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Washington, Friday, April 21, 1939

The President

EXCLUDING CERTAIN LANDS FROM THE TONGASS NATIONAL FOREST AND ADDING THEM AND OTHER LANDS TO THE GLACIER BAY NATIONAL MONUMENT—ALASKA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS it appears that certain public lands, part of which are within the Tongass National Forest, adjacent to the Glacier Bay National Monument, in Alaska, have situated thereon glaciers and geologic features of scientific interest; and

WHEREAS a portion of the aforesaid public lands contiguous to the said monument are necessary for the proper care, management, and protection of the objects of scientific interest situated on the lands included within the said monument; and

WHEREAS it appears that it would be in the public interest to reserve all of the aforesaid public lands as a part of the said monument:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by the act of June 4, 1897, 30 Stat. 11, 34, 36 (U. S. C., title 16, sec. 473), and the act of June 8, 1906, c. 3060, 34 Stat. 225 (U. S. C., title 16, sec. 431), do proclaim that all of the following-described lands which lie within the Tongass National Forest, in Alaska, are excluded therefrom, and that, subject to valid existing rights, all the following-described lands in Alaska are hereby added to and made a part of the said Glacier Bay National Monument:

Beginning at the summit of Mount Fairweather, on the International Boundary line between Alaska and British Columbia; thence southeasterly along present southern boundary of Glacier Bay National Monument to the point of the divide between the waters of Glacier Bay and Lynn Canal where said divide is forked by the headwaters of Excursion Inlet; thence easterly and southeasterly along the divide between the waters of Excursion Inlet and Lynn Canal to a point in approximate latitude 58°27′ N., longitude 135°18′ W., where said divide meets a subsidiary divide between streams flowing into Excursion Inlet; thence westerly and northwesterly along said subsidiary divide to the east shore of Excursion Inlet; thence due west to the center of the principal channel of Excursion Inlet; thence southerly along the center of the principal channel of Excursion Inlet to its junction with the Icy Passage; thence westerly and southwesterly along the center of Icy Passage, North Passage, North Indian Pass, and Cross Sound to the Pacific Ocean; thence northwesterly following the general contour of the coast at a distance of 3 nautical miles therefrom to a point due west of the mouth of Seaotter Creek; thence due east to the north bank of Seaotter Creek; thence due east to the north bank of Seaotter Creek and easterly along the north bank of Seaotter Creek to its headwaters; thence in a straight line to the summit of Mount Fairweather, the place of beginning. Containing approximately 904,960 acres.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of the monument as provided in the act of Congress entitled "An Act to establish a National Park Service, and for other purposes," approved August 25, 1916, 39 Stat. 535 (U. S. C., title 16, secs. 1 and 2), and acts supplementary thereto or amendatory thereof.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 18'' day of April in the year [SEAL] of our Lord nineteen hundred and thirty-nine, and of the

CONTENTS

THE PRESIDENT

RULES, REGULATIONS, ORDERS

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

NOTICES

Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
The Secretary of State.

[No. 2330]

[F. R. Doc. 39-1369; Filed, April 20, 1939; 12:44 p. m.]

EXECUTIVE ORDER

TRANSFER OF JURISDICTION OVER CERTAIN LANDS FROM THE SECRETARY OF AGRICULTURE TO THE SECRETARY OF THE INTERIOR, AND WITHDRAWAL OF LANDS FROM THE PUBLIC DOMAIN FOR THE USE OF THE DEPARTMENT OF AGRICULTURE

NEW MEXICO

WHEREAS certain lands within the boundaries of a grazing district in the State of New Mexico, established under the authority of the Taylor Grazing Act, approved June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936, 49 Stat. 1976, have been acquired under the authority of Title II of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 200), and the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115), in connection with the Department of Agriculture's project known as the Hope Land Use Adjustment Project, LA-NM 4; and

WHEREAS by Executive Order No. 7908, dated June 9, 1938,[1] all the right, title, and interest of the United States in such lands was transferred to the Secretary of Agriculture for use, administration, and disposition in accordance with the provisions of Title III of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 522, 525), and the related provisions thereof; and

WHEREAS it appears that the transfer of jurisdiction over a portion of such lands from the Secretary of Agriculture to the Secretary of the Interior for administrative purposes would be in the public interest:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in the President by section 32, Title III of the said Bankhead-Jones Farm Tenant Act, it is ordered that jurisdiction over the following-described lands be, and it is hereby, transferred from the Secretary of Agriculture to the Secretary of the Interior; and the Secretary of the Interior is hereby authorized to use such lands in connection with the administration of the Taylor Grazing Act, *supra*, under such conditions of use and administration as will best carry out the purposes of the land-conservation and land-utilization program for which such lands were acquired:

New Mexico Principal Meridian

T. 16 S., R. 21 E., sec. 35, SW¼SE¼;
T. 17 S., R. 21 E., sec. 1, S½NE¼;
T. 16 S., R. 23 E., sec. 31, S½SW¼, SW¼SE¼;
T. 17 S., R. 23 E.,
sec. 6, N½N½, SW¼NW¼,
sec. 9, SW¼SW¼,
sec. 23, NW¼NW¼;
T. 17 S., R. 24 E.,
sec. 4, NW¼SW¼, E½SW¼,
sec. 18, SW¼,
sec. 20, N½;
Aggregating 1,104.36 acres.

And by virtue of and pursuant to the authority vested in the President by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497, it is ordered that any public-domain lands within the following-described area be, and they are hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture in connection with the aforementioned Hope Land Use Adjustment Project: *Provided*, That such lands shall not be disposed of by sale, exchange, or grant, in accordance with the provisions of the Bankhead-Jones Farm Tenant Act, *supra*, without the approval of the Secretary of the Interior: *And provided further*, that this order shall not apply to the right, title, and interest of the United States in the mineral resources of such lands, and shall not restrict the disposition of such mineral resources under the public-land laws:

New Mexico Principal Meridian

T. 17 S., R. 21 E.,
sec. 1, W½,
secs. 2, and 11 to 15, inclusive,
sec. 22, N½, E½SW¼, SE¼,
secs. 23, 24, and 25,
sec. 26, N½NE¼, NW¼,
sec. 36;
T. 18 S., R. 21 E.,
sec. 1, N½, N½SW¼, SE¼,
sec. 12, E½NE¼;
T. 17 S., R. 23 E.,
secs. 7, 8, and 17 to 22, 27 to 33, inclusive,
sec. 34, N½, SW¼,
sec. 35, W½NW¼;
T. 18 S., R. 23 E.,
sec. 3, NW¼, S½,
secs. 4, 5, and 6,
sec. 7, N½, N½SW¼,
sec. 8, N½, N½S½,
sec. 9, NW¼;
Aggregating 21,622.14 acres.

The reservation of public-domain lands made by this order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 19, 1939,

[No. 8095]

[F. R. Doc. 39-1363; Filed, April 20, 1939; 10:53 a. m.]

[1] 3 F. R. 1389 DI.

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[ACP-1939-Hawaii-1]

PART 703—1939 AGRICULTURAL CONSERVATION PROGRAM BULLETIN—HAWAII

SUPPLEMENT NO. 1

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1939 Agricultural Conservation Program Bulletin—Hawaii, issued April 4, 1939,[1] is hereby amended as follows:

[1] 4 F. R. 1460 DI.

Paragraph (c) of section 703.3 is hereby amended to read as follows:

"(c) *Payment in connection with rice acreage allotment.* Payment will be made with respect to any farm at the rate of 10 cents per 100 pounds (rough rice) of the normal yield per acre of rice for the farm for each acre in the rice acreage allotment."

Done at Washington, D. C., this 19th day of April 1939. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 39-1367; Filed, April 20, 1939; 11:46 a. m.]

TITLE 29—LABOR

WAGE AND HOUR DIVISION

PART 524—REGULATIONS APPLICABLE TO EMPLOYMENT OF HANDICAPPED PERSONS PURSUANT TO SECTION 14 OF THE FAIR LABOR STANDARDS ACT

The following amendments to Regulations—Part 524—(Regulations Applicable to Employment of Handicapped Persons pursuant to Section 14 of the Fair Labor Standards Act of 1938)[1] are hereby issued. The first five of said amendments amend and clarify Sections 524.3, 524.3A, 524.4, 524.5 and 524.6 as amended. The last of said amendments amends Section 524.7, as amended, by adding a new paragraph numbered "(f)". Said amendments shall become effective upon my signing the original and upon publication thereof in the FEDERAL REGISTER and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C., this 17 day of April 1939.

ELMER F. ANDREWS,
Administrator.

SECTION 524.3 *Issuance of certificates.* If the application is in proper form and sets forth facts showing

(a) that the worker is handicapped within the meaning of Section 14 of said act;

(b) that such handicap has impaired the earning capacity of the worker for the particular position for which the application is made, and the extent of such impairment; and

(c) that such worker should be employed at a wage lower than the minimum wage applicable under Section 6 to prevent curtailment of such worker's employment opportunities,

the Administrator or his authorized representative may accept the facts as presented and issue, in quintuplicate, a Special Certificate in the name of the Administrator, authorizing the employment of the named worker in the position designated at such rate lower than the minimum wage applicable under Section 6 and for such length of time as the Administrator or such representative determines to be necessary to prevent curtailment of employment opportunities, subject to the limitations hereinafter prescribed in these regulations. Such rate and the length of time for which it is applicable shall be specified in the Certificate.*

SECTION 524.3A *Distribution of copies of certificate.* One copy of the Certificate will be given the handicapped worker, one copy shall be given the employer who shall keep this copy on file in the same place at which the worker's employment records are maintained, and three copies will be retained in the files of the Wage and Hour Division, Department of Labor.*

SECTION 524.4 *Investigation may be ordered.* To determine whether the facts justify the issuance of a Special Certificate for a handicapped worker, the Administrator or his authorized representative may in any case order an investigation and require additional data or facts or may require the worker to take a medical examination, or may require that certain facts be certified to by designated officers of the state or federal government.*

SECTION 524.5 *Requirements relating to rates.* No wage rate shall be fixed by the Administrator or his authorized representative for a handicapped worker at less than 75 percent of the minimum wage applicable under Section 6 unless after investigation such lesser wage rate appears to be clearly justified.

A certificate, however, will not necessarily be issued at a rate as low as 75% of the minimum. In each case the rate will be set at a figure designed adequately to protect the individual worker's earning capacity. The rate proposed in the application should preferably be above 75% of, and as close to, the statutory minimum as feasible.*

SECTION 524.6 *Termination of certificates.* No Special Certificates for Handicapped Workers issued prior to July 1, 1939, shall terminate later than September 1, 1939.*

SECTION 524.7 *Conditions for granting or denying certificates.* The descriptions of alleged handicaps must be in *detail.* Vague descriptions, such as "nervous condition," "physically incapacitated," etc., will not suffice. Furthermore, the alleged disability must be shown to be *a specific handicap for the proposed employment:* Many workers, such as watchmen, may be handicapped for other occupations but are *not* handicapped for the employment proposed for them.

As a general rule, no Special Certificate will be issued

(a) for a worker with temporary, or readily correctible, disabilities;

(b) for a worker alleged to be slow or inexperienced, unless he is also handicapped within the meaning of the act and these regulations;

(c) where age alone is cited as a disability for a worker under 65; (however, age in excess of 65 in and of itself does not necessarily render the worker handicapped within the meaning of the act and these regulations);

(d) for a worker (irrespective of handicap) whose piecework earnings are generally equal to or above the statutory minimum;

(e) where the application indicates the Special Certificate is desired in order to obtain an exemption from Section 7 of the act (i. e., maximum hours and overtime) since the Administrator has no power to grant such an exemption under Section 14;

(f) where it appears that the worker's earning capacity is impaired primarily because of the low piece rates paid and not in fact by age or physical or mental deficiency or injury. The earning capacity of the worker must be impaired in relation to that of the group of non-handicapped workers of minimum (rather than average or maximum) earning capacity performing similar work.*

[F. R. Doc. 39-1359; Filed, April 20, 1939; 10:37 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

WAR DEPARTMENT

CHAPTER II—RULES RELATING TO NAVIGABLE WATERS

PART 203—BRIDGE REGULATIONS[1]

203.347 *Bains Creek, Va.; Atlantic Coast Line Railroad bridge at Portsmouth.* In accordance with the provisions of Section 5 of the River and Harbor Act approved August 18, 1894, the following special regulations are prescribed to govern the opening of the Atlantic Coast Line Railroad bridge across Bains Creek at Portsmouth, Va.:

(a) The owner of, or agency controlling, the bridge will not be required to keep a draw tender in constant attendance at the above-named bridge.

(b) Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge.

(c) Upon receipt of such notice, the authorized representative of the owner of, or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

[1] 3 F. R. 2485, 2571 DI.

*These Sections 524.3, 524.3A, 524.4, 524.5, 524.6 and 524.7, as amended April, 1939, issued under the authority contained in Section 14, 52 Stat. 1060.

[1] These regulations supplement Part 203, Chapter II, Title 33, Code of Federal Regulations.

(d) The owner of, or agency controlling, the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge in such manner that it can easily be read at any time a copy of these regulations together with a notice stating exactly how the representative specified in paragraph (b) may be reached.

(e) The operating machinery of the draw shall be maintained in a serviceable condition, and the draw opened and closed at least once every four months to make certain that the machinery is in proper order for satisfactory operation.

(f) These regulations shall take effect and be in force on and after April 15, 1939, and are supplemental to the "Rules and regulations to govern the operation of drawbridges crossing all navigable waterways of the United States discharging their waters into the Atlantic Ocean south of and including Chesapeake Bay and the Gulf of Mexico, excepting the Mississippi River and its tributaries". (Sec. 5, River and Harbor Act, Aug. 18, 1894, 28 Stat. 362; 33 U. S. C. 499) [Special regs., April 10, 1939 (E. D. 6371 (Atlantic Coast Line R. R.-Baine's Creek, Va.)-2/3)]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 39-1360; Filed, April 20, 1939; 10:51 a. m.]

TITLE 36—PARKS AND FORESTS

NATIONAL PARK SERVICE

YELLOWSTONE NATIONAL PARK

SUBSIDIARY REGULATIONS

The following subsidiary regulations, issued under the authority of the General Rules and Regulations approved by the Secretary of the Interior June 18, 1936 (1 F. R. 672), have been recommended by the Superintendent and approved by the Director of the National Park Service, and are in force and effect within the boundaries of Yellowstone National Park:

SEC. 20.14 *Yellowstone National Park*—(a) *Fishing; open season; special areas.* The fishing season shall be from sunrise on May 30 to sunset on October 15 of each year, except in special areas as follows:

(1) The Yellowstone River, from a point 150 yards above Fishing Bridge to the Upper Falls at Canyon, shall be open to fishing from July 1 to October 15, inclusive.

(2) The Madison River, for its entire length within the park, shall be open to fishing from May 30 to September 30, inclusive.

(b) *Same; closed waters.* The following waters are permanently closed to fishing. All closed waters will be posted:

(1) Indian Creek.
(2) Panther Creek.
(3) Glen Creek.
(4) Gardiner River for its entire length above the Mammouth water supply intake.
(5) Riddle Lake.
(6) White Lake, Fern Lake, and Tern Lake on the Mirrow Plateau.
(7) Duck Lake near West Thumb.
(8) Buck Lake, Fish Lake and Shrimp Lake near Soda Butte.
(9) All streams trapped for egg taking purposes shall be closed from the mouths of the streams to a distance of three miles above the traps during the spawning season.

(c) *Same; limit of catch; special areas.* The limit of catch per day by each person fishing, and the limit of fish in possession at any one time by any one person, shall be 15 pounds of fish (dressed weight with heads and tails intact), plus one fish, not to exceed a total of 10 fish, except that in the following waters the limit of catch per day for each person fishing, and the limit of fish in possession at any one time by any one person, shall be 10 pounds of fish (dressed weight with heads and tails intact), plus one fish, not to exceed a total of five fish:

(1) Within a one mile radius of the boat docks at West Thumb.
(2) All waters of Yellowstone Lake enclosed by a line from Gull Point to the extreme north end of Stevenson's Island and continued to the mouth of Pelican Creek.
(3) The Yellowstone River from the outlet of Yellowstone Lake at Fishing Bridge to the Upper falls at Canyon.

(d) *Same; restriction on use of bait.* No salmon eggs or other fish eggs, either fresh or preserved, shall be used as bait. The possession of such salmon eggs or other fish eggs is prohibited within the park.

(e) *Size and weight limits for vehicles.* (1) No two axle vehicle shall be operated or moved upon any park road which has a gross weight, including vehicle and load, in excess of 24,000 pounds (12 tons).

(2) No vehicle having three or more axles shall be operated or moved upon any park road which has a gross weight, including vehicle and load, in excess of 30,000 pounds (15 tons).

(3) No vehicle shall be operated or moved upon any park road when the total outside width and length, including the load thereon, exceeds eight feet in width and thirty-three feet in length for a single vehicle, or sixty feet in length for a combination of vehicles, or when the total height of a vehicle, including the load thereon, exceeds twelve feet six inches.

(f) *Speed.* The maximum speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, shall not exceed the following prescribed limits:

(1) In all areas which are so posted, and on dangerous curves, 15 miles per hour.
(2) On the Norris Junction-Canyon Junction road, 25 miles per hour.
(3) All trucks of a ton and a half capacity or over, 30 miles per hour.
(4) Cars towing trailers or other cars or vehicles of any kind, 30 miles per hour.
(5) Passenger cars and trucks of less than a ton and a half capacity, 45 miles per hour on straight and open stretches.

(g) *Repeal.* All previous subsidiary regulations for Yellowstone National Park are hereby repealed.

Approved April 10, 1939.

[SEAL] ARNO B. CAMMERER,
Director, National Park Service.

[F. R. Doc. 39-1362; Filed, April 20, 1939; 10:51 a. m.]

TITLE 41—PUBLIC CONTRACTS

DIVISION OF PUBLIC CONTRACTS

IN THE MATTER OF THE DETERMINATION OF THE PREVAILING MINIMUM WAGES IN THE TOBACCO INDUSTRY

This matter is before me pursuant to Section 1 (b) of the Act of June 30, 1936 (49 Stat. 2036; 41 U. S. C. Sup. III 35) entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes." The Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, held a hearing on April 7, 1938 in the above-entitled matter.

Notice of the hearing was sent to all known members of the industry, to trade unions, to trade publications, and to trade associations in the field. Invitation to attend the hearing was also extended through the national press to all other interested parties.

At the hearing testimony was presented for the record by members of the industry. The Public Contracts Division of the Department of Labor presented, with other evidence, a tabulation of wage data based on information voluntarily supplied by members of the industry.

On April 25, 1938, the Board made its recommendations which were circularized. At the request of industry, interested parties were given opportunity on July 18, 1838 to present orally argument for or against the Board's recommendations.

The record, including the Board's recommendations, the transcript of oral arguments, and the briefs of the interested parties, is now before me for consideration.

The tobacco industry, for the purpose of this decision, is understood to include the manufacture of cigarettes, of chewing and smoking tobaccos, and of snuff, but to exclude the manufacture of cigars.

The Census of Manufactures indicates that in 1935 there were 34,524 employees engaged in the tobacco industry as herein defined. The survey covered a number of employees equal to 90 percent of the employees in the industry in 1935, and is therefore held to be representative of the conditions now existing in the industry.

The survey indicates that stemming is the low wage occupational group in the industry. Of the stemmers covered in the survey, 24.64 percent fall into a classification below 35 cents an hour, whereas only 4.32 percent of the employees in the preparation department and only 1.21 percent of the employees in the fabrication department fall below that figure. The survey indicates that 2,338 stemmers out of 13,173 surveyed received between 30 and 35 cents an hour. In all, 17.75 percent of the total number of stemmers fall within this wage bracket. This is the lowest significant concentration of employees in the stemming department. There are only 396 employees receiving between 27.5 and 30 cents and 311 employees receiving between 25 and 27.5 cents. Concentrations below this figure are even less significant.

I have examined the findings of the Board and the record of the hearing, together with the briefs filed, and in the light of the facts

I hereby determine—

That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of the Public Contracts Act (49 Stat. 2036; 41 U. S. C. Sup. III 35) for the manufacture or supply of the products of the tobacco industry as herein defined, shall be 32.5 cents an hour or $13.00 per week of forty hours, arrived at either upon a time or piece work basis.

This determination shall be effective, and the minimum wage hereby established shall apply to all such contracts, bids for which are solicited on or after May 2, 1939.

Dated April 17, 1939.

[SEAL] FRANCES PERKINS,
Secretary.

[F. R. Doc. 39–1356; Filed, April 19, 1939; 2:18 p. m.]

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

CHAPTER II. GENERAL SUBSTANTIVE RULES

PART 23. TECHNICAL REGULATIONS

The Commission amended Section 23.03 in the following particulars:

* * * * *

8650
8655 kc[1] Experimental
8660

9130
9135 kc Experimental
9140

* * * * *

(Sec. 4 (i), 48 Stat. 1066; 47 U. S. C. 154 (i)) [Rule 229, as amended by the F. C. C., April 17, 1939, effective immediately]

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 39–1354; Filed, April 19, 1939; 1:34 p. m.]

CHAPTER IV. RULES GOVERNING BROADCAST SERVICES OTHER THAN STANDARD BROADCAST[2]

TABLE OF CONTENTS

PART 40. IN GENERAL

SEC. 40.01 *Frequency tolerance.* The operating frequency of the broadcast stations as listed below shall be maintained within plus or minus the percentage of the assigned frequency as given in Table I.

TABLE I*†

Class of Station	*Frequency Tolerance*
Relay Broadcast Station:	
(a) 1622 to 2830 kc	0.04%.
(b) 30,000 to 40,000 kc. and above	10 watts or less 0.1%. above 10 watts 0.05%.
International Broadcast Station	0.005%.[1]
Television Broadcast Station	0.01%.
Facsimile Broadcast Station	0.05% or less as required.
High Frequency Broadcast Station	0.01%.
Non-Commercial Educational Broadcast Station	0.01%.
Developmental Broadcast Station	0.05% or less as required.

[1] Tolerance may be 0.01% on equipment installed prior to January 1, 1940, and until January 1, 1941, when all international stations shall maintain frequency within 0.005% of the assigned frequency.

SEC. 40.02 *Frequency monitors.* (a) The licensee of each broadcast station listed in Sec. 40.01, except relay broadcast stations, shall operate at the transmitter a frequency monitor independent of the frequency control of the transmitter.

(b) The frequency monitor shall be designed and constructed in accordance with good engineering practice and shall have an accuracy sufficient to determine that the operating frequency is within one-half (½) of the allowed tolerance.

(c) The licensee of each relay broadcast station shall provide the necessary means for determining that the frequency of the station is within the allowed tolerance.

(d) The frequency of all stations listed in Sec. 40.01 shall be checked at each time of beginning operation and as often thereafter as necessary to maintain the frequency within the allowed tolerance.*†

SEC. 40.03. *License period; renewal.* (a) Licenses for the following classes of broadcast stations will be normally issued for a period of one year expiring as follows:

Class of Station	*Date of Expiration*
Relay Broadcast Station:	
(a) 1622 to 2830 kc	October 1.
(b) 30,000 to 40,000 kc. and above	December 1.
International Broadcast Station	November 1.
Television Broadcast Station	February 1.
Facsimile Broadcast Station	March 1.
High Frequency Broadcast Station	April 1.
Non-Commercial Educational Broadcast Station	May 1.
Developmental Broadcast Station	May 1.

(b) Each licensee shall submit the application for renewal of license at least 60 days prior to the expiration date (Sec. 103.15).

(c) A supplemental report shall be submitted with each application for renewal of license of a station licensed experimentally[3] in accordance with the regulations governing each class of station.*†

SEC. 40.04 *Requirements, limitations and restrictions.* (a) No station li-

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[1] Available for stations in the experimental service only until October 1, 1939.

[2] Relay, International, Television, Facsimile, High Frequency, Non-Commercial Educational, and Developmental Broadcast Stations.

*Sections in parts 40 to 46, inclusive, issued under the authority contained in Sec. 4, 44 Stat. 1163; 47 U. S. C. 84 (f), rules promulgated thereunder continued in effect by Sec. 604, 48 Stat. 1103; 47 U. S. C. 604—Sec. 4 (i), 48 Stat. 1066; 47 U. S. C. 154 (i)—Sec. 303 (b), 48 Stat. 1082; 47 U. S. C. 303 (b)—Sec. 303 (c), 48 Stat. 1082; 47 U. S. C. 303 (c)—Sec. 303 (e), 48 Stat. 1082; 47 U. S. C. 303 (e)—Sec. 303 (f), 48 Stat. 1082; 47 U. S. C. 303 (f)—Sec. 303 (j), 48 Stat. 1082; 47 U. S. C. 303 (j).

†Adopted by the F. C. C. April 17, 1939, to become effective immediately.

[3] The phrases "station licensed experimentally" and "experimental station" are used interchangeably and refer to stations listed in Sec. 40.03 when so specified in the instrument of authorization.

censed experimentally will be assigned for exclusive use of any frequency. In case interference would be caused by simultaneous operation of stations licensed experimentally, such licensees shall endeavor to arrange satisfactory time division. If such agreement cannot be reached, the Commission will determine and specify the time division.

(b) The Commission may from time to time require that a station licensed experimentally conduct such experiments that are deemed desirable and reasonable for the development of the service.

(c) The program of research and experimentation as offered by an applicant in compliance with the requirements for obtaining a license for an experimental station[3] shall be adhered to in the main, unless the licensee is authorized to do otherwise by the Commission.

(d) A licensee of an experimental station is not required to adhere to a regular schedule of operation but shall actively conduct a program of research and experimentation or transmission of programs, provided, however, licensees of developmental broadcast stations which are licensed to conduct special intermittent experiments, such as to develop and test commercial broadcast equipment, are required to operate only when there is a need therefor.

(e) A supplementary statement shall be filed with and made a part of each application for construction permit for any broadcast station on an experimental basis which specifies any frequency above 300,000 kilocycles or in the bands 162,000 to 168,000, 210,000 to 216,000 and 264,000 to 270,000 kilocycles except television, confirming the applicant's understanding:

1. That all operation upon the frequency is experimental only.
2. That the frequency may not be the best suited to the particular experimental work to be carried on, and
3. That the frequency may not be allocated for the service that may be developed experimentally.*†

SEC. 40.05 *Station records.* (a) The licensee of each class of broadcast station listed in Sec. 40.01 shall maintain adequate records of the operation, including:

1. Hours of operation.
2. Program transmitted.
3. Frequency check.
4. Pertinent remarks concerning transmission.
5. In case of relay station, an entry giving point of program origination and receiver location shall be included.
6. Research and experimentation conducted in case of an experimental station.
7. And any additional information specified in the regulations governing each class of station or for completing the supplemental report as required.

(b) The above information shall be made available upon request by authorized Commission representatives.*†

SEC. 40.06 *Equipment changes.* The licensee of each class of broadcast station listed in Sec. 40.01 may make any changes in the equipment that are deemed desirable or necessary, provided:

1. That the operating frequency is not permitted to deviate more than the allowed tolerance;
2. That the emissions are not permitted outside the authorized band;
3. That the power output complies with the license and the regulations governing the same; and
4. That the transmitter as a whole or output power rating of the transmitter is not changed.*†

SEC. 40.07 *Emission authorized.* All classes of broadcast licenses authorize A3 emission only unless otherwise specified in the license. In case A1, A2, A4, A5, or special emission are necessary or helpful in carrying on any phases of experimentation, application setting out fully the needs shall be made to, and authority therefor received from, the Commission.*†

SEC. 40.08 *Additional orders, as needed.* In case all the general rules and regulations and the specific rules governing each class of broadcast station do not cover all phases of operation or experimentation with respect to external effects, the Commission may make supplemental or additional orders in each case as deemed necessary for operation in the public interest, convenience, and/or necessity.*†

SEC. 40.09 *Operation.* A licensed operator shall be on duty and in charge of the transmitter of each broadcast station listed in Sec. 40.01. In no case will remote control operation be authorized. A transmitter is not considered as being operated by remote control when the following conditions prevail:

(a) Continuous reading indicating instruments are before the operator as follows:

1. Frequency deviation meter.
2. Percentage modulation indicator.
3. Spurious emission check (receiver).
4. Last radio stage plate voltage.
5. Last radio stage total plate current.
6. Output or antenna current.

(b) The operator has off and on control of the power to the last radio stage.

(c) The operator can reach the transmitter proper in not more than five minutes to make any changes or adjustments necessary to maintain proper operation.*†

SEC. 40.10 *Rebroadcasts.*[4] (a) The licensee of an international or non-commercial educational broadcast station may, without further authority of the Commission, rebroadcast the program of a United States standard broadcast station, provided the Commission is notified of the call letters of each station rebroadcast and the licensee certified that express authority has been received from the licensee of the station originating the program.[5] (See Secs. 42.03 and 45.02 (c) concerning commercial announcements.)

(b) No licensee of an international or non-commercial educational broadcast station shall rebroadcast the program of any other class of United States radio station without written authority having first been obtained from the Commission.*[7]

(c) No licensee of any other class of broadcast station listed in Sec. 40.01 (television, facsimile, high frequency or developmental) shall rebroadcast the program of any radio station without written authority first having been obtained from the Commission.[7]

(d) Authority will not be granted to rebroadcast in the United States the program of an international broadcast station located within the limits of the North American continent, except upon a satisfactory showing that no other facilities exist for transmitting the program to the area served by the station proposing the rebroadcast.

(e) A licensee of an international broadcast station may authorize the rebroadcast of its programs by any station outside the limits of the North American continent without permission from the Commission, provided that the station rebroadcasting the programs cannot be received consistently in the United States.

(f) An application for authority to rebroadcast the program of any radio station shall be accompanied by written consent or certification of consent of the licensee of the station originating the program.*†

SEC. 40.11 *Equipment and program tests.* (a) A licensee of a broadcast station listed in Sec. 40.01 shall conduct equipment tests in accordance with Rule 164 and program tests in accordance with Rule 165.

(b) In case the transmitter and associated equipment are on hand in complete form and an application for license was filed and granted with the application for construction permit, then the notification of equipment tests and program tests as required by subsection (a) of this rule need not be made.*†

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[3] For definition of "rebroadcast" see Rule 177.1.

[5] The notice and certificate of consent must be given within three (3) days of any single rebroadcast, but in case of the regular practice of rebroadcasting certain programs of a standard broadcast station several times during a license period, notice and certification of consent must be given for the ensuing license period with the application for renewal of license, or at the beginning of such rebroadcast practice if begun during a license period.

[6] The broadcasting of a program relayed by a relay broadcast station (Sec. 41.01) is not considered a rebroadcast.

[7] Informal application may be employed.

PART 41. RELAY BROADCAST STATIONS

Sec.

SEC. 41.01 *Defined.*[8] The term "relay broadcast station" means a station licensed to transmit from points where wire facilities are not available, programs for broadcast by one or more broadcast stations or orders concerning such programs.*†

SEC. 41.02 *Licensing and authorizations.* (a) A license for a relay broadcast station will be issued only to the licensee of a standard broadcast station:[9] provided, however, in cases where it is impractical, impossible, or prohibited by laws or regulations for the licensee of a standard broadcast station to install, operate or maintain the necessary equipment under its legal control, the Commission may grant special temporary authority for each event to another person to operate as a relay broadcast station equipment already licensed for another service, or equipment which may be installed under Section 319 (b) of the Communications Act of 1934 without a construction permit and provided further:

(b) The Commission may license a special relay broadcast station to the licensee of another class of broadcast station provided a need therefor is shown and the relay station will be used only for relaying of programs for broadcast by such broadcast station.

(c) The license of a relay broadcast station authorizes the transmission of commercial or sustaining programs, or orders concerning such programs, to be broadcast by its standard broadcast station and other broadcast stations transmitting the same programs simultaneously or a chain program to the network with which the licensee is regularly affiliated. The license of a relay station does not authorize transmission of programs to be broadcast solely by other broadcast stations not aforementioned.

(d) In case a licensee has two or more standard broadcast stations located in different cities, it shall, in applying for a new relay station or for renewal of license of an existing relay station, designate the standard broadcast station or stations in conjunction with which the relay station is to be operated principally, and it shall not thereafter operate the relay station in conjunction with another of its standard broadcast stations located in a different city for more than a total of ten days in any thirty-day period.

[8] See Sec. 40.05 (6) for special log entry requirement.

[9] See "Number of Relay Broadcast Stations That Will be Licensed to Each Holder of Standard Broadcast Station License" as announced by the Commission.

(e) Each application for temporary authority to operate a relay broadcast station from a person other than a licensee of a standard broadcast station shall be accompanied by an application for authority to broadcast the program from the licensee of the standard broadcast station proposing the broadcast.

(f) An application for special temporary authority to operate another class of station as a relay broadcast station shall specify a group of frequencies allocated in Sec. 41.03; provided, however, in case of events of national interest and importance which cannot be transmitted successfully to the nearest available wire facilities on these frequencies, other frequencies under the jurisdiction of the Commission may be requested, if it is shown that the operation thereon will not cause interference to established stations.

(g) An application for special temporary authority to operate on frequencies not allocated by Sec. 41.03 or to operate another class of station as a relay broadcast station, must be received by the Commission not less than ten days prior to the actual event to be broadcast, and shall contain complete information concerning the frequencies requested, and the license of the station to be used. In case of emergencies, which shall be fully explained in the application, the Commission may waive the ten-day requirement specified herein.*†

SEC. 41.03 *Frequency assignment and operation.* (a) The following groups of frequencies are allocated for assignment to relay broadcast stations:

Group A (kc.)	Group B (kc.)	Group C (kc.)	Group D (kc.)	Group E (kc.)
1622	1606	1646	30,820	31,22.
2058	2022	2090	33,740	35,620.
2150	2102	2190	35,820	37,020.
2790	2758	2830	37,980	39,260

Group F (kc.)	Group G (kc.)	Group H (kc.)	Group I (kc.)	Group J
31,620	33,380	132,260	133,030	Any four frequencies above 30,000 kc. excluding band 400,000 to 401,000 kc.
35,260	35,020	134,080	134,850	
37,340	37,620	135,480	136,810	
39,620	39,820	135,760	138,630	

(b) One of the above groups only, including all four frequencies will be assigned each station. The first application from any metropolitan area for the frequencies in Groups A, B or C shall specify Group A; the second Group B, and the third Group C, the fourth Group A again, etc. and likewise for frequencies in Groups D, E, F or G, first application Group D, second E, third F, etc. Outstanding assignments not following this order will not be changed unless a need therefor develops. Additional applicants shall specify the next unassigned group in sequence or any other group if it appears interference will be avoided thereby.

(c) A station may be licensed for Group H when a need for frequencies of this order may be shown.

(d) Group I will be licensed to stations to operate with frequency modulation only when need for such operation and frequencies of this order may be shown.

(e) Any four specific frequencies under Group J will be assigned on experimental operation only and an applicant may apply for the four frequencies which appear most suitable for the experimental work to be conducted.

(f) The licensee of a station on Group J shall carry on research and experimentation for the advancement of the relay broadcast art and development of these ultra high frequencies for relay broadcast services. An application for authority to operate a station on frequencies in Group J shall include a statement concerning the research and experiments to be conducted. The research and experiments shall indicate reasonable promise of substantial contribution to the development of the program relay services.

(g) A license authorizes operation on only one of the four assigned frequencies at any one time. In case it is desired to transmit programs and spoken orders concerning such programs simultaneously, two licenses are required though each may specify the same group of frequencies.*†

SEC. 41.04 *Frequency selection to avoid interference.* In case two or more stations are licensed for the same group of frequencies in the same area and in case simultaneous operation is contemplated, the licensees shall endeavor to select frequencies to avoid interference. If a mutual agreement to this effect cannot be reached the Commission shall be notified and it will specify the frequencies on which each station is to be operated.*†

SEC. 41.05 *Power limitations.* (a) A relay broadcast station assigned frequencies in Groups A, B, C and J will be licensed to operate with a power output not in excess of that necessary to transmit the program and orders satisfactorily to the receivers and shall not be operated with a power greater than licensed.

(b) A relay broadcast station assigned frequencies in Groups D, E, F, and G will not be licensed for an output power in excess of 25 watts, except on the frequencies of 31,220, 33,740, 35,020 and 37,340 kc. on which the licensed output power may be 50 watts for transmitting orders on the order (or "Q" station. In making application for an order station to use 50 watts, this fact must be clearly noted.)

(c) A relay station assigned frequencies in Groups H and I will not be licensed to operate with a power in excess of 50 watts, but in event interference may be caused to stations on adjacent channels the power will be limited to 10 watts.*†

SEC. 41.06 *Supplemental report with renewal application.* The licensee of a

relay broadcast station assigned frequencies under Group J shall submit a supplemental report with and made a part of each application for renewal of license as follows:

1. Number of hours operated for experimental purposes.
2. Developments carried on in the relay broadcast service.
3. Propagation characteristics of the frequencies assigned with regard to relay broadcast service.
4. All developments or major changes in equipment.
5. Any other pertinent developments.*†

[*Note: Part 42, "International Broadcast Stations", will be issued in the near future.*]

PART 43. VISUAL BROADCAST SERVICE

[Television and Facsimile Stations]

Sec.
43.01 Defined.

TELEVISION BROADCAST STATION

43.10 Defined.
43.11 Licensing requirements; necessary showing.
43.12 Charges prohibited; restrictions and announcements.
43.13 Frequency assignment.
43.14 Power.
43.15 Supplemental report with renewal application.

FACSIMILE BROADCAST STATIONS

43.30 Defined.
43.31 Licensing requirements.
43.32 Charges prohibited; restrictions.
43.33 Frequency assignment.
43.34 Power.
43.35 Supplemental report with renewal application.

SEC. 43.01 *Defined.* The term "visual broadcast service" means a service rendered by stations broadcasting images for general public reception. There are two classes of stations recognized in the visual broadcast service, namely: television broadcast stations and facsimile broadcast stations.*†

SEC. 43.10 *Defined.* The term "television broadcast station" means a station licensed for the transmission of transient visual images of moving or fixed objects for simultaneous reception and reproduction by the general public. The transmission of the synchronized sound (aural broadcast) is considered an essential phase of television broadcast and one license will authorize both visual and aural broadcast as herein set out.*†

SEC. 43.11 *Licensing requirements; necessary showing.* A license for a television broadcast station will be issued only after a satisfactory showing has been made in regard to the following, among others:

1. That the applicant has a program of research and experimentation which indicates reasonable promise of substantial contribution to the development of the television broadcast art.
2. That the program of research and experimentation will be conducted by qualified engineers.
3. That the applicant is legally and financially qualified and possesses adequate technical facilities to carry forward the program.
4. That the public interest, convenience and/or necessity will be served through the operation of the proposed station.*†

SEC. 43.12 *Charges prohibited; restrictions and announcements.* (a) A licensee of a television broadcast station shall not make any charge, directly or indirectly, for the transmission of either aural or visual programs.

(b) In the case of experimental televising of the production of a commercial standard broadcast program, all commercial announcements not a part of the entertainment continuity shall be eliminated from the television broadcast except the mere statement of the name of the sponsor or product or the televising of the trademark, symbol, slogan or product of the sponsor; provided, however, that when the program transmission is incidental to the experiments being conducted and not featured, and subject to interruptions as the experiments may require, the commercial announcements may be broadcast aurally.

(c) No licensee of a standard broadcast station or network shall make any additional charge, directly or indirectly, for the simultaneous transmission of the aural or visual program by a television broadcast station, nor shall commercial accounts be solicited by the licensee of a standard broadcast station or network, or by others acting in their behalf upon the representation that the commercial program will also be transmitted by a television broadcast station.

(d) The synchronized sound (aural) program of a television broadcast station may be broadcast by a standard broadcast station, provided:

1. That no announcements or references shall be made over the standard broadcast station regarding the operation of the television broadcast station, except the mere statement that the program being transmitted is the sound or aural program of a television broadcast station (identify by call letters).
2. That the call letter designation when identifying the television broadcast station shall be given on its assigned frequency only.*†

SEC. 43.13 *Frequency assignment.* (a) The following groups of channels are allocated for assignment to television broadcast stations licensed experimentally:

Group A (kc.)	Group B (kc.)	Group C
44,000– 50,000	156,000–162,000	Any 6,000 kc. band above 300,000 kc. excluding band 400,000 to 401,000 kc.
50,000– 56,000	[1] 162,000–168,000	
66,000– 72,000	180,000–186,000	
78,000– 84,000	186,000–192,000	
84,000– 90,000	204,000–210,000	
96,000–102,000	[1] 210,000–216,000	
102,000–108,000	234,000–240,000	
	240,000–246,000	
	258,000–264,000	
	[1] 264,000–270,000	
	282,000–288,000	
	288,000–294,000	

[1] See Secs. 40.04 (e) and 46.04 (a).

(b) Each television station will be assigned only one 6000-kilocycle frequency band from groups in subsection (a) of this rule. Both aural and visual carriers with side bands for modulation are authorized but no emission shall result outside the authorized frequency band.

(c) Frequency band in Group A shall be used by stations principally for developing television intended directly for public reception. Frequency bands in Groups B and C may be licensed for the same purposes as those in Group A and in addition for stations to serve auxiliary television purposes such as television relay stations, developmental mobile service. However, no mobile or portable station will be licensed for the purpose of transmitting television programs to the public directly.

(d) A licensee will not be granted a second television station to operate on a frequency band in Group A which would serve in whole or part the same service area as already served by a station licensed to it for a frequency band in Group A.*†

SEC. 43.14 *Power.* The operating power of a television broadcast station shall not be in excess of that necessary to carry forward the program of research. The operating power may be maintained at the maximum rating or less, as the conditions of operation may require.*†

SEC. 43.15 *Supplemental report with renewal application.* A supplemental report shall be filed with and made a part of each application for renewal of license and shall include statements of the following:

1. Number of hours operated for transmission of television programs.
2. Comprehensive report of research and experimentation conducted.
3. Conclusions and program for further developments of the television broadcast service.
4. All developments and major changes in equipment.
5. Any other pertinent developments.*†

SEC. 43.30 *Defined.* The term "facsimile broadcast station" means a station licensed to transmit images of still objects for record reception by the general public.*†

SEC. 43.31 *Licensing requirements.* A license for a facsimile broadcast station will be issued only after a satisfactory showing has been made in regard to the following, among others:

1. That the applicant has a program of research and experimentation which indicates reasonable promise of substantial contribution to the development of the facsimile broadcast service.
2. That sufficient facsimile recorders will be distributed to accomplish the experimental program proposed.

3. That the program of research and experimentation will be conducted by qualified engineers.

4. That the applicant is legally and financially qualified and possesses adequate technical facilities to carry forward the program.

5. That the public interest, convenience and/or necessity will be served through the operation of the proposed station.*†

SEC. 43.32 *Charges prohibited; restrictions.* (a) A licensee of a facsimile broadcast station shall not make any charge, directly or indirectly, for the transmission of programs.

(b) No licensee of any standard broadcast station or network shall make any additional charge, directly or indirectly, for the transmission of some phase of the programs by a facsimile broadcast station, nor shall commercial accounts be solicited by any licensee of a standard broadcast station or network, or others acting in their behalf, upon representation that images concerning that commercial program will be transmitted by a facsimile station.*†

SEC. 43.33 *Frequency assignment.* (a) The following groups of frequencies are allocated for assignment to facsimile broadcast stations which will be licensed experimentally only:

Group A (kc.)	Group B (kc.)	Group C (kc.)	Group D
25,025	43,540	116,110	Any frequency above 300,000 kc. excluding band 400,000 to 401,000 kc.
25,050	43,580	116,230	
25,075	43,620	116,350	
25,100	43,660	116,470	
25,125	43,700		
25,150	43,740		
25,175	43,780		
25,200	43,820		
25,225	43,860		
25,250	43,900		
	43,940		

(b) Other broadcast or experimental frequencies may be assigned for the operation of facsimile broadcast stations on an experimental basis provided a sufficient need therefor is shown and no interference will be caused to established radio stations.

(c) One frequency only will be assigned to a facsimile station from the Groups in subsection (a) of this rule. More than one frequency may be assigned under provisions of subsection (b) of this rule if a need therefor is shown.

(d) Each applicant shall specify the maximum modulating frequencies proposed to be employed.

(e) The operating frequency of a facsimile broadcast station shall be maintained in accordance with the frequency tolerance given in Sec. 40.01 provided, however, where a lesser tolerance is necessary to prevent interference, the Commission will specify the tolerance.

(f) A facsimile broadcast station authorized to operate on frequencies regularly allocated to other stations or services shall be required to abide by all rules governing the stations regularly operating thereon, which are applicable to facsimile broadcast stations and are not in conflict with Secs. 40.01 to 40.11, inclusive, of these rules.*†

SEC. 43.34 *Power.* The operating power of a facsimile broadcast station shall not be in excess of that necessary to carry forward the program of research, provided, however not more than 1000 watts will be authorized on a frequency in Group A. The operating power may be maintained at the maximum rating or less, as the conditions of operation may require.*†

SEC. 43.35 *Supplemental report with renewal application.* A supplemental report shall be filed with and made a part of each application for renewal of license and shall include statements of the following:

1. Number of hours operated for transmission of facsimile programs.

2. Comprehensive report of research and experimentation conducted.

3. Conclusions and program for further developments of the facsimile broadcast service.

4. All developments and major changes in equipment.

5. Any other pertinent developments.*†

PART 44. HIGH FREQUENCY BROADCAST STATIONS

Sec.

SEC. 44.01 *Defined.* The term "high frequency broadcast station" means a station licensed on frequencies above 25,000 kilocycles for transmission of aural programs for general public reception.*†

SEC. 44.02 *Licensing requirements; necessary showing.* A license for a high frequency broadcast station will be issued only after a satisfactory showing has been made in regard to the following, among others:

1. That the applicant has a program of research and experimentation which indicates reasonable promise of substantial contribution to the development of high frequency broadcasting.

2. That substantial data will be taken on the propagation characteristics of these frequencies; on the noise level in different parts of the city; on the field intensity necessary to render good broadcast service; on antenna design and characteristics with respect to propagation; and on other allied phases of broadcast coverage.

3. That the research and experimentation will be conducted by qualified engineers.

4. That the applicant is legally and financially qualified and possesses adequate technical facilities to carry forward the program.

5. That the public interest, convenience and necessity will be served through the operation of the proposed station.*†

SEC. 44.03 *Charges prohibited; restriction and announcements.* (a) A licensee of a high frequency broadcast station shall not make any charge, directly or indirectly, for the transmission of programs, but may transmit the programs of a standard broadcast station or network including commercial programs, if the call letter designation when identifying the high frequency broadcast station is given on its assigned frequencies only and the statement is made over the high frequency broadcast station that the program of a standard broadcast station or network (identify by call letters or name of network) is being broadcast. Immediately following any announcement of the call letter designation of a standard broadcast station, the program from which is being broadcast over a high frequency broadcast station, the call letter designation of the high frequency broadcast station shall be given. In case of the rebroadcast of the program of any broadcast station, Sec. 40.10 applies.

(b) No licensee of any standard broadcast station or network shall make any additional charge, directly or indirectly, for the simultaneous transmissions of programs by the high frequency broadcast station, nor shall commercial accounts be solicited by a licensee of a standard broadcast station or network, or by others acting in their behalf upon representation that the commercial program will also be transmitted by a high frequency broadcast station.*†

SEC. 44.04 *Frequency assignment.* (a) The following groups of frequencies are allocated for assignment to high frequency broadcast stations:

Group A (kc.)	Group B (kc.)	Group C (kc.)	Group D (kc.)
25,300	25,900	26,300	42,060.
25,325	25,925	26,500	42,100.
25,350	25,950	26,700	42,140.
25,375	25,975	26,900	42,180.
25,400	26,000		42,220.
25,425	26,025		42,260.
25,450	26,050		42,300.
25,475	26,075		42,340.
25,500	26,100		42,380.
25,525	26,125		42,420.
25,550	26,150		42,460.

Group E (kc.)	Group F (kc.)	Group G (kc.)	Group H
42,600	116,590	117,190	Any frequency above 300,000 kc. excluding band 400,000 to 401,000 kc.
42,800	116,710	117,430	
43,000	116,830	117,670	
43,200	116,950	117,910	
43,400	117,070		

(b) A station assigned a frequency in Group A, B, D or F is authorized to oper-

ate exclusively with amplitude modulation (maximum band width of emission 30 kc.). A station assigned a frequency in Group C, E or G is authorized to operate exclusively with frequency modulation (maximum band width of emission 200 kc.). A station assigned a frequency in Group H is authorized to operate with either amplitude or frequency modulation with the above band widths of emission as applicable.

(c) Stations serving the same area will not be assigned frequencies separated less than the following:

Group A or B (kc.)	Group D (kc.)	Group C, E, F, G or H
100	160	To be determined.

(d) One frequency only in a Group will be assigned to a station. A station assigned a frequency in Group A, B or C will not be assigned another frequency. A station assigned a frequency in Group D may also be assigned a frequency in Group F, and in Group E, also in Group G. In case more than one frequency is assigned to a station, the license authorizes operation on only one of the frequencies at one time.

(e) A licensee of a station assigned a frequency in Group A or one of the last two frequencies in Group C shall make the necessary observations to determine that no interference is caused to international mobile service and international fixed service respectively; and that the operation is in accordance with international agreements on the assignments of stations to this band. If interference is caused to such services the licensee may be required to reduce the operating power of the station or cease operation until the Commission deems no further interference will result.*†

SEC. 44.05 *Power.* (a) No high frequency broadcast station will be licensed for an output power rating greater than 1000 watts unless the applicant can show that greater power is needed to carry on a special program of research, provided, however, in no case will an operating power greater than 1000 watts be authorized to a station assigned a frequency in Group A or one of the last two frequencies in Group C.

(b) While conducting apparatus experiments and in case adequate signal for reliable service can be delivered with less power, the operating output may be reduced accordingly.*†

SEC. 44.06 *Frequency control.* Each high frequency broadcast station transmitter shall be equipped with automatic frequency control apparatus so designed and constructed that it is capable of maintaining the operating frequency within plus or minus 0.01% of the assigned frequency.*†

SEC. 44.07 *Supplemental report with renewal application.* A supplemental report shall be filed with each and made a part of the application for renewal of license and shall include statements of the following, among others:

1. The number of hours operated.
2. Data taken in compliance with Sec. 44.02 (2).
3. Outline of reports of reception and interference and conclusions with regard to propagation characteristics of the frequency assigned.
4. Research and experiments being carried on to improve transmission and to develop broadcasting on the very high frequencies.
5. All developments or major changes in equipment.
6. Any other pertinent developments.
7. Comprehensive summary of all reports received. See Sec. 44.04 (e).*†

PART 45. NON-COMMERCIAL EDUCATIONAL BROADCAST STATIONS

Sec.

SEC. 45.01 *Defined.* The term "non-commercial educational broadcast station" means a station licensed to an organized non-profit educational agency for the advancement of its educational work and for the transmission of educational and entertainment programs to the general public.*†

SEC. 45.02 *Operation and service.* The operation of, and the service furnished by, non-commercial educational broadcast stations shall be governed by the following regulations:

(a) A non-commercial educational broadcast station will be licensed only to an organized non-profit educational agency and upon a showing that the station will be used for the advancement of the agency's educational program particularly with regard to use in an educational system consisting of several units.

(b) Each station may transmit programs directed to specific schools in the system for use in connection with the regular courses as well as routine and administrative material pertaining to the school system and may transmit educational and entertainment programs to the general public.

(c) Each station shall furnish a non-profit and non-commercial broadcast service. No sponsored or commercial program shall be transmitted nor shall commercial announcements of any character be made. A station shall not transmit the programs of other classes of broadcast stations unless all commercial announcements and commercial references in the continuity are eliminated.*†

SEC. 45.03 *Power.* The operating power of non-commercial educational broadcast stations shall be not less than 100 watts or greater than 1000 watts unless a definite need for greater power is shown.*†

SEC. 45.04 *Frequency control.* The transmitter of each non-commercial educational broadcast station shall be equipped with automatic frequency control apparatus so designed and constructed that it is capable of maintaining the operating frequency within plus or minus 0.01 percent of the assigned frequency.*†

SEC. 45.05 *Operating schedule.* Non-commercial educational broadcast stations are not required to operate on any definite schedule or minimum hours.*†

SEC. 45.06 *Equipment requirements.* The transmitting equipment, installation, and operation as well as the location of the transmitter shall be in conformity with the requirements of good engineering practice as released from time to time by the Commission.*†

SEC. 45.07 *Frequencies.* (a) The following frequencies are allotted for assignment to non-commercial educational broadcast stations:

kc.	*kc.*	*kc.*	*kc.*	*kc.*
41,020	41,220	41,420	41,620	41,820
41,060	41,260	41,460	41,660	41,860
41,100	41,300	41,500	41,700	41,900
41,140	41,340	41,540	41,740	41,940
41,180	41,380	41,580	41,780	41,980

(b) Stations serving the same area will not be assigned frequencies separated less than 160 kilocycles.

(c) Amplitude modulation shall be employed exclusively unless it can be shown that frequency modulation will better serve the purpose of the station in which case such modulation may be authorized provided sufficient frequencies can be grouped so as to obtain the required band width without causing interference to established stations or preventing the full expansion of the service.

(d) Only one frequency will be assigned to a station.*†

PART 46. DEVELOPMENTAL BROADCAST STATIONS

Sec.

SEC. 46.01 *Defined.* The term "developmental broadcast station" means a station licensed to carry on development and research for the advancement of broadcast services along lines other than those prescribed by other broadcast rules or a combination of closely related developments that can be better carried on under one license.*†

SEC. 46.02 *Licensing requirements; necessary showing.* (a) Licenses for developmental broadcast stations will be issued only after a satisfactory showing has been made in regard to the following, among others:

1. That the applicant has a program of research and development which cannot be successfully carried on under any of the classes of broadcast stations

already allocated, or is distinctive from those classes, or combination of closely related developments that involve different phases of broadcasting which can be pursued better under one license.

2. That the program of research has reasonable promise of substantial contribution to the development of broadcasting, or is along lines not already thoroughly investigated.

3. That the program of research and experimentation will be conducted by qualified persons.

4. That the applicant is legally and financially qualified and possesses adequate technical facilities to carry forward the program.

5. That the public interest, convenience and necessity will be served through the operation of the proposed station.

(b) A separate developmental broadcast station license will be issued for each major development proposed to be carried forward. When it is desired to carry on several independent developments, it will be necessary to make satisfactory showing and obtain a license for each.*†

SEC. 46.03 *Program service; charges prohibited; announcements.* (a) A licensee of developmental broadcast stations shall broadcast programs only when they are necessary to the experiments being conducted. No regular program service shall be broadcast unless specifically authorized by the license.

(b) A licensee of a developmental broadcast station shall not make any charge, directly or indirectly, for the transmission of programs, but may transmit the programs of a standard broadcast station or network including commercial programs, if the call letter designation when identifying the developmental broadcast station is given on its assigned frequency only and the statement is made over the developmental broadcast station that the program of a broadcast station or network (identify by call letters or name of network) is being broadcast in connection with the developmental work. In case of the rebroadcast of the program of any broadcast station, Sec. 40.10 applies.*†

SEC. 46.04 *Frequency assignment.* (a) The following frequencies are allocated for assignment to developmental broadcast stations: [1]

1,614		
2,396	12,855	37,140
2,398	12,862.5	37,540
2,400	12,870	39,140
		39,460
3,490	17,300	39,540
3,492.5	17,310	132,400
3,495	17,320	132,680
		133,380
4,795	23,100	134,360
4,797.5	30,660	135,340
4,800	31,020	137,440
	31,140	137,860
6,420	31,180	138,140
6,425	31,540	138,840
6,430	33,340	139,540
	33,460	139,960
8,650	33,620	162,000 to 168,000
8,655	[2] 35,060	210,000 to 216,000
8,660	35,460	264,000 to 270,000
	37,060	300,000 to 400,000
9,130		401,000 and above
9,135		
9,140		

[1] Also available for assignment to all other stations in the experimental service.

[2] This frequency will not be available for the experimental service after October 1, 1939.

(b) A license will be issued for more than one of these frequencies upon a satisfactory showing that there is need therefor.

(c) The frequencies suited to the purpose and in which there appears to be the least or no interference to established stations shall be selected.

(d) In cases of important experimentation which cannot be conducted successfully on the frequencies allocated in subsection (a) of this Rule, the Commission may authorize developmental broadcast stations to operate on any frequency allocated for broadcast stations or any frequencies allocated for other services under the jurisdiction of the Commission upon satisfactory showing that such frequencies can be used without causing interference to established services.*†

SEC. 46.05 *Frequency tolerance.* (a) The operating frequency of a developmental broadcast station shall be maintained in accordance with the frequency tolerance given in Sec. 40.01, provided, however, where lesser tolerance is necessary to prevent interference, the Commission will specify the tolerance.

(b) The operating power of a developmental broadcast station shall not be in excess of that necessary to carry on the program of research. The operating power may be maintained at the maximum rating or less, as the conditions of operation may require.*†

SEC. 46.06 *Supplemental report with renewal application.* A supplemental report shall be filed with and made a part of each application for renewal of license and shall include statements of the following, among others:

1. The number of hours operated.
2. Comprehensive report on research and experiments conducted.
3. Conclusions and program for further development of the broadcast service.
4. All developments and major changes in equipment.
5. Any other pertinent developments.*†

SEC. 46.07 *Frequency restrictions.* A developmental broadcast station authorized to operate on frequencies regularly allocated to other stations or services, shall be required to abide by all rules governing the stations operating regularly thereon which are applicable to developmental broadcast stations and are not in conflict with Secs. 40.01 to 40.11, inclusive, and Secs. 46.01 to 46.06, inclusive, of these rules.*†

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 39–1355; Filed, April 19, 1939; 1:36 p. m.]

CHAPTER IV. RULES GOVERNING BROADCAST SERVICES OTHER THAN STANDARD BROADCAST

The Commission, on April 17, 1939, repealed the following rules, to become effective immediately:

Rule Nos.	*C. F. R. Section Nos.*
177.1	34.36
980–987, inclusive	40.01–40.12, inclusive.
1000–1006, inclusive	41.01–41.11, inclusive.
1030	43.01.
1031–1036, inclusive	43.10–43.18, inclusive.
1040–1045, inclusive	43.30–43.35, inclusive.
1050–1056, inclusive	44.01–44.07, inclusive.
1057–1059, inclusive	45.01–45.03, inclusive.
1070–1076, inclusive	46.01–46.10, inclusive.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 39–1353; Filed, April 19, 1939; 1:34 p. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Commodity Exchange Administration.

ORDER DESIGNATING THE SAN FRANCISCO GRAIN EXCHANGE AS A CONTRACT MARKET FOR WHEAT AND BARLEY UNDER THE COMMODITY EXCHANGE ACT

Pursuant to the authorization and direction contained in the Commodity Exchange Act, as amended (7 U. S. C. and Sup. IV, secs. 1–17a), I, H. A. Wallace, Secretary of Agriculture, do hereby designate the San Francisco Grain Exchange, a corporation, of San Francisco, California, as a contract market for wheat and barley under the Commodity Exchange Act, as amended, said exchange having applied for, and having otherwise complied with the conditions imposed by said act, as amended, precedent to, such designation. Such designation is subject hereafter to suspension or revocation in accordance with the provisions of said act, as amended.

Done at Washington, D. C., on this 19th day of April 1939. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 39–1368; Filed, April 20, 1939; 11:46 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF PUBLIC HEARING BEFORE INDUSTRY COMMITTEE NO. 4 FOR PURPOSE OF RECEIVING EVIDENCE TO BE CONSIDERED IN RECOMMENDING MINIMUM WAGE RATES FOR THE HAT INDUSTRY

In conformity with the Fair Labor Standards Act of 1938, 52 Stat. 1060, and

Section 511.11 of Part 511 of the Rules and Regulations issued pursuant thereto,[1] notice is hereby given to all interested persons that a public hearing will be held beginning at 11 A. M., May 15, 1939, in the Hotel Washington, 15th Street and Pennsylvania Avenue, N. W., Washington, D. C., for the purpose of receiving evidence to be considered by Industry Committee No. 4 in determining the highest minimum wage rates for the hat industry which, with due regard to economic and competitive conditions, will not substantially curtail employment.

The term "hat industry" is defined in Administrative Order No. 16, issued March 7, 1939,[2] as follows:

(a) The manufacture from any material of headwear for men or boys, except caps.

(b) The manufacture of hat bodies from fur-felt or wool-felt for men's, women's or children's hats.

(c) The manufacture or processing of hatters' furs.

Industrial Committee No. 4 was created by Administrative Order No. 16, referred to above. It is charged, in accordance with the provisions of the Fair Labor Standards Act of 1938 and rules and regulations promulgated thereunder, with the duty of investigating conditions in the hat industry and recommending to the Administrator minimum wage rates for all employees thereof who within the meaning of said Act are "engaged in commerce or in the production of goods for commerce", excepting employees exempted by the provisions of Section 13 (a) and employees coming under the provisions of Section 14.

Any interested person may appear on his own behalf or on behalf of any other person. Persons desiring to appear are requested to file with Burton E. Oppenheim, Chief of the Industry Committee Section, Wage and Hour Division, U. S. Department of Labor, Washington, D. C., prior to May 9, 1939, a Notice of Intention to Appear containing the following information:

(1) The name and address of the person appearing.

(2) If he is appearing in a representative capacity, the name and address of the person or persons whom he is representing.

(3) The approximate length of time which his presentation will consume.

Signed at Middletown, Connecticut, this 17th day of April 1939.

C. O. FISHER,
Chairman, Industry Committee No. 4 for the Hat Industry.

[F. R. Doc. 39-1358; Filed, April 20, 1939; 10:36 a. m.]

[1] 4 F.R. 2744 DI.
[2] 4 F.R. 1186 DI.

FEDERAL POWER COMMISSION.

[Docket No. ID-872]

IN THE MATTER OF SHURLY R. IRISH

ORDER FIXING DATE OF HEARING

APRIL 18, 1939.

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

It appearing to the Commission that:

(a) Upon application of Shurly R. Irish, 315 North 12th Boulevard, St. Louis, Missouri, filed March 22, 1939, pursuant to Section 305 (b) of the Federal Power Act, for authorization to hold the following positions:

Director, Union Electric Company of Illinois.

Director, Iowa Union Electric Company.

which application supplements his original application filed July 14, 1938, for authorization to hold the following positions:

Comptroller, Union Electric Company of Missouri.

Comptroller, Union Electric Company of Illinois.

Comptroller, Mississippi River Power Company.

Comptroller, Missouri Transmission Company.

and upon which application filed July 14, 1938, authorization was granted by the Commission's order of December 20, 1938, which order of authorization reserves to the Commission the right to require the applicant to make further showing that neither public nor private interest will be adversely affected by reason of the applicant's holding said positions;

(b) It is in the public interest that the above named applicant make further showing at this time that neither public nor private interest will be adversely affected by reason of his holding said positions for which authorization has heretofore been granted or those for which authorization is sought by the application filed March 22, 1939;

(c) Such further showing can best be made in the form and manner of a public hearing for that purpose.

And the Commission orders that:

A public hearing on said application be held beginning on the 15th day of May, 1939, at 10:00 A. M., in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, NW., Washington, D. C., and that at said hearing the above named applicant make further showing that neither public nor private interest will be adversely affected by reason of his holding positions within the purview of Section 305 (b) of the Federal Power Act.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 39-1361; Filed, April 20, 1939; 10:51 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3764]

IN THE MATTER OF CHILEAN NITRATE SALES CORPORATION AND THE BARRETT COMPANY, RESPONDENTS

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and pursuant to the provisions of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (U. S. C., Title 15, Section 13, the Clayton Act), as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Chilean Nitrate Sales Corporation and The Barrett Company, hereinafter referred to as respondents, and each of them, have violated the provisions of said Federal Trade Commission Act and of subsection (a) of Section 2 of said Clayton Act, as amended, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

Charge I

PARAGRAPH 1. Respondent, Chilean Nitrate Sales Corporation, is a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal office located at 120 Broadway, New York. It is engaged in the business of importing into the United States from Chile nitrate of soda and other products, and of distributing for sale and of selling said commodities in this country.

PAR. 2. Respondent, The Barrett Company, is a corporation organized and existing under and by virtue of the laws of the State of New Jersey, with its principal office located at 40 Rector Street, New York, N. Y. It is engaged in distributing for sale and of selling nitrate of soda and other products in the United States. The nitrate of soda distributed and sold by this respondent is manufactured at Hopewell, Virginia, by a corporation of which this respondent is a subsidiary or affiliate.

PAR. 3. Respondents, and each of them, in the regular course of their said businesses, in connection with the distribution for sale and sale of their nitrate of soda, cause the same to be shipped and transported from the various points of its importation and/or production and/or concentration for distribution in certain respective States, through and into other States of the United States and the District of Columbia. There is and has been at all times herein mentioned a current of trade and commerce in respondents' nitrate of soda between the States in

which said points of importation, manufacture or concentration are located and various other States of the United States. Respondents are in competition with one another in the distribution for sale and sale of nitrate of soda in this country, except insofar as such competition has been hindered, lessened, restricted or restrained as hereinafter alleged.

PAR. 4. Respondents together supply all raw or basic nitrate of soda sold in the United States, and together they hold a monopoly on the distribution for sale and sale of such product in this country. Basic nitrate of soda is used by farmers as a raw, unmixed soil fertilizer, usually as a top dressing, and for this purpose respondents sell and distribute nitrate of soda in bags, which reaches the user in the original packages. Respondents also distribute and sell nitrate of soda in bulk to numerous manufacturers of mixed fertilizers, who incorporate the raw nitrate of soda into mixed fertilizers containing other ingredients, these mixed fertilizers being in turn sold by the mixers thereof, directly or indirectly, to consumers. In most cases the distributors of bagged nitrate of soda selected by respondents, who resell said product, are also manufacturers of mixed fertilizers, and they usually resell bagged nitrate of soda purchased from respondents and also sell mixed fertilizers which they manufacture containing nitrate of soda, through the same channels of distribution and to the same classes of customers. Such distributors, so selected by respondents, are, in some cases, engaged in reselling said bagged nitrate of soda and of selling mixed fertilizers containing bulk nitrate of soda purchased from respondents in many States of the United States; some do a country-wide business; some sell said products in the State in which they are respectively located and adjoining States; and some do business only with customers located in States in which they are located. Some of the dealers to whom the distributors sell bagged nitrate of soda for resale to the consumers resell said product to users in States other than the State in which they are located. Each of said distributors is in competition in the distribution for resale and resale of bagged nitrate of soda, both to dealers and consumers, with others of said distributors in the various trade territories in which they respectively resell said product, and said dealers are in competition with others of said dealers and with the distributors in the resale of such product to consumers in the localized areas in which the dealers respectively operate. Distributors who are mixed fertilizer manufacturers are generally in competition with one another in the sale of such mixed fertilizers to dealers and consumers. The competition alleged in this paragraph exists except insofar as it has been lessened, hindered, restricted or restrained by the policies and methods of respondents herein set forth or by the coercive tactics used on distributors and dealers by respondents in enforcing such policies or by the cooperation of some distributors in aiding the respondents in maintaining such policies.

For convenience, those to whom respondents sell nitrate of soda directly are herein referred to and designated "distributors" and those to whom such distributors resell, who in turn resell to consumers, are herein referred to and designated "dealers."

PAR. 5. About August, 1936, respondents, jointly and pursuant to understandings and agreements between them, adopted and established, and since that date have effectuated and maintained, substantially similar, and in most aspects identical, systems, policies and methods of marketing both the bulk and the bagged nitrate of soda sold by each of them. The purposes and objectives of said systems, policies and methods, and the results accomplished and achieved, were and are:

(1) To establish, fix and maintain the specified uniform and artificial prices at which bulk nitrate of soda is sold respectively by respondents to manufacturers of mixed fertilizers.

(2) To establish, fix and maintain the specified uniform and artificial prices at which bagged nitrate of soda is sold respectively by respondents to distributors.

(3) To establish, fix and maintain the specified uniform and artificial prices at which bagged nitrate of soda is sold by respondents' distributors to dealers for resale to the consumers.

(4) To establish, fix and maintain the specified, uniform and artificial prices at which bagged nitrate of soda is sold by respondents' distributors, and by dealers to whom such distributors resell, to consumers.

(5) To establish, fix and maintain specified, uniform, artificial and discriminatory rebates on prices at which respondents sell bagged nitrate of soda to their said distributors.

(6) To eliminate price competition in the sale of bagged nitrate of soda in all planes of distribution and sale.

(7) To establish, fix and maintain points of distribution to be used as the bases for determining freight rates to be charged purchasers of bagged nitrate of soda as a part of the delivered price thereof.

(8) To establish, fix and maintain specified freight charges, and maximum and minimum freight charges, to be added to or included in the prices at which distributors, dealers and consumers purchase bagged nitrate of soda for delivery at specific destinations.

(9) To require distributors and dealers to charge consumers (farmers) a stated amount for hauling bagged nitrate of soda from the consumer's nearest railroad station to his farm.

(10) To establish, fix and maintain the margin of profit which distributors and dealers realize on resales of bagged nitrate of soda made by them.

(11) To jointly select the customers to whom respondents sell bulk nitrate of soda and to whom such respondents sell bagged nitrate of soda for resale to dealers and consumers.

(12) To establish and maintain a system whereby distributors are enabled to and do compete with their customers (dealers) in the sale of bagged nitrate of soda to consumers.

(13) To discriminate in price in favor of respondents' large distributors of bagged nitrate of soda because of their size and potential or actual ability to resell the said product.

(14) To encourage and induce distributors and dealers reselling bagged nitrate of soda to charge higher prices for bagged nitrate of soda resold by them to consumers on credit than the prices set for resales for cash.

(15) To allocate the trade territories in which respondents respectively market or push the sale of their bagged nitrate of soda.

(16) To allocate the trade territories in which respective purchasers of bagged nitrate of soda are permitted to resell said product.

(17) Generally to monopolize and control the channels of distribution and sale of bulk and bagged nitrate of soda within the United States.

PAR. 6. That for the purpose of making such systems, policies and methods effective, and of enforcing compliance therewith and observance thereof by all distributors and dealers in bulk and bagged nitrate of soda in the United States, respondents, acting both jointly and individually, in furtherance and in pursuance of their general plan and undertaking, have done the following things:

(1) Formulated, adopted, followed, carried out, enforced, imposed and made effective the systems, policies and methods hereinabove described.

(2) Formulated and issued bulletins, agreements, circulars, letters, price lists and other printed matter, and distributed the same among purchasers of bulk nitrate of soda and distributors of bagged nitrate of soda, announcing the adoption of the systems, policies and requirements above referred to and the imposition of the same upon all affected thereby.

(3) Formulated and entered into written contracts and agreements with their distributors requiring adherence by the latter to the principal points of said policies and to the impositions and requirements thereof.

(4) Each of the respondents has respectively adhered to the requirements of said policies, and refused to deviate therefrom.

(5) Respondents have issued identical price lists practically simultaneously, and offered identical rebates on such prices.

(6) Respondents have sought and obtained promises and assurances of cooperation from each other in establish-

ing and making effective the policies and methods hereinabove described.

(7) Respondents have, respectively, sold bagged nitrate of soda to numerous distributors and dealers at prices which discriminate between and among such distributors.

(8) Respondents have exchanged or obtained information with respect to their respective businesses and activities, which was used in furtherance of the said policies and methods.

(9) Respondents have supervised and investigated practices and policies of distributors engaged in reselling bagged nitrate of soda to dealers and consumers and the prices at which such product was so resold, and have prevented some distributors and some dealers who did not conform to respondents' policies and prices from buying bagged nitrate of soda at the distributor's price or at all, and have acted concertedly to maintain resale prices agreed upon by them, to control resale markets, and to require recalcitrant distributors and dealers to conform to such policies and methods.

PAR. 7. The capacity, tendency and effect of said plan, agreement, undertaking, policies and methods, and the said acts and practices of said respondents in pursuance thereof, are and have been:

(1) To monopolize in respondents the business of selling and distributing bulk and bagged nitrate of soda in the United States.

(2) To establish, fix and maintain the prices at and the conditions under which respondents sell and distribute bulk nitrate of soda and bagged nitrate of soda to distributors and fertilizer manufacturers.

(3) To establish, fix and maintain the prices at and conditions under which bagged nitrate of soda is resold by distributors to dealers and consumers.

(4) To establish, fix and maintain the prices at and conditions under which bagged nitrate of soda is resold by dealers to consumers.

(5) To bring about an unlawful discrimination in price at which bagged nitrate of soda is sold by respondents to different purchasers.

(6) To unreasonably lessen, eliminate, restrain, stifle, hamper and suppress competition in the bulk and bagged nitrate of soda trade and industry, and to deprive the purchasing and consuming public of advantages in price, service and other considerations which they would receive and enjoy under conditions of normal and unobstructed and free and fair competition in said trade and industry; and to otherwise operate as a restraint upon and a detriment to the freedom of fair and legitimate competition in such trade and industry.

(7) To substantially increase the cost of such nitrate of soda to consumers.

(8) To suppress, eliminate and discriminate against small dealers who are or have been engaged in or desire to engage in the business of buying and reselling bagged nitrate of soda.

(9) To obstruct and prevent the establishment of new distributors of bagged nitrate of soda.

(10) To arbitrarily fix and determine the gross margin of profit realized by distributors and dealers in reselling bagged nitrate of soda, and to unlawfully establish and impose upon such distributors and dealers the terms upon and conditions under which they are permitted to engage in the business of purchasing and selling bagged nitrate of soda.

(11) To regiment the nitrate of soda trade and industry and those engaging therein.

(12) To suppress and eliminate all price competition between respondents in the sale and distribution of bagged nitrate of soda between and among distributors and dealers in the resale thereof.

(13) To burden, hamper and interfere with the normal and natural flow of trade and commerce in bagged nitrate of soda into, through and from the various States of the United States; and to injure the competitors of large distributors by unfairly diverting business and trade from them, depriving them thereof and otherwise driving or freezing them out of business.

(14) To prejudice and injure distributors and dealers who do not conform to respondents' program or methods, or who do not desire to conform to them but are compelled to do so by the concerted action of respondents herein alleged.

PAR. 8. The acts and practices of the respondents as herein alleged are all to the prejudice of the public; have a dangerous tendency to and have actually hindered and prevented competition in the sale and distribution of bulk and bagged nitrate of soda in commerce within the intent and meaning of the Federal Trade Commission Act; have placed in respondents the power to control and enhance prices; have created in respondents a monopoly in the sale and distribution of bagged nitrate of soda in such commerce; have unreasonably restrained such commerce in bulk and bagged nitrate of soda, and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

Charge II

PARAGRAPH 1. The allegations of Paragraphs One and Three to Seven, inclusive, of Charge I, to the extent that they aver matters and things concerning the identity and business of respondent, Chilean Nitrate Sales Corporation, and acts, practices, policies and methods used by said respondent individually, are hereby incorporated herein as though fully set forth.

PAR. 2. Since about August, 1936, respondent, Chilean Nitrate Sales Corporation, has used a practice and pursued a policy of establishing, fixing and maintaining specified, standard and artificial prices at which, and terms and conditions under which, bagged nitrate of soda sold and caused to be transported by it across State lines and into the District of Columbia for resale, were required to be resold by distributors to dealers and consumers and by dealers to consumers.

PAR. 3. In pursuance of said practice and policy said respondent has entered into contracts and agreements with numerous distributors in which it prescribed specified, standard and artificial prices at which, and terms and conditions under which, said distributors were required to resell bagged nitrate of soda to dealers and consumers, and which imposed upon such distributors the requirement and responsibility of compelling dealers to whom they resold said product to resell the same to consumers at prices and upon terms and conditions so set and specified by it. For the purpose of and with the effect of effectuating and maintaining said practice and policy, this respondent has investigated alleged violations of such contracts and agreements and has sought to compel and, by threats, express and implied, and by the use of coercive means, has compelled recalcitrant, as well as all other distributors and dealers, to comply with and adhere to the terms and conditions of such contracts, agreements, practice and policy.

PAR. 4. The aforesaid acts, practices and policy, and the use of said contracts and agreements by respondent in the course and conduct of its said business, have the capacity and tendency to and have restricted and restrained trade and commerce in bagged nitrate of soda and have hindered and substantially lessened the competition which would normally exist between this respondent and its competitor and competition between and among said distributors and dealers reselling said product in commerce. Said contracts and agreements themselves imposing specified resale prices and terms and conditions of resale are in restraint of trade and commerce.

PAR. 5. The aforesaid acts and practices and the use of said contracts and agreements are all to the prejudice of the public, and constitute an unfair method of competition and unfair and deceptive acts and practices in commerce, within the meaning and intent of the Federal Trade Commission Act.

Charge III

PARAGRAPH 1. The allegations of Paragraphs One and Three to Seven, inclusive, of Charge I, to the extent that they aver matters and things concerning the identity and business of respondent, Chilean Nitrate Sales Corporation, and acts, practices, policies and methods used by said respondent individually, are hereby incorporated herein as though fully set forth.

PAR. 2. Since about August, 1936, in the course and conduct of its said business, respondent, Chilean Nitrate Sales Corporation, has discriminated in price between different purchasers of bagged nitrate of soda of like grade and quality sold by respondent for use, consumption and resale in the United States and the District of Columbia. Said discriminations in price have been brought about as follows:

By respondent making the following allowances or rebates on price to respective purchasers buying annually from all producers the quantities of said commodities indicated:

(1) To purchasers so buying more than 1,000 tons of bagged nitrate of soda and less than 2,500 tons, annually, a rebate of 25¢ per ton.

(2) To purchasers of from 2,500 tons to 6,000 tons, a rebate of 50¢ per ton.

(3) To purchasers of from 6,000 tons to 12,500 tons, 75¢ per ton.

(4) To purchasers buying more than 12,500 tons, $1.00 per ton.

PAR. 3. The effect of the discriminations in price described in the preceding paragraph hereof has been and may be substantially to lessen competition and tend to create a monopoly in the line of commerce in which respondent is engaged, and to injure, destroy and prevent competition between and among respondent's customers receiving the benefit of said discrimination and respondent's customers who do not receive the benefits of such discrimination.

PAR. 4. The foregoing alleged acts and practices of respondent are in violation of subsection (a) of Section 2 of the Clayton Act, as amended.

Charge IV

PARAGRAPH 1. The allegations of Paragraphs Two to Seven, inclusive, of Charge I, to the extent that they aver matters and things concerning the identity and business of respondent, The Barrett Company, and acts, practices, policies and methods used by said respondent individually, are hereby incorporated herein as though fully set forth.

PAR. 2. Since about August, 1936, respondent, The Barrett Company, has used a practice and pursued a policy of establishing, fixing and maintaining specified, standard and artificial prices at which, and terms and conditions under which, bagged nitrate of soda sold and caused to be transported by it across State lines and into the District of Columbia for resale, were required to be resold by distributors to dealers and consumers and by dealers to consumers.

PAR. 3. In pursuance of said practice and policy, said respondent has entered into contracts and agreements with numerous distributors in which it prescribed specified, standard and artificial prices at which and terms and conditions under which said distributors were required to resell bagged nitrate of soda to dealers and consumers, and which imposed upon such distributors the requirement and responsibility of compelling dealers to whom they resold said product to resell the same to consumers at prices and upon terms and conditions so set and specified by it. For the purpose of and with the effect of effectuating and maintaining said practice and policy this respondent has investigated alleged violations of such contracts and agreements and has sought to compel and, by threats, express and implied, and by the use of coercive means, has compelled recalcitrant, as well as all other distributors and dealers to comply with and adhere to the terms and conditions of such contracts, agreements, practice and policy.

PAR. 4. The aforesaid acts, practices and policy, and the use of said contracts and agreements by respondent in the course and conduct of its said business have the capacity and tendency to and have restricted and restrained trade and commerce in bagged nitrate of soda and have hindered and substantially lessened the competition which would normally exist between this respondent and its competitor and competition between and among said distributors and dealers reselling said product in commerce. Said contracts and agreements themselves imposing specified resale prices and terms and conditions of resale are in restraint of trade and commerce.

PAR. 5. The aforesaid acts and practices and the use of said contracts and agreements are all to the prejudice of the public, and constitute an unfair method of competition and unfair and deceptive acts and practices in commerce within the meaning and intent of the Federal Trade Commission Act.

Charge V

PARAGRAPH 1. The allegations of Paragraphs Two and Three to Seven, inclusive, of Charge I, to the extent that they aver matters and things concerning the identity and business of respondent, The Barrett Company, and acts, practices, policies and methods used by said respondent individually, are hereby incorporated herein as though fully set forth.

PAR. 2. Since about August, 1936, in the course and conduct of its said business, respondent, The Barrett Company, has discriminated in price between different purchasers of bagged nitrate of soda of like grade and quality sold by respondent for use, consumption and resale in the United States and the District of Columbia. Said discriminations in price have been brought about as follows:

By respondent making the following allowances or rebates on price to respective purchasers buying annually from all producers the quantities of said commodities indicated:

(1) To purchasers so buying more than 1,000 tons of bagged nitrate of soda and less than 2,500 tons, annually, a rebate of 25¢ per ton.

(2) To purchasers of from 2,500 tons to 6,000 tons, a rebate of 50¢ per ton.

(3) To purchasers of from 6,000 tons to 12,500 tons, 75¢ per ton.

(4) To purchasers buying more than 12,500 tons, $1.00 per ton.

PAR. 3. The effect of the discriminations in price described in the preceding paragraph hereof has been and may be substantially to lessen competition and tend to create a monopoly in the line of commerce in which respondent is engaged, and to injure, destroy and prevent competition between and among respondent's customers receiving the benefit of said discrimination and respondent's customers who do not receive the benefits of such discrimination.

PAR. 4. The foregoing alleged acts and practices of respondent are in violation of subsection (a) of Section 2 of the Clayton Act, as amended.

Wherefore, the premises considered, the Federal Trade Commission on this 15th day of April, A. D., 1939, issues its complaint against said respondents.

NOTICE

Notice is hereby given you, Chilean Nitrate Sales Corporation and The Barrett Company, respondents herein, that the 19th day of May, A. D., 1939, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 15th day of April, A. D., 1939.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39–1357; Filed, April 20, 1939; 9:45 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 18th day of April 1939.

[File No. 1–2462]

IN THE MATTER OF PONY MEADOWS MINING COMPANY COMMON STOCK, PAR VALUE 1¢

ORDER PERMITTING WITHDRAWAL OF APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The San Francisco Mining Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X–12D2–1 (b) promulgated thereunder, having made application to strike from listing and registration the Common Stock, Par Value 1¢, of Pony Meadows Mining Company; and

The Commission by order dated April 1, 1939 [1] having set the matter down for hearing on April 27, 1939 at the office of the Securities and Exchange Commission, 625 Market Street, San Francisco, California; and

Said Exchange by letter dated April 10, 1939 having requested permission to withdraw said application;

It is ordered, That said request be and the same is hereby granted and that the order of the Commission dated April 1, 1939 above mentioned be and the same is hereby cancelled.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39–1365; Filed, April 20, 1939; 10:56 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of April, A. D. 1939.

[File No. 60–1]

IN THE MATTER OF UTILITIES EMPLOYEES SECURITIES COMPANY AND NEW ENGLAND CAPITAL CORPORATION

ORDER RELATIVE TO STATUS

The Commission having ordered that a hearing be held to determine, pursuant to Section 2 (a) (11) (D) of the Public Utility Holding Company Act of 1935, whether an order of the Commission should issue declaring Utilities Employees Securities Company (hereinafter called UESCO) and New England Capital Corporation (hereinafter called NECAP) to be affiliates of Associated Gas and Electric Company, Associated Gas and Electric Corporation, Associated Utilities Corporation, New England Gas and Electric Association, General Gas & Electric Corporation, and Transfer and Paying Agency, and each of them, as provided by said Section of said Act;

A hearing having been held [2] pursuant to the Commission's Order after appropriate notice, the Trial Examiner having filed his Report, Counsel having filed their Exceptions thereto, and the matter having been submitted to the Commission on Briefs and oral argument;

It appearing on the representation of Counsel for NECAP that since the conclusion of the hearing NECAP has transferred its assets to UESCO, which has assumed its liabilities, and that NECAP is inactive; and

Counsel for UESCO having waived consideration by the Commission of his Exceptions to said Report, and having agreed that the Commission might issue its Order, pursuant to Section 2 (a) (11) (D) of said Act, declaring it to be an affiliate of the above-named companies;

The issues in this proceeding having been, by agreement of Counsel, broadened to permit the determination therein and upon the record heretofore made therein as to whether UESCO should be declared, pursuant to Section 2 (a) (8) (B) of said Act to be subsidiary company of the companies hereinafter mentioned, and UESCO having waived further procedural rights precedent to a determination of this question and having agreed that it might be declared to be a subsidiary company of such companies;

The Commission have considered the record in this matter, including the Stipulation that this Order might issue, and having made and filed its Findings herein;

It is ordered, That UESCO is hereby declared, pursuant to Section 2 (a) (11) (D) of the Public Utility Holding Company Act of 1935, to be an affiliate of Associated Gas and Electric Company, Associated Gas and Electric Corporation, Associated Utilities Corporation, New England Gas and Electric Association, General Gas & Electric Corporation, and Transfer and Paying Agency, and, as such, subject to the obligations, duties, and liabilities imposed by said Act upon affiliates of a company.

It is further ordered, That UESCO is hereby declared, pursuant to Section 2 (a) (8) (B) of said Act, to be a subsidiary company of Associated Gas and Electric Corporation, Associated Gas and Electric Company, and Associated Utilities Corporation, and, as such, subject to the obligations, duties, and liabilities imposed by said Act upon subsidiary companies of holding companies.

It is further ordered, That this proceeding, insofar as it relates to NECAP, be, and the same hereby is, dismissed without prejudice.

A copy of this Order shall be mailed to UESCO, as provided in Section 2 (b) of said Act, not later than April 18, 1939, and such order shall be effective on and after May 19, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39–1366; Filed, April 20, 1939; 10:56 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of April, A. D. 1939.

[1] 4 F. R. 1471 DI.
[2] 3 F. R. 2183 DI.

[File No. 30–14]

IN THE MATTER OF NATIONAL LIGHT, HEAT AND POWER COMPANY

ORDER RELATIVE TO STATUS

National Light, Heat and Power Company, a registered holding company and a subsidiary of New England Public Service Company, a registered holding company, having filed an application pursuant to Section 5 (d) of the Public Utility Holding Company Act of 1935 for an order declaring it has ceased to be a holding company; a hearing having been held[1] on said application after appropriate notice; the Commission having considered the record in this matter and having filed its findings herein;

It is ordered, That National Light, Heat and Power Company has ceased to be, and at this time is not, a holding company. This order shall be effective as of the 19th day of April, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39–1364; Filed, April 20, 1939; 10:56 a. m.]

[1] 4 F. R. 991 DI.