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Rules, Regulations, Orders

**TITLE 7—AGRICULTURE
AGRICULTURAL ADJUSTMENT
ADMINISTRATION**

PROCLAMATION WITH REGARD TO BASE PERIOD TO BE USED FOR PURPOSE OF MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF GRAPES GROWN IN COUNTIES OF WASHINGTON, BENTON, AND MADISON IN STATE OF ARKANSAS

By virtue of the authority vested in the Secretary of Agriculture of the United States by the provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, the undersigned hereby finds and proclaims that, with regard to grapes grown in the counties of Washington, Benton, and Madison in the State of Arkansas, the purchasing power of such grapes during the pre-war base period, August 1909-July 1914, cannot be satisfactorily determined from available statistics of the United States Department of Agriculture for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of such grapes, but the purchasing power of grapes grown in the aforesaid counties of Washington, Benton, and Madison in the State of Arkansas can be satisfactorily determined from available statistics of the United States Department of Agriculture for the post-war period of August 1, 1922-July 31, 1929, both dates inclusive. Acting pursuant to the provisions of the aforesaid Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, the undersigned hereby declares and proclaims that the base period, for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of grapes grown in the aforesaid counties of Washington, Benton, and Madison in the State of Arkansas, to be used in de-

termining the purchasing power of grapes grown in the aforesaid counties of Washington, Benton, and Madison in the State of Arkansas, is the post-war period of August 1, 1922, to July 31, 1929, both dates inclusive.

In witness whereof, the Secretary of Agriculture of the United States has executed this proclamation in duplicate and has hereunto affixed his signature and caused the seal of the United States Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 15th day of July 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2030; Filed, July 15, 1938;
12:21 p. m.]

ORDER REGULATING HANDLING IN INTERSTATE OR FOREIGN COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE OR FOREIGN COMMERCE, OF GRAPES GROWN IN COUNTIES OF WASHINGTON, BENTON, AND MADISON IN STATE OF ARKANSAS

Whereas, under the provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, (hereinafter referred to as the "act") it is provided that the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary") shall, subject to the provisions of said act, issue orders regulating such handling of certain agricultural commodities, including grapes, 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 has found and proclaimed that the purchasing power of grapes grown in the counties of Washington, Benton and Madison during the period August 1909-July 1914 cannot be satisfactorily determined from the available statistics of the United States Department of Agriculture, but that the purchasing power of such commodity

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can be satisfactorily determined from available statistics of the United States Department of Agriculture for the period August 1, 1922, to July 31, 1929, both dates inclusive, and the period August 1, 1922, to July 31, 1929, both dates inclusive, is the base period to be used in connection with this order in determining the purchasing power of such commodity; and

Whereas, the Secretary having reason to believe that the issuance of an order would tend to establish and maintain such marketing conditions for grapes grown in the counties of Washington, Benton, and Madison in the State of Arkansas as would establish prices to the producers of grapes at a level that would give such grapes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such grapes in the base period,



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August 1, 1922, to July 31, 1929, both dates inclusive, did, pursuant to the provisions of the act and the regulations thereunder, on the 12th day of February 1938, give notice of a hearing to be held at Fayetteville, Arkansas, on March 3, 1938, on a proposed order regulating the handling of grapes grown in the counties of Washington, Benton, and Madison in the State of Arkansas, at which time all interested parties in attendance at such hearing were afforded due opportunity to be heard concerning the proposed order; and

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

(1) That customarily a substantial percentage of all shipments of grapes grown in the aforesaid counties of Washington, Benton, and Madison in the State of Arkansas is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce;

(2) That, in order to give such grapes a purchasing power with respect to articles that farmers buy equivalent to the average purchasing power of such grapes during the base period, August 1, 1922, to July 31, 1929, both dates inclusive, the average price received by the grower of grapes should have been 16.6 cents per four-quart basket of grapes during the 1937 season;

(3) That the average price received by growers of such grapes for the 1937 season was 7 cents per four-quart basket of grapes;

(4) That the average price per four-quart basket of said grapes received by growers during the nine years from 1929 to 1937 was substantially less than the purchasing power of such grapes during the aforesaid base period;

(5) That, in the past, the lack of regulation of the shipment of grapes produced in the aforesaid counties of Washington, Benton, and Madison in the State of Arkansas was an important factor contributing toward unstable marketing conditions for such grapes and consequently depressed prices to growers;

(6) That the regulation of shipments of grapes by proration, as provided in this order, and the regulation of shipments by grades, subject to the terms and provisions contained in this order, will tend to prevent fluctuation of prices to growers, particularly prices which are so low as to represent losses to growers, and thereby establish and maintain a more stable market for said grapes, tending to restore prices to growers of said grapes to a level that will have a purchasing power with respect to articles that producers buy equivalent to the purchasing power of said grapes in the aforesaid base period;

(7) That the method of regulating shipments by proration among handlers, as provided in this order, and the method of regulation of shipments by grades, as prescribed in this order, are fair and equitable;

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

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

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

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

(12) That this order and all the terms and provisions thereof will tend to effectuate the declared policy of the act with respect to said grapes, grown in said area, by establishing and maintaining such orderly marketing conditions therefor as will establish prices to producers thereof at a level that will give said grapes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such grapes in the aforesaid base period and by protecting the interest of the consumer by (a) approaching such level of prices, which it is declared in the act to be the policy of Congress to

establish, by a gradual correction of the current level of prices at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to producers above the aforesaid level which it is declared in the act to be the policy of Congress to establish; and

Whereas, the Secretary further finds:

(1) That the marketing agreement regulating the handling of grapes grown in the counties of Washington, Benton, and Madison in the State of Arkansas executed by him on July 15, 1938, and upon which a public hearing was held on March 3, 1938,¹ was signed by handlers who handled more than 50 percent of such commodity produced during the year of 1937;

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

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

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

ARTICLE I.—DEFINITIONS

SECTION 1. *Terms.*—As used in this order, 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, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved on June 3, 1937, as amended.

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

4. "Grapes" means and includes all varieties of grapes grown in the area described in paragraph numbered 11 of this section.

¹ 3 F. R. 406 DL.

5. "Handler" or "shipper" means any person who ships, or is engaged in shipping, marketing, consigning, or dealing in grapes, either in person or as or through an agent, broker, representative or otherwise, in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce.

6. "To ship" or "to handle" means to convey in, or handle for shipment in, to ship in, or to cause to be conveyed or handled for shipment in, or in any other way to put grapes in, the channels of trade by conveying or causing grapes to be conveyed by railroad, truck, boat, or any other means whatsoever (except as a common carrier of grapes owned by another person), in the current of interstate or foreign commerce, or so as directly to burden, obstruct or affect interstate or foreign commerce.

7. "Control Committee" means the Control Committee provided for in, and created pursuant to, article II of this order.

8. "Grower" or "producer" means any individual, each member of a partnership, any corporation, association, or any other business unit engaged in growing grapes, in the counties of Washington, Benton, and Madison in the State of Arkansas, who or which has a financial interest in the crop.

9. "Season" means that portion of the calendar year during which grapes are being shipped from the area described in paragraph numbered 11 of this section.

10. "Term year" means the period of time beginning on February 15 and ending on the following February 14.

11. "Area" means and includes the counties of Washington, Benton and Madison in the State of Arkansas.

12. "Shipment" means the placing or loading of grapes into a car, truck, or other conveyance, for transportation in the current of interstate or foreign commerce.

13. "Basket" means the standard 4-quart Climax basket referred to and described in the U. S. Standard Container Act (39 U. S. Stats. at Large, p. 673) approved on August 31, 1916, as amended.

ARTICLE II.—ADMINISTRATIVE BODY

SECTION 1. Control Committee membership.—1. A Control Committee, consisting of ten (10) members, is hereby established to administer the terms and provisions of this order as herein specifically provided. There shall be an alternate for each of said ten (10) members of the Control Committee. The members and alternates shall be selected in accordance with the provisions of this article and shall serve for a term ending February 14, 1939; provided, however, said members and alternates shall serve until their respective successors have been selected and qualified. The members and alternates of said Control Committee selected subsequent to those selected for the aforesaid initial

period ending February 14, 1939, shall serve for a term of one year, beginning on February 15; provided, however, said members and alternates, selected subsequent to those selected for the aforesaid initial period ending on February 14, 1939, shall serve until their respective successors have been selected and qualified. In event any member or alternate, selected subsequent to those selected for the aforesaid period ending February 14, 1939, is selected or qualified subsequent to February 15 of any year, the term of said member or alternate shall end on February 14, following his selection, except such member or alternate shall serve until his successor shall have been selected and qualified. Any person selected as a member or alternate of the Control Committee shall qualify by filing with the Secretary, or with the designated representative of the Secretary, a written acceptance of the appointment.

2. Seven members of the Control Committee and their respective alternates shall represent all growers of grapes. Four of said seven members of the Control Committee and their respective alternates, representing growers of grapes, shall be selected by the Secretary from a group of eight nominees designated by growers of grapes at an election held at a general meeting in Washington County in which all growers of grapes in Washington County shall be entitled to participate, or the Secretary may select some or all of said members and alternates from other growers of grapes in Washington County. At any such election, designating the group of eight nominees aforesaid, each grower of grapes in Washington County shall cast only one vote, for each nominee, on behalf of himself, his agents, partners, affiliates, subsidiaries and representatives. Two members of the Control Committee and their respective alternates, representing the growers of grapes, shall be selected by the Secretary from a group of four nominees designated by growers of grapes at an election held at a general meeting in Benton County in which all growers of grapes in Benton County shall be entitled to participate, or the Secretary may select some or all of the members and alternates from other growers of grapes in said Benton County. At any such election, designating the group of four nominees aforesaid, each grower of grapes in Benton County shall cast only one vote, for each nominee, on behalf of himself, his agent, partners, affiliates, subsidiaries, and representatives. One member of the Control Committee and his alternate, representing the growers of grapes, shall be selected by the Secretary from a group of two nominees, designated by growers of grapes at an election held at a general meeting in Madison County in which all growers of grapes in Madison County shall be entitled to participate, or the Secretary may select the member and alternate,

or either, from other growers of grapes in said Madison County. At any such election, designating the two nominees of Madison County, each grower of grapes in Madison County shall cast only one vote, for each nominee, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives. In the respective elections designating nominees as aforesaid, no person who is not a grower of grapes in the county in which the general meeting and election is being held shall be entitled to participate in said meeting and election; and also, in event a person is a grower of grapes in more than one of the aforesaid counties, such person may exercise an option as to the county in which he shall participate in the election or designation of the group of nominees aforesaid, but such person can participate in the election in only one county.

3. Three members of the Control Committee and their respective alternates shall represent all handlers of grapes. The three members of the Control Committee and their respective alternates, representing handlers of grapes, shall be selected by the Secretary from a group of six nominees designated by handlers of grapes in the area included in this order, at an election held at a general meeting in which all handlers of grapes shall be entitled to participate, or the Secretary may select some or all of the members and alternates from other handlers of grapes in said area. At any such election, designating the group of six nominees aforesaid, each handler shall cast only one vote for each 10,000 baskets of grapes handled, in interstate or foreign commerce, by such handler during the season previous to the year in which the election is being held, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives; provided, however, if any such handler shipped in interstate or foreign commerce less than 10,000 baskets of grapes during said previous season, such handler shall be entitled to cast one vote in said election.

4. Nominees for members of the Control Committee and their respective alternates whose term of office shall expire on February 14, 1939, shall be selected by the above designated groups in the following manner: The Secretary, or such person as the Secretary may designate, shall cause to be held as soon as practicable after the effective date of this order a meeting of all handlers of grapes in the area included in this order. Such meeting shall select its chairman and secretary. In the selection of the six nominees, from whom the Secretary of Agriculture may select three members and three alternates to represent handlers, each handler shall be entitled to vote without regard to the number of counties from which he may ship grapes. The chairman and the secretary of the meeting shall forthwith transmit to the Secretary of Agriculture, or to such person as the Secretary of Agriculture may

designate, their certificate as to the number of votes so cast and the names of the nominees so designated. Also, the Secretary of Agriculture, or such person as the Secretary may designate, shall cause to be held, as soon as practicable after the effective date of this order, a meeting in each county, included in the area designated in this order, of all growers of grapes in the respective county. Each such meeting shall select its chairman and secretary. The chairman and the secretary of the meeting shall forthwith transmit to the Secretary of Agriculture, or to such person as the Secretary of Agriculture may designate, their certificate as to the number of votes so cast and the names of the nominees so designated. Nominees for the handler members and the grower members, and their respective alternates, selected subsequent to those selected for the aforesaid initial period ending February 14, 1939, shall be designated by the aforesaid respective groups each year not less than 20 days nor more than 40 days prior to February 14; and said nominees shall be designated at meetings and elections caused to be held by the Control Committee, and said meetings and elections shall be of the same character and specification, and the procedure shall be substantially the same, as specified herein above for the designation of nominees for the initial period ending February 14, 1939.

5. To fill any vacancy occasioned by the failure of any person selected as a member of the Control Committee or selected as an alternate to qualify, a nomination for his unexpired term shall be made at an election held at a meeting in the manner heretofore indicated for the selection of the original member or alternate who has thus failed to qualify. If a nomination for any such vacancy is not made within 20 days after the beginning of said vacancy, the Secretary may select such member without regard to his nomination; and also the Secretary may select the person to fill such vacancy from among persons not nominated at an election so held. In event of the death, removal, resignation, or disqualification of any member or his alternate, after having qualified as a member or alternate of said Control Committee, a successor for the unexpired term of such member or alternate shall be selected by the Secretary. Such selection may be made without resorting to the provision as to nomination of candidates for the office of member or alternate.

6. An alternate for a member of the Control Committee, selected pursuant to this order, shall, in the event of such member's absence, act in the place and stead of such member; and, in event of such member's (a) removal, (b) resignation, (c) disqualification, or (d) death, the alternate for said member shall, until a successor for the unexpired term of such member has been selected, act in the place and stead of such member.

7. The members of the Control Committee, and their respective alternates, shall serve without compensation; but said members and their respective alternates shall be reimbursed for expenses necessarily incurred in the performance of their respective duties.

SEC. 2. *Powers.*—The Control Committee shall have the following powers:

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

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

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

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

SEC. 3. *Duties.*—The duties of the Control Committee shall be as follows:

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

2. To keep minute books and records which will clearly reflect all of the acts and transactions of said Control Committee; and such minute books and records shall be subject at any time to examination by the Secretary or by such person as may be designated by the Secretary.

3. To investigate, from time to time, and assemble data on, the growing, shipping and marketing conditions respecting grapes grown in the aforesaid area included in this order, and to furnish to the Secretary such available information as may be requested.

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

5. 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 may deem necessary or as the Secretary may request; and file with the Secretary copies of any and all audit reports made.

6. To appoint such employees as it may deem necessary, and to determine the salaries of such employees. The duties of all employees shall be designated by the Control Committee in administering the terms and provisions of this order; and the Control Committee may adopt such rules for the conduct of the business as it may deem desirable.

7. To give the Secretary, or the designated agent of the Secretary, the same notice of meetings of the Control Committee as is given to the members of the Control Committee.

8. To select a chairman of the Control Committee and, from time to time, such other officers as it may deem advisable; and to adopt rules and regulations for

the performance of its duties under this order.

SEC. 4. *Procedure.*—1. The Control Committee shall not perform any of its powers or duties herein prescribed while there are more than three (3) vacancies in its membership. A quorum shall consist of seven (7) members in attendance at the meeting, and all decisions shall be made by the concurring vote of at least six (6) of the members present; provided, however, that the Control Committee can recommend a proration period or period of regulation of shipments by grades, as provided for in article III and article IV hereof, only if at least seven (7) members, one of whom shall be a handler member, vote in favor of such recommendation for such regulation period.

2. The Control Committee may provide for voting by telephone, mail or telegraph, subject to disapproval by the Secretary; provided, however, that when any proposition is submitted by telephone, mail or telegraph, seven (7) affirmative votes, one of which shall be by a handler member, shall be necessary for its adoption or approval; and promptly after voting by telephone, the members thus voting shall confirm in writing the votes so cast by telephone.

3. 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. Each and every 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 such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

SEC. 5. *Funds and other property.*—1. All funds received by the Control Committee pursuant to any of the provisions of this order shall be used solely for the purposes herein specified, and the Secretary may require the Control Committee and its members to account for all receipts and disbursements.

2. Upon the death, resignation, removal or expiration of the term of office of any member of the Control Committee or of any employee of the Control Committee all books, records, funds and other property in his possession shall be delivered to the Control Committee or to his successor in office; and such assignments and other instruments shall be executed as may be necessary to vest in the Control Committee, or vest in the successor of such member or employee, full title to all the books, records, funds and other property in the possession or under the control of such member or employee, pursuant to this order.

3. The Control Committee may maintain, with the approval of the Secretary,

in its own name or in the names of its members, a suit against any shipper for the collection of such shipper's pro rata share of expenses.

ARTICLE III.—PERIOD PRORATION

SECTION 1. Establishment of period proration.—1. It shall be the duty of the Control Committee to investigate supply and demand conditions with respect to grapes. Whenever such conditions make it advisable to regulate, by means of a proration period or series of proration periods, the shipment of grapes, the Control Committee shall recommend to the Secretary the establishment of a proration period or series of proration periods during which the shipment of grapes, in interstate or foreign commerce, may be regulated pursuant to the provisions of this article. Such recommendation, as aforesaid, including the time of commencement and duration of the proration period or series of proration periods, shall be made at a meeting of the Control Committee held at least twenty-four hours prior to the commencement of such recommended proration period or series of proration periods. The Control Committee shall promptly notify, by giving notice in such manner as it shall deem adequate under the circumstances, all handlers and growers of any such recommendation.

2. Based upon such recommendation made pursuant to paragraph 1 of this section, or other information available to the Secretary, the Secretary may establish a proration period or series of proration periods, including the time of commencement and termination of any such period, if the Secretary deems that such regulation of the flow of shipment of grapes in the current of interstate or foreign commerce during the period or periods within the season would tend to effectuate the declared policy of the act.

Sec. 2. Computation of quantity available for shipment.—1. The Control Committee, prior to the beginning of each season as defined in article I hereof, shall compute the total quantity of grapes which will be available for shipment during the season. To assist in such determination each handler shall report to the Control Committee, in such form and estimated in such manner as the Control Committee may prescribe, the total quantity of grapes, to which he has legal title or for which he has legal authority from the owners or growers thereof to handle, which the respective handlers will have available for shipment; and, also such report shall include the name of each such owner or grower and the quantity of grapes which such handler is authorized to handle for each such owner or grower. Each grower having grapes which no handler has authority to handle may in like manner report to the Control Committee his total quantity of grapes which he will have available for shipment during the season. Such reports may be checked by the

Control Committee. Investigation may be made by the Control Committee, or the employees duly designated by it, in such manner as may be necessary to arrive at a reasonably correct computation of the total quantity of grapes which will be available for shipment during such season; and, on the basis of such investigation or recalculation of the report submitted by each handler or grower, the Control Committee may revise any such report. The total quantity of grapes which will be available for shipment by each handler and by each grower shall be computed by the Control Committee in accordance with the provisions of this article. The Control Committee shall make such adjustment or recalculation, from time to time, of the aforesaid computations of the total quantity which is or will be available for shipment as may be necessary to determine, as correctly as reasonably possible, the total quantity of grapes available for shipment during the respective season or the remainder of said season. Such estimated total quantity of grapes available for shipment by each handler and by each grower shall be revised at the beginning of each proration period whenever such revision is substantiated by additional information available to the Control Committee or the Secretary. The Control Committee shall report to the Secretary all computations and recommendations of the Control Committee, pursuant to the provisions of this article, and the evidence on which such computations and recommendations were predicated.

2. The Control Committee shall advise each handler and each grower of the result of the original computation or any revised computation by such Control Committee with regard to the estimated total quantity of grapes available or which will be available for shipment by such grower or by such handler during the season or remainder of the season.

Sec. 3. Determination of total advisable shipments.—For each regulation period established pursuant to section 1 of this article, the Control Committee shall procure available evidence concerning the supply of and demand for grapes during the period for which proration is contemplated; and from such evidence the Control Committee shall make a computation of the quantity of grapes which it is deemed advisable by the Control Committee to be shipped, in the current of interstate or foreign commerce, during such proration period. The evidence procured pursuant to this section and the recommendation of the Control Committee as to the total advisable shipments, during such proration period, shall be transmitted to the Secretary.

Sec. 4. Fixing of allotments by the Secretary.—1. From the reports made pursuant to sections 2 and 3 of this article, and other available information, the Secretary shall determine: (a) the

total quantity of grapes which will be available for shipment during the season or the remainder of the season; and (b) the total quantity of grapes advisable to be shipped during the regulation period. Thereupon the Secretary shall fix for such regulation period the allotment for each handler and each grower; and such allotment for each grower and each handler shall be calculated as follows: The total quantity of grapes available for shipment by the respective grower or handler, as aforesaid, shall be multiplied by the quotient (which is a percentage) obtained when the total quantity of grapes advisable for shipment, as aforesaid, is divided by the total quantity available for shipment by all growers and handlers during the season or remainder of the season. The result obtained by the foregoing calculation shall be the quantity allotted to the respective grower or handler. The Control Committee shall notify, by such methods as may be deemed adequate under the circumstances, each grower and handler with regard to the amount of his allotment.

2. Each handler shall apportion the quantity of grapes, represented by his allotment, equitably among the growers whose grapes he reported to the Control Committee pursuant to section 2 of this article.

Sec. 5. Transfer of allotments.—Subject to such procedural rules and regulations as may be adopted by the Control Committee and approved by the Secretary, shippers and growers to whom allotments have been made may transfer such allotments in whole or in part.

Sec. 6. Overshipment.—No shipper shall ship grapes in excess of his allotment for any regulation period except for additional allotments transferred to him by a grower or handler pursuant to the provisions of this article.

Sec. 7. Modification or termination of regulation period.—If the limitation of shipment during any regulation period established pursuant to this article is rendered unnecessary or improper by reason of unforeseen increased demands, reduction of the available supply, or other causes, the Secretary may modify or terminate such limitation or regulation period.

ARTICLE IV.—REGULATION OF SHIPMENTS BY GRADES

SECTION 1. Recommendation.—1. Whenever the Control Committee deems it advisable to regulate the shipment of any grade or grades of grapes for a specified period, it shall so recommend to the Secretary. In such event the Control Committee shall furnish to the Secretary all information and data upon which such recommendation is predicated, including, but not being limited to, information with respect to the factors affecting the supply of and demand for grapes by grade. Such recommendation, including the time of commencement and termination of the regulation period, shall be made at a meeting of

the Control Committee held at least twenty-four hours prior to the commencement of such regulation period. The Control Committee shall notify the shippers and growers of such recommendation by giving notice thereof in such manner as it may deem adequate under the circumstances.

2. Based upon the recommendations made pursuant to paragraph 1 of this section, or other information available to the Secretary, the Secretary may establish a regulation period, including the time of commencement and termination thereof, if the Secretary deems that such regulation of the flow of shipments of grapes in the current of interstate or foreign commerce, during such regulation period, will tend to effectuate the declared policy of the act. Such regulation of shipments by grades may be accomplished by (a) prohibiting the shipment of certain grades during such period, or (b) by prohibiting the shipment of a part of any grade of grapes. When the Secretary has determined to regulate shipments as provided in this article, he shall immediately notify the Control Committee of such determination; and the Control Committee shall immediately notify shippers and growers of such determination by giving notice in such manner as the Control Committee shall deem adequate under the circumstances.

SEC. 2. Exemptions.—1. In the event of a regulation period established pursuant to the provisions of this article, the Control Committee shall determine the percentage which the grades of the grapes permitted to be shipped is of the total quantity of grapes which would be shipped in the absence of regulation under this article. The Control Committee shall announce forthwith this percentage and the procedure by which exemption certificates will be issued to growers pursuant to this section.

2. If any grower shall present proof to the Control Committee that the regulation of shipments will allow him to ship during the period a percentage of his grapes less than the percentage found in accordance with paragraph 1 of this section, the Control Committee shall issue to him an exemption certificate allowing the shipment of such quantity of the limited grade as will make the percentage of his crop that may be shipped equal to the percentage found in accordance with paragraph 1 of this section. If any grower is dissatisfied with the determination by the Control Committee with respect to such exemption certificates, he may appeal to the Secretary; and the Secretary may modify or cancel the issuance of exemption certificates, or the Secretary may authorize the issuance of exemption certificates. The authority of the Secretary to supervise and control the issuance of exemption certificates is plenary and complete; and any determination made by the Secretary with respect to exemption certificates shall be final.

SEC. 3. Grading and certification.—1. During any regulation period established pursuant to the provisions of this article, all shipments of grapes, in interstate or foreign commerce, grown in the area specified in article I hereof shall be graded and certified on the basis of the grades now promulgated by the United States Department of Agriculture or as the same may be modified or changed hereafter, or as the same may be modified or supplemented by regulatory orders by the Secretary pursuant to this article.

2. Each handler, prior to making each shipment of grapes in interstate or foreign commerce during any such regulation period established pursuant to this article, shall have the grapes included in each such shipment inspected by a duly authorized representative of the Federal-State Inspection Service; and each such shipper shall submit promptly, or cause to be submitted promptly, to the Control Committee the Federal-State shipping point inspection certificates, issued by the Federal-State Inspection Service, stating the grade or grades of grapes in each such shipment.

ARTICLE V.—SHIPMENTS FOR SPECIFIED PURPOSES

SECTION 1. Shipment of grapes for by-product use and charitable purposes.—

1. Subject to such rules and regulations as may be adopted by the Control Committee and approved by the Secretary, any person may ship, free from any restriction or obligation imposed by this order, grapes that will be used solely for purposes of conversion into by-products or for unemployment or relief purposes.

2. As used in this order, the term "by-product" or "by-products" means and includes all processed and manufactured products of grapes and all products in the manufacturing or processing of which grapes are used, including, but not being limited to, wine and juice.

ARTICLE VI.—ASSESSMENTS

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

2. Each handler shall pay to the Control Committee upon demand such handler's pro rata share, as is approved by the Secretary, of the expenses which the Secretary finds will be necessarily incurred by the Control Committee for the maintenance and functioning of the Control Committee. Each handler's share of such expense shall be that proportion thereof which the total quantity of grapes shipped by such handler in the current of interstate or foreign commerce during the season is of the total quantity of grapes shipped by all handlers in the current of interstate or foreign commerce during said season. Said

assessment may be adjusted from time to time by the Control Committee, with the approval of the Secretary, in order to cover any later finding by the Secretary of estimated expenses or the actual expenses of the Control Committee. The assessment of each handler for the season shall be due and payable at such time and shall be payable in such installments, if any, as the Control Committee, with the approval of the Secretary, shall determine.

3. At the end of each season, the Control Committee shall credit each contributing handler with the excess of the amount paid by such handler above his pro rata share of the expenses, or debit such shipper with the difference between his pro rata share and the amount paid by such shipper. Any such debits shall become due and payable upon the demand of the Control Committee.

4. From the funds acquired pursuant to this article, the Control Committee shall pay the salaries of its employees, if any, and pay the expenses necessarily incurred in the performance of the duties of the Control Committee.

ARTICLE VII.—REPORTS

SECTION 1. Reports.—Upon the request of the Control Committee, made with the approval of the Secretary, each handler shall furnish the Control Committee, in such manner and at such times as it prescribes, such information as will enable it to perform its powers and duties under this order.

ARTICLE VIII.—AMENDMENTS

SECTION 1. Proposals.—Amendments to this order may from time to time be proposed by the Control Committee, or by the Secretary.

ARTICLE IX.—AGENTS

SECTION 1. Agents.—The Secretary may, by a designation in writing, name any person, including any officer or employee of the Government or any Bureau or Division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this order.

ARTICLE X.—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 hereinafter specified.

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

2. The Secretary shall terminate this order whenever he finds that such termination is favored by a majority of the growers of grapes who, during the preceding season, have been engaged, in the area covered by this order, in the production of grapes for market; provided

that such majority have, during such period, produced in the area covered by this order, for market, more than fifty (50) percent of the volume of grapes produced in the area covered by this order, for market; provided, however, such termination shall be and become effective on and after the 14th of February subsequent to the announcement thereof by the Secretary.

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

Sec. 3. *Proceedings after termination.*—1. Upon the termination of this order, the members of the Control Committee then functioning shall continue as joint trustees, for the purpose of liquidating this order, of all funds and property then in the possession or under the control of the Control Committee, including claims for any funds unpaid or property not delivered at the time of such termination. Said trustees (a) shall continue in such capacity until discharged by the Secretary, (b) shall from time to time account for all receipts and disbursements or deliver all funds and property on hand, together with all books and records of the Control Committee and the joint trustees, to such person as the Secretary shall direct, and (c) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all of the funds or claims vested in the Control Committee or the joint trustees pursuant to this order. Any funds collected for expenses pursuant to article VI of this order, and held by such joint trustees or such person, over and above amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the joint trustees or such other person in the performance of their duties hereunder, shall, as soon as practicable after the termination of this order, be returned to the handlers pro rata in proportion to their contributions made thereto pursuant to this order or pursuant to such order.

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

ARTICLE XI.—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; and benefits, privileges, and immunities conferred by

this order upon any parties shall cease upon its termination as to such party except with respect to acts done under and during the existence of this order.

ARTICLE XII.—SEPARABILITY

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

ARTICLE XIII.—DEROGATION

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

In witness whereof, Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the United States Department of Agriculture, in the city of Washington, District of Columbia, on this 15th day of July 1938, and declares this order to be effective on and after 12:01 a. m., eastern standard time, July 19, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2031; Filed, July 15, 1938;
12:21 p. m.]

Notices

DEPARTMENT OF STATE.

TRADE AGREEMENT NEGOTIATIONS WITH VENEZUELA

PUBLIC NOTICE

JULY 12, 1938.

Pursuant to section 4 of an act of Congress approved June 12, 1934, entitled "An Act to Amend the Tariff Act of 1930," as extended by Public Resolution No. 10, approved March 1, 1937, and to Executive Order No. 6750, of June 27, 1934, I hereby give notice of intention to negotiate a trade agreement with the Government of Venezuela.

All presentations of information and views in writing and applications for supplemental oral presentation of views with respect to the negotiation of such agreement should be submitted to the Committee for Reciprocity Information

in accordance with the announcement of this date issued by that Committee concerning the manner and dates for the submission of briefs and applications, and the time set for public hearings.

[SEAL] CORDELL HULL,
Secretary of State.

List of Products Accompanying Notice of Intention to Negotiate a Trade Agreement With Venezuela

For the purpose of facilitating identification of the articles listed, reference is made in the list to the paragraph numbers of the tariff schedules in the Tariff Act of 1930, or, as the case may be, to the appropriate sections of the Revenue Act of 1932, as amended. Only the articles covered by the descriptive phraseology of the list will come under consideration for the granting of concessions.

In the event that articles which are at present regarded as classifiable under the descriptions included in the above list are excluded therefrom by judicial decision or otherwise prior to the conclusion of the agreement, the list will nevertheless be considered as including such articles.

United States Tariff Act of 1930, paragraph	Description of article	Present rate of duty
5 and 23.	Medicinal preparations not specially provided for, derived wholly or chiefly from phytoplankton, whether or not in any form or container specified in paragraph 23 of the Tariff Act of 1930.	25%.
35.	Ground barbasco root, not containing alcohol.	10%.
92.	Tonka beans.	25c per lb.
204.	Caustic calcined magnesite.	15/16c per lb.
304.	Dend burned and grain magnesite and periclate, not suitable for manufacture into oxychloride cements.	23/40c per lb.
754.	Orchid plants.	25%.
1653.	Cocoa or cacao beans, and shells thereof.	Free.
1654.	Coffee, except coffee imported into Puerto Rico and upon which a duty is imposed under the authority of section 319 (Tariff Act of 1930).	Do.
1670.	Dyeing or tanning materials: Divi-divi, whether crude or advanced in value or condition by shredding, grinding, chipping, crushing, or any similar process, and not containing alcohol.	Do.
1685.	Guano, basic slag (ground or unground), manures, and (notwithstanding any other provision of the Tariff Act of 1930), those grades of all other substances used chiefly for fertilizers, or chiefly as an ingredient in the manufacture of fertilizers.	Do.
1697.	Gutta balata, crude.	Do.
1722.	Barbasco root, crude or unmanufactured, not specially provided for.	Do.
1733.	Oils, mineral: Petroleum, crude, or fuel.	Do.
1765.	Reptile skins, raw.	Do.
1803.	Boxwood in the log.	Do.

Revenue Act of 1932, as amended, section	Description of article	Present rate of tax
601 (c) (4)	Crude petroleum and fuel oil derived from petroleum.	1/2¢ per gal.
601 (c) (4) and 630.	Crude petroleum and fuel oil derived from petroleum; any of the foregoing sold for use as fuel supplies, ships' stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, or vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions.	Exempt from taxes imposed in sec. 601 (c) (4) of the Revenue Act of 1932, as amended.

[F. R. Doc. 38-2028; Filed, July 15, 1938; 11:52 a. m.]

Committee for Reciprocity Information.

TRADE AGREEMENT NEGOTIATIONS WITH VENEZUELA

PUBLIC NOTICE

Closing date for submission of briefs: August 6, 1938

Closing date for application to be heard: August 6, 1938

Public hearings open: August 15, 1938

The Committee for Reciprocity Information hereby gives notice that all information and views in writing, and all applications for supplemental oral presentation of views, in regard to the negotiation of a trade agreement with the Government of Venezuela, notice of intention to negotiate which has been issued by the Secretary of State on this date, shall be submitted to the Committee for Reciprocity Information not later than 12 o'clock noon, August 6, 1938. Such communications should be addressed to "Chairman, Committee for Reciprocity Information, Old Land Office Building, Eighth and E Streets NW., Washington, D. C."

A public hearing will be held beginning at 10 a. m. on August 15, 1938, before the Committee for Reciprocity Information in the hearing room of the Tariff Commission in the Old Land Office Building, where supplemental oral statements will be heard.

Six copies of written statements, either typewritten or printed, shall be submitted, of which one copy shall be sworn to. Appearance at hearings be-

fore the Committee may be made only by those persons who have filed written statements and who have within the time prescribed made written application for a hearing, and statements made at such hearings shall be under oath.

By direction of the Committee for Reciprocity Information this 12th day of July, 1938.

JOHN P. GREGG,
Secretary.

JULY 12, 1938.

[F. R. Doc. 38-2029; Filed, July 15, 1938; 11:52 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 14th day of July, A. D. 1938.

[File No. 37-25]

IN THE MATTER OF ELECTRIC ADVISERS, INC.

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 13 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on August 4, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to 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 July 30, 1938.

The matter concerned herewith is in regard to an application for approval as mutual service company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2032; Filed, July 15, 1938; 12:43 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 July 1938.

[File No. 1-2091]

IN THE MATTER OF ADAMS EXPRESS COMPANY COMMON STOCK, NO PAR VALUE

ORDER POSTPONING EFFECTIVE DATE

The Adams Express Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, No Par Value, from listing and registration on the Boston Stock Exchange; and

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

The Commission, after due consideration of said application together with the evidence introduced at said hearing, having entered an order granting said application effective at the close of the trading session on July 15, 1938; and

The Boston Stock Exchange having made application to the Commission to extend unlisted trading privileges on said Exchange to the security above-named, and said Exchange having requested the Commission to postpone the effective date of the order herein pending the disposition by the Commission of the application to extend unlisted trading privileges;

It is ordered, That the effective date of said order be and the same is hereby postponed from July 15, 1938, until the close of the trading session on August 15, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2033; Filed, July 15, 1938; 12:43 p. m.]

¹ 3 F. R. 78 DL.