, are to be used in connection with property in which such a director or officer has a present legal or equitable interest; or (b) where such director or officer is a member of a partnership or a stockholder in a corporation to which the association desires to make a loan. An association officer, employee, or agent shall not be authorized to make an inspection incident to a loan applied for or obtained by a member of his immediate family. The term "immediate family" as used in this section shall include a father, mother, brother, sister, son, daughter, husband, or wife.

[SEAL]

S. M. GARWOOD,
Production Credit Commissioner.

[F. R. Doc. 37-3039; Filed, October 15, 1937; 12:07 p. m.]

FEDERAL POWER COMMISSION.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

[Project No. 1406]

APPLICATION OF GUY ROCCO

NOTICE OF HEARING

Application having been filed by Guy Rocco, having a business address at 5242 West Division Street, Chicago, Illinois, on November 14, 1936, for a preliminary permit, and on May 26, 1937, for a license for two proposed hydroelectric plants with installed capacity of approximately 12,000 horsepower each to utilize surplus water at the constructed dams of the United States located in the Des Plaines River at Brandon Road and in the Illinois River at Dresden Island, said developments to be run-of-stream plants to utilize the head gates provided in each of the dams as constructed by the United States and the State of Illinois;

And it appearing that the information therein contained is insufficient to show:

(1) That the applicant has complied with the requirements of the laws of the State of Illinois with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes and with respect to the right to engage in the business of developing, transmitting, and distributing power, and in any other business necessary to effect the purposes of such license;

(2) That applicant will be able to construct said project within the period of time limited by Section 13 of the Federal Power Act;

And it appearing further: That the State of Illinois has protested the issuance of such license;

The Commission orders: That a hearing be held upon said applications beginning at 10 a. m. on November 17, 1937, in the Commission's hearing room, 1800 Pennsylvania Avenue, Washington, D. C.

Adopted by the Commission on October 12, 1937.

[SEAL]

LEON M. FUQUAY,
Acting Secretary.

[F. R. Doc. 37-3034; Filed, October 15, 1937; 9:25 a. m.]
No. 201—3

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

[Docket Nos. IT-5479; 5480; 5481; 5482; 5483]

APPLICATIONS OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY
ORDER CONTINUING DATE OF HEARINGS

Upon application of Wendell J. Wright of Public Service Terminal, Newark, New Jersey, counsel for the applicant in the above matters, for a continuance of the hearing of said matters now set for October 27, 1937 by the Commission's order adopted September 15, 1937,¹ and for good cause shown;

The Commission orders: That the hearings of said matters be and are hereby continued to November 22, 1937, at 10 a. m., in the Commission's hearing room in the Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

Adopted by the Commission on October 12, 1937.

[SEAL]

LEON M. FUQUAY,
Acting Secretary.

[F. R. Doc. 37-3035; Filed, October 15, 1937; 9:25 a. m.]

Commissioners: Clyde L. Seavey, Acting Chairman, Claude L. Draper, Basil Manly, John W. Scott.

[Project No. 1442]

APPLICATION OF THE ACME ENGINEERING SERVICE, INC.

ORDER SETTING HEARING

Upon application filed June 25, 1937, by The Acme Engineering Service, Inc. for a preliminary permit for Project No. 1442 to consist of three dams and two power plants, all on the Salamonie River in Wabash and Huntington Counties, State of Indiana, objections having been filed to the granting of said application;

The Commission orders: That a hearing on said application be held on November 14, 1937, at 10 a. m. in the Commission's hearing room, Hurley Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

Adopted by the Commission on October 12, 1937.

[SEAL]

LEON M. FUQUAY,
Acting Secretary.

[F. R. Doc. 37-3036; Filed, October 15, 1937; 9:26 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of October, A. D. 1937.

[File 43-84]

IN THE MATTER OF COPPER DISTRICT POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration having been duly filed with this Commission, by Copper District Power Company, a subsidiary of The Middle West Corporation, a registered Holding company, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issuance and sale of unsecured notes to mature within 9 months from date of issue and for the renewal of such notes for another 9 months, in a sum not to exceed \$225,000 in principal amount, to The First National Bank of Boston (\$125,000) and to The Middle West Corporation and Copper Range Company (\$50,000, each); the proceeds of such loan to be used for the purpose of financing the business of the declarant as a public utility;

¹ 2 F. R. 2192 (DI).

It is ordered. That a hearing on such matter be held on October 28, 1937, at ten o'clock in the forenoon of that day at Room 1102, Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.; and

Notice of such hearing is hereby given to said party and to any interested State, State commission, State securities commission, municipality, and any other political subdivision of a State, and to any representative of interested consumers or security holders, and any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 23, 1937.

It is further ordered. That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission.

By the Commission.

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

[F. R. Doc. 37-3041; Filed, October 15, 1937; 12:44 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 14th day of October, A. D., 1937.

IN THE MATTER OF AN OFFERING SHEET OF NON-PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE SINCLAIR ET AL.-HOLLENBACK-NORMAN TRACT, FILED ON SEPTEMBER 20, 1937, BY ALEX MACDONALD, RESPONDENT

ORDER FOR HEARING (UNDER RULE 340 (B)) AND ORDER DESIGNATING TRIAL EXAMINER

Alex Macdonald, having filed on September 20, 1937, with the Securities and Exchange Commission, an offering sheet for the purpose of obtaining an exemption from registration for the securities described therein under Regulation B of the General Rules and Regulations under the Securities Act of 1933, as amended; and

The Securities and Exchange Commission, having reasonable grounds to believe, and, therefore, alleging that said offering sheet is incomplete or inaccurate in a material respect, or contains an untrue statement of a material fact, or omits to state a material fact necessary to make the statements therein contained not misleading, or fails to comply with the requirements of said Regulation B, to wit:

(1) In that from the information contained in the offering sheet, and shown by the plat attached thereto as Exhibit A, it is made to appear that a drilling well is located on the tract involved, whereas the Commission has information that said well has, in fact, been drilled to a total depth of approximately 7696 feet where salt water was encountered in the Wilcox sand, and, as a result, the well was completed as a dry hole and abandoned;

It is ordered. Pursuant to Rule 340 (b) of the General Rules and Regulations under the Securities Act of 1933, as amended, that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be deficient and/or

misleading, and whether the effectiveness of the filing of the said offering sheet shall be suspended; and

It is further ordered. That Charles S. Moore, an officer of the Commission be, and hereby is, designated as Trial Examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered. That the taking of testimony in this proceeding commence on the 28th day of October, 1937, at 10:00 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said Examiner may designate.

Upon the completion of testimony in this matter the Examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

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

[F. R. Doc. 37-3044; Filed, October 15, 1937; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 12th day of October, A. D., 1937.

[File No. 50-1]

IN THE MATTER OF THE APPLICATION OF INTERNATIONAL PAPER AND POWER COMPANY

ORDER DENYING APPLICATION FOR HEARING

John Lawless, Jr., a stockholder of International Paper and Power Company, having filed with this Commission an application for a rehearing¹ with respect to the application of said company upon which this Commission entered an order on July 31, 1937; and

The Commission having duly considered said application for a rehearing and filed its opinion with reference thereto; *It is ordered.* That said application for a rehearing be and hereby is denied.

By the Commission.

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

[F. R. Doc. 37-3043; Filed, October 15, 1937; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 15th day of October, 1937.

[File No. 1-2700]

IN THE MATTER OF THE EL PASO NATURAL GAS COMPANY 4¾% CONVERTIBLE DEBENTURES

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made applica-

¹ 2 F. R. 625, 1354 (DI).

tion to strike from listing and registration the 4¾% convertible debentures, of the El Paso Natural Gas Company; and

After appropriate notice,¹ a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on October 25, 1937.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-3042; Filed, October 15, 1937; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 15th day of October, 1937.

¹2 F. R. 1372 (DI).

[File No. 1-852]

IN THE MATTER OF THE NATIONAL LEATHER COMPANY COMMON STOCK, \$10 PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Chicago Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Common Stock, \$10 Par Value, of the National Leather Company; and

After appropriate notice,¹ a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on October 25, 1937.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-3040; Filed, October 15, 1937; 12:43 p. m.]

¹2 F. R. 1669 (DI).

