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Washington, Saturday, December 3, 1938

*The President*

**EXECUTIVE ORDER**

**AMENDING THE FOREIGN SERVICE REGULATIONS OF THE UNITED STATES**

By virtue of and pursuant to the authority vested in me by Article II, section 2, of the Constitution of the United States of America and by section 1752 of the Revised Statutes of the United States (22 U. S. C. § 132), it is ordered that the Foreign Service Regulations<sup>1</sup> of the United States be, and they are hereby, amended by prescribing the following as Chapter XI thereof:

**CHAPTER XI—NEGOTIATION OF TREATIES**

**XI-1. General provisions regarding the negotiation of treaties.**—Bilateral treaties to which the United States is one of the parties may be negotiated and concluded either at Washington or at the capital of the foreign country. When circumstance or convenience makes it desirable to negotiate and conclude a treaty at the capital of the other contracting party, the American diplomatic agent will be furnished with a full power from the President authorizing him to negotiate, conclude, and sign the treaty. If the proposal originates with the United States, there will also be furnished to the diplomatic agent a tentative draft of the proposed treaty for submission by him to the other government for its consideration. The diplomatic agent shall submit to the Department any modification of the draft or counter-proposal made by the other government and shall await instructions from the Department. If the original proposal emanates from a foreign government, the diplomatic agent shall forward the proposal to the Department and await its instructions. In no case shall a diplomatic agent sign a treaty until finally advised by the Department to do so after an accord has been reached. The treaty should then be signed in two originals, one for each government.

**XI-2. The principle of the "alternat".**—In the preparation of a treaty for signature, after an accord has been reached, the principle of the *alternat* should be observed, that is to say:

(1) When English and a language other than English are both used, the texts in the two languages should be placed either in parallel vertical columns on the same page, half the width of the page, or on opposite pages of the document, the entire width of the page. The former style is preferred, as it lends itself more conveniently to the binding and sealing of the treaty. If the two languages are placed in parallel columns on the same page, the English text should occupy the left-hand column of each page and the foreign text the right-hand column, in the original to be retained by the United States; in the original to be retained by the foreign government, the foreign text should occupy the left-hand column and the English text the right-hand column. If the two languages are placed on opposite pages of the document, the English text should occupy the left-hand page and the foreign text the right-hand page, in the United States' original, and conversely in the foreign government's original.

In certain oriental countries where by its nature the written language is not adapted to contracted space, the expedient may be resorted to of making and signing two separate originals in each language, but in no other case is this desirable or advisable.

(2) In the original to be retained by the United States, the United States and the plenipotentiary of the United States should be named first in both the English and the foreign texts wherever the names of the countries or of the plenipotentiaries occur, and the signature of the plenipotentiary of the United States should appear above the signature of the foreign plenipotentiary. Conversely, in both texts throughout the original to be retained by the foreign government, that government and its plenipotentiary should be named first and the signature of the foreign plenipotentiary should ap-

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<sup>1</sup> 3 F. R. 1749, 2185 DI.



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appear above the signature of the plenipotentiary of the United States.

**XI-3. Conformity of texts.**—Before signing the treaty, the diplomatic agent of the United States shall see that the texts in the two languages of both origi-

nals of the prepared treaty are in exact conformity with the texts of the two languages in the drafts agreed upon, and that the foreign text is essentially in accord with the English text. The punctuation of the two texts should be brought into substantial conformity.

**XI-4. Exhibition or exchange of full powers.**—Full powers may be either exchanged or exhibited by the plenipotentiaries at the time of signature as may be preferred by the foreign plenipotentiary. If exchanged, the original full power of the foreign plenipotentiary shall be forwarded to the Department with the United States' original of the signed treaty. If the plenipotentiaries retain their own full powers, the foreign plenipotentiary should be requested to furnish to the plenipotentiary of the United States a photostat or certified copy of his full power in lieu of the original. This is the practice in Washington.

**XI-5. Ratification of treaties.**—After the signature of a treaty, the original intended for the Government of the United States shall be forwarded by the diplomatic agent to the Secretary of State to be laid before the President and, if approved, to be transmitted by him to the Senate to receive the advice and consent of the Senate to ratification.

Since all treaties signed on the part of the United States are subject to ratification by and with the advice and consent of the Senate, and as the time required for action on any particular treaty cannot be foreseen, it is preferred by this Government that it be provided in the treaties signed on its part that the exchange of ratifications shall be effected "as soon as possible" rather than within a specified period.

**XI-6. Exchange of ratifications.**—Exchange of ratifications is effected by the plenipotentiary of the United States handing to the plenipotentiary of the foreign government a copy of the United States' original of the treaty ratified by the President and the plenipotentiary of the foreign government handing to the plenipotentiary of the United States a copy of the foreign government's original of the treaty ratified by the head of the foreign government. A protocol attesting the exchange of ratifications should be signed by the two plenipotentiaries at the time the exchange is made. The protocol should be signed in duplicate originals, one for each government, in which the principle of the *alternat* is observed the same as in the treaty.

Before making the exchange of ratifications the diplomatic agent of the United States shall satisfy himself that the texts in the two languages as incorporated in the instrument of ratification of the foreign government are, with the exception of the observance of the *alternat*, in exact conformity with the two texts as contained in the President's instrument of ratification.

**XI-7. Date of exchange to be cabled.**—As most treaties stipulate for their going

into effect on the day of the exchange of ratifications, the date of exchange and the date of the instrument of ratification of the foreign government shall be cabled to the Department of State at once in order that the treaty may be proclaimed by the President. The instrument of ratification of the foreign government and one original of the signed protocol of exchange shall be forwarded to the Department by the first following mail.

### Sections of Regulations Canceled

The following provisions of the Foreign Service Regulations of the United States are hereby canceled:

Sections IX-1 to IX-7, inclusive, Part I.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,  
December 1, 1938.

[No. 8016]

[F. R. Doc. 38-3636; Filed, December 2, 1938; 11:28 a. m.]

## Rules, Regulations, Orders

### TITLE 7—AGRICULTURE

#### AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Form 38—Tobacco 72]

#### PART 724—REGULATIONS PERTAINING TO BURLEY TOBACCO MARKETING QUOTAS FOR THE 1938-39 MARKETING YEAR

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## GENERAL

SECTION 724.31 *Definitions.* As used in these regulations and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them, unless the context or subject matter otherwise requires.

(a) *Act* means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) *Burley tobacco* means tobacco classified in Service and Regulatory Announcement No. 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture as type 31.

(c) *County committee* means the county committee utilized under the Act.

(d) *County office* means the office of the County Agricultural Conservation Association, or the committees and employees of such association, according to the sense in which such term is used.

(e) *Dealer* means a person who engages, to any extent, in the business of acquiring tobacco from producers. No warehouseman shall be considered a dealer because of any purchase of tobacco made by him on his own warehouse floor if the identical tobacco is subsequently resold by him on his own warehouse floor.

(f) *Farm* means the farm for which the marketing quota was established.

(g) *Farm marketing quota* or *quota* means a Burley tobacco marketing quota established for a farm under the Act.

(h) *Field assistant* means a field assistant or a field officer of the Tobacco Section, Agricultural Adjustment Administration, United States Department of Agriculture.

(i) *Marketing* means the first bona fide disposition of tobacco by sale, barter, or exchange. "Market" and "marketed" shall have corresponding meanings to the term "marketing."

(j) *Marketing card* or *card* means a marketing card (Form 38-Tobacco 41) issued for a farm pursuant to these regulations.

(k) *The 1938-39 marketing year* means the period beginning with the first day of October 1938 and ending with the 30th day of September 1939.

(l) *Memorandum of resale* means Form 38-Tobacco 60.

(m) *Memorandum of sale* means Form 38-Tobacco 53 in the case of warehouse sales, and Form 38-Tobacco 54 in the case of nonwarehouse sales.

(n) *Nonwarehouse sale* means a marketing other than a warehouse sale.

(o) *Operator* means the producer who is in charge of the supervision and the conduct of the farming operations on the entire farm.

(p) *Person* means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest.

(q) *Pound* means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually delivered by a grower, would equal one pound standard weight.

(r) *Producer* means a person who, as owner, landlord, tenant, share-cropper, or laborer, is entitled to share in the tobacco available for marketing from the farm, or in the proceeds of the marketing, under the provisions of his agreement relating to the production of the tobacco.

(s) *Regulations* means these Regulations Pertaining to Burley Tobacco Marketing Quotas for the 1938-39 Marketing Year.

(t) *Resale* means the disposition by sale, barter, or exchange of tobacco which has been marketed.

(u) *Share of tobacco* means that part of the tobacco available for marketing, or of the proceeds of the marketing thereof, which a producer is entitled to receive or retain under his agreement relating to the production of the tobacco. Such share shall be computed without regard to the time of passage of title under State law, and without deduction on account of any claim of any creditor.

(v) *Tobacco* means Burley tobacco.

(w) *Tobacco available for marketing from a farm* means all tobacco produced on the farm which was not marketed (or otherwise disposed of) prior to the beginning of the 1938-39 marketing year, but shall not include any such tobacco which was destroyed before its marketing.

(x) *Tobacco Section* means the Tobacco Section, Agricultural Adjustment Administration, United States Department of Agriculture, Washington, D. C.

(y) *Warehouse* means a building or other place at which sales of tobacco at public auction are regularly held by a warehouseman during the tobacco marketing season.

(z) *Warehouseman* means a person regularly engaged in the business of holding sales of tobacco at public auc-

tion at a warehouse during the tobacco marketing season.

(aa) *Warehouse sale* means a marketing by sale at public auction on a warehouse floor and in the regular course of business.

SEC. 724.32 *Gender and number of terms.* Any term used in the masculine gender or in the singular number shall also be construed or applied in the feminine or neuter gender, and in the plural number, wherever the context or application of such term so requires.

SEC. 724.33 *Instructions and forms.* The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued such instructions and such forms as may be deemed necessary or expedient for carrying out these regulations.

## FARM MARKETING QUOTAS

SEC. 724.34 *Establishment of farm marketing quota.* The quota for a farm shall be determined and established in accordance with Sec. 724.11 - 724.21 ("Procedure for the Determination of Burley Tobacco Farm Marketing Quotas for 1938" (Form 38-Tobacco 29) issued by the Secretary of Agriculture"). (Sec. 313, 52 Stat. 47, 586)

SEC. 724.35 *Publication, notice, review.* The publication, notice, and review of quotas as established shall be in accordance with Part 711 ("Regulations Governing (A) Applications and Hearings under Section 363 of Title III of the Agricultural Adjustment Act of 1938 Relating to Administrative Review of Marketing Quotas for Tobacco, Corn, Wheat, Cotton and Rice Established under said Title, and (B) the Publication and Notice of such Quotas under Section 362 of said Act" (designated 38-AAA-2), issued by the Secretary of Agriculture").

SEC. 724.36 *Rights of producers in quota.* Each producer having a share in the tobacco available for marketing from the farm shall be entitled to market, or to have marketed for him, under the quota, his share of such tobacco; provided that, if the quota is less than the total amount of such tobacco, each producer shall be entitled to market, or to have marketed for him, under the quota, only that proportion of his share of such tobacco which the quota is of the total quantity of such tobacco. (Sec. 375, 52 Stat. 66)

SEC. 724.37 *Successors in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from the farm shall, to the extent of such succession, have the same rights as the producer in the quota. (Sec. 375, 52 Stat. 66)

SEC. 724.38 *Marketing card for every quota.* There shall be issued for each farm to which a quota is allotted a marketing card (Form 38-Tobacco 41) as

evidence of the number of pounds allotted to the farm as its quota; provided that the quota may be divided among such number of cards as the operator may request. Marketing cards shall be issued as provided in Sec. 724.49-724.59 of these regulations. (Sec. 373, 52 Stat. 65; Sec. 375, 52 Stat. 66)

**Sec. 724.39 Marketings charged against quota.** Marketings of tobacco shall be charged against the quota for the farm on which such tobacco was produced in the order in which the memoranda of sale (Forms 38-Tobacco 53 or 54) covering such marketings are issued; provided that, a marketing shall not be charged against the quota to the extent that (as shown by the memorandum of sale or a Form 38-Tobacco 25) such marketing consists of tobacco (1) marketed subject to penalty, (2) marketed solely for nicotine or other by-product uses, or (3) grown for experimental purposes only by a publicly owned experiment station. (Sec. 314, 52 Stat. 48; Sec. 372, 52 Stat. 65, 204; Sec. 375, 52 Stat. 66)

#### MARKETING OF TOBACCO AND PENALTIES

**Sec. 724.40. A memorandum of sale to be obtained for every marketing.** Whenever any tobacco is marketed (whether the marketing is within the quota or not) the marketing card for the farm on which such tobacco was produced, together with the warehouse bill or other record of the marketing, shall be presented to the field assistant who is located most conveniently to the place of marketing for the purpose of obtaining a memorandum of sale (Form 38-Tobacco 53 in the case of warehouse sales, and Form 38-Tobacco 54 in the case of nonwarehouse sales) covering the tobacco marketed. A memorandum of sale shall then be issued by the field assistant; provided that, in the case of a nonwarehouse sale which is subject to penalty, the memorandum shall not be issued unless the certificate on Form 38-Tobacco 54 as to the facts of the marketing is signed by the dealer and the producer (or by the producer alone if the marketing is made directly to a person outside the United States). (Sec. 373, 52 Stat. 65; Sec. 375, 52 Stat. 66)

**Sec. 724.41. When memorandum of resale to be obtained.** Whenever any tobacco is resold through a warehouse, the warehouse bill covering such resale shall be presented to the field assistant at the warehouse, and, upon representation by the warehouseman that the tobacco covered by the warehouse bill was tobacco the marketing of which was previously covered by a memorandum of sale, the field assistant shall issue a memorandum of resale covering such tobacco. (Sec. 373, 52 Stat. 65; Sec. 375, 52 Stat. 66)

**Sec. 724.42. Purpose of memorandum of sale.** A memorandum of sale shall identify the tobacco covered by the memorandum as tobacco the marketing of which is subject to penalty, or tobacco the marketing of which is free of penalty, as the memorandum, on its face,

may show, and if the marketing is subject to penalty, shall state the amount of the penalty upon the marketing.

It shall be the responsibility of the person liable for the payment of the penalty upon a marketing to check carefully the entries on the memorandum of sale issued to cover the marketing and the records upon which such memorandum is based. Any errors should be brought immediately to the attention of the field assistant for correction. Failure of the person liable for the payment of the penalty to have any errors corrected will not relieve such person of the payment of the penalty due upon the basis of the correct entries. (Sec. 314, 52 Stat. 48; Sec. 375, 52 Stat. 66)

**Sec. 724.43 Marketings free of penalty.** Any marketing of tobacco shall be free of penalty, and shall be so identified by the memorandum of sale covering the marketing, to the extent that—

(a) such tobacco is marketed within the quota for the farm on which such tobacco was produced, as shown by a valid marketing card presented to obtain the memorandum of sale to cover such marketing; provided that if the producer and the person liable for the payment of the penalty shall designate any tobacco as tobacco marketed subject to penalty, then such tobacco shall be deemed to be marketed in excess of the quota, and the memorandum of sale shall not identify such tobacco as marketed free of penalty; or

(b) such tobacco is marketed solely for nicotine or other by-product uses and is so identified by a certificate made on Form 38-Tobacco 25 by the by-product manufacturer and the producer; or

(c) such tobacco was grown for experimental purposes only by a publicly owned agricultural experiment station and is so identified by a certificate made on Form 38-Tobacco 25 by an authorized representative of the experiment station and the producer. (Sec. 314, 52 Stat. 48; Sec. 372, 52 Stat. 65, 204; Sec. 375, 52 Stat. 66)

**Sec. 724.44 Marketings subject to penalty.** (a) Any marketing of tobacco shall be subject to penalty, and shall be so identified by the memorandum of sale covering the marketing, to the extent that the tobacco marketed cannot, as of the date of the issuance of the memorandum of sale, be identified pursuant to Sec. 724.43 of these regulations as tobacco the marketing of which was free of penalty.

(b) If a memorandum of sale or a memorandum of resale has not been obtained to cover a sale of tobacco through a warehouse, such sale shall be deemed to be a marketing which was subject to penalty.

(c) If a memorandum of sale has not been obtained to cover a nonwarehouse sale, such sale shall be deemed to be a marketing which was subject to penalty. (Sec. 314, 52 Stat. 48; Sec. 372, 52 Stat. 65, 204; Sec. 375, 52 Stat. 66)

**Sec. 724.45 Amount of penalty.** The penalty upon any marketing of tobacco subject to penalty shall be 50 percent of the market price of such tobacco on the date of marketing, or 3 cents per pound, whichever is higher. The sale price of any tobacco will be considered as evidence of the market price on the date of marketing where verified, in the case of warehouse sales, by a warehouse bill, or in the case of nonwarehouse sales, by the certificate (on Form 38-Tobacco 54) of the dealer and the producer. (Sec. 314, 52 Stat. 48)

**Sec. 724.46 Persons to pay penalty, and deduction from purchase price.** (a) If the tobacco is marketed by the producer through a warehouseman (or cooperative marketing association or other agent who performs services comparable to the services performed by a warehouseman) the penalty shall be paid by the warehouseman (or such other agent), but the warehouseman (or such other agent) may deduct an amount equivalent to the penalty from the purchase price paid to the producer.

(b) If the tobacco is marketed by the producer directly to any person outside the United States, the penalty shall be paid by the producer.

(c) If the tobacco is marketed by the producer in a manner other than as described in paragraphs (a) and (b) of this section, the penalty shall be paid by the person who acquires the tobacco from the producer; but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in case such tobacco is marketed by sale. (Sec. 314, 52 Stat. 48)

**Sec. 724.47 Payment of penalty.** Penalties upon the marketing of tobacco shall become due at the time of the marketing, and shall be paid by remitting the amount thereof to the Secretary of Agriculture (addressed for the attention of the Comptroller, Agricultural Adjustment Administration, Washington, D. C.) not later than the end of the calendar week next following the week in which the penalties became due. The remittance shall be accompanied,

(a) in the case of a warehouseman, by his report on Form 38-Tobacco 53, or

(b) in the case of a dealer, by his report on Form 38-Tobacco 59, or

(c) in the case of a producer, by his statement showing the date of sale, the number of pounds sold, the grade, the sale price thereof, and the name of the person outside the United States to whom sold. The remittance may be made by draft, money order, or check, payable to the order of the Treasurer of the United States, but any such draft, money order, or check shall be received subject to payment at par. (Sec. 314, 52 Stat. 48; Sec. 372, 52 Stat. 65, 204)

**Sec. 724.48 Refund of penalty.** Whenever, pursuant to a claim filed with the Secretary of Agriculture within one year after payment to him of any penalty collected from any person pursuant

to the Act, the Secretary of Agriculture finds that such penalty was erroneously, illegally, or wrongfully collected, the Secretary of Agriculture shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary of Agriculture finds the claimant is entitled to receive as a refund of such penalty. Any claim filed with the Secretary of Agriculture pursuant to this section shall be made in accordance with regulations prescribed by him. (Sec. 372, 52 Stat. 65, 204)

#### MARKETING CARDS

**Sec. 724.49 Form of card.** The marketing card (Form 38-Tobacco 41) shall contain the signature in ink of both the person authorized to issue the marketing card and the operator, and a statement of the following information:

(a) the State and county code and serial number of the farm for which the marketing card is issued;

(b) the number of the marketing card;

(c) the name and address of the operator;

(d) the amount of the marketing quota, or, if more than one marketing card is issued for the farm, the number of pounds for which the marketing card is issued, expressed in words on the face of the marketing card and expressed in figures on the inside of the marketing card in column 1 opposite the word "Quota";

(e) the date on which the marketing card is issued; and

(f) if more than one card is issued for any farm, the amount of the farm's transfer allotment apportioned to the card in accordance with Sec. 724.59 of these regulations. (Sec. 373, 52 Stat. 65; Sec. 375, 52 Stat. 66)

**Sec. 724.50 Person authorized to issue card.** The county committee shall designate one of its members or the Secretary of the County Agricultural Conservation Association as the person authorized to issue marketing cards for farms in the county. Only one person shall be designated by the committee for this purpose, and in the absence of a specific designation the Secretary of the County Agricultural Conservation Association shall be deemed to be the person designated. (Sec. 375, 52 Stat. 66)

**Sec. 724.51 Entries on card.** No person other than a field assistant, or a person designated by the Chief of the Tobacco Section or by the county committee, shall make any entry (except for the writing by the operator of his signature) on the marketing card; but every entry on the marketing card should be carefully checked by each interested person, and any error should be immediately reported for correction to a person authorized to make entries on the marketing card. (Sec. 375, 52 Stat. 66)

**Sec. 724.52 Receipt for card.** After the marketing card has been duly pre-

pared, it shall be delivered to the operator upon his receipt therefor. There shall be listed on the operator's receipt (Form 38-Tobacco 40), in the appropriate spaces thereon, the following information:

(a) each marketing card issued for the farm and received by him, and the number of pounds for which each such marketing card was issued; and

(b) the names of all producers having a share in the tobacco available for marketing from the farm.

The receipt shall be retained in the county office and shall be available to any producer having a share in the tobacco available for marketing from the farm, whether the name of such person be listed on the receipt or not, either for inspection or for evidence as to any matter to which the receipt relates. (Sec. 375, 52 Stat. 66)

**Sec. 724.53 Rights of producers in card.** Each producer who has a share in the tobacco available for marketing from the farm shall have the right to market, or to have marketed for him, under the marketing card issued for the farm, the quantity of such tobacco which he is entitled to market, or to have marketed for him, under the quota established for the farm, as provided in Sec. 724.36 of these regulations, or under any quota transferred to the farm as provided in Sec. 724.67 of these regulations. (Sec. 375, 52 Stat. 66)

**Sec. 724.54 Invalid cards.** (a) A marketing card shall be invalid if the marketing card was not issued or delivered in the form and manner required in these regulations, but such invalid marketing card shall become valid when returned to the county office and reissued and delivered in the required form and manner.

(b) A marketing card shall be invalid if the entries on the marketing card with respect to the amount, portion, or balance of quota are incorrect, or if, because of the omission of any entry which should have been made on the marketing card, the balance of unused quota is incorrect; but if, subsequent to the time of invalidation, no transfer from the farm has been made, and no marketings have been made and entered on the marketing card which would have been subjected to penalty if the correct entries had been shown on the marketing card, then such invalid marketing card shall become valid when the error has been corrected by a person authorized to make entries on the marketing card, or, in any other case, when the marketing card has been returned to the Tobacco Section and the necessary corrections have been made under its direction.

(c) A marketing card shall be invalid if the marketing card is credited with an amount of quota, any part of which has been transferred in violation of these regulations; but such invalid marketing card shall become valid when the marketing card has been forwarded to the

Tobacco Section and the necessary corrections have been made under its direction.

(d) A marketing card shall be invalid if any entry is made on the marketing card by a person not authorized to make such entry; but such invalid marketing card, when returned to the county office, shall be replaced by a new marketing card issued for an amount of quota determined as provided in Sec. 724.57 of these regulations.

(e) A marketing card shall be invalid if it is presented and used to obtain a memorandum of sale covering the marketing of tobacco which was grown on a farm other than the farm for which the marketing card was issued; but such invalid marketing card shall become valid when it has been returned to the Tobacco Section and the necessary corrections have been made under its direction.

(f) A marketing card shall be invalid if it is lost or stolen, but if no entry has been made on the marketing card between the time of its loss or theft and its return to the operator of the farm for which the marketing card was issued, then such invalid marketing card shall become valid when it has been returned to the operator; or if any entry has been made on the marketing card between the time of its loss or theft and its return to the operator of the farm for which it was issued, then such invalid marketing card shall become valid when it has been returned to the Tobacco Section and the necessary corrections have been made under its direction; provided that if such lost or stolen marketing card is not found or returned to the operator prior to the issuance of a duplicate marketing card, as provided for in Sec. 724.56 of these regulations, then such lost or stolen marketing card shall be permanently invalid.

(g) A marketing card shall be invalid if it is destroyed or becomes illegible; but a new marketing card shall be issued to replace such destroyed or illegible marketing card, as provided in Sec. 724.56 of these regulations, and such destroyed or illegible marketing card shall be permanently invalid. (Sec. 375, 52 Stat. 66)

**Sec. 724.55 Invalid cards suspended.** If any field assistant or the county office shall learn of or ascertain the invalidity of any marketing card, such person shall immediately notify the Tobacco Section of the code and serial number, and the name and address of the operator of the farm for which the marketing card was issued, and of the facts causing the invalidity of the marketing card, unless the marketing card is then in the possession of such person, in which case he shall retain and make disposition of the marketing card in accordance with the provisions of Sec. 724.54 of these regulations. Upon receipt of such notice, the Tobacco Section shall notify all field assistants, all county offices, and the operator of the farm that the marketing card has been suspended

for invalidity. If any such marketing card shall thereafter come into the possession of any field assistant or county office, such person shall retain and make disposition of the marketing card in accordance with the provisions of Sec. 724.54 of these regulations. (Sec. 375, 52 Stat. 66)

Sec. 724.56 *Duplicate card to replace card which is lost, stolen, destroyed, or which becomes illegible.* Whenever any marketing card is lost, stolen, destroyed, or becomes illegible, the county office shall be notified of the code and serial number, the name of the operator of the farm for which the marketing card was issued, the number of the marketing card, and, if known, the amount of the unused quota evidenced by the marketing card and the amount of quota which had been transferred to the card. Such notice shall be in writing, subscribed by the operator of the farm for which the marketing card was issued. If, in the case of a lost or stolen marketing card, the producer is at or near a warehouse where he believes the loss or theft occurred, he shall also notify the field assistant at the warehouse.

When such notice has been given to the county office and a period of two weeks has elapsed from the time of its receipt of such notice, a duplicate marketing card may be issued by the county office for an amount of quota determined as provided in Sec. 724.57 of these regulations.

Such marketing card shall bear the same number as the number of the marketing card which was lost, stolen, destroyed, or which became illegible, and shall have written under the card number, in large letters, the word "Duplicate." The person issuing the marketing card shall sign the card in the space provided for his signature and shall also sign below the word "Duplicate." (Sec. 375, 52 Stat. 66)

Sec. 724.57 *Amount of quota for duplicate cards.* Whenever the county office issues a marketing card to replace any marketing card which has become invalid, the amount of quota for which such card shall be issued shall equal whichever of the following amounts is the smaller:

- (a) the unused quota as stated by the operator; or
- (b) the unused quota as determined by subtracting the sum of—
  - (1) the total marketings within quota,
  - (2) the amount of quota transferred from the farm, and
  - (3) the total unused quota shown on all other marketing cards issued for the farm;
 from the sum of—
  - (1) the quota established for the farm, and
  - (2) the amount of quota transferred to the farm; provided that, if no amount is stated by the operator, as provided under paragraph (a) of this section, the amount for which the card shall be is-

sued shall be the amount determined under paragraph (b) of this section. (Sec. 375, 52 Stat. 66)

Sec. 724.58 *Replacement of old cards.* Whenever the space for recording marketings on any card becomes inadequate, such marketing card shall be surrendered to the county office and a new marketing card shall be issued for the amount of unused quota remaining on the marketing card so surrendered. The new card shall bear the same number as the number of the surrendered card, and such number shall be preceded by the letter "R". An appropriate entry shall be made on the surrendered marketing card showing that a new card has been so issued. (Sec. 375, 52 Stat. 66)

Sec. 724.59 *Apportionment of transfer allotment among cards.* Every marketing card issued shall bear a statement of the amount of the transfer allotment (determined in accordance with paragraph (b) of Sec. 724.60 of these regulations) which has been apportioned to the card; except that where only one card is issued for the farm such card shall bear no such statement. This statement shall be written on the face of the card and below the words "Marketing Card (1938-39 Burley tobacco)", and shall be in the following words, or an appropriate abbreviation thereof: "Maximum Increase by Transfer", followed by the amount apportioned to the card, or "No Increase by Transfer" if no apportionment is made to the card, as the case may be.

The apportionment of the transfer allotment among cards shall be made in accordance with the following rules:

- (a) If only one card is issued for the entire quota, no entry will be made, and the entire transfer allotment shall be deemed to be apportioned to the card;
- (b) If the quota established for the farm is divided among two or more cards, the apportionment shall be made in accordance with the request of the operator; or, if the operator makes no request with respect to the apportionment, there shall be apportioned to each card that portion of the transfer allotment which the amount of quota for which the card is issued is of the quota established for the farm;
- (c) If, after the issuance of the marketing card or cards for a farm, the quota for the farm is increased, the amount of transfer allotment which shall be apportioned to the card issued on account of such increase in the farm quota shall be the amount by which the transfer allotment is increased by the increase of the farm marketing quota.
- (d) If an old card is replaced pursuant to Sec. 724.58, or if a duplicate card is issued pursuant to Sec. 724.56, the amount apportioned to the new card shall be the amount apportioned to the original card less the amount already transferred on account of such apportionment; provided that, if the amount apportioned to the original card cannot be determined from the county office rec-

ords, the statement of the amount apportioned to the new card shall be "No Increase by Transfer", unless the operator of the farm shall present all other cards for the farm, and in that case the amount apportioned to the old card shall be deemed to be the amount by which the transfer allotment is greater than the total amount of the apportionments to such other cards. (Sec. 313, 52 Stat. 47, 586)

#### TRANSFER OF QUOTA

Sec. 724.60 *Amount of quota transferable—(a) From a farm.* Quota may be transferred from a farm only to the extent and in the event that such quota exceeds the sum of: (1) the number of pounds of tobacco available for marketing from the farm which have not been marketed (or otherwise disposed of) at the time of the proposed transfer, (2) the number of pounds of tobacco marketed from the farm solely for nicotine or other by-product uses, and (3) the number of pounds of tobacco marketed from the farm which were grown for experimental purposes only by a publicly owned agricultural experiment station.

(b) *To a farm.* The amount of quota which may be transferred to a farm shall be the larger of: (1) 10 percent of the quota established for the farm, or (2) 500 pounds; and such larger amount shall be the farm's transfer allotment. (Sec. 313, 52 Stat. 47, 586)

Sec. 724.61 *Duties of person authorized to make transfer.* Transfers may be made by a field assistant, or by a person authorized by the county committee to make transfers, and shall be made either directly between farms or through the county office transfer book. Any authorized person who makes a transfer of quota shall

(a) satisfy himself that the authorization for transfer has been duly executed by the operator of the farm from which the transfer is to be made; and that the requested transfer is proper (i. e., that the amount of quota to be transferred from the one farm is available for transfer in accordance with these regulations, and that the transfer to the other farm will not exceed the amount of the unused transfer allotment apportioned to the card on which the transfer is to be entered);

(b) record the transfer by making the appropriate entries on the respective cards, in case of direct transfers, or on the cards and in the county office transfer book, in case of transfers through a county office transfer book;

(c) when the appropriate entries have been made, execute the certificate on the authorization for transfer;

(d) after making a transfer to a farm through the county office transfer book, make a record of the transfer on Form 38-Tobacco 65. (Sec. 313, 52 Stat. 47, 586)

Sec. 724.62 *Direct transfers.* If the transfer is to be made directly from one

farm to another, the marketing cards for the respective farms, together with the authorization (Form 38-Tobacco 64) of the operator of the farm from which the transfer is to be made, shall be presented, for appropriate entries, to a field assistant or person in the county office authorized to make transfers. (Sec. 313, 52 Stat. 47, 586)

**Sec. 724.63 Transfers through a county office transfer book—**(a) *From a farm.* If the operator of the farm desires to arrange for a transfer of quota from his farm through the county office transfer book, he shall present, for the appropriate entries, the marketing card for this farm, together with his authorization (Form 38-Tobacco 64), to a person in the county office (for the county in which the farm is located) authorized to make transfers. (Sec. 313, 52 Stat. 47, 586)

(b) *To a farm.* If a producer desires to arrange a transfer of quota to his farm through the county office transfer book, he shall present, for the appropriate entries, the marketing card for his farm, together with a deposit of the amount required to pay for the transfer (in the form of cash or a cashier's check, certified check, or money order payable to the County Agricultural Conservation Association) to a person in the county office authorized to make transfers.

(c) *Order of transfer—*(1) *To farms.* Transfers of quota to farms through the county office transfer book shall be made in the order in which requests for transfers, together with the marketing cards upon which such transfers are to be entered and the deposits to pay for such transfers, are received in the county office by a person authorized to make transfers.

(2) *From farms.* Transfers of quota from farms through the county office transfer book shall be made in the order in which authorizations for such transfers (Form 38-Tobacco 64) are received in the county office by a person authorized to make transfers.

(d) *Expense of transfer.* The county committee may adopt a schedule of charges (not exceeding 10 cents per 100 pounds, or major portion thereof, of quota transferred, or \$1.00 for any one request) to cover the expense of making transfers of quota through the county office transfer book. Such schedule of charges, when approved by the State committee, shall be applied uniformly to all transfers through the county office transfer book, and shall be collected from the person requesting a transfer to his farm. The amount of any charge so collected shall be paid over to the Treasurer of the County Agricultural Conservation Association. (Sec. 313, 52 Stat. 47, 586)

**Sec. 724.64 County office transfer book.** The county committee shall designate and authorize one person to make transfers in the county office, and in the absence of a specific designation, the person authorized to make transfers shall be the Secretary of the County Agri-

cultural Conservation Association. The county committee may also designate an alternate person who, in the absence of the person authorized to make transfers in the county office, shall be authorized to make such transfers. The person so authorized shall be responsible for keeping the county office transfer book in which he shall record, with respect to each transfer, the following information:

(a) The code and serial number, and the name of the operator, of the farm from which quota is made available for transfer, the number of pounds, and the date on which made available, and the amount paid to the operator for the transfer.

(b) The code and serial number, and the name of the operator, of the farm to which a transfer is requested, the date of the request, the deposit or payment received and the number of pounds transferred. (Sec. 313, 52 Stat. 47, 586)

**Sec. 724.65 Consideration for transfer.**

(a) If a transfer is made directly between farms, the consideration for the transfer shall be whatever consideration is agreed upon by the operators of the respective farms; provided that no such transfer shall be made for a consideration which is less than 5 cents per pound for each pound of quota transferred, unless all the producers on the farm from which the quota is to be transferred have consented thereto.

(b) If the transfer is made through a county office transfer book, the consideration for the transfer shall be 5 cents per pound for each pound of quota transferred. (Sec. 313, 52 Stat. 47, 586)

**Sec. 724.66 Distribution of consideration.** The consideration received by the operator for the transfer of any portion of the quota for the farm shall be divided among the producers on the farm in proportion to their shares in the tobacco available for marketing from the farm; except as follows:

(a) If the amount of tobacco produced on the farm in 1938 was materially affected because of drought, flood, hail, or other adverse weather conditions, or plant-bed or other diseases; such consideration shall be divided among the producers on the farm in proportion to what their shares would have been in the amount of tobacco which, except for such abnormal conditions of production, would have been available for marketing from the farm; such amount to be determined by multiplying the planted acreage, or the acreage which would have been planted except for such abnormal conditions, by the farm yield established for the farm pursuant to the Burley Tobacco Quota Procedure.

(b) If there is a loss of tobacco by fire, theft, or other accidental cause, the consideration shall be divided among the producers on the farm in proportion to their shares in the tobacco which, except for such loss, would have been available for marketing from the farm.

(c) If the consideration is received for quota which was not allotted to the farm but was acquired by transfer, the consideration shall be divided among the producers on the farm who contributed to the payment of the consideration for the transfer in the proportion which their contributions were of the total consideration for the transfer.

(d) If all the producers on the farm agree among themselves upon a division of the consideration, the consideration shall be divided among the producers in accordance with such agreement. (Sec. 313, 52 Stat. 47, 586)

**Sec. 724.67 Producers' rights in transferred quota.** Each producer having a share in the tobacco available for marketing from the farm which has not been marketed at the time of the transfer, shall be entitled to market, or to have marketed for him, under the transferred quota, that proportion of his share of such tobacco which his contribution to the consideration for such transfer is of the total consideration for the transfer; provided that all producers on the farm shall be given an opportunity to contribute to such consideration in proportion to their shares in the tobacco available for marketing from the farm. (Sec. 313, 52 Stat. 47, 586)

#### RECORDS AND REPORTS

**Sec. 724.68 Warehouseman's records and reports—**(a) *Record of marketing.* Every warehouseman shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each sale or resale of tobacco made at his warehouse: The name of the seller, the name of the purchaser, the date of sale, the number of pounds sold, the sale price, and, in the case of a sale for a producer, the name of the operator of the farm on which the tobacco sold was produced, the amount of any penalty, and the amount of any deduction on account of penalty from the price paid the producer.

(b) *Reports.* Every warehouseman shall report, on Form 38-Tobacco 58 and on Form 38-Tobacco 61, those transactions which such forms require to be reported. A report shall be made for each day on which any such transaction is made on his warehouse, and shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than the end of the calendar week next following the week in which occurred the day for which the report is made. The reports on Form 38-Tobacco 58 shall be accompanied by the warehouseman's remittance of penalties as provided in Sec. 724.47 of these regulations.

Every warehouseman shall also make, under oath and on Form 38-Tobacco 62, a monthly report of those transactions made on his warehouse which are required to be shown on such form. This report shall be made for each month during which any such transaction is

made on his warehouse, and shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than 10 days after the end of the calendar month for which the report is made.

Every warehouseman shall make such additional reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request. (Sec. 373, 52 Stat. 65)

**Sec. 724.69 Dealer's records and reports—(a) Records.** Every dealer shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each purchase (or other acquisition) of tobacco and each sale (or other disposition) of tobacco made by him: The date when and the place where made, the number of pounds of tobacco involved, the price (or other consideration) paid or received, the name and address of the person from whom acquired or to whom the disposition was made (or if acquired or disposed of by sale at auction on a warehouse floor, the name of such warehouse), and in case the tobacco is acquired from a producer, the name of the operator of the farm on which the tobacco marketed was produced, the amount of any penalty, and the amount of any deduction on account of penalty from the price paid the producer.

(b) **Reports.** Every dealer shall report, on Form 38-Tobacco 59, those transactions which such form requires to be reported. A report shall be made for each day on which the dealer acquires any tobacco from a producer other than at warehouse sale, and shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than the end of the calendar week next following the week in which occurred the day for which the report is made. The reports on Form 38-Tobacco 59 shall be accompanied by the dealer's remittance of penalties as provided in Sec. 724.47 of these regulations.

Every dealer shall also make, under oath and on Form 38-Tobacco 63, a monthly report of all purchases and sales of tobacco made by him during the month for which the report is made. This report shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than 10 days after the end of the calendar month for which the report is made.

Every dealer shall make such additional reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request. (Sec. 373, 52 Stat. 65)

**Sec. 724.70 Records and reports of cooperatives.** Every cooperative marketing association which acquires title to any tobacco shall keep the records and make the reports required of dealers by these regulations. Every cooperative marketing association which acts as the agent of the producer in marketing to-

bacco shall keep the records and make the reports required of warehousemen by these regulations. (Sec. 373, 52 Stat. 65)

**Sec. 724.71 Records and reports of redryers, etc.** Every person engaged in the business of redrying, prizing, or stemming tobacco for producers shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each lot of tobacco received by him: The date of receipt of the tobacco, the number of pounds received, the purpose for which the tobacco was received, the name and address of the person from whom the tobacco was received (and, if received from a producer, the name and address of the operator, and the code and serial number of the farm on which the tobacco was grown), the amount of advance made by him on the tobacco, and the disposition of the tobacco.

Every such person shall make such reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request. (Sec. 373, 52 Stat. 65)

**Sec. 724.72 Separate records and reports from persons engaged in more than one business.** Any person who is required to keep any record or make any report as warehouseman, dealer, processor, or person engaged in the business of redrying, prizing, or stemming tobacco for producers, and who engages in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged, to the same extent for each such business as if he were engaged in no other business. (Sec. 373, 52 Stat. 65)

**Sec. 724.73 Failure to keep record or make report.** Any warehouseman, processor, or common carrier of tobacco, or person engaged in the business of purchasing tobacco from producers, or persons engaged in the business of redrying, prizing, or stemming tobacco for producers, who fails to make any report or keep any record as required under Sec. 724.68-724.72 of these regulations, or who makes any false report or record, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than \$500. (Sec. 373, 52 Stat. 65)

**Sec. 724.74 Records open to inspection.** For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary of Agriculture is authorized by the Act to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of any warehouseman, dealer, processor, common carrier, or person engaged in the business of redrying, prizing, or stemming tobacco for producers. (Sec. 373, 52 Stat. 65)

**Sec. 724.75 Information confidential.** All data reported to or acquired by the

Secretary of Agriculture pursuant to the provisions of these regulations shall be kept confidential by all officers and employees of the Department of Agriculture, and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under Title III of the Act. (Sec. 373, 52 Stat. 65)

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938) as amended, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the foregoing regulations pertaining to Burley tobacco marketing quotas for the 1938-39 marketing year, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said Act.

Done at Washington, D. C., this 1st day of December, 1938. Witness my hand and seal of the Department of Agriculture.

[SEAL] M. L. WILSON,  
Acting Secretary of Agriculture.

[F. R. Doc. 38-3625; Filed, December 1, 1938; 3:54 p. m.]

## TITLE 14—CIVIL AVIATION

### CIVIL AERONAUTICS AUTHORITY

#### AMENDMENT NO. 1 OF CIVIL AIR REGULATIONS AS ADOPTED BY THE AUTHORITY AND ISSUED PURSUANT TO REGULATION 601-A-1, PROMULGATED AUGUST 20, 1938, AMENDING AIRCRAFT WEIGHT AND ENGINE CLASSIFICATION FOR PILOT RATING

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

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a) and 601 (a) of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under said Act, the Civil Aeronautics Authority hereby amends Regulation 601-A-1, Safety Rules, and the Civil Air Regulations adopted thereunder, as follows:

(1) By striking the number "1,500" appearing after the word "than" in subparagraph (a), and the number "1,500" following the word "between" in subparagraphs (b) and (c) of said subparagraphs of section 20.55 of Part 20, and of section 21.35 of Part 21 of the Civil Air Regulations, and inserting in lieu thereof in each of said subparagraphs the number "1,300", so that said subparagraphs shall read as follows:

"(a) Class 1.—Gross weight not more than 1,300 pounds.



"(b) Class 2S.—Gross weight between 1,300 and 4,000 pounds, single-engine.

"(c) Class 2M.—Gross weight between 1,300 and 4,000 pounds, multi-engine."

For the Authority.

[SEAL] PAUL J. FRIZZELL,  
Secretary.

[P. R. Doc. 38-3630; Filed, December 2, 1938;  
10:24 a. m.]

## TITLE 19—CUSTOMS DUTIES

### BUREAU OF CUSTOMS

[T. D. 49754]

#### CUSTOMS REGULATIONS AMENDED—MAIL IMPORTATIONS, ARMS, IMPLEMENTS OF WAR, AND OTHER NON-EXPLOSIVE MUNITIONS OF WAR—FIREARMS

ARTICLE 394 (A), CUSTOMS REGULATIONS OF 1937 (PAR. 23 (A), JOINT DEPARTMENTAL MAIL REGULATIONS) RELATIVE TO THE IMPORTATION OF FIREARMS, ETC., THROUGH THE MAILS, AMENDED, AND AMPLIFIED TO INCLUDE THOSE ARTICLES DESIGNATED ARMS, IMPLEMENTS OF WAR, AND OTHER NON-EXPLOSIVE MUNITIONS OF WAR BY THE PRESIDENT IN HIS PROCLAMATION OF MAY 1, 1937, AND FIREARMS AS THAT TERM IS DEFINED IN THE NATIONAL FIREARMS ACT, AS AMENDED

NOVEMBER 29, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to authority contained in section 161, Revised Statutes (U. S. C., title 5, sec. 22), section 1 of the Act of February 8, 1927 (U. S. C., title 18, sec. 361), section 217 of the Act of March 4, 1909, as amended (U. S. C., title 18, sec. 340); and section 624 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1624), article 394 (a) of the Customs Regulations of 1937<sup>1</sup> (par. 23 (a), Joint Departmental Mail Regulations) is hereby amended by deleting the second and third sentences and substituting therefor the following:

The importation by mail of explosives of all kinds, intoxicating liquors, opium, morphine, cocaine, and other narcotics is prohibited. The importation of firearms capable of being concealed on the person, except under the conditions set forth in section 607 of the Postal Laws and Regulations of 1932, or any subsequent revision thereof or amendment thereto, is likewise prohibited (U. S. C., title 18, sec. 361). Mail shipments of admissible arms, implements of war, and other non-explosive munitions of war designated in the President's proclamation of May 1, 1937,<sup>2</sup> issued by authority of section 5 of the Joint Resolution of Congress approved May 1, 1937 (U. S. C., Sup. III, title 22, sec. 245b (k)), or any revision or amendment thereof, shall be detained by customs until an import li-

<sup>1</sup> 2 F. R. 1532 (1818 DI).

<sup>2</sup> F. R. 778 (923 DI).

cense from the Secretary of State has been submitted. Likewise, firearms, as that term is defined in the National Firearms Act (U. S. C., title 26, sec. 1132), as amended, shall be detained by customs until an import permit from the Commissioner of Internal Revenue has been submitted by the addressee. If the import license and the import permit are found to be in proper form the mail parcel shall be endorsed by customs showing that it is entitled to entry, and released to the postmaster for delivery or dispatch to destination in the mails subject to any duties that may accrue and to other customs requirements applicable thereto.

The following marginal references should be added to those appearing opposite article 394 (a) of the Customs Regulations of 1937: U. S. C., title 18, sec. 340; U. S. C., title 18, sec. 361; U. S. C., Sup. III, title 22, sec. 245b (d) and (k); U. S. C., title 26, sec. 1132, et seq.; and U. S. C., Sup. III, title 26, sec. 1132.

AMBROSE O'CONNELL,  
Acting Postmaster General.

[SEAL] STEPHEN B. GIBBONS,  
Acting Secretary of the Treasury.

[P. R. Doc. 38-3633; Filed, December 2, 1938;  
10:41 a. m.]

[T. D. 49755]

#### CUSTOMS REGULATIONS AMENDED—SEALED MAIL ARTICLES

ARTICLES 371 (C) AND 372 (D), CUSTOMS REGULATIONS OF 1937, AMENDED TO PROVIDE THAT SEALED MAIL ARTICLES CONTAINING MERCHANDISE LIABLE TO DUTY ARE SUBJECT TO SEIZURE AND FORFEITURE WHEN NOT LABELED OR INDORSED TO INDICATE THAT THEY MAY BE OPENED FOR CUSTOMS PURPOSES, AND TO MITIGATE SUCH FORFEITURES AS MAY BE SO INCURRED, UNDER CERTAIN CONDITIONS

NOVEMBER 25, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in Article 46 of the Universal Postal Convention of March 20, 1934 (49 Stat. pt. 2, 2766), section 251 of the Revised Statutes (U. S. C. title 19, sec. 66), and section 618 of the Tariff Act of 1930 (U. S. C. title 19, sec. 1618), articles 371 (c) and 372 (d) of the Customs Regulations of 1937<sup>1</sup> are hereby amended as follows:

Article 371 (c) (J. R. 11c) is amended by deleting the last three sentences and substituting therefor the following:

If the articles shall be found to contain merchandise unconditionally free of duty and free of internal-revenue tax, or the aggregate value of the merchandise is not more than \$1 and it is free of internal-revenue tax, it may be delivered to the addressee. If the articles

shall be found to contain merchandise subject to duty (including conditionally free merchandise) with an aggregate value exceeding \$1, or subject to internal-revenue tax irrespective of its value, such merchandise shall be subject to seizure and forfeiture as having been imported contrary to law. Under the authority contained in section 618 of the Tariff Act of 1930, any forfeiture so incurred is hereby mitigated to an amount equal to 10 percent of the duty (actual or potential) provided there is no evidence indicating to the collector that failure to label or indorse the package was due to wilful negligence or to an intent to defraud the revenue. If there is any such evidence, or for any other reason the collector believes that it would not be in the interest of the United States to grant this relief, the matter will be reported to the Bureau for instructions. The mail entry (customs Form 3419 or 3420) shall be used for the entry of shipments not exceeding \$100 in value in unendorsed articles, and the duty and mitigated forfeiture shall be entered as separate items thereon. If the addressee fails to respond to the postmaster's notice within 30 days, or the article remains undelivered after 30 days, such article shall be treated as undeliverable mail matter, to be disposed of in accordance with the postal regulations, except as provided in J. R. 19 (a) to 19 (c) and 20 (a) to 20 (c). (See also art. 372 (d) (J. R. 12d) as to shipments subject to formal entry.) [Cotzhausen v. Nazro, 107 U. S. 215; 18 Op. Atty. Gen. 457; 33 Op. Atty. Gen. 276.]

Article 372 (d) (J. R. 12d) is amended to read as follows:

(d) (J. R. 12d.) Sealed articles not endorsed or labeled as required by J. R. 8a, which are found after opening in accordance with J. R. 11c to contain merchandise valued at more than \$100, shall be subjected to formal entry in accordance with J. R. 12a and 12b. In such cases, the customs officers preparing the notice to the addressee to make formal entry (customs Form 3509) shall note thereon that the shipment is subject to such duty and mitigated forfeiture as may be applicable thereto in accordance with the provisions in article 371 (c) (J. R. 11c), and that such amounts (except the duty, if entered conditionally free) must be deposited prior to the release of the merchandise. The collector of customs at the place where formal entry is made shall record the transaction on customs Form 5211 and schedule the penalty when collected on customs Form 5161-B. The duty shall be accounted for as such in the regular manner.

[SEAL] STEPHEN B. GIBBONS,  
Acting Secretary of the Treasury.

S. W. PURDUM,  
Acting Postmaster General.

[P. R. Doc. 38-3637; Filed, December 2, 1938;  
11:53 a. m.]

<sup>1</sup> 2 F. R. 1528 (1814 DI).

## TITLE 43—PUBLIC LANDS

## OFFICE OF THE SECRETARY OF INTERIOR, GRAZING DIVISION

## UTAH GRAZING DISTRICT No. 6

## MODIFICATION

NOVEMBER 15, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of June 22, 1935, establishing Utah Grazing District No. 6, is hereby revoked as far as it affects the following described lands, such revocation to be effective upon the inclusion of the lands within the Arches National Monument:

## UTAH

## Salt Lake Meridian

- T. 23 S., R. 20 E.,  
sec. 12, S $\frac{1}{2}$ ,  
sec. 13, all,  
sec. 22, E $\frac{1}{2}$ ,  
sec. 23, all,  
sec. 24, N $\frac{1}{2}$ ,  
T. 23 S., R. 21 E.,  
sec. 7, S $\frac{1}{2}$ ,  
secs. 16 to 18 inclusive,  
sec. 19, N $\frac{1}{2}$ ,  
sec. 20, N $\frac{1}{2}$  and SE $\frac{1}{4}$ ,  
secs. 21 and 22,  
secs. 26 to 28 inclusive,  
secs. 34 and 35,  
T. 24 S., R. 21 E.,  
sec. 1, all,  
sec. 2, N $\frac{1}{2}$ ,  
sec. 3, N $\frac{1}{2}$ ,  
secs. 12 and 13,  
secs. 23 to 27 and 33 to 35, inclusive,  
sec. 36, N $\frac{1}{2}$  (all unsurveyed),  
T. 25 S., R. 21 E.,  
secs. 3 to 5 and 8 to 10 inclusive,  
secs. 15 to 17 inclusive,  
sec. 22, all,  
and all those parts of secs. 20, 21, 27  
and 28 north of State Highway No. 450,  
T. 24 S., R. 22 E.,  
sec. 4, W $\frac{1}{2}$ ,  
secs. 5 to 8 inclusive,  
sec. 9, W $\frac{1}{2}$ ,  
secs. 17 to 20, inclusive,  
secs. 29 and 30,  
sec. 31, N $\frac{1}{2}$ ,  
sec. 32, N $\frac{1}{2}$ .

HARRY SLATTERY,

Acting Secretary of the Interior.

[F. R. Doc. 38-3629; Filed, December 2, 1938;  
10:03 a. m.]

## TITLE 45—PUBLIC WELFARE

## CIVILIAN CONSERVATION CORPS

PART 3—REGULATIONS RELATIVE TO ENROLLMENT, DISCHARGE, HOSPITALIZATION, DEATH, AND BURIAL OF ENROLLEES OF THE CIVILIAN CONSERVATION CORPS<sup>1</sup>

Sections 3.09 and 3.12a<sup>2</sup> are amended to read as follows:

Sec. 3.09 *Allowances.* The allowance or pay of enrollees has been fixed at the following rates per month:

For enrollees	.....	\$30
For assistant leaders	.....	36
For leaders	.....	45

<sup>1</sup> 3 F. R. 1759, 1849, 2065, 2763 DI.<sup>2</sup> 3 F. R. 1760 DI.

Allowances accrue from the date the enrollee subscribes to the oath of enrollment. Settlement of allowances due will be made at the end of each calendar month except in the case of an enrollee who is accused of an offense which may involve a dishonorable discharge and on discharge.

An enrollee who has been arrested and confined by civil authorities but subsequently acquitted or released without conviction is entitled to all pay and allowance accruing during such period. If found guilty of civil offense, no pay or allowance will accrue for the period during which he has been absent.

Any enrollee who willfully absents himself from duty for a period in excess of 24 hours or who becomes incapacitated for full duty as a result of his own misconduct during the period of his current enrollment will lose all allowances due for such absence or period of incapacitation. The company commander will make final decision in cases arising under this subparagraph. (50 Stat. 319) [C.C.C. Regs., W.D., Dec. 1, 1937; C 13, Sept. 28, 1938.]

Sec. 3.12a *Claims for amounts due deceased or insane enrollees.* Company commanders will furnish claimants with Standard Form No. 1055 (Application for Payment of Amounts Due Deceased or Incompetent Civilian Employees, Officers and Enlisted Men in the Military Service, and Public Creditors of the United States) and assist such claimants in the preparation of this form in connection with claims for amounts due deceased enrollees. Claims for amounts due deceased enrollees as stated on Standard Form No. 1055 will be forwarded directly to the General Accounting Office, Claims Division. If an enrollee is not mentally competent to sign commercial papers and no guardian has legally been appointed, Standard Form No. 1055 will be forwarded directly to the General Accounting Office, Claims Division. If an enrollee is mentally competent to sign commercial papers, or if a guardian has legally been appointed, no Standard Form No. 1055 is required. (50 Stat. 319) [C.C.C. Regs., W.D., Dec. 1, 1937; C 16, Nov. 3, 1938.]

[SEAL]

E. S. ADAMS,  
Major General,  
The Adjutant General.[F. R. Doc. 38-3624; Filed, December 1, 1938;  
3:13 p. m.]

## TITLE 49—TRANSPORTATION AND RAILROADS

## INTERSTATE COMMERCE COMMISSION

## ORDER IN THE MATTER OF ANNUAL REPORTS FROM LESSORS TO STEAM RAILWAY COMPANIES

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 28th day of November, A. D. 1938.

The subject of the requirement of annual reports from lessors to steam railway companies being under consideration:

*It is ordered:*

1. That the order of this Commission dated October 23, 1937, in the Matter of Annual Reports from Lessors to Steam Railway Companies is hereby annulled.

2. That all lessors to steam railway companies subject to the provisions of the Interstate Commerce Act be, and they hereby are, required to file an annual report for the year ending December 31, 1938, and for each succeeding year until further order, in accordance with Annual Report Form E (Lessor Companies), which is hereby approved and made a part of this order.<sup>2</sup>

*It is further ordered,* That the annual report shall be filed, in duplicate, in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31, of the year following the one to which it relates.

By the Commission, division 4.

[SEAL]

W. P. BARTEL,  
Secretary.[F. R. Doc. 38-3638; Filed, December 2, 1938;  
12:44 p. m.]

## ORDER IN THE MATTER OF ANNUAL REPORTS FROM CARRIERS BY PIPE LINE

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 28th day of November, A. D. 1938.

The subject of the requirement of annual reports from carriers by pipe line being under consideration:

*It is ordered:*

1. That the order of this Commission dated October 16, 1937, in the Matter of Annual Reports from Carriers by Pipe Line, is hereby annulled.

2. That all carriers by pipe line subject to the provisions of the Interstate Commerce Act be, and they hereby are, required to file an annual report for the year ending December 31, 1938, and for each succeeding year until further order, in accordance with Annual Report Form P (Carriers by Pipe Line), which is hereby approved and made a part of this order.<sup>2</sup>

*It is further ordered,* That the annual report shall be filed, in duplicate, in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31, of the year following the one to which it relates.

By the Commission, division 4.

[SEAL]

W. P. BARTEL,  
Secretary.[F. R. Doc. 38-3639; Filed, December 2, 1938;  
12:44 p. m.]<sup>1</sup> 2 F. R. 2483 (2885 DI).

<sup>2</sup> Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

<sup>2</sup> 2 F. R. 2482 (2885 DI).

## Notices

## DEPARTMENT OF STATE.

TRADE AGREEMENT NEGOTIATIONS WITH  
CUBA

## PUBLIC NOTICE

NOVEMBER 30, 1938.

Pursuant to section 4 of an act of Congress approved June 12, 1934, entitled "An Act to Amend the Tariff Act of 1930", as extended by Public Resolution No. 10, approved March 1, 1937, and to Executive Order No. 6750, of June 27, 1934, I hereby give notice of intention to negotiate a trade agreement with the Government of Cuba, to supplement and amend the trade agreement with that Government signed at Washington, August 24, 1934.

All presentations of information and views in writing and applications for supplemental oral presentation of views with respect to the negotiation of such agreement should be submitted to the Committee for Reciprocity Information in accordance with the announcement of this date<sup>1</sup> issued by that Committee concerning the manner and dates for the submission of briefs and applications, and the time set for public hearings.

SUMNER WELLES,  
Acting Secretary of State.

NOVEMBER 30, 1938.

[F. R. Doc. 38-3634; Filed, December 2, 1938;  
11:01 a. m.]

## DEPARTMENT OF THE INTERIOR.

## National Bituminous Coal Commission.

[Docket No. 362-FD]

ORDER IN THE MATTER OF THE APPLICATION  
OF SOUTHERN ILLINOIS COALS, INCORPORATED,  
FOR PROVISIONAL APPROVAL AS A  
MARKETING AGENCY

At a special session of the National Bituminous Coal Commission held at its office in Chicago, Illinois, on the 29th day of November, 1938.

It appearing that the above-named applicant, Southern Illinois Coals, Incorporated, a Delaware corporation authorized to engage in business in the State of Illinois, filed its application for provisional approval as a marketing agency on the 7th day of July, 1938, pursuant to Order No. 6 of the Commission,<sup>2</sup> and the matter being assigned to Trial Examiner William A. Cuff, and proper notice having been given, the same came on for hearing before the said Examiner on the 29th day of August, 1938,<sup>3</sup> and at said hearing the applicant having duly appeared and representatives of the Legal

Division of the Commission and of the Consumers' Counsel having entered their respective appearances therein, the evidence was adduced; and

It further appearing that the Trial Examiner having received said evidence did, on the 31st day of October, 1938, file, with the Commission, his report and proposed findings of fact, together with his recommendations that said application be granted, and it appearing that true copies of said report and proposed findings of fact of the Examiner were duly served upon all parties appearing at said hearing, on the 4th day of November, 1938, and more than fifteen days having elapsed since the service of said report, no exceptions having been filed thereto; and

The Commission having considered the application, the Report, the Proposed Findings of Fact, and Recommendation of the Examiner, and being fully advised of the evidence as the same is contained in the official transcript thereof finds that the "Findings of Fact" as proposed by the Examiner are in all respects true and correct, and are hereby adopted as the findings of the Commission.

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937 the National Bituminous Coal Commission hereby orders:

That the application of the Southern Illinois Coals, Incorporated, for provisional approval as a marketing agency be and the same is hereby granted and the said Southern Illinois Coals, Incorporated, be and the same is hereby considered to be a marketing agency and provisionally approved as such within the purview of Section 12 of the Bituminous Coal Act of 1937 until further order of the Commission.

By order of the Commission.

Dated this 29th day of November, 1938.

[SEAL] F. WITCHER McCULLOUGH,  
Secretary.

[F. R. Doc. 38-3626; Filed, December 2, 1938;  
9:54 a. m.]

ORDER IN THE MATTER OF THE APPLICATIONS  
FOR EXEMPTION UNDER THE SECOND  
PARAGRAPH OF SECTION 4-A OF THE  
BITUMINOUS COAL ACT OF 1937

Sumpter Coal Company, Pella, Iowa (Docket No. 365-FD), Confidence Hit-Test Coal Company, Promise City, Iowa (Docket No. 369-FD), Yocum & Son Coal Company, Melrose, Iowa (Docket No. 370-FD), Duer & Head Coal Company, Melrose, Iowa (Docket No. 371-FD), Crozier Coal Company, Promise City, Iowa (Docket No. 372-FD), Loren I. Hegwood, Dallas, Iowa (Docket No. 373-FD), H. W. Sargent Coal Company, Oscaloosa, Iowa (Docket No. 374-FD), Quality Coal Mine, Given, Iowa (Docket No. 375-FD), Agan & Gillespie Coal Company, Columbia, Iowa (Docket No. 376-FD), Ault Coal Company, Eldon, Iowa

(Docket No. 379-FD), Villont Coal Company, Bussey, Iowa (Docket No. 380-FD), Erin Coal Company, Ottumwa, Iowa (Docket No. 381-FD), Flagler Coal Company, Rt. 3, Knoxville, Iowa (Docket No. 384-FD), Midwest Coal Company, Des Moines, Iowa (Docket No. 385-FD), Indian Hollow Coal Company, Des Moines, Iowa (Docket No. 389-FD), Houghton Coal Company, Attica, Iowa (Docket No. 390-FD), Conner & Smith Coal Company, Columbia, Iowa (Docket No. 391-FD), Big Six Coal Company, Hamilton, Iowa (Docket No. 393-FD), Ramsey-Dooms Coal Company, Knoxville, Iowa (Docket No. 394-FD), Vancenbrock Coal Company, Knoxville, Iowa (Docket No. 399-FD), Wallace Coal Company, Marysville, Iowa (Docket No. 403-FD), Liberty Coal Company, Marysville, Iowa (Docket No. 404-FD), Hunt Coal & Mining Company, Hamilton, Iowa (Docket No. 405-FD), Lae-Z Coal Company, Hamilton, Iowa (Docket No. 406-FD), Levey Coal Company, Carlisle, Iowa (Docket No. 407-FD), Arkoal Coal Company, Marysville, Iowa (Docket No. 408-FD), Mulgrew & Sons, Dubuque, Iowa (Docket No. 410-FD), Hawkeye Coal Company, Des Moines, Iowa (Docket No. 487-ID)

At a special session of the National Bituminous Coal Commission held in its offices in Chicago, Ill., on the 29th day of November, 1938.

It appearing that the above-named applicants having heretofore filed with the Commission their respective applications for exemption from the provisions of Section 4 and the first paragraph of Section 4-A of the Bituminous Coal Act of 1937; and

It further appearing that the above-named applicants have filed with the Commission their respective withdrawals, without prejudice, of their applications for exemption;

Now therefore, it is hereby ordered:

1. That the withdrawals of said applications for exemption from the provisions of Section 4, and the first paragraph of Section 4-A, filed by the above-named applicants, be and the same hereby are granted without prejudice to the rights of any of the above-named applicants to file at any future time an application for exemption pursuant to the provisions of Section 4-A, and without such withdrawals constituting a waiver of any exemption which might otherwise become effective during the pendency of a subsequent application; and

2. That the said applications for exemption are hereby deemed to be withdrawn.

3. The Secretary of the Commission is directed forthwith to mail a copy of this Order to each of the applicants above-named or to their attorneys of record, to the Consumers' Counsel, to the Secretary of each District Board, to the Commissioner of Internal Revenue, and shall

<sup>1</sup> See page 2858.<sup>2</sup> 2 F. R. 1079 (1287 DI).<sup>3</sup> 3 F. R. 1956 DI.

cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 29th day of November, 1938.

[SEAL] F. WITCHER McCULLOUGH,  
Secretary.

[F. R. Doc. 38-8627; Filed, December 2, 1938;  
9:54 a. m.]

[Docket No. 504-FD]

ORDER IN THE MATTER OF THE APPLICATION OF KENTUCKY COAL AGENCY, INCORPORATED, FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY

At a special session of the National Bituminous Coal Commission held at its office in Chicago, Illinois, on the 29th day of November, 1938.

It appearing that the above-named applicant, Kentucky Coal Agency, Incorporated, a Kentucky corporation authorized to engage in business in the State of Kentucky, filed its application for provisional approval as a marketing agency on the 23rd day of September, 1938, pursuant to Order No. 6 of the Commission,<sup>1</sup> and the matter being assigned to Trial Examiner William A. Shipman, and proper notice having been given, the same came on for hearing before the said Examiner on the 7th day of October, 1938,<sup>2</sup> and at said hearing the applicant having duly appeared and representatives of the Legal Division of the Commission and of the Consumers' Counsel having entered their respective appearances therein, the evidence was adduced; and

It further appearing that the Trial Examiner having received said evidence, did, on the 31st day of October, 1938, file, with the Commission, his report and proposed findings of fact, together with his recommendations that said application be granted, and it appearing that true copies of said report and proposed findings of fact of the Examiner were duly served upon all parties appearing at said hearing, on the 4th day of November, 1938, and more than 15 days having elapsed since the service of said report, no exceptions having been filed thereto; and

The Commission having considered the application, the Report, the Proposed Findings of Fact, and Recommendation of the Examiner, and being fully advised of the evidence as the same is contained in the official transcript thereof finds that the "Findings of Fact" as proposed by the Examiner are in all respects true and correct, and are hereby adopted as the findings of the Commission.

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937 the National Bituminous Coal Commission hereby orders:

That the application of the Kentucky Coal Agency, Incorporated, for provision-

al approval as a marketing agency be and the same is hereby granted and the said Kentucky Coal Agency, Incorporated, be and the same is hereby considered to be a marketing agency and provisionally approved as such within the purview of Section 12 of the Bituminous Coal Act of 1937 until further order of the Commission.

By order of the Commission.

Dated this 29th day of November, 1938.

[SEAL] F. WITCHER McCULLOUGH,  
Secretary.

[F. R. Doc. 38-3628; Filed, December 2, 1938;  
9:56 a. m.]

COMMITTEE FOR RECIPROCITY INFORMATION.

TRADE AGREEMENT NEGOTIATIONS WITH CUBA

PUBLIC NOTICE

Closing Date for Submission of Briefs: December 24, 1938; Closing Date for Application To Be Heard: December 24, 1938; Public Hearings Open: January 3, 1939

The Committee for Reciprocity Information hereby gives notice that all information and views in writing, and all applications for supplemental oral presentation of views, in regard to the negotiation of a trade agreement with the Government of Cuba, notice of intention to negotiate which has been issued by the Acting Secretary of State on this date,<sup>1</sup> shall be submitted to the Committee for Reciprocity Information not later than 12 o'clock noon, December 24, 1938. Such communications should be addressed to "Chairman, Committee for Reciprocity Information, Old Land Office

<sup>1</sup> See page 2857.

Building, Eighth and E Streets, N. W., Washington, D. C."

A public hearing will be held beginning at 10 a. m. on January 3, 1939, before the Committee for Reciprocity Information in the hearing room of the Tariff Commission in the Old Land Office Building, where supplemental oral statements will be heard.

Six copies of written statements, either typewritten or printed, shall be submitted, of which one copy shall be sworn to. Appearance at hearings before the Committee may be made only by those persons who have filed written statements and who have within the time prescribed made written application for a hearing, and statements made at such hearings shall be under oath.

By direction of the Committee for Reciprocity Information this 30th day of November.

JOHN P. GREGG,  
Secretary.

NOVEMBER 30, 1938.

LIST OF PRODUCTS ACCOMPANYING NOTICE OF INTENTION TO NEGOTIATE A SUPPLEMENTAL TRADE AGREEMENT WITH CUBA

For the purpose of facilitating identification of the articles listed, reference is made in the list to the paragraph numbers of the tariff schedules in the Tariff Act of 1930. Only the articles covered by the descriptive phraseology of the list will come under consideration for the granting or modification of concessions by the United States.

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

United States Tariff Act of 1930—paragraph	Description of article	Present minimum preferential reduction to Cuba	Present rate of duty (applicable to Cuban products)
501	Sugars, tank bottoms, sirups of cane juice, melads, concentrated melads, concrete and concentrated molasses, testing by the polariscope not above 75 sugar degrees, and all mixtures containing sugar and water, testing by the polariscope above 50 sugar degrees and not above 75 sugar degrees. And for each additional degree shown by the polariscopic test.	20% 30%	\$0.065165 per lb. <sup>1</sup> \$0.000135 per lb. additional, and fractions of a degree in proportion. <sup>1</sup>
601	Wrapper tobacco, and filler tobacco when mixed or packed with more than 35 per centum of wrapper tobacco: If unstemmed.....	20% 20%	\$1.20 per lb. \$1.72 per lb.
601	Filler tobacco, not specially provided for: If unstemmed.....	20% 20%	\$0.28 per lb. \$0.40 per lb.
603	Scrap tobacco.....	20%	\$0.28 per lb.
605	Cigars, cigarettes, cheroots of all kinds and paper cigars and cigarettes, including wrappers.	20%	\$3.60 per lb. and 20% ad val. <sup>2</sup>
771	White or Irish potatoes, when imported and entered for consumption during the period from December 1 to the last day of the following February, inclusive, in any year.	50%	\$0.30 per 100 lbs.
802	Rum, in containers holding each one gallon or less.....	20%	\$2.00 per proof gallon.

<sup>1</sup> 96° sugar 0.9 cent per pound.

<sup>2</sup> Effective Jan. 1, 1939, the rate on cigarettes from Cuba will be \$1.80 per lb. and 10% ad val., by reason of a duty reduction in the trade agreement with the United Kingdom and the provisions of Article III of the existing agreement with Cuba.

[F. R. Doc. 38-3635; Filed, December 2, 1938; 11:13 a. m.]

<sup>1</sup> 2 F. R. 1079 (1287 DI).  
<sup>2</sup> 3 F. R. 2350 DI.

**FEDERAL TRADE COMMISSION.**

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 30th day of November, A. D., 1938.

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

[Docket No. 3559]

**IN THE MATTER OF HARRY FROMAN, INDIVIDUALLY AND TRADING AS SUPREME SALES COMPANY AND RELIABLE PREMIUM HOUSE**

**ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY**

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

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

*It is further ordered,* That the taking of testimony in this proceeding begin on Thursday, December 15, 1938, at ten-thirty o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

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

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-3631; Filed, December 2, 1938; 10:28 a. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 30th day of November, A. D. 1938.

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

[Docket No. 3577]

**IN THE MATTER OF MAX BERGMAN, INDIVIDUALLY AND TRADING AS INTERSTATE PREMIUM NOVELTY COMPANY**

**ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY**

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

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

*It is further ordered,* That the taking of testimony in this proceeding begin on Friday, December 16, 1938, at ten-thirty o'clock in the forenoon of that day, (eastern standard time) in Room 500, 45 Broadway, New York, New York.

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

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-3632; Filed, December 2, 1938; 10:28 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 2nd day of December, A. D. 1938.

[File No. 32-123]

**IN THE MATTER OF COLUMBUS AND SOUTHERN OHIO ELECTRIC 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 December 20, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., 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 Charles S. Lobingier 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 December 14th, 1938.

The matter concerned herewith is in regard to the issue and sale by applicant to John Hancock Mutual Life Insurance Company and to The Equitable Life Assurance Society of the United States of \$2,000,000 in principal amount of First Mortgage and Collateral Trust Bonds, 3 3/4 % Series due 1968, to be dated December 1, 1938 and to mature December 1, 1968. Said bonds are to be issued under a Third Supplemental Indenture which will be supplemental to a Mortgage and Deed of Trust dated November 1, 1935, executed by applicant under its former name as The Columbus Railway, Power and Light Company, of which Mortgage and Deed of Trust The Chase National Bank of the City of New York is Trustee.

The amount of bonds to be taken by each of said purchasers, the price to be paid, and other terms of the sale are yet to be agreed upon and will be supplied by amendment. Applicant states that it proposes to pay Dillon, Read & Co. one-half of one per cent of the face amount of the bonds for its services in negotiating the sale of the bonds.

Applicant states that the proceeds from such sale are to be used to pay certain notes payable in the principal sum of \$500,000 and the balance to reimburse in part its treasury for moneys expended therefrom; the proceeds of such notes and the moneys so expended from the treasury having been applied by applicant to the construction of additional electrical generating facilities and substations and the extension and improvement of its transmission lines.

Applicant states that it has filed with the Public Utilities Commission of Ohio an Application and Statement requesting that commission's approval of the issue and sale of said bonds.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-3641; Filed, December 2, 1938; 12:54 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 2nd day of December, A. D. 1938.

[File No. 43-170]

**IN THE MATTER OF PENNSYLVANIA POWER COMPANY, THE COMMONWEALTH & SOUTHERN CORPORATION**

**NOTICE OF AND ORDER FOR HEARING**

Applications and a declaration pursuant to sections 6 (b), 7, and 10, of the

Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties:

*It is ordered,* That a hearing on such matter be held on December 19, 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 Richard Townsend 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 December 14, 1938.

The matter concerned herewith is in regard to the issuance and sale by the applicant and declarant, Pennsylvania Power Company, a subsidiary of The Commonwealth & Southern Corporation, a registered holding company, of 42,000 shares of \$5 preferred stock, no par value, and 10,000 shares of common stock, no par value. The common stock is to be sold to the applicant's and declarant's parent, The Commonwealth & Southern Corporation. The preferred stock is to

be sold publicly. The applicant and declarant, Pennsylvania Power Company, is also to issue a Demand Note, 1½%, in the principal amount of \$3,000,000. Proceeds from the Note, together with a sufficient additional amount of treasury funds, will be used by the applicant and declarant for the redemption of 10,027 shares of its \$6.60 preferred stock and 23,555 shares of its \$6 preferred stock at \$105 per share, plus accrued dividends to date of redemption.

The Commonwealth & Southern Corporation has filed an application pursuant to Section 10 of the Act for the acquisition of the aforementioned 10,000 shares of common stock for a consideration of \$300,000.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-3640; Filed, December 2, 1938;  
12:54 p. m.]