

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
OF THE UNITED STATES

FEDERAL REGISTER

1934

VOLUME 3 NUMBER 198

Washington, Tuesday, October 11, 1938

The President

EXECUTIVE ORDER

EXTENSION OF TRUST PERIODS ON INDIAN LANDS EXPIRING DURING CALENDAR YEAR 1939

By virtue of and pursuant to the authority vested in me by section 5 of the act of February 8, 1887, 24 Stat. 388, 389, by the act of June 21, 1906, 34 Stat. 325, 326, and by the act of March 2, 1917, 39 Stat. 969, 976, it is hereby ordered that the periods of trust applying to any Indian lands, whether of a tribal or individual status, which, unless extended, will expire during the calendar year 1939, be, and they are hereby, extended for a further period of 25 years from the date on which any such trust would otherwise expire.

This order is not intended to apply to any case in which the Congress has specifically reserved to itself authority to extend the period of trust on tribal or individual Indian lands.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
October 7, 1938.

[No. 7984]

[F. R. Doc. 38-2973; Filed, October 8, 1938;
10:01 a. m.]

EXECUTIVE ORDER

ESTABLISHING AN AIRSPACE RESERVATION OVER CERTAIN AREAS IN MARYLAND

By virtue of the authority vested in me by section 4 of the Air Commerce Act of 1926 (44 Stat. 568, 570), the air space over the inclosed areas shown upon the map A. P. G. 7310 P. R. dated February 24, 1938 (a copy of which is on file in the Division of the FEDERAL REGISTER, The National Archives, Washington, D. C.), at Aberdeen Proving Ground, Maryland, which areas include the Aberdeen Proving Ground, portions of the Fort Hoyle and the Edgewood Arsenal Military Reservations, and portions of Bush River, Gunpowder River,

and Chesapeake Bay, all in the State of Maryland, is hereby reserved and set apart for national-defense purposes: *Provided, however,* that when the areas marked "Section No. 1" and "Section No. 2" on the said map are not being used or immediately required for national-defense purposes, they may be released by the Secretary of War to the Civil Aeronautics Authority for the crossing by such civil aircraft as may be mutually agreed upon.

The Secretary of War and the Civil Aeronautics Authority shall designate in their Department and office, respectively, the agencies which, under their direction, shall execute the provisions of this order.

Persons operating aircraft within this airspace reservation in violation of the provisions of this order or of the said Air Commerce Act of 1926 will be subject to the penalties prescribed by section 11 of that act.

This order supersedes Executive Order No. 5211 of October 19, 1929, establishing an airspace reservation over certain areas in the State of Maryland.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
October 8, 1938.

[No. 7985]

[F. R. Doc. 38-2985; Filed, October 10, 1938;
11:19 a. m.]

EXECUTIVE ORDER

TRANSFERS OF NATIONAL-FOREST LANDS

IDAHO

By virtue of the authority vested in me by the act of June 4, 1897, 30 Stat. 11, 36 (U. S. C., title 16, sec. 473), and on the recommendation of the Secretary of Agriculture, it is ordered that transfers of the hereinafter-described national-forest lands, in Idaho, be, and they are hereby, made as follows:

From the Lemhi National Forest to the Salmon National Forest

All lands now a part of the Lemhi National Forest lying East or North and

CONTENTS

THE PRESIDENT

Executive Orders:	Page
Idaho, transfers of national forest lands	2435
Indian lands, extension of trust periods expiring during calendar year 1939.....	2435
Maryland, airspace reservation over certain areas.....	2435

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:

Agricultural Adjustment Administration:

Agricultural conservation program, 1938, supplements No. 1 for:

Pondera County, Mont.....	2443
Thomas County, Kans.....	2443
Weber and Davis Counties, Utah.....	2444

Fresh pears, handling of, in the Oregon, Washington, and California Marketing Area.....	2439
-----------------------------------------------------------------------------------------	------

Tobacco, flue-cured, supplement to regulations on marketing quotas	2443
--------------------------------------------------------------------------	------

Bureau of Agricultural Economics:

Inspection of country-run forage seeds for dockage....	2436
--------------------------------------------------------	------

TITLE 25—INDIANS:

Office of Indian Affairs:

Southern Ute Indian Reservation, Colo., order of restoration	2441
--------------------------------------------------------------------	------

TITLE 36—PARKS AND FORESTS:

National Park Service:

Lassen Volcanic National Park, amendment to subsidiary regulations	2445
--------------------------------------------------------------------------	------

TITLE 43—PUBLIC LANDS:

General Land Office:

Boundaries adjusted: Arapaho and Holy Cross National Forests.....	2445
-------------------------------------------------------------------	------

(Continued on next page)



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

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

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

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

CONTENTS—Continued

TITLE 43—PUBLIC LANDS—Contd.

General Land Office—Contd.

Boundaries adjusted—Contd.	Page
Grand Mesa National Forest	2445
Routt National Forest	2446
Lease forms prescribed under oil and gas regulations, amendment; helium provisions	2445

TITLE 47—TELECOMMUNICATION:

Federal Communications Commission:

Amateur radio stations and amateur radio operators, rules governing	2446
Rules cancelled	2450

TITLE 49—TRANSPORTATION AND RAILROADS:

Interstate Commerce Commission:

"Employee" under Railway Labor Act, inclusions within the term	2451
----------------------------------------------------------------	------

NOTICES

Civil Aeronautics Authority:

Pan American Airways, Inc., amendment of temporary exemption, air service between Seattle and Juneau via Ketchikan	2451
--------------------------------------------------------------------------------------------------------------------	------

Federal Power Commission:

Arkansas-Louisiana Gas Co., investigation; rate schedule suspended; hearing	2452
Kansas Pipe Line & Gas Co., orders setting date of oral arguments	2452
Puget Sound Power & Light Co., hearing	2451
Southwestern Light & Power Co., consolidated hearings	2451

CONTENTS—Continued

Securities and Exchange Commission:

Applications granted for withdrawal from listing and registration:	Page
Advance-Rumely Corp., common stock	2453
Consolidated Textile Corp., capital stock	2453
La Salle-Wacker Corp., first mortgage bonds	2453
Washington Gas Light Co., hearing	2454

East of a line beginning where the divide between Lemhi Union Gulch and Bruce Canyon joins the main divide between Birch Creek and Little Lost River and extending southerly along the main divide between Birch Creek and Little Lost River to the crest of Saddle Mountain, thence direct to the northwest corner of Township 6 North, Range 30 East, Boise Meridian, including that part in Lemhi and Clark Counties, Idaho, lying South of the Montana-Idaho State line.

From the Lemhi National Forest to the Challis National Forest

All lands now a part of the Lemhi National Forest not included in the above-described transfer.

From the Targhee National Forest to the Salmon National Forest

Unsurveyed Sections 4, 9, 16, 21, 28 and Sections 14, 15, 22, 23, 26, 27, 34 and 35, Township 12 North, Range 32 East, Boise Meridian, and all that part of the Medicine Lodge Creek drainage West of Irving Creek drainage which is now a part of the Targhee National Forest.

It is not intended by this order to give any publicly-owned lands a national-forest status which have not hitherto had such status, or to remove any publicly-owned lands from a national-forest status.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
October 8, 1938.

[No. 7986]

[F. R. Doc. 38-2986; Filed, October 10, 1938; 11:19 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

[Part 62]

RULES AND REGULATIONS GOVERNING INSPECTION OF COUNTRY-RUN FORAGE SEEDS FOR DOCKAGE #

By virtue of the authority vested in the Secretary of Agriculture by the pro-

All sections (62.01-62.42) issued under authority contained in 52 Stat. 710.

vision in the Act of Congress entitled "An Act Making Appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1939, and for other purposes," approved June 16, 1938, (52 Stat. 710) authorizing the establishment of an inspection service for farm products, I. H. A. Wallace, Secretary of Agriculture, do prescribe and promulgate the following rules and regulations governing the inspection and certification of country-run forage seeds for dockage, to be in force and effect on and after October 10, 1938 as long as Congress shall provide the necessary authority therefor, unless amended or superseded by rules and regulations hereafter prescribed and promulgated under such authority.

Regulation 1.—Definitions

SECTION 1. (62.01)* *Meaning of words.*—Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

SEC. 2. (62.02) *Terms defined.*—For the purposes of these regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

PARAGRAPH 1. (a) *The act.*—The following provision of an act of Congress entitled "an act making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1939, and for other purposes," approved June 16, 1938 (52 Stat., 710) "For enabling the Secretary of Agriculture, independently and in cooperation with other branches of the Government, State agencies, purchasing and consuming organizations, boards of trade, chambers of commerce, or other associations of business men or trade organizations, and persons or corporations engaged in the production, transportation, marketing, and distribution of farm and food products, whether operating in one or more jurisdictions, to investigate and certify to shippers and other interested parties the class, quality, and condition of cotton, tobacco, fruits, and vegetables, whether raw, dried, or canned, poultry, butter, hay, and other perishable farm products when offered for interstate shipment or when received at such important central markets as the Secretary of Agriculture may from time to time designate, or at points which may be conveniently reached therefrom, under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided*, That certificates issued by the authorized agents of the Department shall be received in all courts of the United States as *Prima facie* evidence of the truth of the statements therein contained."

* Figures and letters in parentheses indicate designations in Code of Federal Regulations.

PAR. 2. (b) *Secretary*.—Secretary of Agriculture of the United States.

PAR. 3. (c) *Bureau*.—Bureau of Agricultural Economics of the United States Department of Agriculture.

PAR. 4. (d) *Person*.—Individual, association, partnership, or corporation.

PAR. 5. (e) *Inspector*.—Employee of the Department of Agriculture authorized by the Secretary, or other person licensed by him in accordance with these regulations, to investigate and certify to shippers and other interested parties the class, dockage, and condition of country-run forage seeds under the act.

PAR. 6. (f) *Official sampler*.—Employee of the Department of Agriculture, or other person authorized or licensed by the Secretary, to draw official samples of country-run forage seeds under the act and these regulations.

PAR. 7. (g) *Forage seeds*.—Forage seeds shall include the seeds of alfalfa, red clover, alsike clover, crimson clover, white clover, sweetclover, lespedeza, vetch, timothy, redtop, bluegrass, orchard grass, bentgrass, ryegrass, bromegrass, millet, sorgo, Sudan grass, and any other seeds used for the production of forage.

PAR. 8. (h) *Country-run forage seeds*.—Uncleaned or rough-cleaned forage seeds as they are threshed, handled or shipped by the producer or shipper and sold or shipped to the wholesale dealer.

PAR. 9. (i) *Dockage*.—Dockage shall be weed seeds, stems, chaff, straw, and any other material which can be removed readily from the forage seed of the class under consideration by the use of appropriate sieves or screens and other cleaning devices, but shall not include other merchantable forage seeds.

PAR. 10. (j) *Office of inspection*.—The office of an inspector of country-run forage seeds.

PAR. 11. (k) *Inspection certificate*.—Certificate of the class, dockage, and/or condition of country-run forage seeds issued by an inspector under the act.

PAR. 12. (l) *Interested party*.—Any person who has a financial interest in the seed involved, including all carriers and warehouses who have handled or will handle the seed, the present owner or any person who owned the seed prior to him, and persons to whom the seed has been sold or shipped and whose acceptance thereof hinges on the inspection.

PAR. 13. (m) *Regulations*.—Rules and regulations of the Secretary under the act.

Regulation 2.—Administration

SECTION 1. (62.03) *Administration*.—The Chief of the Bureau is charged with the administration of the provisions of the act and these regulations, and is authorized to issue such instructions as he may deem proper and necessary for the conduct of the service.

Regulation 3.—Where Service Is Offered

SECTION 1. (62.04) *Inspection; where made*.—Inspections may be made for the

purpose of the act wherever country-run forage seeds are offered for interstate shipment including farms, warehouses, elevators, loading platforms, wagons, trucks, railroad cars, boats, barges, and vessels and at designated important central markets whenever inspectors or official samplers are available and at nearby points accessible to such inspectors or samplers.

Regulation 4.—Inspection

SECTION 1. (62.05) *Kind of service*.—Inspections made under the act are for the purpose of determining class, dockage, and condition of country-run forage seeds.

SEC. 2. (62.06) *Who may obtain inspection*.—Application for inspection of country-run forage seeds under the act may be made by a State, or by any interested party, or by any authorized person in behalf of such applicant.

SEC. 3. (62.07) *How to make application*.—Application for inspection of country-run forage seeds under the act may be made in writing, or orally, by telegraph, telephone, or otherwise. Such application may be filed in the office of inspection or with inspector or official sampler. If made orally, the inspector may require that it be confirmed in writing.

SEC. 4. (62.08) *Form of application*.—The written application for inspection of country-run forage seeds under the act shall include: (a) the date of the application; (b) the identification and location of the seed; (c) the kind of seed; (d) the name and post office address of the applicant and of the person, if any, making the application in his behalf; and (e) such other necessary information as the inspector may require.

SEC. 5. (62.09) *When application deemed filed*.—An application shall be deemed filed when delivered to an office of inspection or to an official sampler or inspector. Record showing date and time of filing shall be made.

SEC. 6. (62.10) *When an application may be rejected*.—Any application may be rejected by the inspector with whom it is filed or by the Chief of the Bureau for any noncompliance with the act or these regulations or instructions of the Chief of the Bureau and all expenses incurred in connection therewith shall be paid by the applicant as provided in regulation 7, section 3.

SEC. 7. (62.11) *When an application may be withdrawn*.—An application for inspection may be withdrawn by the applicant at any time before the sample or any portion thereof is drawn upon payment of all expenses incurred in connection therewith as provided in regulation 7, section 3.

SEC. 8. (62.12) *Authority of agent*.—Proof of authority of any person applying for inspection on behalf of another may be required, in the discretion of the inspector.

SEC. 9. (62.13) *Certificate issued on each lot*.—A separate certificate shall be issued for each carlot, truck lot, or other

lot of seed covered by one application. Wherever there are distinctly two or more qualities of seed in a carlot, truck lot, or other lot of seed covered by one application and these can be segregated by sampling they shall be sampled separately and reported separately in the inspection certificate, or they may be segregated further when requested by the applicant.

SEC. 10. (62.14) *Form of certificate*.—The inspection certificate for country-run forage seeds shall be in a form approved by the Chief of the Bureau and shall include among other things the following information for each lot inspected: (a) serial number of certificate, (b) the heading "United States Department of Agriculture, Bureau of Agricultural Economics," (c) the statement that it is an inspection certificate for dockage, (d) the location of the seed at time of inspection, (e) date of inspection, (f) quantity inspected, (g) identification of lot, (h) percentage of dockage, (i) name and percentage of each merchantable crop seed in screenings, (j) fees and charges, (k) name of applicant, and (l) signature of inspector.

SEC. 11. (62.15) *Order of inspection*.—The inspector shall comply with as many applications for inspections as facilities will permit and so far as practicable in the order in which applications are received, except that appeal inspections shall take precedence over other inspections.

SEC. 12. (62.16) *Disposition of certificates*.—The original inspection certificate, immediately upon its issuance, shall be delivered or mailed to the applicant or a person designated by him. One copy shall be filed in the office of the inspector, and one or more copies forwarded to the supervising inspector or the Chief of the Bureau. Additional copies shall be furnished upon request: (a) to the applicant for whom the inspection was made, or his order; (b) to interested parties who have sold or purchased the seed involved on the basis of Federal inspection; and (c) to interested carriers and public warehouses.

SEC. 13. (62.17) *Advance information*.—Upon request of an applicant for whom an inspection has been made, all or any part of the contents of the certificate may be telegraphed or telephoned to him or the certificate will be sent airmail special delivery at his expense.

Regulation 5.—Appeals

SECTION 1. (62.18) *When an appeal may be taken*.—Whenever an applicant for whom an inspection has been made or any other interested party believes the class, dockage, and/or condition of a lot of seed stated in an inspection certificate is not the correct class, dockage, and/or condition of such seed, he may, not later than the close of the third business day following the date of the original inspection, file an appeal.

SEC. 2. (62.19) *How to obtain*.—Application for an appeal, under these regula-

tions, may be made in writing or orally, by telegraph, telephone, or otherwise. If made orally it shall be confirmed promptly in writing. Such application shall be filed either with an inspector or with the Chief of the Bureau and shall be accompanied by the inspection certificate from which the appeal is taken, if in possession of the appellant. It shall state the reasons for the appeal and whether it is requested, provided the conditions named below can be met, that the appeal be made on the basis of a new sample or on a representative portion of the original sample. An appeal may be made on a new sample only provided (a) all of the seed covered by such inspection is available and accessible for an appeal inspection, (b) the condition of the seed has not undergone any material change, and (c) the identity of the seed has not been lost.

SEC. 3. (62.20) *Record of filing time.*—A record showing the date and time of filing such application shall be made immediately at the proper office.

SEC. 4. (62.21) *When an appeal may be dismissed.*—If it shall appear that the reasons stated in an appeal are frivolous or unsubstantial, or the act or these regulations have not been complied with, the appeal may be dismissed, the appellant shall be notified by telegraph or in writing of the reason for such dismissal, a statement of such action shall be included in the record of such appeal by the officer making the same, and all expenses incurred in connection therewith shall be paid by the appellant as provided in regulation 7, section 3. Upon the dismissal or withdrawal of an appeal, any inspection certificate filed therewith shall be returned immediately to the person by whom filed or delivered, upon his written order.

SEC. 5. (62.22) *When an appeal may be withdrawn.*—An appeal may be withdrawn by the appellant at any time before the appeal sample or any portion thereof is drawn upon payment of any expense incurred by the department in connection therewith as provided in regulation 7, section 3.

SEC. 6. (62.23) *Order in which made.*—Appeal inspections shall be made as nearly as practicable in the order in which applications are received, and shall take precedence over other inspections.

SEC. 7. (62.24) *Who shall pass upon appeals.*—Appeal inspections shall be made by inspectors designated for the purpose by the Chief of the Bureau.

SEC. 8. (62.25) *Issuance of appeal inspection certificate.*—When an appeal inspection has been made, an appeal inspection certificate shall be signed and issued by the inspector making the appeal inspection. This appeal inspection certificate shall state the class, dockage, and condition of the seed as shown by the appeal inspection. It shall supersede all other certificates for inspection of the same lot of seed previously made and shall refer specifically to the in-

spection from which the appeal is taken. Copies of the appeal inspection certificate shall be sent to all interested parties, if known, other than the carriers, and to such of them as have been applicants for any former inspection of the seed on which the special inspection is made. In all other respects the provisions of regulation 4 relative to inspections shall apply to appeal inspections.

SEC. 9. (62.26) *Superseded certificates.*—The appeal inspection certificate shall supersede all other certificates for inspections of the same lot of seed previously made at the same place and applicable to the same lot of seed at the time the appeal certificate was issued. When an inspection certificate has been superseded under these regulations by an appeal inspection certificate, it shall not thereafter represent the class and dockage of the lot of seed described therein. If the original and all copies of the superseded certificates are not delivered to the person with whom the application for an appeal inspection is filed, the inspector issuing the appeal inspection certificate shall forward notice of such issuance and of the cancellation of the original certificate to such persons as he considers necessary to prevent fraudulent use of the canceled certificate.

Regulation 6.—Licensed Samplers

SECTION 1. (62.27) *Who may be licensed.*—Persons who are citizens of the United States and who show proper qualifications may be licensed by the Secretary to draw official samples of seed under the act from lots offered for inspection. No person shall be licensed as a sampler who is interested, financially or otherwise, directly or indirectly, in the seed to be sampled or who is interested in any seed storage or processing place or in the merchandising of seed; nor shall he be in the employment of a person, corporation, or association owning or operating any storage place, processing place, or merchandising company or other organization which handles seed commercially; nor shall he have been in the employment of any such organization for a period of at least one month prior to being licensed as a sampler.

SEC. 2. (62.28) *When samples shall be drawn.*—Upon request of an inspector or an applicant for inspection, licensed samplers shall draw official samples from designated lots in accordance with the methods approved by the Chief of the Bureau.

SEC. 3. (62.29) *Where samples shall be forwarded.*—Licensed samplers shall forward all samples drawn by them to such inspectors as the Chief of the Bureau may direct and shall furnish with each sample such information as the Chief of the Bureau may request.

SEC. 4. (62.30) *Samples shall be official.*—Samples drawn by licensed samplers shall be accepted by any inspector as official samples and used in connection with the sampler's record as a basis for determining the class, dockage,

and/or condition of the lot or lots of seed from which the samples have been drawn.

SEC. 5. (62.31) *Fees and charges paid by applicant.*—Fees and charges for the services of licensed samplers shall be reasonable, subject to the approval of the Chief of the Bureau, and shall be paid by the applicant.

SEC. 6. (62.32) *License may be suspended.*—Pending final action by the Secretary, a sampler's license may be suspended by the Chief of the Bureau or by any official by whom it may be countersigned whenever such official shall deem such action to be for the good of the service. Within ten days after any such suspension the licensee may file an appeal in writing to the Secretary, supported by any argument or evidence that he may wish to offer in his behalf.

Regulation 7.—Fees, Charges, and Expenses

SECTION 1. (62.33) *Basis for fees and charges.*—The fees and charges to be collected for sampling, inspections, and appeal inspections of seed at shipping points, designated markets, and other points shall be fixed in accordance with paragraphs 1, 2, and 3 of this section.

PARAGRAPH 1. (a) *Sampling.*—The fees and charges for sampling by licensed samplers and by salaried employees of the Department of Agriculture shall be fixed by the Chief of the Bureau and published in accordance with regulation 8, section 2.

PAR. 2. (b) *Inspection.*—The fees and charges for inspections by salaried employees of the Department of Agriculture shall be fixed by the Chief of the Bureau and published in accordance with regulation 8, section 2.

PAR. 3. (c) *Appeal inspection.*—The fees for appeal inspections shall be double those for inspections, provided that when it is found there was a material error in the inspection from which the appeal is taken, no fees or charges will be assessed against the appellant.

SEC. 2. (62.34) *For traveling expenses, etc.*—Such further charges may be made for traveling expenses and other items paid or incurred by the sampler or inspector in connection with an inspection made at a place where no sampler or inspector is located or available at the time for making inspections, or appeal inspections where the services of a second inspector are required. These charges shall be included with the fee for inspection on the bill furnished the applicant.

SEC. 3. (62.35) *When inspections or appeal inspections are withdrawn or refused.*—When applications for inspection or appeal inspection are withdrawn by the applicant in accordance with regulation 4, section 7, or regulation 5, section 5, or when such applications are rejected or dismissed in accordance with regulation 4, section 6, or regulation 5, section 4, the regular fee

will not be charged but the applicant may be required to pay a reasonable amount for the inspector's time, together with all expenses for travel and other items in connection with such application prior to such withdrawal or refusal.

SEC. 4. (62.36) *Payment; how made.*—The fees and charges for each inspection or appeal inspection shall be paid by the applicant in accordance with the directions on the fee bill furnished by the inspector and in advance if required by the inspector.

Regulation 8.—Miscellaneous

SECTION 1. (62.37) *Fraud or misrepresentation.*—Any misrepresentation or any deceptive or fraudulent practice made or committed by any applicant for inspection may be deemed sufficient cause for debarring the person guilty thereof from any further inspections under the act.

SEC. 2. (62.38) *Publication.*—Publications under the act and these regulations shall be made in Service and Regulatory Announcements of the Bureau and such other mediums as the Chief of the Bureau may from time to time designate for the purpose.

SEC. 3. (62.39) *Political activity.*—All samplers and inspectors authorized either by appointment or license from the Secretary of Agriculture to draw official samples of seed or to issue inspection certificates under the act and these regulations are forbidden, during the period of their appointment or license, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including temporary and cooperative employees, and employees on leave of absence with or without pay. Willful violation of this regulation will constitute grounds for dismissal in the case of appointees, and revocation of licenses in the case of licensees.

SEC. 4. (62.40) *Inspection records confidential.*—Records of inspection, including copies of certificates issued, records of such certificates, applicants' accounts, and other detailed information relating to the work of an inspection office are not to be made available to or to be opened for examination by any person who is not connected with the inspection service. Such records are to be held strictly confidential for reference by the inspector in charge of the office and his assistants and by the supervising inspector. Summarized reports which do not disclose the operations of an individual grower, shipper or other applicant for inspection and which are identified clearly as to source and contents may be released to the public, provided that when so released they shall be published in such manner and in such mediums as will make the information available alike to all interested persons.

SEC. 5. (62.41) *Identification.*—An identification card licensing or authorizing the person whose signature appears on the back to sample or inspect seed shall be accepted as proper identification.

SEC. 6. (62.42) *Receipt of papers to be recorded.*—The inspector or other official operating under these regulations receiving any paper accepted for filing shall note thereon, or on a record kept for the purpose, the place and date of its receipt.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the City of Washington, this 8th day of October 1938.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2981; Filed, October 10, 1938;
10:36 a. m.]

AGRICULTURAL ADJUSTMENT ADMINISTRATION

ORDER REGULATING SUCH HANDLING OF BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF FRESH PEARS IN THE OREGON, WASHINGTON, AND CALIFORNIA MARKETING AREA AS IS IN INTERSTATE COMMERCE, AND AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE COMMERCE

Whereas, it is provided in Public No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937 (hereinafter called the act), as follows:

SEC. 8c. (1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

and

Whereas, the Secretary of Agriculture, hereinafter referred to as the "Secretary", has proclaimed that the purchasing power of Buerre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh winter pears grown in the States of Oregon, Washington, and California for the period August 1909-July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of such pears can be satisfactorily determined from the available statistics of the Department of Agriculture for the period August 1920-July 1929, and that the period August 1920-July 1929, is, therefore, the base period to be used in connection with this order in

determining the purchasing power of such fruit; and

Whereas, the Secretary, having reason to believe that the issuance of an order would tend to effectuate the declared policy of said act with respect to the establishment and maintenance of such orderly marketing conditions in interstate and foreign commerce for fall and winter pears grown in the States of Oregon, Washington, and California as would establish prices to the growers of such fruit at a level that would give such fruit a purchasing power with respect to articles that such growers buy equivalent to the purchasing power of such fruit in the base period, did, pursuant to the provisions of said act and the regulations thereunder, give due notice of the hearing to be held in San Jose, California, on August 26, 1938; in Placerville, California, on August 27, 1938; in Medford, Oregon, on August 29, 1938; in Hood River, Oregon, on August 31, 1938; in Yakima, Washington, on September 1, 1938; and in Wenatchee, Washington, on September 2, 1938, on a proposed order regulating the handling in interstate and foreign commerce, and such handling as directly burdens, obstructs, or affects interstate or foreign commerce, of designated varieties of fresh winter pears grown in the States of Oregon, Washington, and California, and did, upon said dates, conduct a public hearing thereon, and did give opportunity to all interested parties to be heard concerning the proposed agreement; and

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

(1) That more than 80 percent of all shipments of fresh fall and winter pears grown in the States of Oregon, Washington, and California is in the current of interstate or foreign commerce, and that the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of such pears constitute more than 75 percent of the total volume of fall and winter pears produced in said States;

(2) That the average farm prices for fall and winter pears grown in the States of California, Oregon, and Washington did not, during the 1937 season, exceed 25 percent and did not, during the past six years, exceed 78 percent of prices which would give such pears a purchasing power with respect to commodities farmers buy equivalent to the purchasing power of such commodities during the base period;

(3) That, in the past, lack of regulation of shipments of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington, and California was an important factor in contributing to unstable marketing conditions for such varieties of pears and consequently depressed prices to growers;

(4) That the regulation of shipments of such varieties of pears through grade and size regulations, as prescribed by this order, will serve to prevent marked fluctuation of prices to growers, particularly prices which are so low as to represent losses to growers, and thereby establish and maintain a more stabilized market for such pears, tending to restore prices to growers of such pears to a level that will have a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such fall and winter pears in such base period;

(5) That the method of regulating shipment by grade and size, as prescribed in this order, is fair and equitable;

(6) That this order is limited in its application to the smallest regional production area and regional marketing area that is practicable; and that issuance of several orders applicable to any subdivision of regional production and marketing areas covered by this order would not effectively carry out the declared policy of the act with respect to establishing and maintaining such marketing conditions for such varieties of fall and winter pears as will reestablish prices to growers that will give such commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such commodities in the base period;

(7) That the prorata contribution of handlers to the expenses of the administrative agency herein created based upon the quantity of fall and winter pears shipped, as provided in this order, is fair and equitable;

(8) That the interest of the consumer is protected by reason of the fact that the order will operate so as to approach a level of prices which it is declared to be the policy of Congress to establish by securing a gradual correction of the current level of prices at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in the domestic and foreign markets, and by reason of the fact that the order authorizes no action which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in said act;

(9) That this order will tend to establish and maintain such orderly marketing conditions for Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington, and California in interstate and foreign commerce as will establish prices to growers at a level that will give such pears a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such pears in the base period; and

(10) That this order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to said varieties of fresh

pears grown in the States of Oregon, Washington, and California; and

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

Whereas, the Secretary further finds:

1. That the marketing agreement regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington, and California executed by him on October 7, 1938, upon which a public hearing was held at the same time as the hearing upon this order, was signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping the fruit covered by this order), who handled during the year 1937 not less than 50 percent of the volume of such fruit covered by this order which was marketed, during the said year, in the current of interstate and foreign commerce and so as directly to burden, obstruct, or affect the interstate and foreign commerce of such fruit;

2. That this order regulates the handling of said varieties of fall and winter pears in the same manner as the aforesaid marketing agreement, and that it is made applicable only to persons in the respective classes of industrial and commercial activity specified in the said marketing agreement; and

3. That the issuance of this order is favored by growers, who, during the year 1937, which the Secretary determines to be a representative period, produced for market at least two-thirds ($\frac{2}{3}$) of the volume of said varieties of fall and winter pears produced for market in said year within the production area specified in this order.

Now, therefore, it is ordered by the Secretary of Agriculture that the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington, and California in the current of interstate and foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such fruit, from and after the date hereinafter specified, shall be in conformity to and in compliance with the terms and conditions of this order.

ARTICLE I—DEFINITIONS

SECTION 1. *Terms.*—As used in this agreement, the following terms have the following meanings:

1. "Secretary" means the Secretary of Agriculture of the United States.
2. "Act" means Public Act No. 10, 73rd Congress, as amended and as reenacted

and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937.

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

4. "Pears" means and includes any and all of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington, and California, and shipped in fresh form.

5. "Size" means the number of pears contained in a standard western pear box 18" long, 11½" wide and 8½" deep, inside measurements, packed in accordance with the packing requirements of the United States Standards for Pears effective June 22, 1936.

6. "Grower" means any individual, each member of a partnership, any corporation, association, or any other business unit engaged in growing pears in the area covered by this agreement, who or which has a financial interest in the crop.

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

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

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

10. "Fiscal Period" means the period beginning with the effective date of this order and ending May 31, 1939.

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

Medford District shall include the Counties of Jackson, Josephine, Curry, Coos, Douglas, Lane, and Klamath in the State of Oregon.

Hood River-White Salmon-Underwood District shall include all of the State of Oregon not included in the Medford District, and the Counties of Skamania and Klickitat in the State of Washington.

Wenatchee District shall include the Counties of Chelan, Okanogan, Douglas, and Spokane in the State of Washington.

Yakima District shall include all of the State of Washington not included in the Wenatchee District or in the Hood River-White Salmon-Underwood District.

Placerville District shall include all counties north of the northern boundary of San Francisco, Contra Costa, San

Joaquin, Calaveras, and Alpine Counties in the State of California.

Santa Clara District shall include all of the State of California not included in the Placerville District.

ARTICLE II—ADMINISTRATIVE BODY

SECTION 1. Control committee membership.—1. A Control Committee consisting of twelve (12) members is hereby established to administer the terms and provisions of this order as herein specifically provided. There shall be an alternate for each of said twelve (12) members of the Control Committee. Members of the Control Committee and their respective alternates shall be growers and handlers of pears. Each grower member and alternate shall be a grower who grows pears in the area covered by this order and who does not handle pears in excess of twenty (20) percent of the quantity grown by him, nor shall such member or alternate be an employee or representative of a handler. Any person selected as a member or alternate of the Control Committee shall qualify by filing with the Secretary, or with the designated representative of the Secretary, a written acceptance of the appointment. The members and alternates shall be as follows:

(a) S. M. Tuttle, of Medford, Oregon, as member and R. R. Reter, of Medford, Oregon, as his alternate to represent handlers in the Medford District.

(b) D. R. Wood, of Medford, Oregon, as member and Chester Fitch, of Medford, Oregon, as his alternate to represent growers in the Medford District.

(c) R. J. McIsaac, of Parkdale, Oregon, as member and John Duckwall, of Hood River, Oregon, as his alternate to represent handlers in the Hood River-White Salmon-Underwood District.

(d) R. S. Haseltine, of Hood River, Oregon, as member and Louis Thun, of Underwood, Washington, as his alternate to represent growers in the Hood River-White Salmon-Underwood District.

(e) J. M. Wade, of Wenatchee, Washington, as member and Harry Jensen, of Wenatchee, Washington, as his alternate to represent handlers in the Wenatchee District.

(f) Henry M. Smith, of Dryden, Washington, as member and E. Barclay Brauns, of Wenatchee, Washington, as his alternate to represent growers in the Wenatchee District.

(g) O. K. Conant, of Yakima, Washington, as member and B. A. Perham, of Yakima, Washington, as his alternate to represent handlers in the Yakima District.

(h) Edward A. Bannister, of Yakima, Washington, as member and Norman P. Mead, of Yakima, Washington, as his alternate to represent growers in the Yakima District.

(i) Paul A. Scherer, of Placerville, California, as member and Wilson Bryant, of Placerville, California, as his alternate to represent handlers in the Placerville District.

(j) L. W. Veerkamp, of Placerville, California, as member and James A. Irving, of Placerville, California, as his alternate to represent growers in the Placerville District.

(k) Edgar Jackson, of Santa Clara, California, as member and Wendell C. Day, of Santa Clara, California, as his alternate to represent handlers in the Santa Clara District.

(l) Will B. Weston, of Santa Clara, California, as member and Raymond Gallagher, of San Jose, California, as his alternate to represent growers in the Santa Clara District.

2. The term of office of each member and each alternate of the Control Committee shall begin at the time that this order becomes effective and shall terminate on the date of the termination thereof.

3. In case of any vacancy occasioned by the failure of any member or alternate named herein to qualify, or by the death, resignation, disqualification, or removal of any member of the Control Committee or his alternate, the Secretary shall designate a person to fill such vacancy. Such person shall be from the same district and shall have the same qualifications as his predecessor.

4. An alternate for a member of the Control Committee shall act in the place and stead of such member in the event of such member's absence or until a successor for the unexpired term of such member has been designated in the event of such member's (a) removal, (b) resignation, (c) disqualification, or (d) death.

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

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

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

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

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

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

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

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

3. To investigate, from time to time, and assemble data on the growing, shipping, and marketing conditions respect-

ing pears grown in the area covered by this order, and to furnish to the Secretary such available information as may be requested;

4. To perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of Section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public No. 320, 74th Congress, approved August 24, 1935, as amended;

5. To cause the books of the Control Committee to be audited by one or more competent accountants at the end of the fiscal period and at such other times as the Control Committee may deem necessary or as the Secretary may request, and to file with the Secretary copies of any and all audit reports made;

6. To appoint such employees as it may deem necessary and to determine the salaries and define the duties of such employees;

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

8. To select a chairman of the Control Committee and such other officers as it may deem advisable; and

9. To submit to the Secretary for his approval a budget of its expenses.

SEC. 4. Procedure.—1. A quorum of the Control Committee shall consist of nine (9) members, or alternates then serving in the place and stead of any members, in attendance at the meeting. All decisions of the Control Committee shall be made by not less than seven (7) affirmative votes.

2. The Control Committee may provide for members voting by mail, telephone, or telegraph upon due notice to all members, and, promptly after voting by telephone or telegraph, the members thus voting shall confirm in writing the votes so cast.

3. The members of the Control Committee, including successors and alternates, and any agent or employee appointed or employed by the Control Committee shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the Control Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

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

2. Upon the death, resignation, removal, disqualification, or expiration of

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

ARTICLE III—REGULATION BY GRADE AND SIZE

SECTION 1. *Grade and size regulation.*—

1. No handler shall ship pears which do not meet the requirements of U. S. Combination Grade as such grade is specified in the U. S. Standards for Pears effective June 22, 1936: *Provided, however, That,* for the purposes of this order, unhealed broken skins or skin punctures not to exceed three-sixteenths (3/16) of an inch in diameter shall be permitted when the pears otherwise meet the specifications of such grade and are shipped in interstate commerce only: *Provided, further, That,* for the purposes of this order, pears shall be "hand picked," that is, shall show no evidence of rough handling or of having been on the ground.

2. No handler shall ship pears (a) of the Doyenne Du Comice variety of a size smaller than the 180 size, (b) of the Beurre Bosc variety of a size smaller than the 195 size, and (c) of the Winter Nellis variety of a size smaller than the 210 size if exported off the Continent of North America and the 195 size if shipped to destinations on the Continent of North America, packed in accordance with the packing requirements of the U. S. Standards for pears, effective June 22, 1936.

SEC. 2. *Exemptions.*—1. The Control Committee shall adopt and announce the procedural rules by which exemption certificates will be issued to the growers, and shall grant an exemption certificate to any grower who furnishes proof that he will be prevented because of the regulation established pursuant to section 1 of this article from shipping as large a percentage of his crop of a specified variety of pears as the average of all growers of such variety of pears in his district. Such exemption certificate shall permit such grower to ship a quantity of such regulated grades and sizes of the particular variety of pears which will enable such grower to ship as large a portion of his crop of such variety as the average for all growers in his district.

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.

SEC. 3. *Inspection and certification.*—1. All shipments of pears in interstate or foreign commerce, grown in the area

covered by this order, shall be inspected and certified on the basis of grades now promulgated by the United States Department of Agriculture, or as the same may be modified or changed hereafter.

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

ARTICLE IV—ASSESSMENTS

SECTION 1. *Expenses and assessments.*—

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

2. Each handler shall pay to the Control Committee upon demand such handler's pro rata share, as is approved by the Secretary, of the expenses as the Secretary finds will be necessarily incurred by the Control Committee for the maintenance and functioning of the Control Committee during the fiscal period. Each handler's share of such expenses shall be that proportion thereof which the total quantity of pears shipped by such handler in the current of interstate or foreign commerce during said fiscal period is of the total quantity of pears shipped by all handlers in the current of interstate or foreign commerce during said fiscal period. Said assessment may be adjusted, from time to time, by the Control Committee, with the approval of the Secretary, in order to cover any later finding by the Secretary of estimated expenses or the actual expenses of the Control Committee during said fiscal period. The assessment of each handler for the fiscal period shall be due and payable at such time and shall be payable in such installments, if any, as the Control Committee, with the approval of the Secretary, shall determine.

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

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

ARTICLE V—REPORTS

SECTION 1. *Reports.*—Upon the request of the Control Committee, subject to the disapproval of the Secretary, each handler shall furnish the Control Committee, in such manner and at such times as it prescribes, such information as will enable it to perform its powers and duties under the terms hereof.

ARTICLE VI—AGENTS

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

ARTICLE VII—EFFECTIVE TIME AND TERMINATION

SECTION 1. *Effective time.*—The provisions hereof shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until June 1, 1939, unless terminated prior to said time in one of the ways hereinafter specified.

SEC. 2. *Termination.*—1. The Secretary may at any time terminate the provisions hereof as to all parties hereto 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 provisions hereof shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

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

duties hereunder, shall, as soon as practicable after the termination of this order, be returned to the handlers pro rata in proportion to their contributions made thereto pursuant to the provisions hereof.

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

ARTICLE VIII—DURATION OF IMMUNITIES

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

ARTICLE IX—SEPARABILITY

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

ARTICLE X—DEROGATION

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

ARTICLE XI—LIABILITY OF CONTROL COMMITTEE MEMBERS

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

In witness whereof, H. A. Wallace, Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the Department of Agriculture in the city

of Washington, District of Columbia, on this 7th day of October 1938, and declares this order to be effective on and after 12:01 a. m., e. s. t., October 11, 1938.

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

[P. R. Doc. 38-2963; Filed, October 7, 1938;
12:50 p. m.]

[Form 38—Tobacco 28—Supplement 2]

SUPPLEMENT TO REGULATIONS PERTAINING TO FLUE-CURED TOBACCO MARKETING QUOTAS FOR THE 1938-1939 MARKETING YEAR

Form 38—Tobacco 28. "Regulations Pertaining to Flue-Cured Tobacco Marketing Quotas for the 1938-1939 Marketing Year",¹ is amended as follows:

Article III—Marketing of Tobacco and Penalties—is amended by adding at the end of the said article a new section as follows:

"**SEC. 309. Tolerance on farm scrap tobacco.**—In computing the penalty upon any marketing of farm scrap tobacco which is subject to penalty, an allowance shall be made of 3 cents per pound on that number of pounds obtained by multiplying the gross weight of the scrap tobacco by the dealer's tolerance factor for the calendar week in which such tobacco was acquired. The dealer's tolerance factor for any calendar week shall be that percentage which the weight of the unmerchantable (except for by-product uses) portion of all the scrap tobacco acquired by the dealer during the calendar week is of the gross weight of all the scrap tobacco acquired by him during such period. The weight of that portion of the scrap tobacco which is unmerchantable shall be the difference between the gross weight of the scrap tobacco minus 5 percent thereof, and the net weight (i. e., its weight after screening and picking). No allowance pursuant to the provisions of this section shall be made unless the dealer establishes the gross and net weight of all scrap tobacco acquired by him, and disposes of that portion of the scrap tobacco which is unmerchantable, to the satisfaction of the Agricultural Adjustment Administration."

Done at Washington, D. C., this 7th day of October 1938. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 38-2974; Filed, October 8, 1938;
12:33 p. m.]

[ACP—1938-1—Pondera County, Mont.]

1938 AGRICULTURAL CONSERVATION PROGRAM FOR PONDERA COUNTY, MONTANA SUPPLEMENT NO. 1

Pursuant to the authority vested in the Secretary of Agriculture under Sec-

¹ 3 F. R. 1833, 2354 DL.

tions 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program for Pondera County, Montana,² is hereby amended as follows:

(1) Subsection A of Section V of Part I is hereby amended to read as follows:

"**A. Payments and deductions in connection with practice T (Diversion), erosion, breaking-out of native sod, and the restoration land goal.**—For any farm the payment or deduction in connection with practice T (Diversion), the net payment or net deduction with respect to the restoration land goal and the deductions computed under the provisions of subsections C and D of Section IV shall be divided among the landlords and tenants in the same proportion (as indicated by their acreage shares expressed in terms of either proportionate acreages or percentages) that such persons are entitled, at the time of harvest, to share in the proceeds of the soil-depleting crops seeded on the farm for harvest in 1938."

(2) Subsection A of Section X of Part I is hereby amended to read as follows:

"**A. Persons eligible to file applications.**—An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section V of Part I a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner or operator of such farm and participates thereon in 1938 in carrying out approved soil-building practices or in carrying out conservation measures designed to promote restoration of a permanent vegetative cover on restoration land."

Done at Washington, D. C., this 8th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

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

[P. R. Doc. 38-2983; Filed, October 10, 1938;
10:37 a. m.]

[ACP—1938-1—Thomas County, Kansas]

1938 AGRICULTURAL CONSERVATION PROGRAM FOR THOMAS COUNTY, KANSAS

SUPPLEMENT NO. 1

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program for Thomas County, Kansas,² is hereby amended as follows:

(1) Subsection D of Section IV is amended by omitting from the latter

¹ 3 F. R. 1591 DL.
² 3 F. R. 1547 DL.

part thereof the words "designated as restoration land" and substituting therefor the words "for which credit is given under Practice A-7".

(2) Subsection A of Section V is amended to read as follows:

"A. *Payments and deductions in connection with acreage allotments.*—The net payment or net deduction computed with respect to the soil-depleting acreage allotment on any farm for which a payment is computed under Subsection A-1 of Section IV, shall be divided among the landlords and tenants in the same proportion (as indicated by their acreage shares expressed in terms of either proportionate acreages or percentages) that such persons are entitled at the time the crop was harvested to share in the proceeds of the wheat grown on the farm in 1938, provided, however, that (1) if wheat is not harvested on such farm in 1938 or (2) if the county committee, in accordance with instructions issued by the Agricultural Adjustment Administration, finds that due to crop failure the acreage of wheat was reduced sufficiently to affect materially the division of payments or deductions, the net payment or net deduction, if any, with respect to the acreage allotment shall be divided among the landlords and tenants in the same proportion that the county committee determines that such persons would have shared in the proceeds of the wheat crop if such crop had been harvested on the farm in 1938, or if the acreage of such crop had not been so reduced.

"The net payment or net deduction computed for any farm with respect to the soil-depleting acreage allotment shall, if no payment is computed for the farm under Subsection A-1 of Section IV, be divided among the landlords and tenants in the same proportion (as indicated by their acreage shares expressed in terms of percentages) that the proceeds of the general crops are, or would be, divided among the landlords and tenants.

"In computing such net payments and net deductions with respect to acreage allotments the total amount of deductions computed under Section IV with respect to (1) soil-depleting crops grown in excess of the total soil-depleting acreage allotment (subsection A-1); (2) failure to prevent wind and water erosion (subsection C); and (3) breaking out of native sod (subsection D) shall be regarded (a) as deductions with respect to the soil-depleting acreage allotments."

(3) Subsection B of Section V is amended by changing the last sentence of such subsection to read as follows:

"Where practice A-7 (restoring farmland to pasture) has been carried out on the farm all persons shall be deemed to have contributed to the performance of such practice in the same proportion that such persons are entitled to share

in the payment with respect to soil-depleting acreage allotments."

(4) Subsection A of Section X is hereby amended to read as follows:

"A. *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section V of Part I a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner or operator of such farm and participates thereon in 1938 in carrying out approved soil-building practices."

Done at Washington, D. C., this 8th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2982; Filed, October 10, 1938;
10:37 a. m.]

[ACP—1938-1—Weber and Davis Counties,
Utah]

1938 AGRICULTURAL CONSERVATION PROGRAM FOR WEBER AND DAVIS COUNTIES, UTAH

SUPPLEMENT NO. 1

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program for Weber and Davis Counties, Utah, is hereby amended as follows:

(1) The first paragraph of subsection A of Section V of Part I is hereby amended to read as follows:

"A. *Payments and deductions in connection with acreage allotments.*—The net payment or net deduction computed for any farm with respect to the wheat or potato acreage allotment shall be divided among the landlords and tenants in the same proportion (as indicated by their acreage shares expressed in terms of either proportionate acreages or percentages) that such persons are entitled, at the time the crop is harvested, to share in the proceeds (other than a fixed commodity payment) of the wheat or potatoes, respectively, grown on the farm in 1938."

(2) Subsection A of Section X of Part I is hereby amended to read as follows:

"A. *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of such Section V a share in the pay-

3 F. R. 1556 DL

ment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner or operator of such farm and participates thereon in 1938 in carrying out approved soil-building practices or in carrying out conservation measures designed to promote restoration of a permanent vegetative cover on restoration land."

(3) Item 1 of subsection A of Section XIII of Part I is hereby amended by adding at the end thereof the following paragraph:

"(d) Where normal wheat yields are used for the purpose of computing deductions for farms in Weber and Davis Counties, Utah, (where land summer fallowed is classified as soil-depleting) such yields shall be reduced for such purpose in accordance with instructions issued by the Agricultural Adjustment Administration, to reflect the average production of wheat on the acreage normally devoted to wheat and summer fallow on the farm."

Done at Washington, D. C., this 8th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2984; Filed, October 10, 1938;
10:37 a. m.]

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

SOUTHERN UTE INDIAN RESERVATION,
COLORADO

ORDER OF RESTORATION

SEPTEMBER 14, 1938.

Whereas, pursuant to the provisions of the Act of February 20, 1895 (28 Stat. L., 677), the Southern Ute Band of Indians in Colorado ceded to the United States a large area of their reservation in the State of Colorado established expressly for their benefit under the treaty of June 15, 1880 (21 Stat. L., 199), and

Whereas, There is now remaining undisposed of within the said ceded area approximately 200,000 acres of such ceded land, most of which is urgently required as grazing land for the use of the Southern Ute Band of Indians, and which has been found to be primarily of value for Indian purposes as an addition to the existing Southern Ute Indian Reservation, and

Whereas, by relinquishment and cancellation of homestead entries within this area a limited additional acreage of land of similar character may later be included within this class of undisposed-of ceded land, and

Whereas, the Tribal Council, the Superintendent of the Consolidated Ute Indian Agency, and the Commissioner of Indian Affairs have recommended restoration to tribal ownership of all such undisposed-of ceded land within the following described boundaries:

Townships 32, 33 and 34 North, Ranges 1½ to 13 West, inclusive, of the N. M. P. M., in Colorado, being that area lying between the north boundary of the old Southern Ute Reservation and the south boundary of the State of Colorado and extending west from the 107th Meridian to the east boundary of the present Southern Ute Reservation.

Now, therefore, by virtue of the authority vested in the Secretary of the Interior by Sections 3 and 7 of the Act of June 18, 1934 (48 Stat. L., 984), I hereby find that restoration to tribal ownership of all land which is now, or may hereafter be, classified as undisposed-of ceded Ute Indian land lying within the above described boundaries in Colorado, will be in the public interest, and the said land is hereby restored to tribal ownership for the use and benefit of the Southern Ute Tribe of Indians of the Southern Ute Indian Reservation in Colorado, and is added to and made a part of the existing Southern Ute Reservation, subject to any valid existing rights.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-2967; Filed, October 8, 1938;
9:24 a. m.]

TITLE 36—PARKS AND FORESTS

NATIONAL PARK SERVICE

LASSEN VOLCANIC NATIONAL PARK

AMENDMENT TO SUBSIDIARY REGULATIONS

Pursuant to the authority contained in the General Rules and Regulations, approved by the Secretary of the Interior June 18, 1936 (1 F. R. 672), and upon the recommendation of the Superintendent, the subsidiary fishing regulations for Lassen Volcanic National Park, approved May 27, 1936 (1 F. R. 534, 36 CFR 13.25 (a)), are hereby amended by adding thereto the following sub-paragraph, to become effective immediately:

(4) Limit of catch: The limit of catch is ten fish, or ten pounds and one fish, per person per day in all waters except Manzanita and Reflection Lakes, where the limit is five fish, or five pounds and one fish.

Approved, September 30, 1938.

[SEAL]

A. E. DEMARAY,
Acting Director.

[F. R. Doc. 38-2968; Filed, October 8, 1938;
9:26 a. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

[Circular No. 1451]

AMENDMENT OF LEASE FORMS PRESCRIBED UNDER OIL AND GAS REGULATIONS FOR THE PROTECTION OF LANDS EMBRACED IN A RESERVATION OR SEGREGATED FOR ANY PARTICULAR PURPOSE, AND AS TO HELIUM PROVISIONS

1. *Provision for protection of lands embraced in a reservation or segregated for any particular purpose.*—Hereafter all leases issued under the oil and gas leasing act of February 25, 1920 (41 Stat. 437), as amended, and regulations thereunder, for lands embraced in a reservation or segregated for any particular purpose, will contain the following subsection:

Reserved or segregated lands.—If any of the land included in this lease is embraced in a reservation or segregated for any particular purpose, the lessee shall conduct operations thereunder in conformity with such requirements as may be made by the Secretary of the Interior for the protection and use of the land for the purpose for which it was reserved or segregated, so far as may be consistent with the use of the land for the purposes of this lease, which latter shall be regarded as the dominant use unless otherwise provided herein or separately stipulated.

2. *Oil and gas lease forms amended as to helium provisions.*—Subsection 3 (e) of the form of lease prescribed by Circular No. 672 approved March 11, 1920 (47 L. D. 437) and subsection 3 (d) of the form of lease prescribed by Circular No. 1386 approved May 7, 1936 (55 I. D. 502) which contain provisions relative to the helium content of any gas produced on lands embraced in such leases, are amended to read as follows:

Helium.—Pursuant to Section 1 of the Act, and Section 1 of the act of Congress approved March 3, 1927 (44 Stat. 1387), as amended, the lessor reserves the ownership and the right to extract, under such rules and regulations as shall be prescribed by the Secretary of the Interior, helium from all gas produced under this lease, but the lessee shall not be required to extract and save the helium for the lessor; in case the lessor elects to take the helium the lessee shall deliver all gas containing same, or portion thereof desired, to the lessor at any point on the leased premises in the manner required by the lessor, for the extraction of the helium in such plant or reduction works for that purpose as the lessor may provide, whereupon the residue shall be returned to the lessee with no substantial delay in the delivery of gas produced from the well to the purchaser thereof: *Provided*, That the lessee shall not, as a result of the operation in this paragraph provided for, suffer a

diminution of value of the gas from which the helium has been extracted, or loss otherwise, for which the lessee is not reasonably compensated, save for the value of the helium extracted; the lessor further reserves the right to erect, maintain, and operate any and all reduction works and other equipment necessary for the extraction of helium on the premises leased.

FRED W. JOHNSON,
Commissioner.

I concur: June 15, 1938.

JOHN C. PAGE,
Commissioner, Bureau of Reclamation.

I concur: August 2, 1938.

W. C. MENDENHALL,
Director, Geological Survey.

Approved, September 24, 1938.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-2969; Filed, October 8, 1938;
9:24 a. m.]

ARAPAHO AND HOLY CROSS NATIONAL FORESTS BOUNDARIES ADJUSTED

SEPTEMBER 24, 1938.

It is ordered that so much of the proclamation of May 26, 1930, as defined the boundaries of the Arapaho and Holy Cross National Forests in T. 2 S., R. 82 W., 6th P. M., be and it is hereby construed in conformity with the official plat of resurvey of such township, accepted by the General Land Office May 19, 1936, to include the following-described lands:

In Arapaho National Forest: lots 2, 3, S½NE¼ and S½ sec. 8, lots 2, 3, 4, SW¼NW¼ and S½ sec. 9, secs. 13 to 17, inclusive, those portions of secs. 20, 21 and 22 lying north of the divide between Sheep Creek and Piney River, secs. 23, 24, 25 and those portions of secs. 26, 27 and 36 lying northeast of the above-mentioned divide;

In Holy Cross National Forest: those portions of secs. 20, 21 and 22 lying south of such divide, those portions of secs. 26 and 27 lying southwest of the divide, secs. 28 and 29, E½E½ sec. 30, E½NE¼, NE¼SE¼, lots 11 and 13 sec. 31, N½, N½SW¼, NW¼SE¼, lot 1 and E½SE¼ sec. 32, secs. 33, 34 and 35, that part of sec. 36 lying southwest of the divide, and all Tract 48.

W. C. MENDENHALL,
Assistant Secretary of the Interior.

[F. R. Doc. 38-2970; Filed, October 8, 1938;
9:46 a. m.]

GRAND MESA NATIONAL FOREST BOUNDARY ADJUSTED

SEPTEMBER 24, 1938.

It is ordered that so much of the proclamation of March 1, 1913, as defined

the boundaries of the Grand Mesa (formerly Battlement) National Forest in such townships, be and it is hereby construed in conformity with the official plats of surveys or resurveys of Ts. 8 S., Rs. 92, 93 and 94 W., and Ts. 8½ S., Rs. 93 and 94 W., 6th P. M., Colorado, accepted by the General Land Office April 23, 1936, to include the following-described lands:

- T. 8 S., R. 92 W., secs. 19 to 29, inclusive, NE¼E½SE¼ and lots 1, 2, 3, 4 and 5 sec. 30, E½E½, SW¼SE¼ and lots 1, 2, 3, 4 and 5 sec. 31, secs. 32 to 36, inclusive;
- T. 8 S., R. 93 W., lots 5 to 14, inclusive, S½N½, SW¼ and W¼SE¼ sec. 3, secs. 4 to 9, inclusive, lots 1, 2, 3, 4, W½E½ and W¼ sec. 10, lots 1, 2, 3, 4, 5, 6, SW¼ and W¼SE¼ sec. 13, lots 1, 2, 3, 4 and S½ sec. 14, lots 1, 2, W½NE¼, NW¼ and S½ sec. 15, secs. 16 to 24, inclusive, lots 1, 2, 3, 4, 5, W½NE¼, NW¼, N¼SW¼ and SW¼SW¼ sec. 25, secs. 26 to 35, inclusive, lots 1, 2, 3 and NW¼NW¼ sec. 36;
- T. 8½ S., R. 93 W., secs. 2 to 6, inclusive;
- Ts. 8 and 8½ S., R. 94 W., all.

W. C. MENDENHALL,
Assistant Secretary of the Interior.

[F. R. Doc. 38-2971; Filed, October 8, 1938; 9:46 a. m.]

ROUTT NATIONAL FOREST BOUNDARY ADJUSTED

SEPTEMBER 24, 1938.

It is ordered that so much of the proclamation of May 26, 1930, as defined the boundaries of the Routt National Forest in T. 3 N., R. 82 W., 6th P. M., Colorado, be and it is hereby construed in conformity with the official plat of resurvey of the township accepted by the General Land Office April 1, 1938, to include the following-described lands:

- Lots 5 to 15, inclusive, SW¼NE¼, S½NW¼, SW¼ and W¼SE¼ sec. 4, secs. 5, 6, 7, and 8, lots 1, 2, 3, 4, W½E½ and W¼ sec. 9, lots 1, 2, 3, 4, W½E½ and W¼ sec. 16, secs. 17, 18, 19 and 20, lots 1, 2, 3, 4, W½E½ and W¼ sec. 21, lots 2, 3, 4, 5 and S½S½ sec. 26, lots 1, 2, 3, 4, 5, 6 and S½SE¼ sec. 27, lots 1, 2, 3, 4, W½E½ and W¼ sec. 28, secs. 29 to 33, inclusive, lots 1, 2, 3, 4, 5, 6, NE¼, S½SW¼ and SE¼ sec. 34, sec. 35, lots 6, 7, 8, 9, 10, S½SW¼ and SW¼SE¼ sec. 36, and Tract 49.

W. C. MENDENHALL,
Assistant Secretary of the Interior.

[F. R. Doc. 38-2972; Filed, October 8, 1938; 9:46 a. m.]

**TITLE 47—TELECOMMUNICATIONS
FEDERAL COMMUNICATIONS COMMISSION**

CHAPTER XII. RULES GOVERNING AMATEUR RADIO STATIONS AND AMATEUR RADIO OPERATORS * #

* Sections 150.01 to 152.54 issued under the authority contained in Sec. 4 (i) 48 Stat. 1066; 47 U. S. C. 154 (i)—Sec. 303 (f) 48 Stat. 1082; 47 U. S. C. 303 (f).

Sections 150.01 to 152.54 promulgated by F. C. C. on October 4, 1938, to become effective December 1, 1938.

TABLE OF CONTENTS

Part
150. Definitions
151. Amateur Operators
152. Amateur Radio Stations

PART 150. DEFINITIONS

Sec.
150.01 Amateur service
150.02 Amateur station
150.03 Amateur portable station
150.04 Amateur portable-mobile station
150.05 Amateur radio communication
150.06 Amateur operator

SEC. 150.01 *Amateur service.* The term "amateur service" means a radio service carried on by amateur stations.

SEC. 150.02 *Amateur station.* The term "amateur station" means a station used by an "amateur", that is, a duly authorized person interested in radio technique solely with a personal aim and without pecuniary interest. It embraces all radio transmitting apparatus at a particular location used for amateur service and operated under a single instrument of authorization.

SEC. 150.03 *Amateur portable station.* The term "amateur portable station" means an amateur station that is portable in fact, that is so constructed that it may conveniently be moved about from place to place for communication, and that is in fact so moved from time to time, but which is not operated while in motion.

SEC. 150.04 *Amateur portable-mobile station.* The term "amateur portable-mobile station" means an amateur station that is portable in fact, that is so constructed that it may conveniently be transferred to or from a mobile unit or from one such unit to another, and that is in fact so transferred from time to time and is ordinarily used while such mobile unit is in motion.

SEC. 150.05 *Amateur radio communication.* The term "amateur radio communication" means radio communication between amateur stations solely with a personal aim and without pecuniary interest.

SEC. 150.06 *Amateur operator.* The term "amateur operator" means a person holding a valid license issued by the Federal Communications Commission authorizing him to operate licensed amateur stations.

PART 151. AMATEUR OPERATORS

LICENSES; PRIVILEGES

Sec.
151.01 Eligibility for license
151.02 Classification of operating privileges
151.03 Scope of operator authority
151.04 Posting of license
151.05 Duplicate license
151.06 Renewal of amateur operator license
151.07 Who may operate an amateur station

EXAMINATIONS

151.15 When required
151.16 Elements of examination
151.17 Elements required for various privileges
151.18 Manner of conducting examination
151.19 Additional examination for holders of Class C privileges

151.20 Examination abridgment
151.21 Examination procedure
151.22 Grading
151.23 Eligibility for reexamination

Licenses; Privileges

SEC. 151.01 *Eligibility for license.* The following are eligible to apply for amateur operator license and privileges:

Class A—A United States citizen who has within five years of receipt of application held license as an amateur operator for a year or who in lieu thereof qualified under Section 151.20.

Class B—Any United States citizen.

Class C—A United States citizen whose actual residence, address, and station, are more than 125 miles airline from the nearest point where examination is given at least quarterly for Class B; or is shown by physician's certificate to be unable to appear for examination due to protracted disability; or is shown by certificate of the commanding officer to be in a camp of the Civilian Conservation Corps or in the regular military or naval service of the United States at a military post or naval station and unable to appear for Class B examination.

SEC. 151.02 *Classification of operating privileges.* Amateur operating privileges are as follows:

Class A—All amateur privileges.

Class B—Same as Class A except specially limited as in Section 152.28.

Class C—Same as Class B.

SEC. 151.03 *Scope of operator authority.* Amateur operators' licenses are valid only for the operation of licensed amateur stations; provided, however, any person holding a valid radio operator's license of any class may operate stations in the experimental service licensed for, and operating on, frequencies above 300000 kilocycles.

SEC. 151.04 *Posting of license.* The original operator's license shall be posted in a conspicuous place in the room occupied by such operator while on duty or kept in his personal possession and available for inspection at all times while the operator is on duty, except when such license has been filed with application for modification or renewal, or has been mutilated, lost, or destroyed, and application has been made for a duplicate.

SEC. 151.05 *Duplicate license.* Any licensee applying for a duplicate license to replace an original which has been lost, mutilated, or destroyed, shall submit to the Commission such mutilated license or affidavit attesting to the facts regarding the manner in which the original was lost or destroyed. If the original is later found, it or the duplicate shall be returned to the Commission.

SEC. 151.06 *Renewal of amateur operator license.* An amateur operator license may be renewed upon proper application and a showing that within three months of receipt of the application by the Commission the licensee has lawfully op-

erated an amateur station licensed by the Commission, and, that he has communicated by radio with at least three other such amateur stations. Failure to meet the requirements of this section will make it necessary for the applicant to again qualify by examination.

Sec. 151.07 Who may operate an amateur station. An amateur station may be operated only by a person holding a valid amateur operator's license, and then only to the extent provided for by the class of privileges for which the operator's license is endorsed. When an amateur station uses radiotelephony (type A-3 emission) the licensee may permit any person to transmit by voice, provided a duly licensed amateur operator maintains control over the emissions by turning the carrier on and off when required and signs the station off after the transmission has been completed.

Examinations

Sec. 151.15 When required. Examination is required for a new license as an amateur operator or for change of class of privileges.

Sec. 151.16 Elements of examination. The examination for amateur operator privileges will comprise the following elements:

1. Code test—ability to send and receive, in plain language, messages in the International Morse Code at a speed of not less than thirteen words per minute, counting five characters to the word, each numeral or punctuation mark counting as two characters.
2. Amateur radio operation and apparatus, both telephone and telegraph.
3. Provisions of treaty, statute and regulations affecting amateurs.
4. Advanced amateur radiotelephony.

Sec. 151.17 Elements required for various privileges. Examinations for Class A privileges will include all four examination elements as specified in Section 151.16.

Examinations for Classes B and C privileges will include elements 1, 2, and 3 as set forth in Section 151.16.

Sec. 151.18 Manner of conducting examination. Examinations for Class A and Class B privileges will be conducted by an authorized Commission employee or representative at points specified by the Commission.

Examinations for Class C privileges will be given by volunteer examiner(s), whom the Commission may designate or permit the applicant to select; in the latter event the examiner giving the code test shall be a holder of an amateur license with Class A or B privileges, or have held within five years a license as a professional radiotelegraph operator or have within that time been employed as a radiotelegraph operator in the service of the United States; and the examiner for the written test, if not the same individual, shall be a person of legal age.

Sec. 151.19 Additional examination for holders of Class C privileges. The Commission may require a licensee

holding Class C privileges to appear at an examining point for a Class B examination. If such licensee fails to appear for examination when directed to do so, or fails to pass the supervisory examination, the license held will be canceled and the holder thereof will not be issued another license for the Class C privileges.

Whenever the holder of Class C amateur operator privileges changes his actual residence or station location to a point where he would not be eligible to apply for Class C privileges in the first instance, or whenever a new examining point is established in a region from which applicants were previously eligible for Class C privileges, such holders of Class C privileges shall within four months thereafter appear at an examining point and be examined for Class B privileges. The license will be canceled if such licensee fails to appear, or fails to pass the examination.

Sec. 151.20 Examination abridgment. An applicant for Class A privileges, who holds a license with Class B privileges, will be required to pass only the added examination element No. 4 (see Section 151.16).

A holder of Class C privileges will not be accorded an abridged examination for either Class B or Class A privileges.

An applicant who has held a license for the class of privileges specified below, within five years prior to receipt of application, credited with examination elements as follows:

Class of license or privileges:	Credits
Commercial extra first.....	Elements 1, 2 & 4
Radiotelegraph 1st, 2nd, or 3rd.....	Elements 1 & 2
Radiotelephone 1st or 2nd.....	Elements 2 & 4
Class A.....	Elements 2 & 4

No examination credit is given on account of license of Radiotelephone 3rd Class, nor for other class of license or privileges not above listed.

Sec. 151.21 Examination procedure. Applicants shall write examinations in longhand,—code tests and diagrams in ink or pencil, written tests in ink—except that applicants unable to do so because of physical disability may type-write or dictate their examinations and, if unable to draw required diagrams, may make instead a detailed description essentially equivalent. The examiner shall certify the nature of the applicant's disability and, if the examination is dictated, the name and address of the person(s) taking and transcribing the applicant's dictation.

Sec. 151.22 Grading. Code tests are graded as passed or failed, separately for sending and receiving tests. A code test is failed unless free of omission or other error for a continuous period of at least one minute at required speed. Failure to pass the required code test will terminate the examination. (See Sec. 151.23).

A passing grade of 75 per cent is required separately for Class B and Class A written examinations.

Sec. 151.23 Eligibility for reexamination. An applicant who fails examination for amateur privileges may not take another examination for such privileges within two months, except that this rule shall not apply to an examination for Class B following one for Class C.

PART 152. AMATEUR RADIO STATIONS

LICENSES

Sec.	
152.01	Eligibility for amateur station license
152.02	Eligibility of corporations or organizations to hold license
152.03	Location of station
152.04	License period
152.05	Authorized operation
152.06	Renewal of amateur station license
152.07	Posting of station license

CALL SIGNALS

152.08	Assignment of call letters
152.09	Call signals for member of U. S. N. R.
152.10	Transmission of call signals

PORTABLE AND PORTABLE-MOBILE STATIONS

152.11	Requirements for portable and portable-mobile operation
152.12	Special provisions for portable stations
152.13	Special provisions for non-portable stations

USE OF AMATEUR STATIONS

152.14	Points of communication
152.15	No remuneration for use of station
152.16	Broadcasting prohibited
152.17	Radiotelephone tests

ALLOCATION OF FREQUENCIES

152.25	Frequencies for exclusive use of amateur stations
152.26	Use of frequencies above 300000 kilocycles
152.27	Frequency bands for telephony
152.28	Additional bands for telephony
152.29	Television and frequency-modulation transmission
152.30	Pacsimile transmission
152.31	Individual frequency not specified
152.32	Types of emission

EQUIPMENT AND OPERATION

152.40	Maximum power input
152.41	Power supply to transmitter
152.42	Requirements for prevention of interference
152.43	Modulation of carrier wave
152.44	Frequency measurement and regular check
152.45	Logs

SPECIAL CONDITIONS

152.50	Additional conditions to be observed by licensee
152.51	Quiet hours
152.52	Second notice of same violation
152.53	Third notice of same violation
152.54	Operation in emergencies

Licenses

Sec. 152.01 Eligibility for amateur station license. License for an amateur station will be issued only to a licensed amateur operator who has made a satisfactory showing of control of proper transmitting apparatus and control of the premises upon which such apparatus is to be located; provided, however, that in the case of an amateur station of the military or Naval Reserve of the United States located in approved public quarters and established for training purposes, but not operated by the United States Government, a station license may be issued to a person in charge of such a station although not a licensed amateur operator.

Sec. 152.02 *Eligibility of corporations or organizations to hold license.* An amateur station license will not be issued to a school, company, corporation, association, or other organization; nor for their use; *provided, however,* that in the case of a bona-fide amateur radio society a station license may be issued in accordance with Section 152.01 to a licensed amateur operator as trustee for such society.

Sec. 152.03 *Location of station.* An amateur radio station, and the control point thereof when remote control is authorized, shall not be located on premises controlled by an alien.

Sec. 152.04 *License period.* License for an amateur station will normally be for a period of three years from the date of issuance of a new, renewed, or modified license.

Sec. 152.05 *Authorized operation.* An amateur station license authorizes the operation of all transmitting apparatus used by the licensee at the location specified in the station license and in addition the operation of portable and portable-mobile stations at other locations under the same instrument of authorization.

Sec. 152.06 *Renewal of amateur station license.* An amateur station license may be renewed upon proper application and a showing that, within three months of receipt of the application by the Commission, the licensee thereof has lawfully operated such station in communication by radio with at least three other amateur stations licensed by the Commission, except that in the case of an application for renewal of station license issued for an amateur society or reserve group, the required operation may be by any licensed amateur operator. Upon failure to comply with the above requirements, a successor license will not be granted until two months after expiration of the old license.

Sec. 152.07 *Posting of station license.* The original of each station license or a facsimile thereof shall be posted by the licensee in a conspicuous place in the room in which the transmitter is located or kept in the personal possession of the operator on duty, except when such license has been filed with application for modification or renewal, or has been mutilated, lost, or destroyed, and application has been made for a duplicate.

Call Signals

Sec. 153.03 *Assignment of call letters.* Amateur station calls will be assigned in regular order and special requests will not be considered except that a call may be reassigned to the latest holder, or if not under license during the past five years, to any previous holder, or to an amateur organization in memoriam to a deceased member and former holder, and particular calls may be temporarily assigned to stations connected with events of general public interest.

Sec. 152.09 *Call signals for member of U. S. N. R.* In the case of an amateur

licensee whose station is licensed to a regularly commissioned or enlisted member of the United States Naval Reserve, the Commandant of the naval district in which such station is located may authorize in his discretion the use of the call-letter prefix N in lieu of the prefix W or K, assigned in the license issued by the Commission, provided that such N prefix shall be used only when operating in the frequency bands 1715-2000¹ kilocycles, 3500-4000 kilocycles, 56000-60000 kilocycles, and 400000-401000 kilocycles in accordance with instructions to be issued by the Navy Department.

Sec. 152.10 *Transmission of call signals.* An operator of an amateur station shall transmit its assigned call at the end of each transmission and at least once every ten minutes during transmission of more than ten minutes duration; *provided, however,* that transmission of less than one minute duration from stations employing break-in operation need be identified only once every ten minutes of operation and at the termination of the correspondence. In addition, an operator of an amateur portable or portable-mobile radiotelegraph station shall transmit immediately after the call of the station the fraction-bar character (DN) followed by the number of the amateur call area in which the portable or portable-mobile amateur station is then operating, as for example:

Example 1. Portable or portable-mobile amateur station operating in the third amateur call area calls a fixed amateur station: W1ABC W1ABC W1ABC DE W2DEF DN3 W2DEF DN3 W2DEF DN3 AR.

Example 2. Fixed amateur station answers the portable or portable-mobile amateur station: W2DEF W2DEF W2DEF DE W1ABC W1ABC W1ABC K.

Example 3. Portable or portable-mobile amateur station calls a portable or portable-mobile amateur station: W3GHI W3GHI W3GHI DE W4JKL DN4 W4JKL DN4 W4JKL DN4 AR.

If telephony is used, the call sign of the station shall be followed by an announcement of the amateur call area in which the portable or portable-mobile station is operating.

Portable and Portable-Mobile Stations

Sec. 152.11 *Requirements for portable and portable-mobile operation.* A licensee of an amateur station may operate portable amateur stations (Section 150.03) in accordance with the provisions of Sections 152.09, 152.10, 152.12 and 152.45. Such licensee may operate portable and portable-mobile amateur stations without regard to Section 152.12, but in compliance with Sections 152.09, 152.10, and 152.45, when such operation

¹ Subject to change to "1750 to 2050" kilocycles in accordance with the "Inter-American Arrangement Covering Radiocommunication", Havana, 1937.

takes place on authorized amateur frequencies above 28000 kilocycles.

Sec. 152.12 *Special provisions for portable stations.* Advance notice in writing shall be given by the licensee to the inspector in charge of the district in which such portable station is to be operated. Such notices shall be given prior to any operation contemplated, and shall state the station call, name of licensee, the date of proposed operation, and the locations as specifically as possible. An amateur station operating under this Section shall not be operated during any period exceeding one month without giving further notice to the inspector in charge of the radio-inspection district in which the station will be operated, nor more than four consecutive periods of one month at the same location. This Section does not apply to the operation of portable or portable-mobile amateur stations on frequencies above 28000 kilocycles. (See Section 152.11.)

Sec. 152.13 *Special provisions for non-portable stations.* The provisions for portable stations shall not be applied to any non-portable station except that:

a. An amateur station that has been moved from one permanent location to another permanent location may be operated at the latter location in accordance with the provisions governing portable stations for a period not exceeding sixty days, but in no event beyond the expiration date of the license, provided an application for modification of license to change the permanent location has been made to the Commission.

b. The licensee of an amateur station who is temporarily residing at a location other than the licensed location for a period not exceeding four months may for such period operate his amateur station at his temporary address in accordance with the provisions governing portable stations.

Use of Amateur Stations

Sec. 152.14 *Points of communication.* An amateur station shall communicate only with other amateur stations, except that in emergencies or for testing purposes it may be used also for communication with commercial or Government radio stations. In addition, amateur stations may communicate with any mobile radio station which is licensed by the Commission to communicate with amateur stations, and with stations of expeditions which may also be authorized to communicate with amateur stations. They may also make transmissions to points equipped only with receiving apparatus for the measurement of emissions, observation of transmission phenomena, radio control of remote objects, and similar purely experimental purposes.

Sec. 152.15 *No remuneration for use of station.* An amateur station shall not be used to transmit or receive messages for hire, nor for communication for material compensation, direct or indirect, paid or promised.

Sec. 152.16 Broadcasting prohibited. An amateur station shall not be used for broadcasting any form of entertainment, nor for the simultaneous retransmission by automatic means of programs or signals emanating from any class of station other than amateur.

Sec. 152.17 Radiotelephone tests. The transmission of music by an amateur station is forbidden. However, single audio-frequency tones may be transmitted by radiotelephony for test purposes of short duration in connection with the development of experimental radiotelephone equipment.

Allocation of Frequencies

Sec. 152.25 Frequencies for exclusive use of amateur stations. The following bands of frequencies are allocated exclusively for use by amateur stations:

1715 to	2000 kilocycles ¹
3500 to	4000 kilocycles
7000 to	7300 kilocycles
14000 to	14400 kilocycles
28000 to	30000 kilocycles
58000 to	60000 kilocycles
112000 to	118000 kilocycles ²
224000 to	230000 kilocycles ²
400000 to	401000 kilocycles

Sec. 152.26 Use of frequencies above 300000 kilocycles. The licensee of an amateur station may, subject to change upon further order, operate amateur stations, with any type of emission authorized for amateur stations, on any frequency above 300000 kilocycles without separate licenses therefor.

Sec. 152.27 Frequency bands for telephony. The following bands of frequencies are allocated for use by amateur stations using radiotelephony, type A-3 emission:

1800 to	2000 kilocycles
28500 to	30000 kilocycles
58000 to	60000 kilocycles
112000 to	118000 kilocycles ²
224000 to	230000 kilocycles ²
400000 to	401000 kilocycles

Sec. 152.28 Additional bands for telephony. An amateur station may use radiotelephony, type A-3 emission, in the following additional bands of frequencies: provided the station is licensed to a person who holds an amateur operator's license endorsed for Class A privileges, and actually is operated by an amateur operator holding Class A privileges:

3900 to	4000 kilocycles
14150 to	14250 kilocycles

Sec. 152.29 Television and frequency-modulation transmission. The following bands of frequencies are allocated for use by amateur stations for television and radiotelephone frequency-modulation transmission:

112000 to	118000 kilocycles ²
224000 to	230000 kilocycles ²
400000 to	401000 kilocycles

¹ Subject to change to "1750 to 2050" kilocycles in accordance with the "Inter-American Arrangement Covering Radiocommunication", Havana, 1937.

² The Commission reserves the right to change or cancel these frequencies without advance notice or hearing.

Sec. 152.30 Facsimile transmission. The following bands of frequencies are allocated for use by amateur stations for facsimile transmission:

1715 to	2000 kilocycles ¹
58000 to	60000 kilocycles
112000 to	118000 kilocycles ²
224000 to	230000 kilocycles ²
400000 to	401000 kilocycles

Sec. 152.31 Individual frequency not specified. Transmissions by an amateur station may be on any frequency within the bands above assigned. Sideband frequencies resulting from keying or modulating a transmitter shall be confined within the frequency band used.

Sec. 152.32 Types of emission. All bands of frequencies allocated to the amateur service may be used for radiotelegraphy, type A-1 emission. Type A-2 emission may be used in the following bands of frequencies only:

58000 to	60000 kilocycles
112000 to	118000 kilocycles ²
224000 to	230000 kilocycles ²
400000 to	401000 kilocycles

Equipment and Operation

Sec. 152.40 Maximum power input. The licensee of an amateur station is authorized to use a maximum power input of 1 kilowatt to the plate circuit of the final amplifier stage of an oscillator-amplifier transmitter or to the plate circuit of an oscillator transmitter. An amateur transmitter operating with a power input exceeding nine-hundred watts to the plate circuit shall provide means for accurately measuring the plate power input to the vacuum tube, or tubes, supplying power to the antenna.

Sec. 152.41 Power supply to transmitter. The licensee of an amateur station using frequencies below 60000 kilocycles shall use adequately filtered direct-current plate power supply for the transmitting equipment to minimize frequency modulation and to prevent the emission of broad signals.

Sec. 152.42 Requirements for prevention of interference. Spurious radiations from an amateur transmitter operating on a frequency below 60000 kilocycles shall be reduced or eliminated in accordance with good engineering practice and shall not be of sufficient intensity to cause interference on receiving sets of modern design which are tuned outside the frequency band of emission normally required for the type of emission employed. In the case of A-3 emission, the transmitter shall not be modulated in excess of its modulation capability to the extent that interfering spurious radiations occur, and in no case shall the emitted carrier be amplitude-modulated in excess of 100 per cent. Means shall be employed to insure that the transmitter is not modulated in excess of its modulation capability. A spurious radiation is any radiation from a transmitter which is outside the frequency band of emission normal for the type of transmission employed, including any component whose frequency is an integral multiple

or submultiple of the carrier frequency (harmonics and subharmonics), spurious modulation products, key clicks, and other transient effects, and parasitic oscillations. The frequency of emission shall be as constant as the state of the art permits.

Sec. 152.43 Modulation of carrier wave. Except for brief tests or adjustments, an amateur radiotelephone station shall not emit a carrier wave unless modulated for the purpose of communication.

Sec. 152.44 Frequency measurement and regular check. The licensee of an amateur station shall provide for measurement of the transmitter frequency and establish procedure for checking it regularly. The measurement of the transmitter frequency shall be made by means independent of the frequency control of the transmitter and shall be of sufficient accuracy to assure operation within the frequency band used.

Sec. 152.45 Logs. Each licensee of an amateur station shall keep an accurate log of station operation, including the following data:

a. The date and time of each transmission. (The date need only be entered once for each day's operation. The expression "time of each transmission" means the time of making a call and need not be repeated during the sequence of communication which immediately follows; however, an entry shall be made in the log when "signing off" so as to show the period during which communication was carried on.)

b. The signature of the person manipulating the transmitting key of a radiotelegraph transmitter or the signature of the person operating a transmitter of any other type (type A-3 or A-4 emission) with statement as to type of emission, and the signature of any other person who transmits by voice over a radiotelephone transmitter (type A-3 emission). (The signature need only be entered once in the log provided the log contains a statement to the effect that all transmissions were made by the person named except where otherwise stated. The signature of any other person who operates the station shall be entered in the proper space for his transmissions.)

c. Call letters of the station called. (This entry need not be repeated for calls made to the same station during any sequence of communication, provided the time of "signing off" is given.)

d. The input power to the oscillator, or to the final amplifier stage where an oscillator-amplifier transmitter is employed. (This need be entered only once, provided the input power is not changed.)

e. The frequency band used. (This information need be entered only once in the log for all transmissions until there is a change in frequency to another amateur band.)

f. The location of a portable or portable-mobile station at the time of each transmission. (This need be entered

only once provided the location of the station is not changed. However, suitable entry shall be made in the log upon changing location, showing the type of vehicle or mobile unit in which the station is operated and the approximate geographical location of the station at the time of operation.)

g. The message traffic handled. (If record communications are handled in regular message form, a copy of each message sent and received shall be entered in the log or retained on file for at least one year.)

The log shall be preserved for a period of at least one year following the last date of entry. The copies of record communications and station log, as required under this section, shall be available for inspection upon request by an authorized Government representative.

Special Conditions

SEC. 152.50 *Additional conditions to be observed by licensee.* An amateur station license is granted subject to the conditions imposed in Sections 152.51 to 152.54 inclusive, in addition to any others that may be imposed during the term of the license. Any licensee receiving due notice requiring the station licensee to observe such conditions shall immediately act in conformity therewith.

SEC. 152.51 *Quiet hours.* In the event that the operation of an amateur station causes general interference to the reception of broadcast programs with receivers of modern design, such amateur station shall not operate during the hours from 8 o'clock p. m. to 10:30 p. m., local time, and on Sunday for the additional period from 10:30 a. m. until 1 p. m., local time, upon such frequency or frequencies as cause such interference.

SEC. 152.52 *Second notice of same violation.* In every case where an amateur station licensee is cited a second time within a year for the same violation under Section 152.25, 152.27, 152.28, 152.30, 152.31, 152.41, or 152.42, the Commission will direct that the station remain silent from 6 p. m. to 10:30 p. m., local time, until written notice has been received authorizing full-time operation. The licensee shall arrange for tests at other hours with at least two amateur stations within fifteen days of the date of notice, such tests to be made for the specific purpose of aiding the licensee in determining whether the emissions of his station are in accordance with the Commission's Regulations. The licensee shall report under oath to the Commission at the conclusion of the tests as to the observations reported by amateur licensees in relation to the reported violation. Such reports shall include a statement as to the corrective measures taken to insure compliance with the Regulations.

SEC. 152.53 *Third notice of same violation.* In every case where an amateur station licensee is cited the third time within a year for the same violation as

indicated in Section 152.52, the Commission will direct that the station remain silent from 8 a. m. to 12 midnight, local time, except for the purpose of transmitting a prearranged test to be observed by a monitoring station of the Commission to be designated in each particular case. Upon completion of the test the station shall again remain silent during these hours until authorized by the Commission to resume full-time operation. The Commission will consider the results of the tests and the licensee's past record in determining the advisability of suspending the operator license and/or revoking the station license.

SEC. 152.54 *Operation in emergencies.* In the event of widespread emergency conditions affecting domestic communication facilities, the Commission may confer with representatives of the amateur service and others and, if deemed advisable, will declare that a state of general communications emergency exists, designating the licensing area or areas concerned (in general not exceeding 1,000 miles from center of the affected area), whereupon it shall be incumbent upon each amateur station in such area or areas to observe the following restrictions for the duration of such emergency:

a. No transmissions except those relating to relief work or other emergency service such as amateur nets can afford, shall be made within the 1715-2000¹ kilocycle or 3500-4000 kilocycle amateur bands. Incidental calling, testing, or working, including casual conversation or remarks not pertinent or necessary to constructive handling of the general situation shall be prohibited.

b. The frequencies 1975-2000, 3500-3525, and 3975-4000 kilocycles shall be reserved for emergency calling channels, for initial calls from isolated stations or first calls concerning very important emergency relief matters or arrangements. All stations having occasion to use such channels shall, as quickly as possible, shift to other frequencies for carrying on their communications.

c. A five-minute listening period for the first five minutes of each hour shall be observed for initial calls of major importance, both in the designated emergency calling channels and throughout the 1715-2000¹ and 3500-4000 kilocycle bands. Only stations isolated or engaged in handling official traffic of the highest priority may continue with transmissions in these listening periods, which must be accurately observed. No replies to calls or resumption of routine traffic shall be made in the five-minute listening period.

d. The Commission may designate certain amateur stations to assist in promulgation of its emergency announcement, and for policing the 1715-2000¹

¹Subject to change to "1750 to 2050" kilocycles in accordance with the "Inter-American Arrangement Covering Radio-communication". Havana, 1937.

and 3500-4000 kilocycle bands and warning non-complying stations noted operating therein. The operators of these observing stations shall report fully the identity of any stations failing, after due notice, to comply with any section of this regulation. Such designated stations will act in an advisory capacity when able to provide information on emergency circuits. Their policing authority is limited to the transmission of information from responsible official sources, and full reports of non-compliance which may serve as a basis for investigation and action under Section 502 of the Communications Act. Policing authority extends only to 1715-2000¹ and 3500-4000 kilocycle bands. Individual policing transmissions shall refer to this Section by number, shall specify the date of the Commission's declaration, the area and nature of the emergency, all briefly and concisely. Policing-observer stations shall not enter into discussions beyond essentials with the stations notified, or other stations.

e. These special conditions imposed under this Section will cease to apply only after the Commission shall have declared such emergency to be terminated.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 38-2975; Filed, October 10, 1938;
9:50 a. m.]

CHAPTER XII. RULES GOVERNING AMATEUR RADIO STATIONS AND AMATEUR RADIO OPERATORS

It is ordered, That the following rules,² which are now in effect, are hereby cancelled as of December 1, 1938:

361	383
362	384
364	384 (a)
365	385
366	386
366 (a)	387, as amended
367	400
368, as amended	401
370	402, as amended
371, as amended	403
372	404, as amended
373	405
374	406
374 (a)	407
375	408
376	409
377	410
378	411
379	412
380	413
381, as amended	414
382, as amended	415

October 4, 1938.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 38-2976; Filed, October 10, 1938;
9:50 a. m.]

Action taken by F. C. C. on October 4, 1938, effective December 1, 1938.

²These rules were incorporated in Chapter XII of the Federal Communications Commission's submission to the Codification Board and were identified as Sections 150.01 to 152.90, inclusive.

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

ORDER

[Ex Parte 72 (Sub-No. 1)]

IN THE MATTER OF REGULATIONS CONCERNING THE CLASS OF EMPLOYEES AND SUBORDINATE OFFICIALS THAT ARE TO BE INCLUDED WITHIN THE TERM "EMPLOYEE" UNDER THE RAILWAY LABOR ACT

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 29th day of September, A. D. 1938.

It appearing, That certain employee organizations have filed petitions requesting this Commission to amend or interpret its orders defining and classifying employees and subordinate officials under paragraph 5 of section 1 of the Railway Labor Act, as amended,¹ so as to include the work of the persons described in the next succeeding paragraph hereof and full investigation of the matters and things involved having been made, and the division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:²

It is ordered, That the work defined as that of an employee or subordinate official in orders of this Commission now in effect be, and it is hereby, amended and interpreted so as to include the work of persons designated by terms such as "red caps", station attendants, station porters, parcel porters, ushers, chief ushers, and captains, whose duties consist of or include the carrying of passengers' hand baggage and otherwise assisting passengers at passenger stations and other places on carriers' premises and equipment, in cities of over 100,000 population, based on the 1930 census, whether such persons receive a stated compensation or are entirely dependent upon tips, and brings the persons performing such work within the term "employee" as used in the fifth paragraph of section 1 of the Railway Labor Act, as amended.

By the Commission, division 3.

[SEAL] W. P. BARTEL,
Secretary.

[P. R. Doc. 38-2980; Filed, October 10, 1938; 10:12 a. m.]

¹ 48 Stat. 1186.

² The report was a part of the original document as filed with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

Notices

CIVIL AERONAUTICS AUTHORITY.

[Amendment No. 1 to Special Order 401-A-4]

TEMPORARILY EXEMPTING PAN AMERICAN AIRWAYS, INC., WITH REFERENCE TO AIR TRANSPORTATION SERVICE RENDERED BETWEEN SEATTLE, WASHINGTON, AND JUNEAU, ALASKA, VIA KETCHIKAN, ALASKA

At a session of the Civil Aeronautics Authority, held at its office in Washington, D. C., on the 30th day of September, 1938.

Upon consideration of the application of Pan American Airways, Inc., for an amendment of the provisions of Special Order 401-A-4,¹ authorizing transportation of property in certain overseas air transportation between Seattle, Washington, and Juneau, Alaska, such authorization being subject to the terms and conditions of the Letter of Authority issued by the Secretary of Commerce (referred to in said Special Order as the "authorization dated August 19, 1938"), and it appearing that the enforcement of certain of the terms and conditions of such Letter of Authority would be an undue burden on such air carrier by reason of the unusual circumstances affecting the operations of said air carrier with respect to said overseas air transportation service, and such enforcement would not be in the public interest, therefore the Authority, acting pursuant to the powers granted to it by sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938, hereby amends Special Order 401-A-4 as follows:

Amendment No. 1 to Special Order 401-A-4, temporarily exempting Pan American Airways, Inc., from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the same are applicable to the air transportation service rendered by said air carrier between Seattle, Washington, and Juneau, Alaska, via Ketchikan, Alaska.

Special Order 401-A-4, insofar as the same requires Pan American Airways, Inc., to comply at all times and in all respects with the terms and conditions set forth in the authorization for a proving period for an overseas air transportation service between Seattle, Washington, and Juneau, Alaska, issued by the Secretary of Commerce and dated August 19, 1938, is hereby amended by extending the time specified in Paragraph 1, clauses (c), (d) and (e), and Paragraph 2, clause (b), thereof, from October 1, 1938, to October 3, 1938, or to such other date thereafter as shall be

¹ 3 P. R. 2103 DL.

reasonably necessary to enable Pan American Airways, Inc., to complete the round-trip proving flight scheduled to depart from Seattle, Washington, for Juneau, Alaska, on September 30, 1938.

For the Authority:

[SEAL] PAUL J. FRIZZELL,
Secretary.

[P. R. Doc. 38-2964; Filed, October 7, 1938; 1:09 p. m.]

FEDERAL POWER COMMISSION.

[Project No. 943]

IN THE MATTER OF PUGET SOUND POWER & LIGHT COMPANY, LICENSEE

ORDER FIXING DATE OF HEARING

OCTOBER 5, 1938.

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

It appearing to the Commission that the matters involved in the determination of the actual legitimate original cost of the initial Rock Island project No. 943, Puget Sound Power & Light Company, Licensee, are now at issue:

The Commission orders that:

A public hearing on said matters be held on October 26, 1938, at 10 a. m. in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[P. R. Doc. 38-2965; Filed, October 8, 1938; 9:23 a. m.]

[Dockets No. IT-5515, IT-5514]

IN THE MATTER OF RATES AND CHARGES BY SOUTHWESTERN LIGHT & POWER COMPANY, AND IN THE MATTER OF SOUTHWESTERN LIGHT & POWER COMPANY, RATE SCHEDULE FPC No. 11

ORDER CONSOLIDATING MATTERS FOR HEARING AND SETTING DATE OF HEARING

OCTOBER 5, 1938.

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

It appearing to the Commission that:

(a) By order adopted May 21, 1938, in the matter of Docket No. IT-5515, Southwestern Light & Power Company was required to show cause on or before June 23, 1938, why the rates and charges assessed and collected for electric energy furnished to the Town of Frederick, Oklahoma, as provided in Southwestern Light & Power Company, Rate Schedule FPC No. 10, should not be made available to the Towns of Eldorado, Olustee,

Manitou, and Granite, Oklahoma, H. W. Barnard, doing business as Cache Telephone and Electric Company and Wolverton Brothers Light & Power Company;

(b) Thereafter by order adopted June 20, 1938, in said matter, the date for responding to said Order to Show Cause was extended to July 8, 1938;

(c) Pursuant thereto and on July 8, 1938, the respondent, Southwestern Light & Power Company, filed its Objection to Jurisdiction and Response to Order to Show Cause wherein it avers that:

(1) The Commission is without jurisdiction as a matter of law to consider, hear and determine the issues tendered in its order of May 21, 1938;

(2) The facts attendant upon the matters and those set forth in said order and upon which the Commission attempts to take jurisdiction expressly exclude such right, power, and jurisdiction;

(3) Its rates made to any of the towns or persons mentioned in the Order to Show Cause are not excessive or discriminatory and that it has not in the past granted and is not now granting any undue preference or advantage, or maintaining any unreasonable difference in rates, charges, service, facilities, or in any other respect or manner whatever between the localities mentioned in the said Order to Show Cause or between the classes of service mentioned in said Order;

all as set forth in said Objection to Jurisdiction and Response to Order to Show Cause, and prays that the complaint in said matter be dismissed;

(d) By order adopted May 21, 1938, in the matter of Docket No. IT-5514, the Commission directed that Southwestern Light & Power Company, Rate Schedule FPC No. 11, be suspended and that it shall not become effective prior to August 23, 1938, unless the Commission shall otherwise provide by order, or as a consequence of the Show Cause proceedings instituted in Docket No. IT-5515;

(e) Thereafter by order adopted August 16, 1938, the Commission directed that Southwestern Light & Power Company, Rate Schedule FPC No. 11, be further suspended for the period August 23, 1938, to October 23, 1938;

The Commission having considered the foregoing and the matters set forth in said Objection to Jurisdiction and Response to Order to Show Cause, upon its own motion, orders that:

(A) The matters designated as Docket No. IT-5515 and Docket No. IT-5514 be and are hereby consolidated for hearing purposes;

(B) A public hearing on said matters be held on October 24, 1938, at 10 a. m., in the District Court Room, Court House, in the Town of Frederick, Oklahoma, for the purpose of adducing evidence pertaining to the issues raised by said Order

to Show Cause and the respondent's return thereto, and by the suspension of said Rate Schedule FPC No. 11.

By the Commission,

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-2965; Filed, October 8, 1938;
9:23 a. m.]

[Docket No. G-110]

IN THE MATTER OF ARKANSAS-LOUISIANA GAS COMPANY, RATE SCHEDULE FPC No. 2

ORDER ENTERING UPON AN INVESTIGATION, SUSPENDING RATE SCHEDULE, AND SETTING MATTER DOWN FOR HEARING

OCTOBER 6, 1938.

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

It appearing to the Commission that:

(a) On August 22, 1938, Arkansas-Louisiana Gas Company, a natural gas company within the meaning of the Natural Gas Act, filed with the Commission a contract and agreement, dated October 16, 1937, between said company and the Camden Gas Corporation, such contract being designated on the files of the Commission as Arkansas-Louisiana Gas Company Rate Schedule FPC No. 2;

(b) The said Rate Schedule FPC No. 2 continues the rates and charges provided for in a schedule designated on the files of the Commission as Arkansas-Louisiana Gas Company Rate Schedule FPC No. 1 in effect until October 31, 1938, and effective on and after October 31, 1938, the said Rate Schedule FPC No. 2 provides for a new schedule of rates and charges for natural gas sold by the Arkansas-Louisiana Gas Company to the Camden Gas Corporation for resale for ultimate public consumption for domestic, commercial, industrial and other uses, in and immediately adjacent to the City of Camden, Arkansas;

(c) The new schedule of rates and charges proposed to be made effective on and after October 31, 1938, by said Rate Schedule FPC No. 2 will substantially increase the existing rates and charges, and may result in unlawful rates and charges to the Camden Gas Corporation or place an undue burden upon ultimate consumers of natural gas;

Wherefore the Commission finds that:

(1) An investigation should be entered into by the Commission and a public hearing held to determine whether the new schedule of rates and charges, as provided for in Rate Schedule FPC No. 2, is just and reasonable and not otherwise unlawful;

(2) Pending such hearing and the decision of the Commission upon the issue or issues therein to be heard, the operation of said Rate Schedule FPC No. 2, except as the same relates to the sale of

natural gas for resale for industrial use only, should be suspended in the public interest.

The Commission, upon its own initiative, orders that:

(A) An investigation be and is hereby entered upon concerning the lawfulness of the new schedule of rates and charges provided for in said Rate Schedule FPC No. 2, for service on and after October 31, 1938, including the sale of natural gas for resale for ultimate public consumption for domestic, commercial, industrial or any other use and that in pursuance of such investigation a public hearing be held on November 10, 1938, at 10:00 a. m., in the Hearing Room of the Federal Power Commission, in the Hurley-Wright Building, 1800 Pennsylvania Ave., N. W., Washington, D. C.;

(B) Pending such hearing, and the decision and further order of the Commission in the case Arkansas-Louisiana Gas Company Rate Schedule FPC No. 2, except as the same relates to the sale of natural gas for resale for industrial use only, be and the same is hereby suspended for the period October 31, 1938, to March 31, 1939; and during the said period the Arkansas-Louisiana Gas Company shall continue to collect and receive rates and charges in effect on the date of this order;

(C) At the said hearing the Arkansas-Louisiana Gas Company shall have the burden of proving that the proposed new rates and charges, as provided for in the said Rate Schedule FPC No. 2, are just and reasonable and not otherwise unlawful.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-2979; Filed, October 10, 1938;
9:54 a. m.]

[Docket No. G-106]

IN THE MATTER OF KANSAS PIPE LINE & GAS COMPANY

ORDER SETTING DATE OF ORAL ARGUMENT

OCTOBER 7, 1938.

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

Upon petition filed by the partnership of Hagy, Harrington & Marsh of Amarillo, Texas, for leave to appear and join as a petitioner and applicant in the proceeding before the Commission on the application of the Kansas Pipe Line & Gas Company, filed on September 10, 1938, for a certificate of public convenience and necessity pursuant to Section 7 (c) of the Natural Gas Act:

The Commission orders that: Oral argument on said petition of Hagy, Harrington & Marsh be heard on October 21, 1938, at 10 a. m., in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.,

on the question whether, and if so, to what extent, the participation of said petitioner in this proceeding will be in the public interest.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-2977; Filed, October 10, 1938;
9:54 a. m.]

Docket No. G-106

IN THE MATTER OF KANSAS PIPE LINE & GAS COMPANY

ORDER SETTING DATE OF ORAL ARGUMENT
OCTOBER 7, 1938.

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

Upon petitions filed by the National Bituminous Coal Commission, the National Coal Association, the United Mine Workers of America, the Northwestern Retail Coal Dealers Association, and the Maher Coal Bureau for leave to intervene and become parties to the proceeding before the Commission on the application of the Kansas Pipe Line & Gas Company, filed on September 10, 1938, for a certificate of public convenience and necessity pursuant to Section 7 (c) of the Natural Gas Act, and upon motion of the Kansas Pipe Line & Gas Company for an order of the Commission denying said petitions;

The Commission orders that: Oral argument on said petitions and motion be heard on October 21, 1938, at 10 a. m. in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C., such argument to cover the following questions:

(A) Whether the petitioners are competitors of the applicant company within the meaning of Section 15 (a) of the Natural Gas Act and as such should be permitted to intervene in this proceeding;

(B) Whether, and if so, to what extent, the participation of the petitioners in this proceeding will be in the public interest;

(C) Whether the Natural Gas Act requires or contemplates that the Commission, in determining the question of public convenience and necessity in this proceeding, shall consider the effect which the construction or extension of facilities by a natural-gas company and the service of natural gas thereby, will have upon persons directly or indirectly engaged in the business of producing or distributing a fuel other than natural gas.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-2978; Filed, October 10, 1938;
9:54 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of October 1938.

[File No. 1-2585]

IN THE MATTER OF LA SALLE-WACKER CORPORATION FIRST (CLOSED) MORTGAGE BONDS, ETC.

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The La Salle-Wacker Corporation, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to withdraw its First (Closed) Mortgage Bonds (5% Income) due August 1, 1957, Debentures (5% Income) due August 1, 1962, and First (Closed) Mortgage Bonds (5% Fixed Interest Bearing) due August 1, 1957, from listing and registration on the Board of Trade of the City of Chicago; and

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

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

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on October 18, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2987; Filed, October 10, 1938;
12:42 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 8th day of October 1938.

[File No. 1-1284]

IN THE MATTER OF APPLICATION BY THE BALTIMORE STOCK EXCHANGE CONCERNING CAPITAL STOCK, NO PAR VALUE, OF CONSOLIDATED TEXTILE CORPORATION

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Baltimore Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Capital

¹ 3 F. R. 1880 DL

Stock, No Par Value, of Consolidated Textile Corporation; and

After appropriate notice,² a hearing having been held in this matter; and

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

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on October 18, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2988; Filed, October 10, 1938;
12:42 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 8th day of October 1938.

[File No. 1-551]

IN THE MATTER OF APPLICATION BY THE NEW YORK STOCK EXCHANGE CONCERNING COMMON STOCK, NO PAR VALUE, OF ADVANCE-RUMELY CORPORATION

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Common Stock, No. Par Value, of Advance-Rumely Corporation; and

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

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

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on October 18, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2989; Filed, October 10, 1938;
12:42 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 October, A. D. 1938.

¹ 3 F. R. 2069 DL
² 3 F. R. 2142 DL

[File No. 32-108]

IN THE MATTER OF WASHINGTON GAS
LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on October 24, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of

the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 18, 1938.

The matter concerned herewith is in regard to an application by Washington Gas Light Company, a subsidiary of Washington and Suburban Companies, a registered holding company, for exemp-

tion from the provisions of Section 6 (a) of said Act of the issue and sale of \$8,500,000 principal amount of applicant's Refunding Mortgage Bonds, 4% Series due 1963. The Bonds are to be dated as of September 1, 1938, are to bear interest at the rate of four per cent (4%) per annum from September 1, 1938, are to mature on September 1, 1963, and are to be issued pursuant to a supplemental indenture dated September 1, 1938, between Washington Gas Light Company and The Riggs National Bank of Washington, D. C. The net proceeds from the issue and sale (excluding accrued interest) together with other funds are to be used for the redemption of all of applicant's outstanding \$8,500,000 principal amount of Refunding Mortgage Gold Bonds, 5% Series due 1958.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2990; Filed, October 10, 1938;
12:42 p. m.]