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Washington, Tuesday, September 13, 1938

**Rules, Regulations, Orders**

**TITLE 7—AGRICULTURE**

**AGRICULTURAL ADJUSTMENT  
ADMINISTRATION**

**AMENDED ORDER OF THE SECRETARY OF AGRICULTURE REGULATING SUCH HANDLING OF GRAPEFRUIT AND ORANGES GROWN IN CAMERON, HIDALGO AND WILLACY COUNTIES IN THE STATE OF TEXAS AS IS IN INTERSTATE OR FOREIGN COMMERCE, AND AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE OR FOREIGN COMMERCE**

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 (hereinafter called the "act"), the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary"), on July 9, 1937, issued an order<sup>1</sup> regulating the handling in interstate and foreign commerce, and such handling as directly burdens, obstructs, or affects interstate or foreign commerce, of grapefruit and oranges grown in Cameron, Hidalgo and Willacy Counties in the State of Texas, the said order being effective July 13, 1937; and

Whereas, at the request of the Growers Industry Committee established under the said order, the Secretary, having reason to believe that an amendment should be made to the said order, gave notice of a public hearing<sup>2</sup> to be held at Weslaco, Texas, on June 27, 1938, in accordance with the applicable provisions of the act and the general regulations of the Agricultural Adjustment Administration, Department of Agriculture, on a proposed amendment to the said order, and at said time and place conducted a public hearing at which all interested parties were afforded an opportunity to be heard; and

Whereas, the Secretary finds:

1. That the said order, as hereby amended (the order and this amended

<sup>1</sup> 2 F. R. 1188 1426 DI).

<sup>2</sup> 3 F. R. 1456 DI.

order are hereinafter referred to as the "order"), regulates the handling of the said fruit in the same manner as, and is made applicable only to persons in the respective classes of industrial and commercial activities specified in, a marketing agreement, upon which a hearing was held on February 13, 1937, as amended by the Secretary on September 10, 1938, after public hearing on the said amendment at Weslaco, Texas, on June 27, 1938;

2. That handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the said commodity or product thereof) of not less than fifty percent (50%) of the volume of the said commodity, covered by this order, which is produced within the production area defined herein, have signed an amended marketing agreement, entered into pursuant to section 8b of the act, which amended marketing agreement regulates the handling of the said commodity in the same manner as this order;

3. That the issuance of this order is approved or favored by producers who, during the period from August 1, 1937 to July 31, 1938 (which the Secretary has determined to be a representative period), have produced for market, within the production area specified in the aforesaid amended marketing agreement, and in this order, at least two-thirds ( $\frac{2}{3}$ ) of the volume of such commodity produced for market within such production area; and

Whereas, the Secretary finds upon the evidence introduced at the aforesaid hearing on the amendment to the order issued July 9, 1937, the said findings being in addition to the findings made upon the evidence introduced at the hearing on such order, said original findings being herewith ratified and affirmed by the Secretary, save only as such findings are in conflict with the findings hereinafter set forth;

1. That the two-year period for the computation of allotment bases on the basis of the past performance of handlers, as provided in article IV, section 4,

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of this order, is a representative period and is equitable as to all handlers;

2. That the period November 1925-March 1929, and the period October 1926-March 1929, for grapefruit and oranges, respectively, has been determined by the Secretary to be the base periods to be used in connection with

this order in determining the purchasing power of grapefruit and oranges;

3. That this order and all the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to such commodity by establishing and maintaining such orderly marketing conditions therefor as will reestablish prices to producers thereof at a level that will give such grapefruit and oranges a purchasing power with respect to articles that such producers buy, equivalent to the purchasing power of such grapefruit and oranges 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 such producers above the level which it is declared in the act to be the policy of Congress to establish;

Now, therefore, it is ordered by the Secretary, acting under the authority vested in him by the act, that the handling of grapefruit and oranges grown in Cameron, Hidalgo and Willacy Counties, Texas, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce in such grapefruit and oranges, from and after the date herein specified, shall be in conformity to, and in compliance with, the terms and conditions of this order.

### ARTICLE I—DEFINITIONS

SECTION 1. As used in this order, the following terms have the following meanings:

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

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.

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

4. "Citrus fruit" or "fruit" means grapefruit and oranges of any or all of the varieties enumerated in subsection 5 of this section grown in Cameron, Hidalgo, and Willacy Counties in the State of Texas.

5. "Variety" or "varieties" as used herein means classification or groups, in the case of oranges as follows: (a) early season oranges, and (b) Valencias, including all varieties of Valencias and Leu Gim Gongs; and in the case of grapefruit as follows: (a) Marsh and other seedless varieties except pinks, (b) Duncan and other seeded varieties except pinks, (c) pinks of the seeded type, and (d) pinks of the seedless type.

6. "Type of fruit" means each or any of the following: (a) early season oranges; (b) Valencia oranges, including all varieties of Valencia and Leu Gim Gongs; and (c) grapefruit of all varieties.

7. "Handler" or "shipper" means any person who ships fruit, or causes fruit to be shipped, in the current of interstate or foreign commerce, or so as directly to burden, obstruct or affect interstate or foreign commerce.

8. "Producer" means any person engaged in the production of citrus fruit in Cameron, Hidalgo and Willacy Counties in Texas for commercial purposes, or who is a substantial stockholder in a corporation engaged in the production of citrus fruit in Cameron, Hidalgo and Willacy Counties in Texas for commercial purposes.

9. "Foreign Commerce" means transactions involving the sale or transportation for sale of fruit from Texas to Canada, and does not include sale or transportation of fruit for sale to any foreign country or territory other than Canada.

10. "Ship" means to convey fresh fruit, or cause fresh fruit to be conveyed, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, by rail, truck, boat, or any other means whatsoever (except by express or parcel post), whether as owner, agent, or otherwise, but not as a common carrier of fruit owned by another person.

11. "Shipment" shall be deemed to commence (a) on the date when the bill of lading, relating to fruit transported in the current of interstate or foreign commerce by rail or boat, is issued by the common carrier or its duly authorized agent transporting such fruit, and (b) in the case of transportation of fruit by motor truck, when such fruit is loaded into a motor truck for transportation in the current of interstate or foreign commerce.

12. "Standard packed box" means a unit of measure equivalent to one and three-fifths (1 $\frac{3}{5}$ ) U. S. bushels of fruit.

13. "District" means any of the following areas:

Mission District: South boundary, Rio Grande River; West boundary, Hidalgo County line; North boundary, Hidalgo County line; East boundary, Missouri Pacific railroad from Monte Christo to Mission extended south to the Rio Grande River and extended north to Hidalgo County line.

Sharyland District: West boundary, East boundary of Mission district; North boundary, Hidalgo County line; South boundary, Rio Grande River; East boundary, Weir Road extended north to Hidalgo County line and extended south to Rio Grande River.

McAllen District: West boundary, East boundary of Sharyland district; South boundary, Rio Grande River; East boundary, State Highway No. 12 extended south to Rio Grande River and extended north to Edinburg, thence west along West Edinburg Highway to Mile



15½ West, thence north along Mile 15½ West to Hidalgo County line; North boundary, Hidalgo County line.

Pharr - San Juan - Alamo District: West boundary, State Highway No. 12 from Edinburg south extended south to the Rio Grande River; North boundary, East Edinburg Highway from Edinburg to Tower Road or Mile 7½ West; East boundary, Mile 7½ West to Tower Road extended south to Rio Grande River.

Edinburg District: North boundary, Hidalgo County line; West boundary, Mile 15½ West extended north to Hidalgo County line; South boundary, West Edinburg Highway from Mile 15½ West to Edinburg, thence along East Edinburg Highway to Edcouch; East boundary, Missouri Pacific track from Edcouch to Hidalgo County line, thence north to northern boundary of Hidalgo County.

Donna-Weslaco District: West boundary, Tower Road or Mile 7½ West; North boundary, Mile 16½ North; East boundary, Missouri Pacific railroad from Edcouch to Weslaco, thence south along Mile 4½ West extended south to Rio Grande River.

Mercedes District: West boundary, East boundaries of Edinburg and Donna-Weslaco Districts; North boundary, Hidalgo County line; East boundary, Cameron County line; South boundary, Rio Grande River.

La Feria District: West boundary, Hidalgo County line; South boundary, Rio Grande River; North boundary, Cameron County line; East boundary, Adams Road extended north to State Highway No. 96, thence to Cameron County line, and extended south to Rio Grande River.

Harlingen District: West boundary, East boundary of La Feria district; North boundary, Cameron County line; East boundary, Arroyo Colorado from Willacy County line to point of intersection with main line of Missouri Pacific Railroad, thence south along line of Missouri Pacific Railroad to San Benito, thence along branch of Missouri Pacific Railroad to Los Indios, thence south to Rio Grande River.

Raymondville District: All of Willacy County shall constitute the Raymondville district.

San Benito District: West boundary, Eastern boundary of Harlingen District; Eastern boundary, Gulf of Mexico; Southern boundary, State Highway No. 100 Port Isabel to Barrera, thence south along State Highway No. 4 to Resaca Pancho, thence along Resaca Pancho to Rio Grande River.

Brownsville District: North and West boundary, Southern boundary of San Benito District; East boundary, Gulf of Mexico; South boundary, Rio Grande River.

#### ARTICLE II—ADMINISTRATIVE BODIES

Section 1. *Membership and Organization.*—1. A Growers Industry Committee and a Shippers Marketing Committee are hereby established which shall administer

the terms and provisions of this order as hereinafter specifically provided, and the membership of which shall be selected in accordance with the provisions of this article.

2. The Growers Industry Committee shall consist of twelve (12) members whose principal business is the production of citrus fruit. The initial members and alternates shall hold office for a term beginning on the date designated by the Secretary and ending the first Monday in August 1938, and until their successors are selected and qualified. After the first Monday of August 1938, the term of office of members and alternates shall be one year expiring on the first day of August of each year. The members, their alternates, and their respective successors, shall be selected by the Secretary from the respective nominees of the groups of producers hereinafter designated to make nominations. If nominations are not made for any one or more of such members or alternates as herein provided, the Secretary may select any such member or alternate for whose office a nomination has not been made without regard to nominations.

3. Nominations of at least four (4) persons for a member and his alternate shall be made by each of the following groups:

(1) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Mission District;

(2) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Sharyland District;

(3) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the McAllen District;

(4) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Pharr-San Juan-Alamo District;

(5) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Edinburg District;

(6) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Donna-Weslaco District;

(7) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Mercedes District;

(8) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the La-Feria District;

(9) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Harlingen District;

(10) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Raymondville District;

(11) Producers of citrus fruit who during the year in which nominations

are being made produced fruit in the San Benito District; and

(12) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Brownsville District.

All nominations shall be submitted to the Secretary on or before the 20th day of July of the year in which members of the Growers Industry Committee are to be selected.

4. Nominees for members of the Growers Industry Committee and their alternates 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, not less than twenty (20) days prior to the expiration of the term of office of the members of the Growers Industry Committee and their alternates, a meeting of the producers in each district who produced citrus fruit during the year in such district. Each such meeting shall select its chairman and secretary. In the selection of nominees each producer shall be entitled to cast but one (1) vote regardless of the number of districts in which he may be producing fruit. The chairman of the meeting shall publicly announce at such meeting the total number of votes cast and the names of the persons selected as nominees, and the chairman and the secretary shall forthwith transmit to the Secretary, or to such person as the Secretary may designate, their certificate as to the number of votes so cast, and the names of the nominees selected.

5. The Shippers Marketing Committee shall consist of seven (7) members who shall be handlers of citrus fruit and who shall hold office for a term of one year, expiring on the first day of August of each year. The Secretary, or such person as the Secretary may designate, shall give notice to persons who have handled fruit during the year in which nominations are being made, not less than twenty (20) days prior to the expiration of the term of office of the members of the Shippers Marketing Committee and their alternates, of the right of such person to participate in making nominations for members of the Shippers Marketing Committee and their alternates. Such notice may be given by mail to persons known to the Secretary to have handled fruit during the year in which nominations are being made or by public notice in at least one newspaper of general circulation and shall specify the dates of meetings of handlers to make nominations. Nominations for members of the Shippers Marketing Committee and their alternates shall be made as hereinafter provided.

(1) Nominations of at least nine (9) persons for three (3) members and their alternates shall be made by handlers comprising growers' marketing groups who, during the year in which nominations are being made, shipped fruit from points within the State of Texas; and



(2) Nominations of at least twelve (12) persons for four (4) members and their alternates shall be made by handlers other than handlers comprising growers' marketing groups who, during the year in which nominations are being made, shipped fruit from points within the State of Texas.

The selection of the nominees for the members and their alternates of the Shippers Marketing Committee shall be made at a meeting of each of the aforesaid groups of handlers at which each handler shall be entitled to cast but one (1) vote on behalf of himself, agents, partners, affiliates, subsidiaries and representatives which shall be weighted according to the volume of fruit shipped by such handlers during the preceding shipping season. The chairman and secretary of each meeting shall forthwith transmit to the Secretary, or to such person as the Secretary may designate, their certificate as to the number of votes so cast and the names of the nominees selected.

6. Any person selected by the Secretary as a member or alternate of the Growers Industry Committee or the Shippers Marketing Committee shall qualify by filing a written acceptance of this appointment with the Secretary or his designated representative.

7. An alternate for a member of the Growers Industry Committee or the Shippers Marketing Committee shall act in the place and stead of such member (1) in his absence or (2) in the event of his removal, resignation, disqualification, or death until a successor for his unexpired term has been selected.

8. In the event of the death, removal, resignation or disqualification of any member or his alternate of either 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 nominations of candidates for the office of member or alternate.

**Sec. 2. Powers.**—The Growers Industry Committee shall, in addition to the power to administer the terms and provisions of this order, as herein specifically provided, have power (a) to make, only to the extent specifically permitted by the provisions hereinafter contained, administrative rules and regulations; (b) to receive, investigate and report to the Secretary complaints of violations of this order; and (c) to recommend to the Secretary amendments to this order.

**Sec. 3. Duties.**—1. It shall be the duty of the Growers Industry Committee and the Shippers Marketing Committee to keep minutes, books and records which will clearly reflect all of their acts and transactions, and such minutes, books and records shall at all times be subject to the examination of the Secretary.

2. It shall be the duty of the Growers Industry Committee:

(a) to act as intermediary between the Secretary and the producers and handlers;

(b) to furnish the Secretary such available information as he may request;

(c) to appoint such employees as it may deem necessary and to determine the salaries and define the duties of any such employees;

(d) to cause the books of the Growers Industry Committee to be audited by one or more certified public accountants at least once for each crop year and at such other times as the Growers Industry Committee deems necessary or as the Secretary may request, and to file with the Secretary copies of all audit reports made;

(e) to make such estimates of the total crop of fruit including the grade and size distribution thereof as may be deemed necessary by said committee in connection with the administration of articles IV and V hereof, or as may be prescribed by the Secretary; and

(f) to perform such duties 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 by the President on August 24, 1935, as amended, as may from time to time be assigned to it by the Secretary.

**Sec. 4. Procedure.**—1. For any decision of the Growers Industry Committee to be valid seven (7) concurring votes shall be necessary, and for any decision of the Shippers Marketing Committee to be valid five (5) concurring votes shall be necessary. Each member, or alternate then serving in the place and stead of any member of either committee, must vote in person.

2. Eight (8) members of the Growers Industry Committee or five (5) members of the Shippers Marketing Committee shall be necessary to constitute a quorum.

3. In the event the Shippers Marketing Committee fails to make a decision by five (5) concurring votes in the performance of any of its powers or duties under this order, the Growers Industry Committee shall perform such duties or exercise such power.

4. The members, and alternates when acting in the place and stead of a member as provided by this order, of the committees functioning under the provisions of this order shall be reimbursed for expenses necessarily incurred by them in the performance of their duties, and each of the members of the Growers Industry Committee and of the Shippers Marketing Committee, and their alternates, when acting in their place and stead, shall receive compensation at a rate to be determined by the Growers Industry Committee but not to exceed five dollars (\$5.00) for each meeting actually attended by a member or the alternate when acting in the place and stead of the member.

5. The Growers Industry Committee shall give to the Secretary, his designated agents and representatives, the same notice of meetings of the committees as is given to the members of the committees.

6. The members of each committee shall select a chairman from their membership, and all communications from the Secretary to the committees may be addressed to the chairman at such addresses as may, from time to time, be filed with the Secretary. The committees shall select such other officers and adopt such rules for the conduct of their business as may be deemed advisable by them.

7. The members of the committees (including successors and alternates), and any agent or employee appointed or employed by the committees, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of both committees 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 Growers Industry Committee pursuant to any provision of this order 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 Growers Industry 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 Growers Industry 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, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds and claims vested in such member pursuant to this order.

#### ARTICLE III—EXPENSES AND ASSESSMENTS

**SECTION 1. Expenses and assessments.**—1. The Growers Industry Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out the functions of both committees under this order during a designated fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments upon handlers as hereinafter provided.

2. Each handler shall pay to the Growers Industry Committee upon demand such handler's pro rata share, as is approved by the Secretary, of the expenses as the Secretary finds will be necessarily incurred by the Growers Industry Committee and the Shippers Marketing Com-



mittee for the maintenance and functioning of said committees during each fiscal period. Each handler's share of such expenses shall be that proportion thereof which the total quantity of oranges and grapefruit shipped by such handler in the current of interstate or foreign commerce during said fiscal period is of the total quantity of oranges and grapefruit shipped by all handlers in the current of interstate or foreign commerce during said fiscal period. The Secretary shall fix the rate of assessment per standard packed box of oranges and grapefruit. Each handler shall pay to the Growers Industry Committee a sum of money equivalent to the product of the rate per standard packed box fixed by the Secretary and the total quantity of standard packed boxes of oranges and grapefruit shipped by the handler: *Provided*, That if the shipment of any of the fruit mentioned, i. e., oranges or grapefruit, is not regulated during the designated fiscal period, the Growers Industry Committee shall refund to the handlers who shipped the fruit not regulated a sum of money paid by such handlers on account of such fruit: *Provided, further*, That in the event the shipment of none of the fruit is regulated, a sufficient sum of money shall be retained to pay the expenses incurred in administering this order.

3. The Growers Industry Committee may require that each handler pay his assessment in advance of actual shipments on the basis of the quantity of fruit shipped by him during the last shipping season. The assessment levied pursuant to this section by the Growers Industry Committee shall be due and payable at such time or times, and in such installments, if any, as may be set by the Growers Industry Committee. In the event assessments are levied in advance of actual shipment, such assessments shall be adjusted at the end of the fiscal period so that the assessment shall be based on the actual quantity of fruit shipped by the handler during the fiscal period.

4. If at the end of the fiscal period it shall appear that assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period, unless he demands payment of the sum due him, in which case such sum shall be paid to him.

5. At any time during or after the fiscal period, the Secretary shall have the power to increase the rate of assessment so that the sum of money collected pursuant to the provisions of this article shall be adequate to cover the expenses. Such increase shall be applied retroactively as well as to future shipments.

6. The Growers Industry Committee may, with the approval of the Secretary, maintain in its own name or in the name of its members a suit against any handler subject hereto for the collection of such handler's pro rata share of expenses.

## ARTICLE IV—REGULATION OF SHIPMENTS

**SECTION 1. Determination of regulation periods and weekly shipments.**—1. It shall be the duty of the Shippers Marketing Committee and the Growers Industry Committee to investigate supply and demand conditions of fruit. Whenever such conditions make it advisable to regulate the shipment of fruit, the Shippers Marketing Committee shall recommend the establishment of a weekly regulation period or series of weekly regulation periods as well as the commencement, duration and termination thereof. The Shippers Marketing Committee shall promptly report its findings, determinations, and recommendations so made, with supporting information in regard thereto, to the Growers Industry Committee, which committee shall submit the same to the Secretary, together with its own recommendations and supporting information. Such recommendations to the Secretary shall be accompanied by a report on the marketing policy for the season or remaining portion thereof deemed advisable by the Shippers Marketing Committee and the Growers Industry Committee, in view of the demand and supply conditions of fruit. Such reports shall be submitted to the Secretary, from time to time, in the event it is deemed advisable to adopt new marketing policies pursuant to the provisions of this article in view of changed demand and supply conditions of fruit. The Growers Industry Committee shall give notice of the intention of the Shippers Marketing Committee or of the Growers Industry Committee to meet to consider such recommendations by publishing a legal notice in one or more daily newspapers of general circulation in the producing area selected by the Growers Industry Committee.

2. If, from such recommendations and accompanying reports or other information available to the Secretary, the Secretary finds that to establish a particular weekly regulation period or series of weekly regulation periods for any one or more types of fruit would tend to effectuate the declared policy of the act, he shall establish such weekly regulation period or series of weekly regulation periods, and he shall notify the Growers Industry Committee of the establishment thereof, as well as of the time of commencement, duration and termination thereof.

3. For each weekly regulation period the Shippers Marketing Committee shall find and determine the quantity of such type or types of fruit deemed by it advisable to be shipped and to be prorated in view of the prospective demand therefor. In making such determination, the committee shall give due consideration to the following factors: (1) market prices, (2) fruit on hand in the market areas, as evidenced by supplies in storage, enroute to or on track, at the principal markets, (3) available supply, maturity and condition of fruit in the production area, (4)

supplies from competitive areas producing citrus fruit and other competitive fruit, and (5) trend in consumer income. The Shippers Marketing Committee shall promptly report the findings and determinations so made with supporting information to the Growers Industry Committee, which committee shall in turn submit the same to the Secretary together with its own recommendations, and supporting information respecting the factors hereinabove enumerated, and shall promptly advise all handlers of such findings and determinations. Notice of each meeting of the Shippers Marketing Committee and the Growers Industry Committee held for the purpose of determining the weekly quantity to be shipped shall be published not less than twenty-four (24) hours prior to the time set for such meeting in a newspaper or newspapers of general circulation selected by the Growers Industry Committee.

4. If, from such recommendations and reports or other information available to the Secretary, the Secretary shall find that to fix a total quantity of any one or more types of fruit to be shipped during any week by all handlers would tend to effectuate the declared policy of the act, he shall fix such a quantity for each such type of fruit, and he shall so notify the Growers Industry Committee of the establishment thereof, and in turn said committee shall promptly advise each applicant handler of such total quantity for each fruit so fixed by the Secretary.

**Sec. 2. Application for allotment base and allotments.**—1. Every handler intending to ship fruit in the current of interstate and foreign commerce shall submit to the Growers Industry Committee in the manner and at such time or times as shall be designated by said committee, upon forms to be supplied by said committee, written application for an allotment base and allotments for each type of fruit, substantiated in the manner prescribed in such application forms.

2. The written application of each handler for an allotment base and allotments with respect to each such fruit for which such application is made shall contain the following information regarding each type of fruit, the marketing of which he controls for the entire current shipping season by (a) a bona fide written contract which gives him unconditional authority to market the fruit for that season, or (b) having legal title and possession thereof, or (c) having purchased or agreed to purchase said fruit as evidenced by a bona fide bill of sale or written agreement: (1) name and address of the owner and duly-authorized agent, if any, of each grove, (2) location and legal description of each such grove, including number of acres, number of trees, and their age distribution, and (3) an estimate of the amount of each type of fruit controlled as aforesaid on each such grove in terms of pounds or standard packed boxes. Each such application shall also include information



specifying the quantities of each type of fruit shipped from Texas in interstate and foreign commerce by the applicant during each of the two years immediately preceding September 1st of the then current shipping season.

3. When fruit is controlled in accordance with (a) or (c) of subsection 2 of this section, each such application shall have attached thereto an exact copy of the type of contract, bill of sale and agreement entered into by the handler and the owners of the fruit or such owners' duly-authorized agent. It shall be the duty of the Growers Industry Committee to cause such instruments to be examined. Each such handler shall maintain a file of the originals of all such instruments entered into as aforesaid, subject to examination by the Growers Industry Committee or its duly-authorized representative. Only those instruments determined to conform to the type or types of control set forth in (a) and (c) of subsection 2 of this section shall be deemed to be a part of the handler's application for an allotment base and allotments.

SEC. 3. *Allotment base either on past performance or current control basis.*—Allotment bases shall be computed either on a past performance basis, as provided by section 4 of this article, or on the basis of current control of fruit, as provided by section 5 of this article. Unless the applicant advises the Growers Industry Committee at the time of filing his application that he desires that his allotment base be computed on the basis of his current control of each type of fruit, the Growers Industry Committee shall compute his allotment base on the basis of past performance; except, however, if the applicant has no past performance, the Growers Industry Committee shall compute such applicant's allotment base on the basis of such applicant's current control of fruit.

SEC. 4. *Computation of allotment base on past performance.*—1. For the purpose of arriving at an allotment base computed on a past performance basis, the Growers Industry Committee shall compute, from the application filed by the applicant, or other information available to said committee, the two-year average quantity of each type of fruit shipped by the applicant during the two years preceding September 1st of the then current shipping season. The two-year average quantity so computed, as the same may be revised pursuant to the provisions of section 6 of this article, shall be the allotment base for such applicant.

2. If an applicant for an allotment base, computed on a past performance basis, shipped fruit during only one of the two years immediately preceding September 1st of the then current shipping season, the Growers Industry Committee shall, from the application filed by the applicant, or other information available to said committee, compute the quantity which the applicant did ship. The quantity so computed, as the same

may be revised pursuant to the provisions of section 6 of this article, shall be the allotment base for such applicant.

SEC. 5. *Computation of allotment base on current control.*—For the purpose of arriving at an applicant's allotment base computed on a current control basis, the Growers Industry Committee shall, from the application and subsequent reports filed by the applicant at the request of the Growers Industry Committee, or other information available to said committee, compute the quantity of each type of fruit which is controlled by the applicant for the remainder of the then current shipping season and which the applicant intends to ship to fresh fruit markets. To ascertain the intention of an applicant to ship to fresh fruit markets, the Growers Industry Committee shall give due regard to the past performance of the applicant and to other information available to said committee. The quantity so computed, as the same may be revised pursuant to the provisions of section 6 of this article, shall be the allotment base of such applicant.

SEC. 6. *Revisions of allotment bases.*—1. The Growers Industry Committee shall check the accuracy of the information set forth in the applications for allotment bases and of all other information filed by applicants for the purpose of obtaining allotments and allotment bases, and shall check the computations made pursuant to the provisions of this article. The Growers Industry Committee shall adjust allotment bases in such a manner as to eliminate the effect of any errors, omissions, inaccuracies and misstatements upon the total amount of shipments allotted each applicant for the entire shipping season with respect to each type of fruit. Subject to the opportunity for applicants to be heard, under such rules as the Growers Industry Committee shall establish, the said committee shall correct any omissions or inaccuracies found therein, by revising the same to conform to the check.

2. Promptly after allotment bases shall have been computed as provided in subsection 1 of this section and again when fixed by the Secretary, as provided in section 9 of this article, each applicant shall be notified in writing by the Growers Industry Committee of the allotment base fixed for him for each type of fruit.

3. Any applicant may, at any time, apply, in writing, to the Growers Industry Committee for the revision of any allotment base computed for him, and may present evidence that such allotment base is inaccurate or inequitable. In such case, the said committee shall, under such rules as it shall establish, afford such applicant a reasonable opportunity to be heard, and if the evidence reveals that such allotment base is inaccurate or inequitable, it shall revise such base. The said committee, upon its own initiative, subject to the opportunity of the person affected to be heard, may revise any allotment base if the evidence reveals such allotment base is inaccurate or inequi-

table. The revision, however, by the Growers Industry Committee of any allotment base which has been fixed by the Secretary in accordance with section 9 of this article, shall be subject to the prior approval of the Secretary.

SEC. 7. *Reports by the growers industry committee to Secretary.*—The Growers Industry Committee shall make written reports to the Secretary of its findings and determinations with regard to the allotment bases established pursuant to this article, or any changes or revisions thereof.

SEC. 8. *Computation of group allotments.*—The Growers Industry Committee shall compute for each week the portion of the total quantity of each type of fruit found and determined pursuant to the provisions of subsection 3 of section 1 of this article, which shall be allotted for such week to all applicants desiring allotments based on their past performance and to all applicants desiring allotments based on their current control in the following manner:

1. That portion of such total quantity of each type of fruit to be allotted during each week to all applicants desiring allotments based on their current control shall be that portion which, in terms of percent, shall be equal to the percentage that the aggregate of the allotment bases with respect to each type of fruit of all such applicants is of the total quantity of such type of fruit then remaining available to be shipped, which said total quantity shall be determined by the Growers Industry Committee in the same manner as it determines the estimates of the quantity of such type of fruit controlled for shipment in interstate and foreign commerce by applicants desiring an allotment base and allotments on the basis of current control.

2. That portion of such total quantity of each type of fruit to be allotted each week to all applicants desiring an allotment on a current control basis shall be deducted from the total quantity of such type fruit for the same week found and determined pursuant to the provisions of subsection 3 of section 1 of this article, and the remaining quantity shall be the aggregate quantity of such type of fruit allotted for such week to all applicants receiving allotments based on their past performance.

3. The Growers Industry Committee shall promptly report to the Secretary the computations made by it with regard to the portions of the total quantity of each type of fruit determined pursuant to the provisions of this section.

SEC. 9. *Fixing of allotment bases and allotments by Secretary.*—1. From the reports received by the Secretary, made by the Growers Industry Committee as required by sections 7 and 8 of this article, or other information available to the Secretary, he shall, for each type of fruit, fix (a) the allotment base for each applicant desiring allotments on the basis of past performance and the portion of the



total quantity fixed by him pursuant to subsection 4, section 1 of this article to be allotted to all such applicants, and (b) the current control allotment base for each applicant desiring allotments on such a basis and the portion of the said total quantity to be allotted to all such applicants.

2. Thereupon the Secretary shall for such regulation period fix for each type of fruit the allotment for each applicant who has applied for allotments, pursuant to section 2 of this article and for whom an allotment base has been fixed, by signing a direction that (a) such allotment for each applicant desiring allotments on a past performance basis shall be that portion of the total quantity allotted to all such applicants, which, expressed in terms of percent, shall be equal to the percentage that each such applicant's allotment base is of the aggregate of the allotment bases of all such applicants, (b) such allotment for each applicant desiring allotments on a current control basis shall be that portion of the total quantity allotted to all such applicants, which, expressed in terms of percent, shall be equal to the percentage that each such applicant's allotment base is of the aggregate of the allotment bases of all such applicants.

3. Whenever the Secretary has fixed a weekly allotment for each applicant handler, as above provided, the Growers Industry Committee shall calculate the amount thereof, in accordance with the provisions of subsection 2 of this section, in terms of standard packed boxes. A certificate shall then be issued by the Growers Industry Committee to each such applicant which shall show the allotment base and the current allotment fixed for the applicant by the Secretary and shall set forth (1) that such allotment is subject to adjustment with respect to (a) over and undershipment as permitted by section 10 of this article, (b) duly recorded allotment loan agreements pursuant to section 11 of this article, and (c) interchange of allotments as permitted by section 17 of this article; and (2) that such allotment so adjusted represents the net quantity which may be shipped by such handler during the weekly regulation period. Such certificate shall be mailed or otherwise sent to handlers for whom allotment bases and allotments have been fixed, and the delivery of such certificate to such handler or the depositing thereof in the United States mail shall constitute notice of the fixing of the allotment base and allotments by the Secretary.

4. The Growers Industry Committee shall, from time to time, during the shipping season find and determine if any or all handlers for whom allotment bases have been fixed by the Secretary and allotments issued to such handlers in accordance therewith do not require allotments for the purpose of completing their shipping season, or to repay allotments borrowed. The Growers Industry Com-

mittee shall report such findings to the Secretary and recommend to him the discontinuance of the allotment bases of such handlers who do not so require such allotments.

SEC. 10. *Over and undershipments.*—1. During any week in which the Secretary fixes allotments as hereinbefore provided, every handler, for the purpose of providing flexibility in the preparation of fruit for market, may ship, during any regulation period when not required to reduce shipments as provided in the following sentence, in addition to his allotment, an amount not to exceed ten (10) percent of his allotment or, if his allotment is less than one hundred standard packed boxes, a quantity equivalent to the difference between one hundred standard packed boxes and such allotment. The quantity of fruit shipped in excess of the allotment, and not exceeding the quantity permitted by the foregoing sentence, shall be offset by a reduction of an equal amount from his allotment for the next week in which regulation is in effect, and if such weekly allotment be less than such permitted excess shipment, then such permitted excess shipment shall be deducted from the succeeding weekly allotments until such excess shipment has been entirely offset. If a handler ships a quantity of fruit less than his allotment during any week, such handler may ship, during the next week only in which such handler is given an allotment, in addition to such allotment and after shipping such allotment, a quantity equal to the undershipment; *Provided*, That such additional quantity shall not exceed twenty (20) percent of the total allotment of such handler for the weekly regulation period during which the undershipment occurred. No handler shall be permitted to loan any part of such additional quantity.

SEC. 11. *Allotment loan transactions.*—1. Handlers for whom an allotment base has been fixed by the Secretary may borrow allotments from one another: *Provided*, That (a) a handler borrowing an allotment agrees in writing with the lender, on forms provided by the Growers Industry Committee, to return to the lender an allotment in the same quantity and covering the same type of fruit and specifies in such agreement the week in which said allotment is to be returned, which week shall not be later than the third week after the week in which the allotment was loaned; (b) handlers party to an allotment loan agreement shall notify the Growers Industry Committee of such loan by supplying said committee with a copy of said written agreement within two days after the allotment loan agreement is executed; and (c) the loan of an allotment is made during the week for which the allotment is issued. The filing of a written loan agreement with the Growers Industry Committee shall serve as an automatic return of the borrowed allotment during the week stated in said agreement for the return of such allotment and the

Growers Industry Committee shall accordingly debit and credit the allotment of the lending handler and borrowing handler respectively. The allotment may be returned prior to the date specified: *Provided*, That the parties to the loan agreement notify the Growers Industry Committee of such prior return within two days thereafter, upon forms supplied by said committee. A handler borrowing an allotment may ship the quantity of fruit represented by such an allotment only during the week for which such allotment is issued, and shall not loan any part thereof to another handler. A handler who returns an allotment borrowed from another handler shall deduct the quantity of fruit represented by the allotment returned from the allotment fixed for such handler by the Secretary for the week during which the borrowed allotment is returned. A handler receiving the return of an allotment loaned may ship a quantity of fruit equal to such returned allotment or may loan such allotment only during the week the return of such allotment is received. No handler who has an allotment to loan shall loan such allotment to another handler when such handler who has the allotment to loan does not need the return of such allotment to complete his shipping season of such type of fruit.

2. During any week in which a handler has (1) an additional quantity from the previous week as permitted by section 10 of this article, (2) receives the return of an allotment loaned pursuant to section 11 of this article, (3) borrows an allotment from another handler pursuant to section 11 of this article, or (4) obtains an allotment pursuant to section 17 of this article, and ships less than the total of his allotment, or such portion thereof that has not been disposed of pursuant to sections 11 and 17 of this article, plus the quantities enumerated in (1), (2), (3) and (4) above, such shipment shall first be applied to his current weekly allotment fixed by the Secretary if the same has not been disposed of, or upon such portion thereof as has not been disposed of (pursuant to sections 10, 11 and 17 of this article), and the remainder of such shipments shall be applied to the quantities enumerated in (1), (2), (3) and (4) above.

3. The Growers Industry Committee shall maintain its books and records so as to accurately reflect all transactions between handlers made pursuant to sections 10, 11 and 17 of this article.

SEC. 12. *Issuance of certificates.*—The Growers Industry Committee may, subject to the approval of the Secretary, provide for the issuance of certificates by applicants holding allotments to persons who have no allotments and who purchase fruit from the applicants.

SEC. 13. *Changing from past performance to current control basis.*—At any time during a current shipping season an applicant whose allotment base is computed on a past performance basis may



make written application to the Growers Industry Committee to have his allotment base for the balance of such shipping season computed on a current control basis. Such application shall be submitted in accordance with the provisions of section 2 of this article. After complying with the provisions of section 3 of this article respecting such application, the Growers Industry Committee shall compute an allotment base on the basis of current control for such applicant. No handler who receives allotments on the basis of current control shall be permitted to change to a past performance basis at any time during a current shipping season.

**Sec. 14. Shipment of fruit for by-product use and export and charitable purposes.**—1. Subject to such rules and regulations as the Growers Industry Committee may establish in order to enable it to determine that such fruit will not enter fresh fruit trade channels in interstate or foreign commerce, any person may ship, free from any restriction or obligation imposed by this order, fruit that will be used solely for purposes of conversion into by-products, or for unemployment relief or for charitable purposes, or for export to foreign countries other than Canada.

2. As used in this order, the term "by-product" means and includes all processed and manufactured products of fruit and all products in the manufacturing or processing of which fruit is used, including canned or bottled fruits and juices; except that fruit shipped for conversion into juices without further processing or treatment to render the same bona fide manufactured or processed product, as above described, shall be deemed fresh fruit subject to all regulations of such fruit herein contained and shall not be deemed fruit shipped for conversion.

**Sec. 15. Equitable treatment of producers.**—Each handler shall, insofar as practical operations permit, divide his total allotments for each variety of fruit equitably among the producers for whom he ships such fruit.

**Sec. 16. Obligation as to shipment by persons.**—During any week for which the Secretary fixes allotments for shipment of any type of fruit, no person shall ship any such fruit without an allotment covering same, nor any quantity in excess of the allotment fixed for him, as such quantity may be increased or decreased pursuant to the provisions of sections 10, 11, and 17 of this article.

**Sec. 17. Interchange of Interstate for Intrastate Allotments.**—An exchange between handlers of allotments or any part thereof, under the provisions hereof, for an equivalent quantity of the same type of fruit under an allotment for the same weekly period fixed pursuant to a corresponding order, license or other regulation of the duly constituted authorities pursuant to the provisions of the Texas Citrus Marketing Act is hereby authorized, subject to such administrative rules

and regulations as the Growers Industry Committee may make, with the approval of the Secretary, to govern the procedure to be followed in connection with such exchanges.

#### ARTICLE V—REGULATION OF GRADES AND SIZES

**SECTION 1. Recommendations of Committees.**—It shall be the duty of the Shippers Marketing Committee and the Growers Industry Committee to investigate supply-and-demand conditions for grades and sizes of fruit. Whenever such conditions make it advisable to regulate the shipment of a particular grade or grades, size or sizes of any variety or varieties of fruit during a specified period or periods, the Shippers Marketing Committee shall so find and determine, and shall promptly report such findings and determinations to the Growers Industry Committee, which committee shall submit the same to the Secretary together with its own recommendations. The first recommendation submitted to the Secretary pursuant to section 2 of this article, during the shipping season, shall be accompanied by a report setting forth the marketing policy, with respect to the regulations permitted by this article, deemed advisable for the current shipping season by the said committees. Such reports shall be submitted, from time to time, in the event it is deemed advisable to adopt new marketing policies in view of changed demand and supply conditions with respect to fruit.

**Sec. 2. Determination of Committees.**—For each such recommended regulation period, the Shippers Marketing Committee shall find and determine the grades and sizes of each variety of fruit deemed by it advisable to be shipped in view of the prospective demand therefor. In making such determination, the committee shall give due consideration to the following factors: (1) market price, including market prices by grades and sizes of the fruit for which regulation is recommended, (2) fruit on hand in the market areas, as evidenced by supplies on track at the principal markets, (3) available supply, maturity and condition of fruit in the producing area, including the grade and size distribution of fruit remaining in the producing area, (4) supplies from competitive areas producing citrus fruit and other competitive fruit, and (5) trend in consumer income. The Shippers Marketing Committee shall promptly report the finding and determination so made with supporting information to the Growers Industry Committee, which committee shall in turn submit the same to the Secretary together with its own recommendations and supporting information respecting the factors hereinabove enumerated.

**Sec. 3. Limitation of Grade and Size Shipments.**—Whenever the Secretary shall find from the recommendations of the Growers Industry Committee and of the Shippers Marketing Committee, sub-

mitted to him by the Growers Industry Committee in accordance with section 2 of this article, or from other available information, that to limit the shipment of a particular grade or grades, size or sizes, or any combination of grades and sizes of any variety or varieties of fruit would tend to effectuate the declared policy of title I of the act, he shall so limit the shipment of such varieties of fruit during a specified period or periods. The Growers Industry Committee shall be informed of any such determination by the Secretary, and shall, in turn, notify all persons desiring to ship fruit in the current of interstate or foreign commerce by publication in a newspaper or newspapers of general circulation selected by the said committee.

**Sec. 4. Notice of meeting.**—The Growers Industry Committee shall give at least twenty-four (24) hours' notice of any meeting to consider the recommendation of regulations limiting the shipment of particular grades and sizes of fruit in the current of interstate and foreign commerce during any specified period or periods by publication in a newspaper or newspapers of general circulation selected by said committee, and no regulation pursuant to this article shall become effective sooner than twenty-four (24) hours after it has been issued by the Secretary.

**Sec. 5. Obligation as to shipment by persons.**—Except as provided in section 14 of article IV and in section 7 of this article, no handler shall, during any regulation period established pursuant to the provisions of this article, ship fruit other than of those grades and sizes or that portion of such grades and sizes which are permitted to be shipped in the current of interstate and foreign commerce by the Secretary pursuant to section 3 of this article.

**Sec. 6. Grading and certification.**—1. Each handler, prior to making each shipment of fruit in interstate or foreign commerce during any regulation period established pursuant to this article, shall have the fruit included in each such shipment 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, by a duly-authorized representative of the Federal-State Inspection Service; and each such handler shall submit promptly, or cause to be submitted promptly, to the Growers Industry Committee the Federal-State shipping point inspection certificate, issued by the Federal-State Inspection Service, stating the variety or varieties, grade or grades, and size or sizes of the fruit in each such shipment.

**Sec. 7. Exemptions.**—1. In the event that shipments of any type of fruit are regulated pursuant to this article, the Growers Industry Committee shall adopt and announce the procedural rules by



which exemption certificates will be issued to growers, and shall grant an exemption certificate to any grower who furnishes proof that he will be prevented from having shipped as large a percentage of his crop of such type of fruit as the average of all growers. Such exemption certificate shall permit such grower to have shipped such a quantity of such regulated grades and sizes of the particular type of fruit as will enable such grower to have shipped as large a portion of his crop of such type of fruit as the average for all growers. Shipments made in accordance with this provision shall be in compliance with the provisions of article IV hereof.

2. The Secretary shall have the power to modify, change or alter (a) any such procedural rules, and (b) any exemption granted under subsection 1 of this section.

#### ARTICLE VI—REPORTS AND RECORDS

**SECTION 1. Handler's weekly report.**—On or before Tuesday of each week throughout the shipping season, each handler shall report to the Growers Industry Committee, on forms supplied by said committee, the following information regarding such handler's operations during the immediately preceding calendar week for each type of fruit, the marketing of which is controlled by him within the meaning of subsection 2, section 2, article IV: (a) quantity shipped interstate and to Canada, exclusive of the quantities designated by items (b), (c) and (d) hereunder, (b) quantity shipped by express and parcel post, (c) quantity shipped for unemployment relief, including donations for charitable purposes, (d) quantity exported to countries other than Canada, (e) quantity sold or transported for intrastate consumption, (f) quantity sold or otherwise disposed of for canning and manufacture of by-products, (g) quantity eliminated, and (h) quantity harvested from individual groves including the name and address of the owners, or such owners' duly-authorized agent, and legal description of each such grove.

**Sec. 2. Shipping manifest report.**—The Growers Industry Committee may request information from each handler regarding the variety, grade and size of each standard packed box of fruit or its equivalent contained in each individual shipment of fruit by a handler and require such information to be delivered to said committee or its duly-authorized representative, in a manner or by such method as the said committee may prescribe, upon such form or forms as may be supplied by said committee for such purpose, within twenty-four (24) hours after such shipment is made.

**Sec. 3. Records.**—The Growers Industry Committee shall maintain such books and records as are necessary to the proper administration of the provisions of this order and to determine the performance of handlers with respect

thereto or as may be prescribed by the Secretary.

**Sec. 4.** Upon request of the Growers Industry Committee, made with the approval of the Secretary, every handler shall furnish such committee in such manner and at such times as it prescribes such other information as will enable it to perform its powers and duties hereunder.

#### ARTICLE VII—EFFECTIVE TIME AND TERMINATION

**SECTION 1. Effective time and termination.**—The provisions hereof shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force, subject to termination as follows:

1. The Secretary may at any time terminate this order by giving at least one (1) day's notice by means of a press release or in any other manner which the Secretary may determine.

2. The Secretary shall terminate this order at the end of any current crop year whenever he finds that such termination is favored by a majority of the producers of citrus fruit who, during the preceding crop year, have been engaged in the production for market of fruit: *Provided*, That such majority have, during such period, produced for market more than fifty (50) percent of the volume of such fruit produced for market, but such termination shall be effective only if announced on or before May 1 of the then current crop year.

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

**Sec. 2. Proceedings after termination.**—1. Upon the termination of the provisions hereof the members of the Growers Industry Committee then functioning shall continue to function for the purpose of liquidating the affairs of the Growers Industry Committee and shall keep the funds and property then in their possession as members of such Growers Industry 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 or deliver all property on hand, together with all books and records of the Growers Industry Committee to such person or persons (who at the time of termination was or were a member or members of the Growers Industry Committee) as the Secretary may direct, and (c) shall, upon the request of the Secretary, execute such assignment 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 Growers Industry Committee. Any funds collected pursuant to article III of this order, 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 the 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 Growers Industry 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 the members of said committee.

#### ARTICLE VIII—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 hereof.

#### ARTICLE IX—AGENTS

The Secretary may, by designation in writing, name any person or persons, including any officer or employee of the Government, or name 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—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 power granted by the act or otherwise, and (2) in accordance with such power to act in the premises whenever such action is deemed advisable.

#### ARTICLE XI—PERSONAL LIABILITY

No member of the Growers Industry Committee, nor any employee or agent thereof, nor any member nor employee of any other committee that may be appointed or created hereunder, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any other person or persons for errors in judgment, mistakes, or other acts of commission or omission as such member or employee, except for acts of dishonesty.

#### ARTICLE XII—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 of this order or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

#### ARTICLE XIII—EFFECT OF AMENDMENT

Nothing contained in this amended order shall be deemed to affect, waive, or terminate any right, duty, obligation, or liability which has arisen or which may



hereafter arise in connection with, by virtue of, or pursuant to any provision of the order regulating the handling of citrus fruit issued by the Secretary on July 9, 1937, effective July 13, 1937, or affect or impair any right or remedy of the Secretary in connection therewith except as herein indicated, expressly or by necessary implication.

In witness whereof, Harry L. Brown, Acting Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended and as re-enacted 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 amended order under his hand and the official seal of the Department of Agriculture in the city of Washington, District of Columbia, on this 10th day of September 1938, and declares this amended order to be effective on and after 12:01 a. m., c. s. t., September 15, 1938.

[SEAL] HARRY L. BROWN,  
*Acting Secretary of Agriculture.*

[F. R. Doc. 38-2680; Filed, September 12, 1938; 12:31 p. m.]

**AMENDED PROCLAMATION OF THE SECRETARY OF AGRICULTURE MADE WITH RESPECT TO THE BASE PERIOD TO BE USED FOR THE PURPOSE OF THE AMENDED MARKETING AGREEMENT AND THE AMENDED ORDER REGULATING THE HANDLING OF ORANGES AND GRAPEFRUIT GROWN IN CAMERON, HIDALGO AND WILLACY COUNTIES, TEXAS**

Whereas, on July 9, 1937, the Secretary of Agriculture, by virtue of the authority vested in him by Public Act No. 10, 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, found and proclaimed<sup>1</sup> that, with respect to oranges and grapefruit grown in Cameron, Hidalgo and Willacy Counties, Texas, the purchasing power of oranges and grapefruit during the base period, August 1909-July 1914, could not be satisfactorily determined from the available statistics of the Department of Agriculture for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of such fruit; and

Whereas, it was found and determined that the purchasing power of such fruit could be satisfactorily determined from available statistics of the Department of Agriculture for the period September 1924-May 1929, which statistics relate only to the weighted average season prices received by the producers of such fruit, and such period was determined to be the base period to be used in determining the purchasing power of such fruit for the purpose of the execution of

a marketing agreement and the issuance of an order regulating the handling of such fruit; and

Whereas, there are now on file in the Department of Agriculture additional and more detailed statistics with respect to the prices received by producers of such fruit, which data relate to the "on-tree" prices for grapefruit received by producers during the period November 1925-March 1929, and to the "on-tree" prices for oranges received by producers during the period October 1926-March 1929, and thus more satisfactorily reflect prices received by producers of said fruit;

Now, therefore, it is hereby found and proclaimed that the period November 1925-March 1929, and the period October 1926-March 1929, for grapefruit and oranges, respectively, shall be the base periods to be used in determining the purchasing power of oranges and grapefruit grown in Cameron, Hidalgo and Willacy Counties, Texas, for the purpose of the execution of an amended marketing agreement and the issuance of an amended order regulating the handling of such fruit.

In witness whereof, I, Harry L. Brown, Acting Secretary of Agriculture of the United States, have executed this proclamation in duplicate and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 10th day of September 1938.

[SEAL] HARRY L. BROWN,  
*Acting Secretary of Agriculture.*

[F. R. Doc. 38-2679; Filed, September 12, 1938, 12:30 p. m.]

**TITLE 11—AVIATION**

**CIVIL AERONAUTICS AUTHORITY**

[Amendment of General Order 403-1]

**POSTPONEMENTS OF EFFECTIVE DATE OF PARTS OF SECTION 403**

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 9th day of September, 1938.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a) and 1110 thereof (52 Stat. 973, 984, 1030), and finding that such action is desirable in the public interest and necessary to carry out the provisions of and to exercise and perform its powers and duties under such Act, the Civil Aeronautics Authority hereby amends General Order 403-1, such amended order to be effective as of the date when this order shall first be published in the Federal Register, so that thereafter such order shall read as follows:

(a) The provisions of this order shall not effect any postponement of the ef-

fective date of the second sentence of subsection (b) of section 403 of the Civil Aeronautics Act of 1938, which reads as follows:

"Nothing in this Act shall prohibit such air carriers or foreign air carriers, under such terms and conditions as the Authority may prescribe, from issuing or interchanging tickets or passes for free or reduced-rate transportation to their directors, officers, and employees and their immediate families; witnesses and attorneys attending any legal investigation in which any such air carrier is interested; persons injured in aircraft accidents and physicians and nurses attending such persons; and any person or property with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation; and, in the case of overseas or foreign air transportation, to such other persons and under such other circumstances as the Authority may by regulations prescribe."

(b) Until such time as the Authority shall prescribe terms and conditions for the issuance or exchange of tickets or passes by air carriers or foreign air carriers for free or reduced-rate transportation to the persons or classes of persons specifically included in the above-quoted provision of subsection (b) of section 403, the said air carriers or foreign air carriers are authorized to exercise such rights in such manner as shall, in their discretion, be considered as proper.

(c) Except as provided in paragraph (a) of this order, the effective date of all the provisions of section 403 of the said Act is hereby postponed as to all air carriers and all foreign air carriers, of every class and description, until 12:01 A. M. on October 3, 1938.

(d) Except as provided in paragraph (a) of this order, the effective date of the provisions of said section 403 of the Act are hereby further postponed to and including December 20, 1938 as to all classes of air carriers or foreign air carriers except those who have maintained or shall maintain one or more regular schedules of operation on or after August 22, 1938, and except those who are not directly engaged in air transportation.

By the authority.

[SEAL] PAUL J. FRIZZELL,  
*Secretary.*

[F. R. Doc. 38-2665; Filed, September 9, 1938; 1:44 p. m.]

**TITLE 20—FISH AND GAME**

**BUREAU OF FISHERIES**

[No. 251-24-13]

**AMENDMENT OF ALASKA FISHERY REGULATIONS**

SEPTEMBER 8, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No.

<sup>1</sup> 2 F. R. 1188 (1426 DI).

<sup>3</sup> F. R. 2049 DI.



251,<sup>1</sup> twenty-fourth edition, issued under date of February 15, 1938, together with subsequent regulations, are hereby amended by the following regulations:

SOUTHEASTERN ALASKA AREA

*Sumner Strait District*

*Salmon fishery.*—Regulation No. 6 is amended so as to permit commercial fishing for salmon by means of gill nets and beach seines in Wrangell Narrows, exclusive of all waters within one statute mile of the mouth of Petersburg Creek, from 6 o'clock antemeridian September 12 to 6 o'clock postmeridian September 30.

[SEAL]

DANIEL C. ROPER,  
*Secretary of Commerce.*

[F. R. Doc. 38-2669; Filed, September 10, 1938; 10:30 a. m.]

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

MODIFYING DEPARTMENTAL ORDER<sup>2</sup> BY RESTORING UNDISPOSED-OF OPENED LANDS OF GRAND PORTAGE RESERVATION, MINNESOTA, TO CHIPPEWA INDIANS OF MINNESOTA

APRIL 6, 1938.

The Honorable, The SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: On November 29, 1935, the First Assistant Secretary of the Interior, under authority contained in section 3 of the Indian Reorganization Act of June 18, 1934 (48 Stat. L., 984), upon the recommendation of this Office, restored the undisposed-of opened lands of the Grand Portage Indian Reservation, Minnesota, consisting of 9,277.59 acres, to tribal ownership.

In the recommendation of this Office it was asked that restoration be made in favor of the Grand Portage Band of Chippewa Indians of the Grand Portage Reservation. This position was taken because at that time it had not been definitely determined whether restorations of this kind should be made to individual bands of Chippewa Indians of Minnesota or to the Chippewa Indians of Minnesota generally. The Departmental indorsement making the restoration reads as follows:

"The lands described on the attached list are hereby restored to tribal ownership as recommended and the matter referred to the Commissioner of the General Land Office for appropriate notation on the records of that Office; also any lands inadvertently omitted from said list and any that may be released subsequently thereto."

In an opinion rendered February 19, 1938, by the Solicitor for the Interior Department, approved by the Assistant

Secretary of the Interior on the same date, relating to the restoration of undisposed-of lands ceded by the Red Lake Band of Chippewa Indians under section 3 of the Indian Reorganization Act, in which it was held that the lands should be restored to the "Chippewa Indians of Minnesota" and not to the Red Lake Band alone, the following appears:

"In reaching this conclusion I have not overlooked the fact that certain lands within the Grand Portage Reservation have already been restored under section 3 of the Reorganization Act to the Grand Portage Indians. This action, taken without complete consideration of the general problem of land restoration in the Chippewa area and without due regard for the interest in those lands possessed by the other Chippewa Indians of Minnesota, should be modified to conform with this opinion.

"In summary of the foregoing conclusions, it is my opinion that the remaining undisposed-of lands ceded by the Red Lake Band under the act of 1889 should be restored under section 3 of the Reorganization Act to the 'Chippewa Indians of Minnesota', and that, if this opinion is approved, the remaining lands ceded by the other bands of Chippewa Indians under the 1889 act should be restored to the same beneficiary, and the previous restoration of lands to the Grand Portage Band should be corrected."

In order to comply with the instructions referred to, it is respectfully recommended that the restoration order of November 29, 1935, mentioned in the opening paragraph of this letter, be modified so as to make the beneficiary the Chippewa Indians of Minnesota instead of the Grand Portage Band of Chippewa Indians of the Grand Portage Reservation.

Sincerely yours,

WILLIAM ZIMMERMAN, JR.,  
*Assistant Commissioner.*

GENERAL LAND OFFICE,  
April 9, 1938.

There are no reasons appearing in the records of this Office why the foregoing recommendation should not be approved.

D. K. PARROTT,  
*Acting Assistant Commissioner.*

OFFICE OF THE SECRETARY,  
June 3, 1938.

For the reason mentioned in the foregoing recommendation, Departmental order of November 29, 1935, restoring the undisposed-of opened lands of the Grand Portage Indian Reservation, Minnesota, to tribal ownership, is hereby modified to the extent of making the beneficiary the Chippewa Indians of Minnesota instead of the Grand Portage Band of Chippewa Indians of the Grand Portage Reservation.

OSCAR L. CHAPMAN,  
*Assistant Secretary of the Interior.*

[F. R. Doc. 38-2668; Filed, September 9, 1938; 2:56 p. m.]

[Irrigation 9228-36-G]

LETTER OF INSTRUCTIONS AUTHORIZING ASSESSMENTS ON LAND IN NON-INDIAN OWNERSHIP UNDER THE WAPATO INDIAN IRRIGATION PROJECT, WASHINGTON, FOR REPAYMENT OF THE CONSTRUCTION COSTS OF THAT PROJECT

JULY 25, 1938.

The Honorable The SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: Reference is made to the matter of assessments for repayment to the Government of the construction costs incurred in the construction of the Wapato Indian irrigation project on the Yakima Indian Reservation, Washington.

The Act of Congress of February 14, 1920 (41 Stat., 431) provided for the use of the sum of \$250,000 for continuing the construction and enlargement of the Wapato irrigation and drainage system and among other things provided as follows:

\* \* \* That the Secretary of the Interior is hereby authorized and directed to collect on or before December 31 of each calendar year hereafter including 1920, from the white landowners under the said system the sum of \$5 per acre for each acre of land to which water for irrigation purposes can be delivered from the said system, which sum shall be credited on a per acre basis in favor of the land in behalf of which it shall have been paid and be deducted from the total per acre charge assessable against said land when the amount of such total charge can be determined. \* \* \*

It will be observed from the above quotation that no determination had been made at that time of the total construction cost that will finally be charged against each acre of land of that project but provision is made that any collections shall be credited against such total charge when the amount thereof can be determined. No such determination has as yet been made, and all rates of assessment heretofore fixed, as well as the rate now fixed, provide for only partial reimbursement of the construction costs.

On December 16, 1920, the Indian Office addressed a letter of instructions to the Supervising Engineer in charge of the Wapato project, which letter received departmental approval on December 20, 1920 (Indian Office file 51656-20-341 Part 1). The purpose of that letter was to direct the Supervising Engineer in the application of the provisions of the act of Congress above cited.

Subsequently the Act of Congress of May 25, 1922 (42 Stat., 595) modified Section 22 of the Act of February 14, 1920, supra, so as to read as follows:

That the Secretary of the Interior is hereby authorized and directed to collect on or before December 31 of each calendar year hereafter, including 1922, from landowners other than Indians under the said system the sum of \$2.50 per acre for each acre of land to which water for irrigation purposes can be delivered from the said system, which sum shall be credited on a per acre basis in favor of the land in behalf of which it shall have been paid and be deducted from the total per acre charge assessable against said land when the amount of such total charge can be determined. \* \* \*

<sup>1</sup> 3 F. R. 451 DI.

<sup>2</sup> November 29, 1935.



Under date of June 12, 1922 (Indian Office file 51656-20-341 Part 1) the Office addressed another letter to the Supervising Engineer which received departmental approval on the same date. That letter contains appropriate instructions for applying the provisions of the legislation quoted above and to that extent modified and superseded the letter of instructions approved on December 20, 1920.

The correspondence on file (Indian Office file 9001-36-0-c) shows that the non-Indian landowners of the Wapato project have availed themselves of the benefits afforded by the various relief acts of Congress as follows: the Act of January 26, 1933 (47 Stat., 776) authorized the deferment of all construction assessments for the season of 1931 and one-half of the assessments for the season of 1932. The Act of March 7, 1933 (47 Stat., 1427) authorized the deferment of the remaining one-half of the assessments for 1932 and all assessments for 1933. The Act of June 13, 1935 (49 Stat., 337) authorized the deferment of all assessments for the years 1934 and 1935. The Act of April 14, 1936 (49 Stat., 1206) authorized the deferment of one-half of the assessments for the season of 1936. The repayment commission authorized by the Act of August 21, 1937 (50 Stat., 737) recommended the deferment of one-half of the construction assessments on the Wapato project for the season of 1937, which recommendation was approved by the Department on April 18, 1938 (Indian Office file 9228-36-G).

The deferred assessments discussed in the preceding paragraph are in each instance to become due as an annual installment one year after the date on which the last preceding installment becomes due under the existing laws and regulations.

The Act of Congress of July 1, 1932 (47 Stat., 564-565), known as the Leavitt Act, releases all Indian lands from further assessments for construction costs so long as such lands remain in Indian ownership.

The recent Act of Congress of February 24, 1938 (Public 433—75th Cong.) further modifies the Acts of February 14, 1920, supra, and May 25, 1922, supra as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the Act approved February 14, 1920 (41 Stat., 431), as amended by the Act approved May 25, 1922 (42 Stat. L. 595 and 596), as fixes the annual rate of payment of irrigation construction costs or assessments on the Wapato Indian irrigation project on the Yakima Reservation in the State of Washington, be, and it is hereby, amended so as to fix the per-acre per-annum assessment rate at \$1.25 against those lands classed as A or B which are subject to construction assessments pursuant to existing law. Such rate is to take effect immediately upon approval of this Act and shall continue until the total cost assessable under exist-*

ing law against such of the A and B lands shall have been repaid.

Sec. 2. The Secretary of the Interior is hereby authorized and directed to modify the annual repayment schedule set forth in the memorandum agreement of March 9, 1921, approved March 31, 1921, as amended, wherein provision is made among other things for payment of the actual cost of the two hundred and fifty thousand acre-feet of water for certain of the lands under the Wapato Indian irrigation project so as to extend payment of the balance of the cost of such water over a twenty-four-year period commencing with the payment due December 31, 1937.

Further legislation is contemplated at the next session of Congress (1st session of 76th Cong.) with a view to carrying out the provisions of Section 2 of the act quoted above (Indian Office file 9228-36-R & X).

Pursuant to the recent legislation herein cited it is recommended that all prior instructions issued for the assessment of construction costs against the lands of the Wapato project be modified in so far as they may conflict with the legislation and the instructions contained herein, and it is also recommended that the Project Engineer be instructed to make the necessary preparations for the assessment of all lands in non-Indian ownership, which are properly subject to assessment under the existing laws and regulations, at the rate of \$1.25 per acre for the season of 1938 and for each succeeding year until further modified, such assessments to become due and payable on December 31 of each year.

Sincerely yours,

JOHN HERRICK,  
Acting Commissioner.

Approved, August 3, 1938.

OSCAR L. CHAPMAN,  
Assistant Secretary of the Interior.

[F. R. Doc. 38-2668; Filed, September 10, 1938; 9:59 a. m.]

## TITLE 46—SHIPPING

### UNITED STATES MARITIME COMMISSION

#### REGULATIONS FOR THE GOVERNMENT OF THE UNITED STATES MARITIME SERVICE

By virtue of the authority vested in the United States Maritime Commission by section 216 of the Act entitled, "An Act to further the development and maintenance of an adequate and well-balanced American merchant marine, to promote the commerce of the United States, to aid in the national defense, to repeal certain former legislation, and for other purposes", (49 Stat. 1985, ch. 858, approved June 29, 1936, as amended by Public No. 705, 75th Cong., 3d sess., approved June 23, 1938), and in order to provide for the government of the United States Maritime Service authorized by said section, the following regulations are hereby prescribed:

#### ARTICLE I—AUTHORITY

SECTION 1. *The statute.*—The government of the United States Maritime Service shall be in conformity with the statutory authority for its creation, as contained in section 216 of the Merchant Marine Act, 1936, as amended, which reads as follows:

Sec. 216 (a) The Commission is hereby authorized and directed, after consultation with all interests concerned, to prepare and report to the Congress on or before January 20, 1939, a comprehensive system for the training of citizens of the United States to serve as licensed and unlicensed personnel on American merchant vessels, and may employ as instructors, on a contract or fee basis, such qualified licensed and unlicensed personnel of the merchant marine as the Commission may deem necessary to effectuate the purposes of this section.

(b) The Commission is hereby authorized and directed, under such rules and regulations as it may prescribe, to establish the United States Maritime Service to be a voluntary organization and which shall consist of such licensed and unlicensed personnel of the United States merchant marine as may be enrolled under the provisions of this section. The ranks, grades, and ratings for the personnel of the said Service, shall be the same as are now or shall hereafter be prescribed for the personnel of the Coast Guard. The Commission is authorized and directed to determine the number of persons to be enrolled in the said Service, to fix the rates of pay of such persons, and to prescribe such courses and periods of training as, in its discretion, is necessary to maintain a trained and efficient merchant-marine personnel.

(c) The Commission, with the consent of any executive department, independent establishment, or other agency of the Government, including any field service thereof, may avail itself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this section.

Sec. 2. *General Order No. 25.*—The government and administration of the United States Maritime Service shall be in conformity with the Commission's General Order No. 25, establishing the Service, adopted on July 14, 1938. General Order No. 25 reads as follows:

There is hereby established, pursuant to the authority vested in the Commission by section 216 of the Merchant Marine Act, 1936, as amended, a voluntary organization to be known as the United States Maritime Service which shall consist of such licensed and unlicensed personnel of the United States merchant marine as may be enrolled under the provisions of said section, this order, and such rules and regulations as may be prescribed by the Commission for the government of said Service.

The number of persons to be enrolled in said Service, the rates of pay of such persons, and the courses and periods of training shall be determined, fixed, and prescribed by the Commission in such manner and form as may appear to it to be necessary to maintain a trained and efficient merchant-marine personnel. The ranks, grades, and ratings for the personnel of the said Service shall be the same as are now or shall hereafter be



prescribed for the personnel of the Coast Guard.

In the administration and conduct of the said Service the Commission shall, subject to the consent and approval of the Secretary of the Treasury, avail itself of the use of such information, services, facilities, officers, and employees of the Coast Guard and the Public Health Service as may be necessary for the operation of said Service, such use to be at the expense of the Commission.

Enrollment and training in the United States Maritime Service shall be voluntary and shall be open to all licensed and unlicensed personnel of the United States merchant marine who comply with the requirements prescribed by the Commission. In the selection of applicants for enrollment no discrimination shall be practiced because of the applicant's race or creed, or because of membership or non-membership in any organization. Eligibility for enrollment shall be determined by the Commandant of the Coast Guard in accordance with rules and regulations prescribed by the Commission.

Nothing in this Order shall be construed to affect the cadet system established by the Commission's General Order No. 23, as amended.

This regulation shall become effective as of July 14, 1938.

#### ARTICLE II—ORGANIZATION AND ADMINISTRATION

SECTION 1. *Definitions.*—When used in these regulations—

(a) "Commission", or "Maritime Commission" means the United States Maritime Commission.

(b) "Service" or "Maritime Service" means the United States Maritime Service.

(c) "Commandant" means Commandant of the Coast Guard.

(d) "Coast Guard personnel" includes commissioned, warrant, or enlisted personnel of the Coast Guard and other employees thereof.

(e) "Maritime Service personnel" includes all persons employed in the Maritime Service.

(f) "Enrollees" means persons enrolled in the Maritime Service.

(g) "Merchant vessels of the United States" means ocean-going or Great Lakes vessels of 500 gross tons or over documented under the laws of the United States and engaged in the foreign or domestic commerce of the United States.

SEC. 2. *Maintenance of the service.*—The Maritime Service shall be maintained at the expense of the Maritime Commission, which shall exercise such supervision over it, through the Commandant, as may be necessary to comply with law and the rules and regulations prescribed by the Commission.

SEC. 3. *Administration.*—The Maritime Service shall be administered by the Commandant of the Coast Guard, who shall have full control over the adminis-

tration of the functions delegated to him by the rules and regulations prescribed by the Commission. All policies affecting the Maritime Service shall be determined by the Commission, after consultation with the Commandant.

SEC. 4. *Ranks, grades, and ratings.*—The ranks, grades, and ratings for the personnel of the Maritime Service shall be the same as are now or shall hereafter be prescribed for the personnel of the Coast Guard.

SEC. 5. *Forms.*—The Commandant shall prescribe, subject to the approval of the Commission, forms for application for enrollment, enrollment, disenrollment (voluntary and involuntary), release from active duty, assignments of ranks, grades, and ratings, pay and supply of personnel, maintenance and supply of stations and vessels, requests and authorizations for travel, fiscal management and accounts, and all other necessary forms for the administration of the Maritime Service.

SEC. 6. *Authority of commandant.*—Subject to the regulations prescribed by the Commission, the Commandant is authorized:

(a) To direct and control the employees and enrollees of the Maritime Service.

(b) To employ, for the Maritime Service, on the account of the Maritime Commission, such civil employees as may be necessary for the conduct and maintenance of the Service.

(c) To enroll, disenroll, assign to active or inactive duty, and release from active duty the enrollees of the Service.

(d) To regulate the ranks, grades, and ratings of enrollees of the Service.

(e) To direct and conduct the prescribed courses of training.

(f) To provide for the maintenance of discipline and order.

(g) To conduct the fiscal management and keep the accounts of the Service.

(h) To direct the use and preservation of training stations, training ships, clothing, equipment, and supplies of the Service.

(i) To authorize the procurement of provisions, clothing, materials, equipment, and services for the operation of the Service.

(j) To dispose, by survey, for the account of the Commission, of such materials, clothing, equipment, and supplies as shall be found to be no longer serviceable. Such disposal shall be in accordance with existing Coast Guard regulations.

(k) To authorize and direct necessary travel in behalf of and on the account of the Maritime Service.

(l) To delegate such authority as is necessary to subordinate personnel of the Coast Guard or of the Maritime Service.

SEC. 7. *Instructions of commandant.*—This Commandant is authorized to issue directions, instructions, and memoranda, consistent with the regulations prescribed

by the Commission, for the proper administration of the Maritime Service.

SEC. 8. *Allotments and expenditures.*—(a) Expenditures and obligations for the Maritime Service shall be limited to the allotment of funds by the Commission to the Service.

(b) Expenditure of funds may be authorized by the Commandant as required for the proper administration of the Maritime Service, including pay of personnel, purchases of equipment, provisions, and supplies, expenses of medical examination, medical treatment and hospitalization, communication and travel expense, and such other expenses of an administrative or ministerial nature as may be necessary for the efficient maintenance of the Service.

(c) The Commandant shall report to the Commission concerning all accounts and other financial matters of the Service in such manner and form as the Commission shall prescribe.

(d) The pay and allowances of the Chief Warrant and Warrant Officers and enlisted men of the Coast Guard detailed to duty with the Maritime Service shall be charged to the allotment of funds for the Maritime Service, and all travel expense including transportation of dependents and personal effects of all personnel of the Coast Guard detailed to such duty shall be charged to such fund, provided that expense in connection with relief and detail to Coast Guard duty of such personnel shall be borne by the Coast Guard.

SEC. 9. *Investigations.*—(a) The Commandant is authorized to convene boards consisting of Coast Guard, Maritime Service, and Public Health Service personnel to investigate accidents to Maritime Service property, damage to Maritime Service property, and any other matters or incidents which in his opinion require investigation.

(b) The Commandant is authorized to promulgate instructions, consistent with law, for the confinement of Maritime Service personnel where such confinement is necessary for safe keeping.

(c) Enrollees charged with violating criminal statutes shall be delivered to the appropriate civil (Federal, state, or municipal) authorities.

SEC. 10. *Medical treatment.*—Medical treatment, including all necessary examinations, of the Maritime Service personnel shall be obtained from the Public Health Service in so far as possible. When the Public Health Service facilities are not available, hospitalization and treatment of Maritime Service personnel in civilian hospitals or by civilian physicians are authorized and shall be provided at the expense of the Commission.

#### ARTICLE III—ENROLLMENT AND DUTY

SECTION 1. *Voluntary enrollment: Numbers.*—(a) Enrollment in the Maritime Service shall be voluntary, and shall be open to applicants among the licensed and unlicensed personnel of the



merchant marine in such numbers as the Maritime Commission shall from time to time prescribe.

(b) The Commission shall designate the number of persons to be enrolled from the several classifications of ship personnel, including deck, engineers, and steward's departments.

**Sec. 2. Qualifications.**—No applicant shall be accepted for enrollment in the Maritime Service unless he is a citizen of the United States, not less than 21 years of age. Such applicant shall have had sea service of 24 months or more on merchant vessels of the United States, and shall not have any physical or moral defect rendering him unfit for further sea service.

**Sec. 3. Enrollment: Original and regular.**—(a) All original enrollments shall be deemed probationary for a period not to exceed three months.

(b) The original enrollment of licensed personnel shall be in a rank not above ensign.

(c) The original enrollment of unlicensed personnel shall be in a rating not above seaman, second class.

(d) Any enrollee may be advanced in rank or rating during his probationary enrollment, and such advancement may be made effective as of such date as may be determined.

(e) Regular enrollees may be advanced in rank or rating at any time.

(f) After the probationary period of enrollment an enrollee whose conduct and qualifications are deemed satisfactory shall be eligible for regular enrollment.

(g) Every enrollee shall, upon enrollment, take an appropriate oath or affirmation.

**Sec. 4. Duty: Active and inactive.**—(a) Duty status in the Maritime Service may be active or inactive.

(b) Every original enrollee shall be deemed to be on active duty immediately upon enrollment, and shall remain on active duty until released therefrom by proper authority.

(c) Regular enrollees may be assigned to inactive duty status subject to voluntary return to active duty at such intervals and for such periods as may be prescribed.

(d) Regular enrollees may be maintained on voluntary active duty for such periods as may be necessary for the proper administration of the Service.

(e) Enrollees on active duty may be assigned as instructors or as under instruction, or to perform administrative or other duties.

**Sec. 5. Disenrollment: Voluntary and involuntary.**—(a) Any enrollee in the Maritime Service shall be disenrolled upon request, the disenrollment to be effective on the date of action on such request.

(b) Any enrollee may be disenrolled from the Service for cause, as follows:

(1) During the probationary period of original enrollment, for conduct or qual-

ifications deemed unsatisfactory to the Service.

(2) For failure to serve 16 months in any period of 24 consecutive months on merchant vessels of the United States, provided that an enrollee shall be disenrolled for failure to serve ten months in any such period of 24 months on merchant vessels of the United States.

(3) For failure in such period of 24 consecutive months to serve the required period or periods on active duty in the Service.

(4) For physical or mental disability.

(5) For conduct such as to bring discredit upon the Service.

(c) Any person disenrolled for cause may, upon removal of the disability or upon other correction of the cause of disenrollment, be re-enrolled in the Service.

#### ARTICLE IV—PAY AND SUPPLY

**SECTION 1. Rates of pay.**—Licensed and unlicensed personnel of the Maritime Service shall receive the following monthly rates of pay while on active duty:

Captain.....	\$333.33
Commander.....	291.67
Lieutenant Commander.....	250.00
Lieutenant.....	200.00
Lieutenant (J. G.).....	166.67
Ensign.....	125.00
Cadet.....	65.00
Chief Warrant Officer.....	200.00
Warrant Officer.....	153.00
1st Pay Grade.....	126.00
1st Pay Grade Acting Appointment.....	99.00
2nd Pay Grade.....	84.00
3rd Pay Grade.....	73.00
4th Pay Grade.....	60.00
5th Pay Grade.....	54.00
6th Pay Grade.....	35.00

**Sec. 2. Computation of pay.**—Pay shall be computed on the basis of 30 days per month. An enrollee shall be credited in the computation of his pay, or allowances, for each day, or fraction thereof, on which active duty is performed.

**Sec. 3. Allowances and increases.**—In addition to the rates of pay prescribed for them, enrollees of the fifth or sixth pay grade, not in steward's branch, shall, when detailed as messmen, be entitled to additional pay at the rate of \$6 per month.

**Sec. 4. Active duty.**—The term "active duty" shall include all service while training or performing duty under authorization of the Maritime Service, but shall not include any full calendar day spent in a hospital or while absent from duty on leave, without leave, or under arrest.

**Sec. 5. Pay periods.**—(a) Enrollees shall be entitled to the pay of their respective ranks or ratings while on active duty exclusive of time absent from duty as provided in the preceding section.

(b) Each regular enrollee who has served a minimum of eight months within any 12 month period (or 16 months in any period of 24 months, or 24 months in any period of 36 months) of his regular enrollment on merchant vessels of the United States and whose service on

active duty in the Maritime Service complies with prescribed standards shall be entitled to one month's pay of his rank or rating in the Maritime Service for each such 12 month period, such retainer pay to be in addition to his pay for active duty, and to become payable only upon the submission to the Commandant of satisfactory proof of the minimum service hereinabove required.

**Sec. 6. Transportation and travel.**—(a) Except as otherwise provided, enrollees and employees of the Maritime Service shall, when performing travel under competent authority, be entitled to the travel allowances prescribed for civilian employees by the Standardized Government Travel Regulations.

(b) Enrollees upon original enrollment shall, in lieu of any other travel allowance, be entitled to transportation, including sleeping car or stateroom accommodations from place of enrollment to a training station or training vessel.

(c) Upon disenrollment or release from active duty, a probationary enrollee shall be entitled to a travel allowance of 5 cents per mile in lieu of any other travel expense, from place of disenrollment or release from active duty to place of enrollment.

(d) Upon release from active duty a regular enrollee shall be entitled, in lieu of any other travel expense, to a travel allowance of 5 cents per mile from place of release from active duty to place of latest acceptance for active duty.

(e) A regular enrollee disenrolled after release from active duty, but prior to recall to active duty, shall not upon disenrollment be entitled to any travel allowance.

**Sec. 7. Clothing and equipment.**—Enrollees of the Maritime Service shall be supplied, without charge, with such clothing and equipment as may be necessary for the training course prescribed, and other government property may be loaned to such personnel. Enrollees on active duty may be permitted to purchase articles of uniform clothing, the cost thereof to be deducted from their pay.

**Sec. 8. Subsistence.**—(a) Subsistence at government expense shall be supplied to all members of the Maritime Service while on active duty. General messes shall be established at training stations and on board training vessels as may be necessary. Such general messes shall be conducted in the same manner as provided in Coast Guard Pay and Supply Instructions for general messes of Coast Guard.

(b) In lieu of subsistence in kind, an allowance of \$1 per day is authorized for each enrollee not in travel status for whom government messes facilities are not available.

(c) An allowance to be prescribed by the Commandant, not to exceed \$2 per day, is authorized for an enrollee not in travel status for whom government quarters are not provided.



Sec. 9. *Loss or damage.*—There may be deducted from the pay of any member of the Maritime Service sums sufficient to cover the value of any Government property lost or wilfully damaged by such person.

Sec. 10. *Death of enrollees.*—The Commandant is authorized to incur expense in connection with the transportation and burial of the remains of enrollees who die while on active duty.

ARTICLE V—TRAINING STATIONS AND SHIPS

SECTION 1. *Assignments.*—Enrollees in the Maritime Service on active duty may be assigned to a vessel or station maintained by the Service or to a vessel or station of the Coast Guard.

Sec. 2. *Stations and ships.*—Only such training stations and training ships shall be maintained by and for the Maritime Service as are authorized by the Commission.

SECTION 3. *Training station.*—A training station for the use of the Maritime Service shall be established and maintained at Hoffman and Swinburne Islands in New York.

Sec. 4. *Training ships.*—The SS EDGEMOOR shall be outfitted and equipped as a training ship, to be maintained and used as such.

Sec. 5. *Maintenance and supply.*—The maintenance and supply of authorized training stations and training ships shall be in accordance with existing Coast Guard Regulations.

Sec. 6. *Canteens.*—Canteens for the sale of tobacco, candy, toilet articles and similar merchandise may be established and maintained at training stations and on training ships.

ARTICLE VI—PERIODS AND COURSES OF TRAINING

SECTION 1. *Original enrollment.*—Each original enrollment shall be for a period of three months on active duty.

Sec. 2. *Regular enrollment.*—Every regular enrollee shall, within 24 months after his release from active duty under his original enrollment, return to active duty for a period of two months or for two periods of one month each, and shall likewise return for two months' active duty during each period of 24 months thereafter.

Sec. 3. *Courses of training.*—The courses of training at stations and on ships shall be appropriate to the duties performed aboard merchant vessels by enrollees under their licenses or certificates and shall include the following subjects: lifeboat instruction, including rowing; emergency drills, including fire and abandon ship; maritime law pertaining to seamen; hygiene and first aid; navigation; seamanship; signals; marine engineering; engine room and fire room routine; shop work and overhaul of machinery; care of staterooms, quarters and supplies; procurement, handling, and cooking of food; serving of food and care of tableware (mess gear); and instruction in special rat-

ings, such as radio operators, electricians, and clerical workers.

These regulations shall become effective as of September 1, 1938.

By order of the United States Maritime Commission.

SEPT. 9, 1938.

[SEAL]

W. C. PEET, Jr.,  
Secretary.

[F. R. Doc. 38-2681; Filed, September 12, 1938; 12:14 p. m.]

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

NOTICE OF POSTPONEMENT AND REOPENED HEARING IN RE DETERMINATIONS OF WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS 6, 7, 9, AND 10

Notice is hereby given that the individual cost reports of producers within Minimum Price Areas 6, 7, 9 and 10, as directed to be made available for inspection by interested parties by the Commission's order dated 31st of August, 1938, has been postponed<sup>1</sup> from September 10, 1938, to September 15, 1938, and the reopened hearing has been continued from September 20, 1938, to September 26, 1938, at the same hour and place as announced in the original order and notice.

Notice is further given that the procedure relating to the inspection of said individual cost reports and the reopened hearing will be, in all respects, the same as directed by the Commission's order and notice entered herein on the 31st day of August, 1938, with the exception of the change of dates, as herein provided.

That the Secretary be, and he is hereby directed, to cause a copy of this Notice to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper of general circulation in each of Districts Nos. 16, 17, 18, 19, 20, 22 and 23, and shall cause copies hereof to be mailed to each code member, to the Consumers' Counsel, to the Secretary of each District Board, and to all parties who have entered appearances in this proceeding, and shall cause copies hereof to be made available for inspection by interested parties at each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 9th day of September 1938.

[SEAL] F. WITCHER McCULLOUGH,  
Secretary.

[F. R. Doc. 38-2675; Filed, September 10, 1938; 11:47 a. m.]

<sup>1</sup> 3 F. R. 2163 DI.

FEDERAL TRADE COMMISSION.

United States of America—Before  
Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 8th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3301]

IN THE MATTER OF GOLDBLATT BROS., INC.,  
A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

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

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 10, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

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

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-2670; Filed, September 10, 1938; 11:43 a. m.]

United States of America—Before  
Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3375]

IN THE MATTER OF CHESTER L. THOMAS,  
INDIVIDUALLY, AND TRADING AS THOMAS  
QUILT FACTORIES

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

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

It is ordered, That Miles J. Furnas, an examiner for this Commission, be



and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered,* That the taking of testimony in this proceeding begin on Monday, September 26, 1938, at ten o'clock in the forenoon of that day (mountain standard time) in Room 314, Post Office Building, Denver, Colorado.

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

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-2671; Filed, September 10, 1938; 11:43 a. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3399]

IN THE MATTER OF METZLER MCKEAN CORPORATION, A CORPORATION, ALSO DOING BUSINESS UNDER THE TRADE NAMES OF LADY FRANCES LABORATORIES, AND LADY FRANCES

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

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

*It is ordered,* That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered,* That the taking of testimony in this proceeding begin on Wednesday, October 5, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 504, Irving-Pitt Building, Kansas City, Missouri.

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

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-2674; Filed, September 10, 1938; 11:44 a. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3446]

IN THE MATTER OF PARKER-MCCRORY MANUFACTURING COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

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

*It is ordered,* That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered,* That the taking of testimony in this proceeding begin on Monday, October 3, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 504 Irving-Pitt Building, 816 Locust Street, Kansas City, Missouri.

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

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-2673; Filed September 10, 1938; 11:44 a. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3482]

IN THE MATTER OF CRANE CHOCOLATE COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pur-

suant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

*It is ordered,* That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered,* That the taking of testimony in this proceeding begin on Thursday, October 6, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 504 Irving-Pitt Building, 816 Locust Street, Kansas City, Missouri.

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

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-2672; Filed, September 10, 1938; 11:44 a. m.]

**RURAL ELECTRIFICATION ADMINISTRATION.**

[Administrative Order No. 285]

**ALLOCATION OF FUNDS FOR LOANS AMENDED**

SEPTEMBER 8, 1938.

I hereby amend Administrative Order No. 274<sup>1</sup> dated July 25, 1938 which allocated \$80,500 to the project Maryland 9004C1 St. Marys to read \$7,500 for Maryland 9004G3 St. Marys and \$73,000 for Maryland 9004C1 St. Marys.

I hereby amend Administrative Order No. 274<sup>1</sup> dated July 25, 1938 which allocated \$1,070,000 to the project Michigan 9026B1 Ingham to read \$200,000 for Michigan 9026G2 Ingham and \$870,000 for Michigan 9026B1 Ingham.

I hereby amend Administrative Order No. 274<sup>1</sup> dated July 25, 1938 which allocated \$1,000,000 to the project Michigan 9040B1 Allegan to read \$975,000 for Michigan 9040B1 Allegan and \$25,000 for Michigan 9040G2 Allegan.

I hereby amend Administrative Order No. 276<sup>2</sup> dated August 9, 1938 which allocated \$177,000 to the project Wyoming 8011C1 Lincoln to read \$131,000 for Wyoming 8011C1 Lincoln, \$16,000 for Wyoming 8011G3 Lincoln, and \$30,000 for Wyoming 8011G4 Lincoln.

JOHN M. CARMODY,  
Administrator.

[F. R. Doc. 38-2667; Filed, September 10, 1938; 9:59 a. m.]

<sup>1</sup> 3 F. R. 1892 DL  
<sup>2</sup> 3 F. R. 2069 DL



## 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 offices in the City of Washington, D. C., on the 1st day of September 1938.

IN THE MATTER OF JOHN THOMAS PARKS DOING BUSINESS AS JOHN T. PARKS, INVESTMENT BROKER, P. O. BOX 363, YAKIMA, WASHINGTON

## ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

The Commission having reasonable grounds to believe that John Thomas Parks, hereinafter called the registrant, doing business as John T. Parks, Investment Broker, a sole proprietorship registered as a broker and dealer under Section 15 (b) of the Securities Exchange Act of 1934, as amended,

(1) has wilfully violated Section 7 (c) (2) of said Act and Section 3 (c) of Regulation T adopted by the Federal Reserve Board pursuant to Section 7 of said Act, in that said registrant as a broker and dealer transacting a business in securities through the medium of a member of a national securities exchange during the period from January 1, 1938 to May 28, 1938, extended and maintained credit on certain securities other than exempted securities and/or securities registered upon a national securities exchange, including among others the stock of Clayton Silver Mines and Azurite Gold Co.;

(2) has wilfully violated Section 8 (b) of said act in that said registrant as a broker and dealer transacting a business in securities through a member of a national securities exchange, permitted in the ordinary course of business as a broker prior to May 28, 1938, his aggregate indebtedness to all other persons, including customers' credit balances but excluding indebtedness secured by exempted securities, to exceed 2,000 per cent of the net capital, exclusive of fixed assets, employed in the business;

(3) has wilfully violated Section 17 (a) (1) and 17 (a) (3) of the Securities Act of 1933 in that registrant, in the sale of securities by the use of means of transportation and communication in interstate commerce and by the use of the mails, has employed a device, scheme or artifice to defraud, and has engaged in transactions, practices and courses of business which would operate and have operated as a fraud or deceit upon the purchasers, in the following particulars, to wit:

(a) registrant solicited and accepted orders for the sale of securities to his customers as principal and offers to buy securities for his customers as agent and in connection therewith intended to and

did receive and accept for safekeeping securities belonging to such customers for which such customers had paid in full and, without the knowledge of such customers, convert such securities to his own use and benefit;

(b) registrant solicited and accepted orders for the sale of securities to his customers as principal and offers to buy securities for his customers as agent and in connection therewith intended to and did receive and accept monies to be held for such customers as free credit balances and without the knowledge of such customers convert such monies to his own use and benefit;

(c) registrant solicited and accepted orders for the sale of securities to his customers as principal and offers to buy securities for his customers as agent and in connection therewith intended to and did receive and accept securities as collateral for balances due from such customers on margin accounts and without the knowledge of such customers sell said securities for more than the balance due from such customers and convert the proceeds thereof to his own use and benefit.

(4) has wilfully violated Section 15 (c) (1) of the Securities Exchange Act of 1934, as amended, and Rule X-15C1-2 thereunder, in that registrant has made use of the mails and of means and instrumentalities of interstate commerce to effect transactions in, or induce the purchase or sale of, securities, otherwise than on a national securities exchange, by means of acts, practices, or courses of business which would operate and have operated as a fraud or deceit upon any person, in the following particulars; to wit:

(a) registrant solicited and accepted orders for the sale of securities to his customers as principal and offers to buy securities for his customers as agent and in connection therewith intended to and did receive and accept for safekeeping securities belonging to such customers for which such customers had paid in full and, without the knowledge of such customers, convert such securities to his own use and benefit;

(b) registrant solicited and accepted orders for the sale of securities to his customers as principal and offers to buy securities for his customers as agent and in connection therewith intended to and did receive and accept monies to be held for such customers as free credit balances and without the knowledge of such customers convert such monies to his own use and benefit;

(c) registrant solicited and accepted orders for the sale of securities to his customers as principal and offers to buy securities for his customers as agent and in connection therewith intended to and did receive and accept securities as collateral for balances due from such customers on margin accounts and without the knowledge of such customers sell said

securities for more than the balances due from such customers and convert the proceeds thereof to his own use and benefit.

(5) has wilfully violated Rule MB2 adopted by the Commission pursuant to Section 15(b), 17(a), and 23(a) of the Securities Exchange Act of 1934, as amended, by reason of the said registrant having failed to report and correct the inaccuracy of the information furnished:

(a) Under Items 17(a) and 18 of the aforesaid application, by means of a supplemental statement, disclosing the fact that, on May 28, 1938 registrant's license to sell securities in the State of Washington was revoked; and

(b) Under Item 10 of the aforesaid application, by means of a supplemental statement, disclosing the fact that registrant had employed two salesmen; and

The Commission having reasonable grounds to believe that it is in the public interest to suspend or revoke said registration; and

The Commission being of the opinion that it is necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted for the purposes below provided:

*It is ordered*, That proceedings be held to determine whether the registration of John Thomas Parks, doing business as John T. Parks, Investment Broker, a sole proprietorship, should be suspended or revoked pursuant to the provisions of Section 15 (b) of the Securities Exchange Act of 1934, as amended.

*It is further ordered*, That a hearing for the purpose of taking evidence be held at 10:00 A. M. on October 20, 1938 at the Seattle Regional Office, Securities and Exchange Commission, 821 Second Avenue, Seattle, Washington, and that the said hearing be continued at such other time or place as the Commission or the officer conducting such hearing may determine; that for the purpose of said hearing John G. Clarkson be and he is hereby designated as the officer of the Commission to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, require the production of books, papers, correspondence, memoranda and any and all other records deemed relevant or material to the matters in issue at said hearing and to perform all other duties in connection therewith as authorized by law;

*It is further ordered*, That this notice and order be served on the said registrant personally or by registered mail, not less than seven (7) days prior to the time of the hearing, or by publication in the FEDERAL REGISTER in the manner prescribed by the Federal Register Act.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to conclude said hearing, make his report to the Commission, and transmit same with



a record of this hearing to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-2676; Filed, September 10, 1938; 11:51 a. 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 9th day of September 1938.

[File No. 7-254]

IN THE MATTER OF APPLICATION OF DETROIT STOCK EXCHANGE TO EXTEND UNLISTED TRADING PRIVILEGES TO DIVCO-TWIN TRUCK COMPANY COMMON STOCK, \$1 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Detroit Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, \$1 Par Value, of Divco-Twin Truck Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, September 29, 1938 in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

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

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-2677; Filed, September 10, 1938; 11:51 a. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its of-

office in the City of Washington, D. C., on the 9th day of September 1938.

[File No. 7-255]

IN THE MATTER OF APPLICATION OF DETROIT STOCK EXCHANGE TO EXTEND UNLISTED TRADING PRIVILEGES TO INTERNATIONAL RADIO CORP. COMMON STOCK, \$1 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Detroit Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, \$1 Par Value, of International Radio Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, September 29, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

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

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-2678; Filed, September 10, 1938; 11:51 a. 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 September 1938.

[File No. 1-206]

IN THE MATTER OF APPLICATION OF VIRGINIA CITY GOLD MINING COMPANY TO WITHDRAW ITS COMMON STOCK, 10¢ PAR VALUE, FROM LISTING AND REGISTRATION ON THE STANDARD STOCK EXCHANGE OF SPOKANE

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Virginia City Gold Mining 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, 10¢ par value, from listing and registration on the Standard Stock Exchange of Spokane; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, October 18, 1938, at the office of the Securities and Exchange Commission, Exchange Building, Seattle, Washington, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

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

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-2682; Filed, September 12, 1938; 12:50 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 10th day of September A. D. 1938.

[File No. 52-6]

IN THE MATTER OF LOUIS R. GATES, R. W. SAMUELSON, IRA C. SNYDER, DONALD L. PETTIS, AND A. Z. PATTERSON, AS REORGANIZATION MANAGERS OF THE UNITED TELEPHONE AND ELECTRIC COMPANY

(Public Utility Holding Company Act of 1935)

SUPPLEMENTAL ORDER

Louis R. Gates, R. W. Samuelson, Ira C. Snyder, Donald L. Pettis, and A. Z. Patterson (hereinafter referred to as the declarants) having filed a post-amendment to the declaration heretofore filed herein pursuant to Rule U-12E-5 with respect to the solicitation of assents to the plan of reorganization of The United Telephone and Electric Company, said



plan of reorganization having been approved and said declaration having become effective pursuant to the order<sup>1</sup> of this Commission entered herein on July 28, 1938; and

The Commission having considered said post-amendment and the declarants having shown sufficient cause why such

<sup>1</sup> 3 F. R. 1920 DL.

post-amendment should become effective prior to the expiration of the period of fifteen days after the date of the filing of said post-amendment in accordance with the requirements of Rule U-12E-5, the Commission not desiring to make a report on said declaration as amended by said post-amendment;

*It is ordered*, That said post-amendment to said declaration be and become

effective forthwith, subject to the same terms and conditions upon which said declaration became effective as set forth in said order of the Commission entered herein on July 28, 1938.

By the Commission.

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

[F. R. Doc. 38-2633; Filed, September 12, 1938; 12:51 p. m.]



