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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION

[FCI-Reg. 1, Wheat, 1940, Amendment 1]

PART 402—1940 WHEAT CROP INSURANCE REGULATIONS

AMENDMENTS

By virtue of the authority vested in the Federal Crop Insurance Corporation by the Federal Crop Insurance Act, approved February 16, 1938, as amended by Public Law No. 691, 75th Congress, approved June 22, 1938, the 1940 Wheat Crop Insurance Regulations [1] are amended as follows:

(1) Section 402.71 of said regulations is amended to read as follows:

§ 402.71 *Manner of payment of indemnity.* The indemnity under any insurance contract for which the Corporation may be liable shall be paid in wheat or the cash equivalent thereof. The insured may indicate in his statement in proof of loss whether he wishes the indemnity to be paid in wheat, in cash equivalent by immediate settlement, or in cash equivalent by deferred settlement, but the Corporation reserves the right to make payment in a form other than that indicated by the insured."

(2) Section 402.72 of said regulations is amended to read as follows:

"§ 402.72 *Payment of indemnity in cash.* (a) Where an indemnity is paid in cash equivalent by immediate settlement, the amount thereof shall be computed by multiplying the amount of loss, in terms of bushels of wheat, of the class and grade specified for the payment of the premium for the insurance contract, by the price of such wheat at the current basic market, as determined by the Corporation, less the amount per bushel fixed by the Corporation representing price differentials. The current basic market price for any class or grade of wheat at such basic market shall be the basic market price, determined by the Corporation, for the day when the claim for indemnity is approved for payment by the Corporation."

"(b) Where an indemnity is paid in cash equivalent by deferred settlement, a notice of the approval of the statement in proof of loss will be sent to the insured indicating the number of bushels of indemnity due and giving notice of the date of approval. The insured, on a form prescribed by the Corporation, at any time within 90 days of this date, may give notice to the Corporation that he desires his cash equivalent to be established. The cash equivalent shall be determined in the manner provided in subsection (a) of this section except that (1) the basic market price to be used shall be the basic market price, as determined by the Corporation, on the date that such notification is received in the appropriate branch office of the Corporation or the date on which the 90-day period expires, whichever is earlier, and (2) in computing the cash equivalent, a deduction shall be made, in addition to deductions for price differentials, of an amount per bushel, based on the length of time elapsing between the date of approval of the statement in proof of loss and the date the cash equivalent is established, computed at the following rates:

	Per bushel
1 to 14 days	$0.00
15 to 29 days	0.005
30 to 44 days	0.01
45 to 59 days	0.015
60 to 74 days	0.02
75 to 90 days	0.025

The period for computing this charge shall begin with and include the day following the date on which the statement in proof of loss is approved by the Corporation and shall end with and include the date on which notification by the insured is received in the branch office or the date on which the 90-day period expires, whichever is earlier: *Provided, however,* That if any of these dates fall on other than a business day, the date of the next following business day shall

[1] 4 F.R. 2750.

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be used. "The right to notify the Corporation of the date to be used in establishing the cash equivalent shall not be assignable and the provisions of sections 402.32, 402.83, 402.85, and 402.87 of these regulations shall be applicable to the exercise of this right."

Adopted by the Board of Directors on February 5, 1940.

[SEAL] M. L. WILSON,
Chairman.

Approved, February 21, 1940.

H. A. WALLACE
Secretary of Agriculture.

[F. R. Doc. 40-768; Filed, February 21, 1940; 2:19 p. m.]

CHAPTER VIII—SUGAR DIVISION

PART 802—SUGAR DETERMINATIONS

DETERMINATION OF FAIR AND REASONABLE WAGES FOR PERSONS EMPLOYED IN THE PRODUCTION, CULTIVATION OR HARVESTING OF SUGARCANE IN PUERTO RICO DURING THE CALENDAR YEAR 1940

Whereas, Section 301 (b) of the Sugar Act of 1937 provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(b) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas; *Provided, however,* That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

and

Whereas the Secretary of Agriculture, on January 9, 1940, held a public hearing in San Juan, Puerto Rico, for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable wage rates for persons employed in the production, cultivation or harvesting of sugarcane in Puerto Rico during 1940.

Now, Therefore, I, H. A. Wallace, Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearing and all other information before me, do hereby make the following determination:

§802.44b. *Fair and reasonable wages for persons employed in the production, cultivation or harvesting of sugarcane in Puerto Rico during the calendar year 1940*—(a) *Day rates for persons employed on farms other than interior farms.* All persons employed on farms other than interior farms on a day basis in the production, cultivation or harvesting of sugarcane with respect to which application for payment under the Sugar Act of 1937 is made shall be paid wages in cash therefor at rates not less than the following:

For the first eight hours of work performed in any 24-hour period: For handling carts in operations other than harvesting, $1.10; cutting cane, operating winches, making ditches and operating irrigation pumps, $1.21; loading cane on railroad cars (including cars on portable track) and handling portable track, $1.45; handling carts in harvesting operations, $1.38; loading cane carts, $1.32; driving tractor plows, $1.70; and for all other kinds of work, not less than $1.00: *Provided, however,* That for ditch makers or cleaners who work in water, the applicable rate shall be for the first seven hours of work performed in any 24-hour period.

(b) *Day rates for persons employed on interior farms.* All persons employed on interior farms on a day basis in the production, cultivation or harvesting of sugarcane with respect to which application for payment under the said Act is made shall be paid wages in cash therefor at rates not less than the following:

For the first eight hours of work performed in any 24 hour period: For handling carts in operations other than harvesting, $1.00; cutting cane, operating winches, making ditches and operating irrigation pumps, $1.10; loading cane on railroad cars (including cars on portable track) and handling portable track, $1.38; handling carts in harvesting operations, $1.21; loading cane carts, $1.21; driving tractor plows, $1.54; and for all other kinds of work, not less than $1.00: *Provided, however,* That for ditch makers or cleaners who work in water, the applicable rate shall be for the first seven hours of work performed in any 24 hour period.

(c) *Hourly rates.* All persons employed on a farm on an hourly basis in the production, cultivation or harvesting of sugarcane with respect to which application for payment under the said Act is made shall be paid in cash the hourly equivalent of the rates provided in paragraph (a) or (b) above, whichever paragraph is applicable.

(d) *Overtime.* All persons employed on a farm in the production, cultivation or harvesting of sugarcane with respect to which an application for payment under the said Act is made shall be paid for more than eight hours (or seven hours for ditch makers or cleaners who work in water) in any 24 hour period at a rate double the hourly equivalent of the rates provided in paragraphs (a), (b) and (c) hereof.

(e) *Piece rates.* All persons employed on a piece rate basis in the production, cultivation or harvesting of sugarcane with respect to which application for payment under the said Act is made shall be paid wages in cash therefor at rates not less than the greater of either:

(1) The piece rates established for similar work performed on the farm for the calendar year 1939; or

(2) The hourly, or the overtime, equivalent of the rates provided in paragraph (c) or (d) above, whichever paragraph is applicable.

(f) *Bonus.* For each fortnight of the period from January 1, 1940, to June 30, 1940, both inclusive, the aforesaid wage rates shall be increased in accordance with the scale set forth below, whenever the average price of raw sugar, duty paid basis, is $3.00 or more, per hundred pounds, for any such fortnight:

Fortnightly average price of sugar per cwt.:	*Increase per day over basic day wage*
$3.00 but not more than $3.249	$0.10
More than $3.249 but not more than $3.499	.20
More than $3.499 but not more than $3.749	.30
More than $3.749	.40

The average price of raw sugar, duty paid basis, shall be determined in accordance with the prevailing method used between processors and growers for the computation of the price of sugarcane. The above increases shall also be applied to the daily earnings of workers employed on a piece work basis. Payment for part of a day's work on a day or piecework basis shall be paid in proportion.

(g) *General provisions.* (1) Interior farms shall be deemed to be those farms the sugarcane from which is marketed (or processed) at mills located in the mountain sections of the island and whose 1938 production did not exceed 3,000 short tons of sugar, raw value.

(2) The producer shall furnish to the laborer, without charge, the perquisites customarily furnished by him, such as a dwelling, garden plot, pasture lot, and medical services; and the producer shall not, through any subterfuge or device whatsoever, reduce the wage rates to laborers below those determined above.

(3) Nothing in this determination shall be construed to mean that a producer may qualify for a payment under the said Act who has not paid in full the amount agreed upon between the producer and the laborer. (Sec. 301, 50 Stat. 909; 7 U.S.C., Sup. IV, 1131)

Done at Washington, D. C., this 23d day of February 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 40-784; Filed, February 23, 1940; 11:10 a. m.]

TITLE 19—CUSTOMS DUTIES

CHAPTER I—BUREAU OF CUSTOMS

[T. D. 50097]

SILVER OR BLACK FOXES AND FURS ENTITLED TO ENTRY FOR THE PERIOD FROM JANUARY 1, 1940, TO NOVEMBER 30, 1940, UNDER QUOTA PROVISIONS OF THE SUPPLEMENTARY TRADE AGREEMENT WITH CANADA.

FEBRUARY 20, 1940.

To Collectors of Customs and Others Concerned:

The number of silver or black fox furs and skins (not including parts) and silver or black foxes entered, or withdrawn from warehouse, for consumption during the month of December, 1939, was 50,283, of which 38,507 were imported from Canada, and 11,776 from other countries. Therefore, the silver or black fox fur units, as defined in T. D. 50056, which may be entered, or withdrawn from warehouse, for consumption during the period from January 1 to November 30, 1940, are limited under the terms of the President's proclamation of the supplementary trade agreement with Canada, published as T. D. 50056, to 19,793 units from Canada and 29,924 units from other countries.

[SEAL] D. W. BELL,
Acting Secretary of the Treasury.

[F. R. Doc. 40-771; Filed, February 21, 1940; 2:41 p. m.]

TITLE 21—FOOD AND DRUGS

CHAPTER I—FOOD AND DRUG ADMINISTRATION

ORDER PROMULGATING A REGULATION FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD COMMONLY KNOWN AS CANNED PEAS

Pursuant to the authority and direction of the Federal Food, Drug, and Cosmetic Act (Sec. 701, 52 Stat. 1055, 21 U.S.C. 371 (e); Sec. 401, 52 Stat. 1046, 21 U.S.C. 341), and based upon substantial evidence of record at the hearing heretofore held in accordance with law,[1] detailed findings of fact are made, as follows:

Findings of Fact

1. Canned peas are the food prepared from shelled common peas of any variety of *Pisum sativum*. Salt, sugar, dextrose, or other seasonings may be added. The ingredients are sealed in a container and processed by heat.

2. The food has a characteristic flavor, odor, appearance, both as to shape and color of the finished peas, texture and liquid. All canned peas have the same identifying characteristics.

3. The characteristic flavor of canned peas is the flavor of cooked peas fresh from the garden, preserved to the degree that the canning process permits. All canned peas have the same flavor in differing degrees of intensity, and such flavor distinguishes the food from all other foods.

4. Canned peas have a characteristic odor which is the odor of cooked peas fresh from the garden, preserved insofar as the canning process permits. All canned peas have the same characteristic odor in differing degrees of intensity.

5. Canned peas have a characteristic appearance both as to shape (which is a general effect of roundness, although sizes may vary) and as to color, which is always green, although the intensity of the green color depends on the variety of the peas, the stage of their growth at the time they are canned, and the processes used in canning them.

6. Canned peas also contain a characteristic liquid consisting largely of water, colored or clouded by the elements which cook from the peas in the canning process. The extent to which the liquid is colored or cloudy is governed by the stage of growth at which the peas were canned, and also by such conditions of storage as time and temperature. Such liquid is colored or clouded to some extent in all cases.

7. Color is one of the factors of judging the value and quality of canned peas. Canned peas artificially colored have for eight years been recognized as canned peas of substandard quality. Artificial coloring may be used as an optional ingredient when the canned peas are labeled as required by the standard of quality of canned peas. Artificial coloring is not an optional ingredient when used to conceal damage or inferiority in any manner, or for the purpose of making canned peas appear better, or of a greater value than they are.

8. Canned peas have a characteristic chemical composition. All varieties have the same constituents in varying proportions. It is not possible to distinguish between various kinds of canned peas by a chemical examination of the entire contents of the can.

9. Canned peas are used as a vegetable dish, either alone or mixed with other vegetables. They are also used to make pea soup and are used in other soups, and are sometimes used in salads, omelets, stews, and meat loaves. All types of canned peas are used interchangeably for the same food purposes.

10. The ingredients present in canned peas are shelled peas horticulturally known as *Pisum sativum*, water, and oc-

[1] 4 F.R. 2034.

casionally salt, sugar, dextrose, or other seasonings.

11. There are two distinct horticultural types of *Pisum sativum*, those in which the skins of the dry seed are smooth and those in which the skins of the dry seed are wrinkled. The size of peas varies, depending on the variety. One type is commonly known as early peas, and the other type is known as sweet peas. There are many varieties of the sweet type, but there is some evidence that the smooth-skinned or early peas are all strains of the Alaska variety, although they are sold under many other varietal names.

12. Peas of both varietal groups have the same identifying characteristic flavor, although the degree of sweetness is higher in sweet peas than in early peas; the same odor; the same shapes, although the dry seed of sweet peas is wrinkled, whereas the dry seed of early peas is smooth; the same range in size, though most varieties of sweet peas are somewhat larger than early peas; and the same characteristic green color.

13. Peas of either the smooth-skinned or early type, or of the sweet or wrinkled type, are an optional pea ingredient of canned peas.

14. The common names of the smooth-skinned type of peas are "Early Peas", "June Peas", or "Early June Peas", and the common names of the sweet or wrinkled type of peas are "Sweet Peas", "Sweet Wrinkled Peas", or "Sugar Peas".

15. Peas are succulent during their growing period because they have a high moisture content which makes them tender. As they ripen they lose their moisture content and when fully ripened, they are hard and dry. This necessitates increasing the moisture content before fully ripened peas can be made into the product commonly known as canned peas.

16. Peas in both the succulent state and the dried state are canned by identical processes, except that the treatment with water or steam is longer in the latter case in order to permit them to acquire a moisture content comparable to succulent peas.

17. Canned peas prepared from succulent and from dried peas have the same identifying characteristics, i. e., flavor, odor, shape, color and texture in differing degrees of intensity.

18. Peas in either the succulent state or the dried state are an optional pea ingredient of canned peas.

19. The common name of peas in the succulent state is simply peas, with the name of the varietal group of peas, and the common name of peas in the dry state is dried peas, with the name of the varietal group of peas.

20. Early peas and sweet peas are not mixed in commercial canning.

21. Water is an essential ingredient of canned peas. Its presence is expected and it would serve no good purpose to indicate its presence on the label.

22. Seasonings may be ingredients of canned peas. Salt is ordinarily used and sugar and dextrose are sometimes used. Flavorings such as mint oil or mint extract, or seasonings such as mint leaf, green peppers, onions, garlic, horseradish, are sometimes used.

23. The use of seasoning is not universal. It is optional, but its use takes away no identifying characteristics of the product.

24. Such seasoning may be used singly or in combination, and the quantity used is self-controlling.

25. Each of such seasonings has a common name, to wit: salt, sugar, dextrose, flavoring, mint leaves, green peppers, onions, garlic, horseradish.

26. It is essential to the identity of canned peas that they be sealed in a container.

27. It is essential to the identity of canned peas that they be processed by heat so as to prevent spoilage.

28. The optional pea ingredient should be declared on the label by its common name, that is, Early Peas, June Peas, or Early June Peas; Sweet Peas, Sweet Wrinkled Peas, or Sugar Peas; Dried Early Peas, Dried June Peas, or Dried Early June Peas; or Dried Sweet Peas, Dried Sweet Wrinkled Peas, or Dried Sugar Peas; if the consumer is to be accurately informed of the character of the product.

29. Inasmuch as water, salt, and sugar are generally used in the preparation of canned peas, and occasionally within the last few years, dextrose together with sugar, and inasmuch as the sweetening ingredient is relatively slight, the declaration of the presence of water, salt, sugar, or dextrose would furnish the consumer no useful information.

30. Honesty and fair dealing in the interest of the consumer requires that wherever the name "Peas" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the names of the optional ingredients present which are required to be named on the label should immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the specific varietal name of the peas may so intervene.

Based upon the foregoing findings of fact, a conclusion in the form of a regulation which will promote honesty and fair dealing in the interest of consumers is hereby made and promulgated as follows:

REGULATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD COMMONLY KNOWN AS CANNED PEAS

§ 51.000 *Canned peas—Identity; label statement of optional ingredients.* (a) Canned peas are the food prepared from one of the following optional pea ingredients:

(1) Shelled, succulent peas (*Pisum sativum*) of Alaska or other smooth skin varieties;

(2) Shelled, succulent peas (*Pisum sativum*) of sweet, wrinkled varieties;

(3) Shelled, dried peas (*Pisum sativum*) of Alaska or other smooth skin varieties;

(4) Shelled, dried peas (*Pisum sativum*) of sweet, wrinkled varieties.

(b) To one such optional pea ingredient water is added.

(c) The following optional ingredients may be present:

(1) Salt;
(2) Sugar;
(3) Dextrose;
(4) Spice;
(5) Flavoring;
(6) Artificial coloring.

(d) The food may be seasoned with one or more of the following optional seasonings:

(1) Green peppers;
(2) Mint leaves;
(3) Onions;
(4) Garlic;
(5) Horseradish.

(e) The food is sealed in a container and so processed by heat as to prevent spoilage.

(f) (1) The label shall name the optional pea ingredient present by the use of the word or words "Early" or "June" or "Early June", "Sweet" or "Sweet Wrinkled" or "Sugar", "Dried Early" or "Dried June" or "Dried Early June", "Dried Sweet" or "Dried Sweet Wrinkled" or "Dried Sugar".

(2) If spice is present, the label shall bear the word or words "Spiced" or "With Added Spice" or "Spice Added".

(3) If flavoring is present, the label shall bear the words "With Added Flavoring" or "Flavoring Added".

(4) If artificial coloring is present, the label shall state that fact in such manner and form as is provided in the regulation promulgating a standard of quality for canned peas.

(5) If an optional seasoning ingredient is used, the label shall bear the words "Seasoned with Green Peppers", "Seasoned with Mint Leaves", "Seasoned with Onions", "Seasoned with Garlic", or "Seasoned with Horseradish", as the case may be.

(6) Wherever the name "Peas" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements herein specified, showing the optional ingredients present, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the specific varietal name of the peas may so intervene.

It is ordered that the regulation hereby prescribed and promulgated shall become effective on the ninetieth day after the issuance of this order and the filing of

the same with the Archivist of the United States for publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 23d day of February 1940. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 40–789; Filed, February 23, 1940; 12:41 p. m.]

ORDER PROMULGATING A REGULATION FIXING AND ESTABLISHING A REASONABLE STANDARD OF FILL OF CONTAINER AND SPECIFYING THE FORM AND MANNER OF LABEL STATEMENT OF SUBSTANDARD FILL OF CONTAINER FOR THE FOOD COMMONLY KNOWN AS CANNED PEAS

Pursuant to the authority and direction of the Federal Food, Drug, and Cosmetic Act (Sec. 701, 52 Stat. 1055, 21 U.S.C. 371 (e); Sec. 401, 52 Stat. 1046, 21 U.S.C. 341), and based upon substantial evidence of record at the hearing heretofore held in accordance with law,[1] detailed findings of fact are made, as follows:

Findings of Fact

1. A reasonable standard of fill of container is that the can of peas be so well filled that when the peas and liquid are poured from the container and poured back into the container, and the peas leveled so that there is no downward pressure and allowed to stand fifteen seconds, they will completely fill the container. A container with lid attached by a double seam is completely filled when the top of the leveled peas is not more than 3/16 inch vertical distance below the top of the container. Metal containers of other types are completely filled when the level of the peas is level with the top of the container. An allowance for containers with double seams is necessary because the bottom of the lid is below the top of the vertical sides of the can.

2. Due to the necessity for air space to permit expansion which occurs during the processing of peas in glass containers, an allowance is necessary for containers of that type. One-half inch below the top of the container is a reasonable allowance.

3. In canning practice, peas are placed in the can and sufficient brine is added for proper packing and processing. After the peas are processed, stand in the warehouse, and are shaken down in shipment, the peas will settle down so that the can will apparently not be completely filled, but pouring the peas and the liquid from the container and pouring them back closely simulates the condition in which the peas were before being shaken down. As peas advance in maturity, a progressively smaller volume is placed in the can so that when processed and having taken up water they will occupy substantially the same volume that young peas would occupy before processing. The older the peas are, the more water they will absorb, and the canner, consequently, adjusts his fill in order to allow for this variation. All canners make this adjustment as a matter of course and are able to get their containers sufficiently well filled that, while the peas will be shaken down somewhat in storage and shipment, they will, when poured from the container and returned thereto, completely fill the container.

4. The canner can determine if he is achieving the suggested cut-out fill. Peas are filled into the containers by a machine which is set to deliver any desired volume of peas to each container. The canner sets the machine to deliver a volume which his knowledge of the age of the peas indicates will give a proper fill. As soon as some of the cans are filled and sealed he takes samples to make sure that the fill is proper.

5. It is necessary and desirable in the interest of the consumer that canned peas falling below a standard of fill of container bear on the label a simple and understandable statement of that fact. "Below Standard in Fill" is such a statement.

6. If canned peas fall below a standard of fill of container, it is necessary and desirable in the interest of the consumer that the label bear the statement "Below Standard in Fill", printed in Cheltenham bold condensed caps. If the quantity of the contents of the container is less than 1 pound, the statement should be in 12-point type; if such quantity is 1 pound or more, the statement should be in 14-point type. Such statement should be enclosed within lines, not less than 6 points in width, forming a rectangle; but if the peas also fall below the standard of quality for canned peas and bear the label statement of substandard quality specified in the standard of quality for canned peas, both statements (one following the other) may be enclosed in the same rectangle. Such statement or statements, with enclosing lines, should be on a strongly contrasting, uniform background, and should be so placed as to be easily seen when the name "Peas" or any pictorial representation of peas is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase.

Based upon the foregoing findings of fact, a conclusion in the form of a regulation which will promote honesty and fair dealing in the interest of consumers is hereby made and promulgated as follows:

REGULATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT FIXING AND ESTABLISHING A REASONABLE STANDARD OF FILL OF CONTAINER AND SPECIFYING THE FORM AND MANNER OF LABEL STATEMENT OF SUBSTANDARD FILL OF CONTAINER FOR THE FOOD COMMONLY KNOWN AS CANNED PEAS

§ 51.002 *Canned peas—Fill of container; label statement of substandard fill.* (a) The standard of fill of container for canned peas is a fill such that, when the peas and liquid are removed from the container and returned thereto, the leveled peas (irrespective of the quantity of the liquid), 15 seconds after they are so returned, completely fill the container. A container with lid attached by double seam shall be considered to be completely filled when it is filled to the level 3/16 inch vertical distance below the top of the double seam; and a glass container shall be considered to be completely filled when it is filled to the level 1/2 inch vertical distance below the top of the container.

(b) If canned peas fall below the standard of fill of container prescribed in subsection (a) of this section, the label shall bear the general statement of substandard fill specified in section 10.020 (b), in the manner and form therein specified.

It is ordered that the regulation hereby prescribed and promulgated shall become effective on the ninetieth day after the issuance of this order and the filing of the same with the Archivist of the United States for publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 23d day of February 1940. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 40–790; Filed, February 23, 1940; 12:41 p. m.]

ORDER PROMULGATING A REGULATION FIXING AND ESTABLISHING A REASONABLE STANDARD OF QUALITY AND SPECIFYING THE FORM AND MANNER OF LABEL STATEMENT OF SUBSTANDARD QUALITY FOR THE FOOD COMMONLY KNOWN AS CANNED PEAS

Pursuant to the authority and direction of the Federal Food, Drug, and Cosmetic Act (Sec. 701, 52 Stat. 1055, 21 U.S.C. 371 (e); Sec. 401, 52 Stat. 1046, 21 U.S.C. 341), and based upon substantial evidence of record at the hearing heretofore held in accordance with law,[1] detailed findings of fact are made, as follows:

Findings of Fact

1. Factors which go to make up quality in canned peas are freedom from spotted or otherwise discolored peas, freedom from extraneous material, freedom from pieces of peas, freedom from ruptured peas, freedom from tough peas, and freedom from excessively mealy peas.

2. The maturity of the pea seed entering canned peas as an ingredient is not a factor of quality in canned peas, but the mealiness of the peas as they come from the can to the consumer is a factor of quality.

[1] 4 F.R. 2034.

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3. Spotted and otherwise discolored peas are caused by various natural conditions, and their appearance is objectionable to consumers.

4. In a great many cases, peas can be canned entirely free from spotted and otherwise discolored peas, but they sometimes occur and must be removed by hand sorting. Occasionally, such peas escape the most careful sorting.

5. A reasonable standard, therefore, must include a tolerance for spotted and otherwise discolored peas, and a tolerance of 4 percent by count of the peas in the container is a reasonable tolerance.

6. A canner can make certain that his peas are within the tolerance for spotted and otherwise discolored peas by careful sorting of peas before canning and by examination of representative samples of his pack.

7. Such factor, with the tolerance suggested, takes into consideration and makes due allowance for the differing characteristics of the several varieties of peas.

8. The simplest and most understandable expression to inform the consumer that peas are substandard in quality because of the presence of an excessive number of spotted or otherwise discolored peas is "Below Standard in Quality—Discolored Peas".

9. Freedom from extraneous material is a factor in the quality of canned peas from the viewpoint of the consumer who expects that canned peas will be relatively free from any foreign material, from considerations of appearance and other considerations.

10. Standard canned peas contain no extraneous material other than harmless vegetable material. The operation of vining and threshing the peas results in a considerable quantity of leafy material, pieces of pea pods, thistle buds, and other vegetable material accompanying the peas. Most of this material is removed from the shelled peas mechanically by sifting and blowing and by water flotation, but some must be removed by hand picking.

11. Occasionally, a lot of raw material may be such that completely effective removal is impossible and a tolerance for harmless extraneous vegetable material is necessary.

12. Not more than one-half of one percent of harmless, extraneous vegetable material, calculated on the basis of the drained weight of peas from the container, is a reasonable tolerance which can be met by the canner operating under good commercial conditions.

13. A canner can make certain that he is complying with the factor of freedom from extraneous material by sorting under good control.

14. Such factor, with the tolerance suggested, takes into consideration and makes due allowance for the differing characteristics of the several varieties of peas.

15. The simplest and most understandable expression to inform the consumer that peas are substandard because of the presence of such material is "Below Standard in Quality—Excessive Foreign Material".

16. Freedom from broken peas is a factor of quality in canned peas from the standpoint of the consumer.

17. The beating which the raw peas receive in the viner breaks some of them, particularly those which are soft and very young. Occasionally, in the case of some varieties, the peas also break apart during the blanching and canning process. Those which break in vining can be largely removed mechanically but breaking in blanching and processing cannot be completely prevented.

18. Not more than 10 percent of the drained weight of the canned peas is a reasonable tolerance for broken peas.

19. Such a tolerance is ample to take care of peas broken by the blanching or canning process and the canner can make certain that he is complying with the factor of freedom from broken peas by proper sorting and mechanical separation.

20. Such factor, with the tolerance suggested, takes into consideration and makes due allowance for the differing characteristics of the several varieties of peas.

21. The simplest and most understandable expression to inform the consumer that canned peas are below standard because of the presence of an excessive number of broken peas is "Below Standard in Quality—Excessive Broken Peas".

22. Freedom from ruptured peas is a factor of quality in canned peas from the viewpoint of the consumer from considerations of appearance. Good commercial practice will furnish peas of which not more than 25 percent by count are ruptured, but complete freedom from ruptured peas is not possible, and for that reason, a tolerance is necessary.

23. A tolerance of not more than 25 percent by count of ruptured peas is a reasonable tolerance.

24. A pea is ruptured if it is cracked to a width of $\frac{1}{16}$ inch or more. Cracks smaller than $\frac{1}{16}$ inch are not readily apparent and do not greatly affect the appearance of the product.

25. The canner can make certain that he is complying with the factor of freedom from ruptured peas by properly cooking the peas. Such a factor takes into consideration and makes due allowance for the differing characteristics of the several varieties of peas.

26. The simplest and most understandable expression to inform the consumer that peas are substandard in quality because of the presence of an excessive number of ruptured peas is "Below Standard in Quality—Excessive Cracked Peas".

27. Freedom from tough peas is a factor of quality in canned peas from the viewpoint of the consumer.

28. Tough peas do not occur in the best canned peas, but all peas in a single patch, or even on a single vine, will not have arrived at the same degree of toughness at the same time. Commercial conditions make it more efficient to cut a whole field of peas at the same time, and an average of tenderness or toughness must be arrived at, but by the exercise of good control in cutting and in canning procedure, the canner is able to can peas which contain a minimum of tough peas.

29. A reasonable standard of quality must include a tolerance for tough peas. Not more than 10 percent by count of tough peas is such a reasonable tolerance.

30. The toughness of peas can be determined objectively and such objective determination is definitely and directly correlated with consumer reaction.

31. The canner can make certain that he is complying with the factor of freedom from tough peas by cutting the peas at the proper time and by properly cooking them.

32. Such a factor, with the tolerance suggested, takes into consideration and makes due allowance for the differing characteristics of the several varieties of peas.

33. The simplest and most understandable expression to inform the consumer that peas are substandard in quality because of the presence of tough peas is "Below Standard in Quality—Not Tender".

34. Freedom from excessively mealy peas is a factor of quality in canned peas from the viewpoint of consumers from considerations of the texture of the finished product.

35. The extent to which insoluble solids are present governs the mealiness of peas when they are chewed. The art of canning was first devised for the purpose of preserving the succulence of fresh vegetables, and canned peas simulate, insofar as possible, fresh garden peas as ordinarily prepared for immediate consumption. Such peas are not excessively mealy, and the quality of canned peas is lowered, depending in a large measure on the extent to which they are mealy.

36. Mealiness in peas becomes excessive when their content of insoluble solids is such that the peas have an undesirable texture when chewed by the consumer. Such mealiness can be measured objectively.

37. Mealiness and insoluble solids content are definitely and directly correlated, and the determination of the insoluble solids gives an accurate index to the mealiness of canned peas.

38. Peas of the Alaska or other smooth skin varieties naturally develop a higher insoluble solids content than peas of sweet, wrinkled varieties. Consumers expect the former peas to be mealier than the latter peas.

39. Canned peas are excessively mealy in the consensus of consumer taste, in the case of early June peas, when they contain more than 23.5 percent of solids insoluble in alcohol; and, in the case of

sweet peas, when they contain more than 21 percent of solids insoluble in alcohol. These limiting figures were selected by trying out samples of canned peas of various varieties on consumers and expert graders. Peas they rated as excessively mealy were analyzed in the laboratory and their insoluble solids content determined.

40. Peas of smooth skin varieties are naturally more mealy than peas of sweet, wrinkled varieties, and the higher limiting figure is necessary for that type, but mealiness is objectionable to consumers, and 21 percent is a figure which any peas of sweet, wrinkled varieties, under the exercise of reasonable care, can meet.

41. A canner can make certain that he is complying with the factor of freedom from excessively mealy peas by canning only those peas which canning experience indicates will not be excessively mealy, and by examining representative samples of his pack.

42. Such factor, with the limits suggested, takes into consideration and makes due allowance for the differing characteristics of the several varieties of peas.

43. The simplest and most understandable expression to inform the consumer that canned peas are substandard in quality because of the presence of excessively mealy peas is "Below Standard in Quality—Excessively Mealy Peas".

44. An objective determination of each of the foregoing factors can be made by the following method:

(1) After determining the fill of container as prescribed in section 51.002 (a), distribute the contents of the container over the meshes of a circular sieve made with No. 8 woven wire cloth which complies with the specifications for such cloth set forth on page 3 of "Standard Specifications for Sieves", published October 25, 1938, by U. S. Department of Commerce, National Bureau of Standards. The diameter of the sieve used is 8 inches if the quantity of the contents of the container is less than 3 pounds, or 12 inches if such quantity is 3 pounds or more. Without shifting the peas, so incline the sieve as to facilitate drainage. Two minutes from the time drainage begins, remove the peas from the sieve and weigh them. Such weight shall be considered to be the drained weight of the peas.

(2) From the drained peas obtained in (1), promptly segregate and weigh the pea pods and other harmless extraneous vegetable material and the pieces of peas.

(3) From the drained peas obtained in (1), take at random a subdivision of 100 to 150 peas, and count them. Immediately cover these peas with a portion of the liquid obtained in (1), and add the remaining liquid to the drained peas from which the subdivision was taken. Count those peas in the subdivision which are spotted or otherwise discolored, and also those peas the skins of which are ruptured to a width of $\frac{1}{16}$ inch or more.

(4) Immediately after each pea is examined by the method prescribed in (3), test it by removing its skin, placing one of its cotyledons, with flat surface down, on the approximate center of the level, smooth surface of a rigid plate, lowering a horizontal disc to the highest point of the cotyledon, and measuring the height of the cotyledon. The disc is of rigid material and is affixed to a rod held vertically by a support through which the rod can freely move upward or downward. The lower face of the disc is a smooth, plane surface horizontal to the vertical axis of the rod. A device to which weight may be added is affixed to the upper end of the rod. Before lowering the disc to the cotyledon, adjust the combined weight of disc, rod, and device to 100 grams. After measuring the height of the cotyledon, and shifting the plate, if necessary, so that the cotyledon is under the approximate center of the disc, add weight to the device at a uniform, continuous rate of 12 grams per second until the cotyledon is pressed to one-fourth its previously measured height, or until the combined weight of disc, rod, and device is 907.2 grams (2 pounds). A pea so tested shall be considered to be crushed when its cotyledon is pressed to one-fourth its original height.

(5) Drain the liquid from the peas which remained after taking the subdivision as prescribed in (3). Transfer the peas to a pan, and rinse them with a volume of water equal to twice the capacity of the container from which such peas were drained in (1). Immediately drain the peas again by the method prescribed in (1). After the two minutes' draining, wipe the moisture from the bottom of the sieve. Comminute the peas thus drained, stir them to a uniform mixture, and weight 20 grams of such mixture into a 600 cc. beaker. Add 300 cc. of 80 percent alcohol (by volume), stir, cover beaker, and bring to a boil. Simmer slowly for 30 minutes. Fit a Buchner funnel with a previously prepared filter paper of such size that its edges extend ½ inch or more up the vertical sides of the funnel. The previous preparation of the filter paper consists of drying it in a flat-bottomed dish for 2 hours at 100° Centigrade, covering the dish with a tight-fitting cover, cooling it in a desiccator, and promptly weighing. After the filter paper is fitted to the funnel, apply suction and transfer the contents of the beaker to the funnel. Do not allow any of the material to run over the edge of the paper. Wash the material on the filter with 80 percent alcohol (by volume) until the washings are clear and colorless. Transfer the filter paper with the material retained thereon to the dish used in preparing the filter paper. Dry the material in a ventilated oven, without covering the dish, for 2 hours at 100° Centigrade. Place the cover on the dish, cool it in a desiccator, and promptly weigh. From this weight, subtract the weight of the dish, cover, and paper, as previously found. The weight in grams thus obtained, multiplied by 5, shall be considered to be the percent of alcohol-insoluble solids.

45. Pursuant to the authority granted the Secretary of Agriculture by the amendment of July 8, 1930, to the Federal Food and Drug Act, called the McNary-Mapes Amendment, the Secretary promulgated the following regulations, among others, with reference to canned peas:

"67. Standard canned peas are the normally flavored and normally colored canned food consisting of the immature, unbroken seed of the common or garden pea (*Pisum sativum*), with or without seasoning (sugar, salt), and with or without added potable water. The product is practically free from foreign material and, in the case of products containing added liquid, the liquor present is reasonably clear."

"75. Canned peas which fail to meet the standard of quality and condition shall bear, except as provided in section (a), the statement in the form and manner prescribed in paragraph 1.

"(a) When canned peas fail to meet the standard of quality and condition only in that they are artificially colored, they shall bear the statement in the form and manner prescribed in paragraph 1, except that the second line of the legend shall be *'because artificially colored.'*"

(The citation is to the paragraph numbering appearing in Service and Regulatory Announcements, Food and Drug No. 4 (Fourth Division).)

Congress in an Act (Public—No. 151—76th Congress) approved June 23, 1939, specifically approved the regulations promulgated by the Secretary under the authority of the amendment of July 8, 1930, to the Federal Food and Drugs Act. Section 2 (a) of said Act, approved June 23, 1939, reads as follows:

The provisions of section 8, paragraph fifth, under the heading "In the case of food:", of the Food and Drugs Act of June 30, 1906, as amended, and regulations promulgated thereunder, and all other provisions of such Act to the extent that they may relate to the enforcement of such section 8 and of such regulations, shall remain in force until January 1, 1940.

46. It is reasonable and it will promote honesty and fair dealing in the interest of the consumer to have the label statement of substandard quality immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "Peas", together with words and statements required or authorized to appear with such name by the definition and standard of identity for canned peas.

47. Such label requirements for peas of substandard quality would not be practicable under good commercial practices in instances where the product fell below the standard in several respects.

48. In such event, the statement "Below Standard in Quality Good Food—Not High Grade" would be reasonable, would be informative to the consumer, and would promote honesty and fair dealing in the interest of the consumer.

49. It is reasonable and it would promote honesty and fair dealing in the interest of the consumer to have such statement printed in two lines of Cheltenham bold condensed caps, the words "Below Standard in Quality" to constitute the first line, and the second to immediately follow. If the quantity of the contents of the container is less than 1 pound, such type of the first line should be 12-point, and of the second, 8-point. If such quantity is 1 pound or more, such type of the first line should be 14-point, and of the second, 10-point. Such statement should be enclosed within lines, not less than 6 points in width, forming a rectangle. Such statement, with enclosing lines, should be on a strongly contrasting, uniform background, and should be so placed as to be easily seen when the name "Peas" or any pictorial representation of peas is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase.

Based upon the foregoing findings of fact, a conclusion in the form of a regulation which will promote honesty and fair dealing in the interest of consumers is hereby made and promulgated as follows:

REGULATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT FIXING AND ESTABLISHING A REASONABLE STANDARD OF QUALITY AND SPECIFYING THE FORM AND MANNER OF LABEL STATEMENT OF SUBSTANDARD QUALITY FOR THE FOOD COMMONLY KNOWN AS CANNED PEAS

§ 51.001 *Canned peas—Quality; label statement of substandard quality.* (a) The standard of quality for canned peas is as follows:

(1) Not more than 4 percent by count of the peas in the container are spotted or otherwise discolored;

(2) Standard canned peas are normally colored, not artificially colored;

(3) The combined weight of pea pods and other harmless extraneous vegetable material is not more than one-half of one percent of the drained weight of peas in the container;

(4) The weight of pieces of peas is not more than 10 percent of the drained weight of peas in the container;

(5) The skins of not more than 25 percent by count of the peas in the container are ruptured to a width of 1/16 inch or more;

(6) Not less than 90 percent by count of the peas in the container are crushed by a weight of not more than 907.2 grams (2 pounds); and

(7) The alcohol-insoluble solids of Alaska or other smooth skin varieties of peas in the container are not more than 23.5 percent, and of sweet, wrinkled varieties, not more than 21 percent.

(b) Canned peas shall be tested by the following methods to determine whether or not they meet the requirements of subsection (a):

(1) After determining the fill of the container as prescribed in section 51.002 (a), distribute the contents of the container over the meshes of a circular sieve made with No. 8 woven wire cloth which complies with the specifications for such cloth set forth on page 3 of "Standard Specifications for Sieves", published October 25, 1938, by U. S. Department of Commerce, National Bureau of Standards. The diameter of the sieve used is 8 inches if the quantity of the contents of the container is less than 3 pounds, or 12 inches if such quantity is 3 pounds or more. Without shifting the peas, so incline the sieve as to facilitate drainage. Two minutes from the time drainage begins, remove the peas from the sieve and weigh them. Such weight shall be considered to be the drained weight of the peas.

(2) From the drained peas obtained in (1), promptly segregate and weigh the pea pods and other harmless extraneous vegetable material, and the pieces of peas.

(3) From the drained peas obtained in (1), take at random a subdivision of 100 to 150 peas, and count them. Immediately cover these peas with a portion of the liquid obtained in (1), and add the remaining liquid to the drained peas from which the subdivision was taken. Count those peas in the subdivision which are spotted or otherwise discolored, and also those peas the skins of which are ruptured to a width of 1/16 inch or more.

(4) Immediately after each pea is examined by the method prescribed in (3), test it by removing its skin, placing one of its cotyledons, with flat surface down, on the approximate center of the level, smooth surface of a rigid plate, lowering a horizontal disc to the highest point of the cotyledon, and measuring the height of the cotyledon. The disc is of rigid material and is affixed to a rod held vertically by a support through which the rod can freely move upward or downward. The lower face of the disc is a smooth, plane surface horizontal to the vertical axis of the rod. A device to which weight may be added is affixed to the upper end of the rod. Before lowering the disc to the cotyledon, adjust the combined weight of disc, rod, and device to 100 grams. After measuring the height of the cotyledon, and shifting the plate, if necessary, so that the cotyledon is under the approximate center of the disc, add weight to the device at a uniform, continuous rate of 12 grams per second until the cotyledon is pressed to one-fourth its previously measured height, or until the combined weight of disc, rod, and device is 907.2 grams (2 pounds). A pea so tested shall be considered to be crushed when its cotyledon is pressed to one-fourth its original height.

(5) Drain the liquid from the peas which remained after taking the subdivision as prescribed in (3). Transfer the peas to a pan, and rinse them with a volume of water equal to twice the capacity of the container from which such peas were drained in (1). Immediately drain the peas again by the method prescribed in (1). After the two minutes' draining, wipe the moisture from the bottom of the sieve. Comminute the peas thus drained, stir them to a uniform mixture, and weigh 20 grams of such mixture into a 600 cc. beaker. Add 300 cc. of 80 percent alcohol (by volume), stir, cover beaker, and bring to a boil. Simmer slowly for 30 minutes. Fit a Buchner funnel with a previously prepared filter paper of such size that its edges extend ½ inch or more up the vertical sides of the funnel. The previous preparation of the filter paper consists of drying it in a flat-bottomed dish for 2 hours at 100° Centigrade, covering the dish with a tight-fitting cover, cooling it in a desiccator, and promptly weighing. After the filter paper is fitted to the funnel, apply suction and transfer the contents of the beaker to the funnel. Do not allow any of the material to run over the edge of the paper. Wash the material on the filter with 80 percent alcohol (by volume) until the washings are clear and colorless. Transfer the filter paper with the material retained thereon to the dish used in preparing the filter paper. Dry the material in a ventilated oven, without covering the dish, for 2 hours at 100° Centigrade. Place the cover on the dish, cool it in a desiccator, and promptly weigh. From this weight, subtract the weight of the dish, cover, and paper, as previously found. The weight in grams thus obtained, multiplied by 5, shall be considered to be the percent of alcohol-insoluble solids.

(c) If the quality of canned peas falls below the standard prescribed in subsection (a) of this section, the label shall bear the general statement of substandard quality specified in section 10.020 (a), in the manner and form therein specified; but in lieu of such general statement of substandard quality when the quality of canned peas falls below the standard in only one respect, the label may bear the alternative statement "Below Standard in Quality _____," the blank to be filled in with the words specified after the corresponding number of the clause of subsection (a) of this section which such canned peas fail to meet, as follows: (1) "Excessive Discolored Peas;" (2) "Artificially Colored;" (3) "Excessive Foreign Material;" (4) "Excessive Broken Peas;" (5) "Excessive Cracked Peas;" (6) "Not Tender;" (7) "Excessively Mealy." Such alternative statement shall immediately and conspicuously precede or follow,

without intervening written, printed, or graphic matter, the name "Peas" and any words and statements required or authorized to appear with such name by section 51.000 (b).

It is ordered that the regulation hereby prescribed and promulgated shall become effective on the ninetieth day after the issuance of this order and the filing of the same with the Archivist of the United States for publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 23d day of February 1940. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 40-791; Filed, February 23, 1940; 12:42 p. m.]

TITLE 24—HOUSING CREDIT

CHAPTER II—FEDERAL SAVINGS AND LOAN SYSTEM

PROVIDING FOR NOTICE TO CREDITORS OF A FEDERAL ASSOCIATION IN RECEIVERSHIP TO PRESENT THEIR CLAIMS TO SUCH RECEIVER WITHIN 90 DAYS AND FOR DISALLOWANCE OF CLAIMS NOT SO PRESENTED

Be it resolved, That § 204.5 of the Rules and Regulations for the Federal Savings and Loan System is amended, effective February 21, 1940, by adding at the end thereof the following:

"In any case in which the Board enters an order for the liquidation of a Federal association, the receiver, on direction of the Board, shall publish, in form approved by the Board, in a newspaper or newspapers printed in the English language and of general circulation in the county in which the home office of such Federal association is located a notice to all creditors of such Federal association to present their claims with legal proof thereof to such receiver, at a place designated in said notice, within 90 days of the day of the first publication of such notice, Sundays and holidays included, and claims not filed within such 90-day period shall be disallowed except as they may thereafter be allowed by the Board for payment in whole or in part out of the assets of said Federal association then remaining undistributed. Such notice shall be similarly published approximately one month and two months, respectively, after the date of such first publication except that such supplemental notices shall expressly state the last date on which such claims may be presented." (Sec. 5 (a), (d) of H. O. L. A. of 1933, 48 Stat. 132, 133; 12 U.S.C. 1464 (a), (d))

Be it further resolved, That this amendment is deemed to be of an emergency character within the provisions of subsection (c) of § 201.2 of the Rules and Regulations for the Federal Savings and Loan System.

Adopted by the Federal Home Loan Bank Board on February 19, 1940.

[SEAL] J. FRANCIS MOORE,
Acting Secretary.

[F. R. Doc. 40-770; Filed, February 21, 1940; 2:40 p. m.]

TITLE 29—LABOR

CHAPTER V—WAGE AND HOUR DIVISION

PART 521—REGULATIONS APPLICABLE TO EMPLOYMENT OF APPRENTICES

The following amendments to Regulations, Part 521[1] (Regulations Applicable to Employment of Apprentices Pursuant to Section 14 of the Fair Labor Standards Act), are hereby issued. These amendments, amending all Sections of said Regulations, 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 or modified by regulations hereafter made and published.

Signed at Washington, D. C., this 15th day of February 1940.

HAROLD D. JACOBS,
Administrator.

Whereas, it having been found by me upon investigation that in order to prevent curtailment of opportunities for employment, it is necessary to make special provision for the employment of apprentices at minimum-wage rates fixed in the apprenticeship agreement, where such rates are less than the minimum wage rates applicable under Section 6 of the Fair Labor Standards Act of 1938, I hereby prescribe the following Rules and Regulations governing the employment of apprentices:

§ 521.1 *Definition of apprentice.* For the purpose of these Rules and Regulations, the term "Apprentice" shall mean: a person, at least sixteen years of age, who is employed to learn a skilled trade pursuant to the terms of a written Apprenticeship Agreement with the employer, which Agreement provides (a) for not less than 4,000 hours of reasonably continuous employment for such person and (b) for participation of the apprentice in an approved schedule of work experience through employment, and (c) for at least 144 hours per year of supplemental instruction at classes in subjects related to that trade.*

§ 521.2 *Approval of apprenticeship agreement.* Whenever the employment of an apprentice is desired at a rate or rates less than the minimum-wage rate applicable under section 6 of the Fair Labor Standards Act of 1938, the employer, or his authorized agent, shall obtain the approval of the Apprenticeship Agreement under which the apprentice is employed, by the State apprenticeship council (or corresponding apprenticeship authority), if such council (or authority) has been approved by the Federal Committee on Apprenticeship. If no such duly approved apprenticeship council (or authority) exists in the State, then the Apprenticeship Agreement must be approved by the Federal Committee on Apprenticeship, U. S. Department of Labor, Washington, D. C.*

§ 521.3 *Application for special certificate.* After obtaining approval of the written Apprenticeship Agreement, as required in § 521.2, application may be made to the Administrator or his authorized representative for a Special Certificate authorizing the employment of the apprentice at the wage rate or rates, lower than the minimum wage rate applicable under section 6 of the Fair Labor Standards Act, specified in the Apprenticeship Agreement. Such application shall be made upon official forms furnished by the Wage and Hour Division.*

§ 521.4 *Application to be joint.* Such application shall be signed by both the employer and the apprentice and must be accompanied by the Apprenticeship Agreement or a true copy thereof approved as provided in § 521.2.*

§ 521.5 *Issuance of special certificate.* If, upon an examination of such application and the accompanying Apprenticeship Agreement, the Administrator or his authorized representative is satisfied that the application and the Agreement comply with the provisions of the foregoing Regulations, and that not less than 4,000 hours of reasonably continuous employment is required to prepare a worker of normal ability for the skilled occupation designated in the Apprenticeship Agreement, he will issue a Special Certificate authorizing the employment of the named apprentice at the rate or rates (less than the minimum wage applicable under section 6) and for the length or lengths of time specified in the Agreement. Such rate or rates and the length of time for which they are applicable shall be set forth in the Certificate.*

§ 521.6 *Copies of special certificates.* One copy of the Certificate will be given the apprentice and one copy will be given the employer, who shall keep the same on file with his employment record.*

§ 521.7 *Wages for apprentices.* No employer shall employ any apprentice at a wage rate less than the minimum wage applicable under Section 6 of the Fair Labor Standards Act until he has obtained a Special Certificate as specified in these Regulations. No employer shall employ any apprentice under a Special Certificate at a wage rate less than the rate applicable in such Certificate.*

§ 521.8 *Petition for review.* Any person aggrieved by the action of an authorized representative of the Administrator under these regulations, either in grant-

*Issued under the authority contained in section 14, 52 Stat. 1060.

[1] 3 F.R. 2483.

ing or denying a Certificate for the employment of an apprentice, may, within 15 days after the action of such representative, or within such further time as the Administrator, for cause shown, may allow, file a petition with the Administrator requesting a review by the Administrator of the action of the representative and praying for such relief as is desired. If the request for review is granted, all interested parties will be afforded an opportunity to be heard, or otherwise to present their views, either in support or in opposition to the matters prayed for in the petition. A notice of the time and place and scope of any hearing will be published in the FEDERAL REGISTER and made public by general press release at least 5 days before the date of such hearing: *Provided*, That if review is granted by the Administrator in a case where the petitioners are requesting the cancellation of a Special Certificate, a notice of the time and place of any hearing will be sent by registered mail to the apprentice and his employer at their last known address or addresses.*

§ 521.9 *Petition for amendment of regulations.* Any person wishing a revision of any of the terms of the foregoing Regulations applicable to apprentices may submit in writing to the Administrator a petition setting forth the changes desired and the reasons for proposing them. If, upon inspection of the petition, the Administrator finds that a reasonable cause for amendment of the Rules and Regulations has been shown, the Administrator will either schedule a hearing, with due notice to interested parties, or will make other provision for affording interested parties an opportunity to present their views, both in support and in opposition to the proposed changes.*

[F. R. Doc. 40–773; Filed, February 21, 1940; 3:33 p. m.]

TITLE 30—MINERAL RESOURCES

CHAPTER III—BITUMINOUS COAL DIVISION

PART 301—RULES OF PRACTICE AND PROCEDURE

Corrections

F.R. Doc. 40–705 (filed, February 15, 1940, at 11:57 a. m.), appearing on Pages 693–696 of the issue for Friday, February 16, 1940, should be corrected as follows:

Paragraph (e) in the center column of page 694 should read as follows:

"(e) *Incorporation of pleadings by reference.* No protest, pleading or other instrument previously filed with the National Bituminous Coal Commission or the Bituminous Coal Division in any proceeding shall be incorporated by reference in any pleading filed in a proceeding under Section 4, II (d), but each matter relied upon shall be specifically alleged."

Section 301.104 on page 694 should read as follows:

§ 301.104 *Consolidation of proceedings.* The Director may, upon motion of any party, or upon his own motion, order that the proceedings on two or more petitions be consolidated into one proceeding whenever, in his judgment, the issues raised by such petitions are so related that consolidation of the proceedings will facilitate an expeditious or just consideration of the issues.*"

TITLE 46—SHIPPING

CHAPTER I—BUREAU OF MARINE INSPECTION AND NAVIGATION

[Order No. 20]

SUBCHAPTER A—DOCUMENTATION, ENTRANCE AND CLEARANCE OF VESSELS, ETC.

FEBRUARY 21, 1940.

The last five paragraphs of § 1.1 *Customs ports authorized to issue marine documents*[1] are hereby amended to read as follows:

The grand divisions are printed in capitals, the district names in small capitals, with the numbers enclosed in parentheses, and the ports in roman with asterisks (*) to indicate the headquarters ports. Marine documents are not issued at the headquarters ports of Indianapolis and St. Albans, nor in the districts of Laredo (23), El Paso (24), Arizona (26), and Colorado (47).

Marine documents may be issued at the port of Washington, N. C. Washington is a customs station, but not a port of entry.

A duplicate of each marine document issued to a vessel, together with the surrendered original, if there is one, should be sent to the headquarters port for review. All duplicates, surrendered originals, and copies of lost originals must be forwarded from the headquarters port to the Director of the Bureau of Marine Inspection and Navigation at the end of each day.

A license may be renewed by endorsement by the collector at the headquarters port or by any deputy collector within that particular district, but a notice of such renewal, Form 1302, must be sent to the port at which the license was issued, and to the home port.

Additional ports will be designated as ports of documentation when this action is required by the exigencies of the Service.

This amendment shall become effective on February 22, 1940. (R.S. 161, 5 U.S.C. 22; secs. 2 and 3 of the Act of July 5, 1884, 23 Stat. 118, 46 U.S.C. 2 and 3)

[SEAL] J. M. JOHNSON,
Acting Secretary of Commerce.

[F. R. Doc. 40–774; Filed, February 21, 1940; 4:24 p. m.]

[1] 5 F.R. 327.

[Order No. 21]

FEBRUARY 21, 1940.

§ 1.43 *Sale or Charter to an Alien** is amended to read as follows:

(a) Except as provided in section 611, Title VI of the Merchant Marine Act of 1936 as amended by section 30 of the Act of June 23, 1938 (46 U.S.C. 1181), it shall be unlawful without the approval of the United States Maritime Commission, to sell, mortgage, lease, charter, deliver, or in any manner transfer or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer to any person not a citizen of the United States, as defined by the Shipping Act of 1916 as amended (46 U.S.C. 802), or transfer or place under foreign registry or flag, any vessel, or any interest therein owned in whole or in part by a citizen of the United States and documented under the laws of the United States, or the last documentation of which was under the laws of the United States.

(b) On the sale or transfer, in whole or in part, of a documented vessel to a subject of a foreign country, even in trust or confidence, the document must be delivered if the vessel is within a district of the United States, to the collector within seven days after such purchase or transfer. But if such sale or transfer happens while the vessel is in a foreign port or place, or at sea, the master or person having the charge or command thereof, shall, within eight days after his arrival within any district of the United States, deliver the document to the collector of such district. Any master or owner violating the provisions of this subsection shall be liable to a penalty not exceeding $500.00, and the document shall be thenceforth void; and if such sale or transfer is not so made known, the vessel, together with her tackle, apparel, and furniture, shall be subject to forfeiture. This forfeiture, however, does not attach to any share of such vessel owned by a citizen of the United States who was ignorant of the sale or transfer.

(c) The approval of the United States Maritime Commission must be obtained for the charter of all vessels referred to in subsection (a) of this section. All vessels while under charter to aliens must have citizens of the United States as

*For statutory provisions see Shipping Act 1916, sec. 9, 39 Stat. 730, as amended by Merchant Marine Act 1920, sec. 18, 41 Stat. 994, and by the Act of June 23, 1938, sec. 42, 52 Stat. 964, 46 U.S.C. 808; R.S. 4146 as amended, 46 U.S.C. 23; R.S. 4172, 46 U.S.C. 41.

officers. [Sec. 2 of the Act of July 5, 1884, as amended (46 U.S.C. 2); R.S. 161 (5 U.S.C. 22); Sec. 9 of the Act of September 7, 1916, as amended (46 U.S.C. 808)]

[SEAL] J. M. JOHNSON,
Acting Secretary of Commerce.

[F. R. Doc. 40-775; Filed, February 21, 1940; 4:24 p. m.]

TITLE 47—TELECOMMUNICATION

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 7—RULES GOVERNING COASTAL AND MARINE RELAY SERVICES[1]

The Commission on February 20, 1940, effective immediately, amended the sections listed below, as follows:

Sections 7.23, 7.25, 7.53, 7.54, 7.57, 7.81 (c) and 7.81 (e) were amended by deleting "(410 kilocycles on the Great Lakes)."

Section 7.27 was amended by deleting "except in the Great Lakes Region."

Section 7.28 was amended by deleting "(410 kilocycles on the Great Lakes)" and "Except on the Great Lakes."

Section 7.29 was amended by deleting "(other than in the Great Lages region)."

Section 7.51 was amended to read as follows:

"The international calling and distress frequency is 500 kilocycles. The provisions of the International Radio Regulations in force pertaining to the international calling and distress frequency, 500 kilocycles, shall apply in the Great Lakes region."

Section 7.58 (a) was amended by deleting "Calling frequency (Great Lakes only)" immediately following the frequency 410, and by inserting the footnote indicator 5 preceding 410; and by deleting "(except on Great Lakes)" after the frequency 500 Calling only.

The following new section was added:

§ 7.34 *Identification of radiotelephone station.* The name and call letters of a coastal harbor station shall be announced at the beginning and upon completion of any radiotelephone communication carried on by such station."

(Sec. 4 (i), 48 Stat. 1066; 47 U.S.C. 154 (i)—Sec. 303 (c), 48 Stat. 1082; 47 U.S.C. 303 (c))

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-781; Filed, February 23, 1940; 10:45 a.m.]

PART 8—RULES GOVERNING SHIP SERVICE[2]

The Commission on February 20, 1940, effective immediately, amended the sections listed below, as follows:

Sections 8.31, 8.85, 8.221 (c) and (e) were amended by deleting "(410 kilocycles on the Great Lakes)."

Section 8.41 was amended by adding at the end of the section, the following sentence: "The transmission of unnecessary or superfluous communications is forbidden."

Section 8.44 was amended by deleting "(except on the Great Lakes)."

Section 8.45 was amended by deleting "(410 kilocycles on the Great Lakes)" and "Except on the Great Lakes,".

Section 8.46 was amended by deleting "Except on the Great Lakes,".

The following new section was added:

"§ 8.51 *Identification of radiotelephone station.* The name and call letters of a ship station shall be announced at the beginning and upon completion of any radiotelephone communication carried on by such station."

Section 8.63 was amended by deleting the words "on duty therein" and substituting in lieu thereof the words "employed as radio operator on the vessel."

Section 8.71 (b) was deleted and Sec. 8.71 (c) was renumbered to read Sec. 8.71 (b).

Section 8.81 (a) was amended by deleting the phrase, "Calling only on Great Lakes, working in other regions" immediately following the frequency 410 and by inserting the footnote indicator "10" before 410; and by deleting the phrase, "not for use on Great Lakes" immediately following 500 Calling only.

Section 8.82 was amended to read as follows:

"The international calling and distress frequency is 500 kilocycles. The provisions of the International Radio Regulations in force pertaining to the international calling and distress frequency 500 kilocycles shall apply in the Great Lakes region."

Section 8.83 was amended by deleting "(410 kilocycles on the Great Lakes only)".

Sections 8.114 (a) and 8.115 (b) were amended by deleting the phrase, "(or type B emission until January 1, 1940)".

Section 8.233 was amended by deleting paragraphs (i), (j), and (k) and renumbering paragraph (l) to read (i), and by deleting footnote 41.

Section 8.235 was amended by deleting paragraphs (b) and (c) and renumbering paragraphs (d), (e), (f) and (g) to read (b), (c), (d) and (e), and by deleting footnote 43.

(Sec. 4 (i), 48 Stat. 1066; 47 U. S. C. 154 (i)—Sec. 303 (c), 48 Stat. 1082; 47 U. S. C. 303 (c))

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-782; Filed, February 23, 1940; 10:45 a. m.]

[1] 4 F.R. 3421.
[2] 4 F.R. 3456.

TITLE 50—WILDLIFE

CHAPTER II—BUREAU OF FISHERIES

SUBCHAPTER A—ALASKA FISHERIES

PART 201—ALASKA FISHERIES GENERAL REGULATIONS

Section 201.1 is hereby amended to read as follows:

§ 201.1 *Closing of salmon traps during weekly and seasonal closed periods.* During closed periods the heart walls of all salmon traps within the areas affected shall be lifted or lowered in accordance with the method prescribed by section 5 of the act of June 6, 1924. The tunnels from hearts to pots of all salmon traps shall be constructed of flexible webbing other than wire, and during all closed periods they shall be completely closed by pulling to one side of the pot. In addition, the spillers of all driven traps shall be raised to within 4 feet of the capping and the spillers of floating traps shall be raised to within 4 feet of the surface at the beginning of any seasonal closed period. At the beginning of any seasonal closed period the tunnels from pots to spillers of all traps shall be entirely disconnected. In respect to traps not provided with spillers, the requirements in regard to spillers shall apply to the pots. In any prescribed fishing area prior to the first date when salmon traps may be operated in any calendar year, no trap or any part thereof, whether under construction or after completion, shall be so arranged or adjusted as to prevent the free and unobstructed passage at all times of all fish.* (Sec. 5, 43 Stat. 466; 48 U.S.C. 234)

A new section to be known as § 201.4a is hereby inserted between §§ 201.4 and 201.5, to read as follows:

§ 201.4a *The use of purse seine leads with purse rings attached is prohibited.* In all purse seining operations the use of leads having purse rings attached to them is prohibited.*

Section 201.8 is hereby amended to read as follows:

§ 201.8 *Observance of markers erected by the Department of the Interior.* All persons engaged in fishery operations are warned to give due regard to all markers erected by the Department of the Interior.*

Section 201.12 is hereby amended to read as follows:

§ 201.12 *Identification of stationary fishing apparatus.* All persons, companies, or corporations owning, operating, or using any stake net, set net, trap net, pound net, or fish wheel for taking salmon or other fishes shall cause to be placed in a conspicuous place on said trap net,

*All sections included in this document are issued under the authority contained in Sec. 1, 44 Stat. 752; 48 U.S.C. 221. Whenever there is special authority for a specific section such authority will appear at the end of the section.

pound net, stake net, set net, or fish wheel the name of the person, company, or corporation owning, operating, and using same, together with a distinctive number, letter, or name which shall identify each particular stake net, set net, trap net, pound net, or fish wheel, said lettering and numbering to consist of black figures and letters, not less than 6 inches in length, painted on white ground.*

A new section to be known as § 201.12a is hereby inserted between §§ 201.12 and 201.13, to read as follows:

§ 201.12a. *Fisheries operators required to furnish periodic reports to Bureau of Fisheries.* Every person, company, corporation or association shall, each season, prior to engaging in canning, curing, or preserving fish or shellfish, or manufacturing fishery products, furnish to the local representative of the Bureau of Fisheries a statement in writing of intention to operate, together with information as to the nature, extent, and place of operation, and at the close of the season furnish an accurate statistical report supplying data called for on forms provided for that purpose.* (Sec. 10, 34 Stat. 480; 48 U.S.C. 238)

Section 201.13 is hereby amended to read as follows:

§ 201.13 *Marking of fishing boats and periodic registration with Bureau of Fisheries.* Each fishing boat in operation, whether powered or unpowered, shall be legibly and plainly marked with the name, initials, or symbol of the person, company, or corporation owning, operating, or using same, together with a distinctive number which shall identify each particular boat, said name, initials, or symbol and number to be not less than 6 inches in length. Each season, prior to commencement of commercial fishing, the name, initials, or symbol and number of each boat shall be furnished in writing to the local representative of the Bureau of Fisheries.*

Two sections, §§ 202.1 and 202.2, are hereby deleted from Part 202 and transferred to Part 201 for insertion as §§ 201.15a and 201.15b, respectively, between §§ 201.15 and 201.16. Section 201.15a is transferred without change and § 201.15b is hereby amended, as follows:

§ 201.15a *Steelhead trout fishery subject to same regulations as salmon fishery.* Commercial fishing for steelhead trout shall be subject to the provisions of law and the regulations applicable to commercial fishing for salmon.*

§ 201.15b *Waters closed to commercial fishing for trout.* Commercial fishing for trout of any species is prohibited in all streams and lakes; *Provided,* That this prohibition shall not apply to Dolly Varden trout west of 138 degrees west longitude.*

Section 201.16 is hereby amended to read as follows:

§ 201.16 *Imposition of additional restrictive regulations where the intensity of fishing warrants.* Any increase in the amount of fishing gear employed or any expansion of fishery operations in any district in any season shall, in the discretion of the Secretary of the Interior, result in the immediate imposition of such additional restrictions as may appear necessary.*

PART 202—ALASKA FISHERIES GENERAL TROUT REGULATIONS

Sections 202.1 and 202.2 are hereby deleted from Part 202 and transferred to Part 201 for insertion between §§ 201.15 and 201.16. Henceforth these paragraphs will be designated as § 201.15a and § 201.15b.

PART 204—BRISTOL BAY AREA FISHERIES

Section 204.13 is hereby amended to read as follows:

§ 204.13 *Seasonal closed periods, commercial salmon fishing.* Commercial fishing for salmon is prohibited in the period from 6 o'clock antemeridian July 25 to 6 o'clock antemeridian August 3, except in the Ugashik district, where such fishing is prohibited from 6 o'clock antemeridian July 28 to 6 o'clock antemeridian August 10.*

Section 204.19 is hereby amended to read as follows:

§ 204.19 *Weekly closed periods, commercial salmon fishing.* The 36-hour weekly closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock antemeridian Wednesday to 6'clock antemeridian Friday of each week, making a weekly closed period of 84 hours.*

Section 204.20 (b) *Waters closed to commercial salmon fishing,* is hereby amended to read as follows:

* * * * *

(b) Kvichak Bay: All waters above a line extending across Kvichak Bay from the marker at Jensen Creek to the marker on the opposite side about 1½ miles west of Squaw Creek, the course being north, 54 degrees west, magnetic: *Provided,* That stake nets or set or anchored gill nets limited to beach areas between high and low watermarks will be permitted on the southeast shore from Prosper Creek to Coffee Creek.*

* * * * *

PART 205—ALASKA PENINSULA AREA FISHERIES

Sections 205.2 and 205.3 are hereby amended to read as follows:

§ 205.2 *Weekly closed periods, commercial salmon fishing, north side of peninsula.* In the waters of Nelson Lagoon, and thence along the coast to Cape Seniavin, including Nelson Lagoon, Herendeen Bay, Port Moller, and the fishing grounds off the Bear, Sandy, and Ocean Rivers, the 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock postmeridian Wednesday to 6 o'clock postmeridian Thursday of each week, making a weekly closed period in these waters of 60 hours, which shall be effective throughout the entire salmon fishing season of each year.*

§ 205.3 *Weekly closed periods, commercial salmon fishing, south side of peninsula.* In the waters along the south side of the Alaska Peninsula, including the waters of the Shumagin and other adjacent islands, the 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6 1924, is hereby extended to include the period from 6 o'clock postmeridian Tuesday to 6 o'clock antemeridian Thursday of each week, making a weekly closed period of 72 hours: *Provided,* That this extension of 36 hours closed period each week shall not apply to gill nets and shall not be effective for any gear after 6 o'clock antemeridian of July 25 of each year.*

Sections 205.6 and 205.7 are hereby amended to read as follows:

§ 205.6 *Minimum distance between units of fishing gear, except between traps.* The distance by most direct water measurement from any part of one stake gill net, set or anchored gill net, purse seine, or beach seine to any part of another stake gill net, set or anchored gill net, beach seine, purse seine, or trap shall not be less than 1,800 feet.*

§ 205.7 *Length of stake and set or anchored gill nets.* No stake gill net or set or anchored gill net shall exceed 75 fathoms in length measured on the cork line. The total aggregate length of stake nets used by any individual shall not exceed 150 fathoms.*

Sections 205.11 and 205.12 are hereby amended to read as follows:

§ 205.11 *Size of purse seines limited in certain waters.* Commercial fishing for salmon by means of any purse seine more than 100 fathoms in length and 150 meshes in depth is prohibited in the waters between Castle Cape and Cape Lazaref, including the waters of the Shumagin Islands.*

§ 205.12 *Maximum length of salmon purse seine boats, exceptions.* No boat used in operating any purse seine shall be longer than 50 feet, as shown by official register length: *Provided,* That this shall not apply to such boats operated on the north side of the Alaska Peninsula or in the waters of this area west of Cape Lazaref.*

A new section to be known as § 205.13a is hereby inserted between §§ 205.13 and 205.14, to read as follows:

§ 205.13a *Maximum take of red salmon, Nelson Lagoon and Port Moller*

region. In the waters from Lagoon Point to Cape Seniavin, including Nelson Lagoon, Port Moller, and other tributary waters, the catch of red salmon shall not exceed 700,000 fish in any calendar year.*

Section 205.19 (p) and (r), *Areas open to salmon traps*, are hereby revoked and deleted, and § 205.19 (b) and (o) are amended to read as follows:

* * * * *

(b) Unimak Island: Along the coast of East Anchor Cove within 2,500 feet, measured along the coast, from a point at 54 degrees 41 minutes 21 seconds north latitude, 163 degrees 3 minutes 36 seconds west longitude.

* * * * *

(o) Popof Island: East coast (1) within 2,500 feet of a point at 55 degrees 16 minutes north latitude, 160 degrees 19 minutes 40 seconds west longitude; and (2) within 2,500 feet of a point at 55 degrees 18 minutes 36 seconds north latitude, 160 degrees 18 minutes 48 seconds west longitude.

* * * * *

PART 206—ALEUTIAN ISLANDS AREA FISHERIES

A footnote should be inserted after § 206.1 *Definition, Aleutian Islands area,*[1] to read as follows:

[1] The Aleutian Islands Area was set apart as a game and fishery reserve by E.O. 1733, March 3, 1913. Certain islands were removed from the reserve by E.O. 5000, Nov. 23, 1928, and at the present time there are no restrictions on commercial fishing within the reserve other than those which are applicable in this area outside the reserve.

PART 208—KODIAK AREA FISHERIES

Section 208.4 is hereby amended to read as follows:

§ 208.4 *Size of beach seines, commercial salmon fishing.* Commercial fishing for salmon by means of any beach seine more than 200 fathoms in length or with mesh smaller than 3 inches stretched measure between knots or larger than 3½ inches stretched measure between knots is prohibited.*

A new section to be known as § 208.12a is hereby inserted between §§ 208.12 and 208.13, to read as follows:

§ 208.12a *Opening date for commercial salmon fishing between Cape Alitak and Cape Karluk.* Commercial fishing for salmon in waters extending from Cape Alitak to Cape Karluk is prohibited prior to 6 o'clock antemeridian June 20.*

Section 208.13 is hereby amended to read as follows:

§ 208.13 *Closed seasons, commercial salmon fishing, Alitak Bay.* Commercial fishing for salmon in Alitak Bay and all its branches within a line from Cape Trinity to Cape Alitak prior to 6 o'clock antemeridian July 5 and after 6 o'clock postmeridian August 20 in each year is prohibited.*

Section 208.17 is hereby amended to read as follows:

§ 208.17 *Take of Karluk red salmon regulated by weir count.* The take of red salmon in Karluk waters, extending from Cape Karluk to Broken Point, shall not exceed 50 percent of the total run as determined at the weir in Karluk River operated by the Bureau of Fisheries.* (Sec. 2, 43 Stat. 465; 48 U.S.C. 225)

Section 208.18 *Fishing gear restricted, Cape Karluk to Rocky Point*, is hereby revoked and deleted.*

Section 208.23 (i) and (m), *Areas open to salmon traps*, are hereby revoked and deleted, and § 208.23 (g) is amended to read as follows:

* * * * *

(g) Uganik Island: West coast from a point at 153 degrees 28 minutes west longitude to a point at 57 degrees 54 minutes 20 seconds north latitude, 153 degrees 30 minutes 30 seconds west longitude.*

* * * * *

Section 208.25 is hereby amended to read as follows:

§ 208.25 *Closed season, commercial herring fishing except for bait purposes.* Commercial fishing for herring, except for bait purposes, is prohibited during the period from January 1 to June 30, both dates inclusive.*

A new section to be known as § 208.25a is hereby inserted between sections 208.25 and 208.26, to read as follows:

§208.25a *Maximum take of herring in certain waters of the Kodiak area.* After the total take of herring in the Kodiak area has reached 300,000 barrels, on the basis of 250 pounds per barrel, all commercial fishing for herring, except for bait purposes, shall be prohibited in the waters of Shelikof Strait southeast of a line extending down the middle of the Strait from the latitude of Point Banks to the latitude of Cape Alitak and in all contiguous waters, including the waters of Kupreanof and Raspberry Straits eastward to the western extremity of Whale Island and the waters of Shuyak Strait.*

Section 208.26 is hereby amended to read as follows:

§ 208.26 *Closed season, commercial herring fishing, except by gill nets or for bait purposes.* Commercial fishing for herring, except for bait purposes, is prohibited from October 16 to December 31, both dates inclusive: *Provided*, That this prohibition shall not apply to the use of gill nets.*

PART 209—COOK INLET AREA FISHERIES

Section 209.2 is hereby amended to read as follows:

§ 209.2 *Open seasons, commercial salmon fishing.* (a) Between the latitude of the established stream marker marking the south limit of the closed area around the mouth of Kasilof River at approximately 60 degrees 22 minutes 23 seconds north latitude to the latitude of Anchor Point Light, exclusive of all waters adjacent to Kalgin Island, commercial fishing for salmon is prohibited prior to 6 o'clock antemeridian May 25 and after 6 o'clock postmeridian August 8 in each year: *Provided*, That this prohibition shall not apply to the use of gill nets from 6 o'clock antemeridian August 20 to 6 o'clock postmeridian September 10.

(b) South of the latitude of Anchor Point Light commercial fishing for salmon is prohibited prior to 6 o'clock antemeridian May 25 and after 6 o'clock postmeridian August 10 in each year: *Provided*, That this prohibition shall not apply to the use of beach seines or gill nets from 6 o'clock antemeridian August 22 to 6 o'clock postmeridian September 10.

(c) North of the latitude of the marker marking the south limit around the mouth of Kasilof River, as described herein under section (a), including all waters adjacent to Kalgin Island, commercial fishing for salmon is prohibited prior to 6 o'clock antemeridian June 25 and after 6 o'clock postmeridian August 8 in each year: *Provided*, That this prohibition shall not apply to the use of gear of a mesh not less than 8½ inches stretched measure between knots after 6 o'clock antemeridian May 25 or to the use of gill nets from 6 o'clock antemeridian August 20 to 6 o'clock postmeridian September 10.*

Section 209.7 is hereby amended to read as follows:

§ 209.7 *Total aggregate length of gill nets, salmon fishing boats.* The total aggregate length of gill nets on any salmon fishing boat, or in use by such boat while engaged in the operation of drift gill nets, shall not exceed 100 fathoms hung measure.*

A new section to be known as § 209.7a is hereby inserted between §§ 209.7 and 209.8, to read as follows:

§ 209.7a *Free movement of drift gill nets shall not be obstructed.* Drift gill nets shall be operated without the attachment of anything to obstruct their free movement through the water at all times.*

Sections 209.8 to 209.11 inclusive are hereby amended to read as follows:

§ 209.8 *Marking of salmon gill nets.* Each gill net in operation shall be marked by a cluster of floats or corks at the ends, and double floats or corks shall be attached to the cork line at 25-fathom intervals. The clusters of floats or corks at the ends and the double floats or corks at the 25-fathom intervals shall be painted bright red. The clusters at the ends shall also be legibly and plainly marked with the initials of the operator. In addition, each end of a set or anchored gill net shall be marked by a buoy of wood or metal of sufficient buoyancy to float in plain view at all times. Each buoy shall be legibly and plainly marked with the name or initials of the operator and the number of the boat used in the operation of the net to which it is at-

tached, said lettering and numbering to consist of black figures and letters, not less than 4 inches in length, painted on white ground.*

§ 209.9 *Length of set or anchored gill nets.* No set or anchored gill net shall exceed 35 fathoms in length measured on the cork line. The total aggregate length of set or anchored gill nets used by any individual or operated from any boat shall not exceed 105 fathoms.*

§ 209.10 *Operation of set or anchored gill nets.* Set or anchored gill nets shall be operated in substantially a straight line: *Provided,* That not to exceed 20 yards of each net may be used as a hook. Only one such hook is permitted on a net.*

§ 209.11 *Minimum distance between units of fishing gear, except between traps.* The distance by most direct water measurement from any part of one set or anchored gill net to any part of another set or anchored gill net or trap shall not be less than 800 feet.*

Section 209.16 (a) and (c), *Waters closed to commercial salmon fishing,* are hereby amended to read as follows:

(a) Within 1 statute mile of the mouths of the following salmon streams: Kenai River, Kasilof River, Swanson Creek, Bishop Creek, Ninilchik River, Deep Creek, Starichkof River, Anchor Point River, Little Susitna River, Susitna River, Ivan River, Lewis River, Theodore River, Beluga River, Threemile Creek, Chuit River, Nikolai River, McArthur River, Kustatan River, Katnu River, Drift River, and Kalgin Island Stream on the east coast of Kalgin Island.*

* * * * *

(c) Kamishak Bay: All waters within a straight line extending between the markers on each side of the channel at the entrance to the lagoon at the mouth of McNeil Creek, and all waters within 2 statute miles of the mouth of Chinik Creek.*

* * * * *

PART 211—PRINCE WILLIAM SOUND AREA FISHERIES

Section 211.8 is hereby amended to read as follows:

§ 211.8 *Weekly closed period, commercial salmon fishing.* The 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock postmeridian of Friday of each week until 6 o'clock antemeridian of the Monday following, making a weekly closed period of 60 hours.*

Section 211.10 *Opening date for commercial salmon fishing by trolling,* is hereby revoked and deleted.*

Section 211.11 is hereby amended to read as follows:

§ 211.11 *Closing dates of commercial salmon fishing season.* Commercial fishing for salmon, other than trolling, is prohibited during the remainder of each calendar year after 6 o'clock postmeridian August 6: *Provided,* That this prohibition shall not apply (a) to trolling and gill netting through August 22 in the waters along the western coast from the outer point on the north shore of Granite Bay (known as Granite Bay Point) to the light on the south shore of the entrance to Port Nellie Juan, and (b) to the operation of set or anchored gill nets in the period from 6 o'clock postmeridian August 6 to 6 o'clock postmeridian September 20 in the waters of Valdez Arm east of 146 degrees 25 minutes west longitude. All trap leads from shore to entrance of hearts must be removed prior to 6 o'clock antemeridian August 10.*

Section 211.14 (b), (c), (e), and (x), *Waters closed to commercial salmon fishing,* are hereby revoked and deleted, and § 211.14 (r) is amended to read as follows:

* * * * *

(r) Wells Passage and tributary waters indenting mainland on north shore of Prince William Sound: All waters north of 61 degrees north latitude and within 1 statute mile of the mouth of any salmon stream in Wells Passage and its tributaries, including Port Wells, Cochrane Bay, Blackstone Bay, and Passage Canal.*

* * * * *

Section 211.15 is hereby amended to read as follows:

§ 211.15 *Closed seasons, commercial herring fishing, except by gill nets or for bait purposes.* Commercial fishing for herring, except for bait purposes, is prohibited from January 1 to June 23, both dates inclusive, and from October 16 to December 31, both dates inclusive: *Provided,* That this prohibition shall not apply to the use of set and drift gill nets in the period from November 16 to December 15, both dates inclusive.*

A new section to be known as § 211.15a is hereby inserted between §§ 211.15 and 211.16, to read as follows:

§ 211.15a *Maximum take of herring in the Prince William Sound area.* In the open season from June 24 to October 15, both dates inclusive, there shall not be taken in the Prince William Sound area a total of more than 350,000 barrels of herring, upon the basis of 250 pounds per barrel: *Provided,* That this limitation shall not prohibit the taking of herring for bait purposes.*

Section 211.19 is hereby amended to read as follows:

§ 211.19 *Size or purse seines, commercial herring fishing.* Commercial fishing for herring, including bait fishing, by means of any purse seine more than 1,400 meshes in depth, more than 180 fathoms in length, or of mesh less than 1½ inches stretched measure between knots is prohibited: *Provided,* That any purse seine may have in addition a strip along the bottom not to exceed 30 meshes in depth and of mesh not less than 4 inches stretched measure between knots. No extension to any seine in the way of leads will be permitted.*

Section 211.21a is hereby renumbered so as to appear in this part as § 211.19a. Section 211.21a is deleted and § 211.19a is inserted between §§ 211.19 and 211.20, to read as follows:

§ 211.19a *Waters closed to all commercial herring fishing.* Commercial fishing for herring, including bait fishing, is prohibited within one statute mile of Tatitlek village.*

Section 211.27 is hereby amended to read as follows:

§ 211.27 *Maximum take of razor clams from certain central bars.* Within the section bounded on the west by Strawberry Point Channel, on the north by a line from the southern extremity of Mummy Island to Wireless Point, on the east by a line from Government Rock to the west end of First Egg Island, and on the south by a line extending from the west end of First Egg Island to Point Bentinck, the taking of razor clams for commercial purposes is prohibited for the remainder of the open season from January 1 to June 30 after a combined total of 800,000 pounds, including shells, or 20,000 cases upon the basis of 48 one-half pound cans per case, has been reached in the Prince William Sound and Copper River areas.*

PART 212—COPPER RIVER AREA FISHERIES

Section 212.17 is hereby amended to read as follows:

§ 212.17 *Maximum take of razor clams from certain central bars.* Within the section bounded on the west by Strawberry Point Channel, on the north by a line from the southern extremity of Mummy Island to Wireless Point, on the east by a line from Government Rock to the west end of First Egg Island, and on the south by a line extending from the west end of First Egg Island to Point Bentinck, the taking of razor clams for commercial purposes is prohibited for the remainder of the open season from January 1 to June 30 after a combined total of 800,000 pounds, including shells, or 20,000 cases upon the basis of 48 one-half pound cans per case, has been reached in the Prince William Sound and Copper River areas.*

PART 220—SOUTHEASTERN ALASKA AREA FISHERIES OTHER THAN SALMON

Southeastern Alaska Area—Herring Fishery

Section 220.3 is hereby amended to read as follows:

§ 220.3 *Commercial herring fishing prohibited, exceptions.* Commercial fishing for herring, except for bait purposes, is prohibited throughout the year: *Provided,* That this prohibition shall not apply to the use of gill nets of mesh not less than 2½ inches stretched measure between knots, in the period from June 1 to December 31, both dates inclusive.*

Section 220.4 *Waters of Chatham Strait in which commercial herring fishing is prohibited or restricted,* is hereby revoked and deleted.*

Section 220.5 *Commercial herring fishing prohibited along west coasts of Chichagof and Baranof Islands and southeast coast of Baranof Island, except for bait purposes,* is hereby revoked and deleted.*

Section 220.6 is hereby amended to read as follows:

§ 220.6 *Waters of Union Bay in which commercial bait fishing for herring with purse seines is prohibited.* All commercial fishing for herring for bait purposes by means of any purse seine is prohibited in the waters on the west side of Cleveland Peninsula between 55 degrees 46 minutes north latitude and 55 degrees 44 minutes north latitude, and east of 132 degrees 17 minutes 30 seconds west longitude.*

Section 220.6a *Barlow Cove closed to commercial herring fishing except for bait purposes,* is hereby revoked and deleted.*

Section 220.7 *Weekly closed period, commercial herring fishing except for bait purposes,* is hereby revoked and deleted.*

Section 220.8 is hereby amended to read as follows:

§ 220.8 *Traps prohibited, commercial bait fishing for herring.* Commercial fishing for herring for bait purposes by means of any trap is prohibited.*

Section 220.10 is hereby amended to read as follows:

§ 220.10 *Size of purse seines, commercial bait fishing for herring.* Commercial fishing for herring for bait purposes by means of any purse seine more than 1,250 meshes in depth, more than 180 fathoms in length or of mesh less than 1½ inches stretched measure between knots is prohibited: *Provided,* That any purse seine may have in addition a strip along the bottom not to exceed 30 meshes in depth and of mesh not less than 4 inches stretched measure between knots. No extension to any seine in the way of leads will be permitted.*

Sections 220.12, 220.13, and 220.14 are hereby amended to read as follows:

§ 220.12 *Kanalku Bay closed to all commercial herring fishing.* All commercial fishing for herring, including bait fishing, is prohibited throughout the year in the waters of Kanalku Bay, Admiralty Island.*

§ 220.13 *Commercial bait fishing for herring with beach seines prohibited on all herring spawning grounds.* Commercial fishing for herring for bait purposes by means of any beach seine on any herring spawning ground is prohibited.*

§ 220.14 *Size of purse seines, commercial bait fishing for herring in Klawak Harbor.* Seines used in commercial fishing for herring for bait purposes in Klawak Harbor within a true east and west line passing through the northern extremity of Klawak Island shall not exceed 90 fathoms hung measure in length nor 500 meshes in depth. For the purpose of determining depths of such seines measurements will be upon the basis of 1½ inches stretched measure between knots. No such seine shall have a mesh of less than 1½ inches stretched measure between knots.*

PART 221—SOUTHEASTERN ALASKA AREA, YAKUTAT DISTRICT, SALMON FISHERIES

A new section to be known as § 221.16a is hereby inserted between §§ 221.16 and 221.17, to read as follows:

§ 221.16a *Take of Situk red salmon regulated by weir count.* The take of red salmon in Situk Inlet and adjacent coastal waters extending from the north side of the entrance to Ahrnklin Inlet to Ocean Cape shall not exceed 50 percent of the total run as determined at the weir in Situk River operated by the Bureau of Fisheries.* (Sec. 2, 43 Stat. 465; 48 U.S.C. 225)

PART 222—SOUTHEASTERN ALASKA AREA, ICY STRAIT DISTRICT, SALMON FISHERIES

Section 222.7 is hereby amended to read as follows:

§ 222.7 *Salmon-fishing boats limited to one seine; size of seine; use of leads.* No salmon-fishing boat shall carry or operate more than one seine of any description, and no additional net of any kind shall be carried on such boat. The carrying of any additional seine or net of any kind on a boat towed by any salmon-fishing boat is prohibited. No purse seine shall be less than 175 meshes nor more than 250 meshes in depth nor less than 150 fathoms nor more than 200 fathoms in length, measured on the cork line. For the purpose of determining depths of seines measurements will be upon the basis of 3½ inches stretched measure between knots. The extension to any seine in the way of leads exceeding 25 fathoms in length is prohibited. Leads having mesh not less than 7 inches stretched measure between knots may be detached during seining operations in the immediate vicinity of the Inian Islands.*

Sections 222.8, 222.9, and 222.10 are hereby amended to read as follows:

§ 222.8 *Closed seasons, commercial salmon fishing west of the longitude of Point Carolus.* Commercial fishing for salmon, other than trolling, west of the longitude of Point Carolus is prohibited prior to 6 o'clock antemeridian June 20, from 6 o'clock postmeridian August 5 to 6 o'clock antemeridian October 5, and for the remainder of each calendar year after 6 o'clock postmeridian October 25.*

§ 222.9 *Closed seasons, commercial salmon fishing east of the longitude of Point Carolus.* Commercial fishing for salmon, other than trolling, east of the longitude of Point Carolus is prohibited prior to 6 o'clock antemeridian June 20, from 6 o'clock postmeridian August 8 to 6 o'clock antemeridian October 5, and for the remainder of each calendar year after 6 o'clock postmeridian October 25.*

§ 222.10 *Traps prohibited, commercial salmon fishing from October 5 to October 25.* Commercial fishing for salmon by means of any trap is prohibited in the period from 6 o'clock antemeridian October 5 to 6 o'clock postmeridian October 25.*

A new section to be known as § 222.11a is hereby inserted between sections 222.11 and 222.12, to read as follows:

§ 222.11a *Weekly closed period, commercial salmon fishing.* The 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock postmeridian of Friday of each week until 6 o'clock antemeridian of the Monday following, making a weekly closed period of 60 hours: *Provided,* That this extension of 24 hours closed period each week shall not apply to trolling.*

Section 222.15 is hereby amended to read as follows:

§ 222.15 *Waters of Dundas Bay in which commercial salmon fishing is prohibited, except by gill nets.* Commercial fishing for salmon, except by gill nets, is prohibited in Dundas Bay north of 58 degrees 20 minutes north latitude.*

Section 222.18 (a) *Areas open to salmon traps,* is hereby amended to read as follows:

(a) Mainland: Within 2,500 feet of Point Dundas.*

* * * * *

PART 223—SOUTHEASTERN ALASKA AREA, WESTERN DISTRICT, SALMON FISHERIES

Sections 223.8 and 223.9 are hereby amended to read as follows:

§ 223.8 *Closed seasons, commercial salmon fishing north of Point Couverden.* Commercial fishing for salmon, other than trolling, north of a true line eastward from the southeastern extremity of Point Couverden is prohibited prior to 6 o'clock antemeridian June 20 and after 6 o'clock postmeridian August 11 in each calendar year: *Provided,* That this prohibition shall not apply to the use of gill nets from 6 o'clock postmeridian August 11 to 6 o'clock postmeridian August 31 in Lynn Canal and contiguous waters north of the north end of Sullivan Island.*

§ 223.9 *Closed seasons, commercial salmon fishing south of Point Couverden.* Commercial fishing for salmon, other than trolling, south of a true line eastward from the southeastern extremity of Point Couverden is prohibited prior to 6 o'clock antemeridian July 5, from 6 o'clock postmeridian August 16 to 6 o'clock antemeridian October 5, and for the remainder of each calendar year after 6 o'clock postmeridian October 25.*

Section 223.10 *Closed seasons, commercial salmon fishing south of 58 degrees north latitude,* is hereby revoked and deleted.*

Sections 223.11 and 223.12 are hereby amended to read as follows:

§ 223.11 *Traps prohibited, commercial salmon fishing from October 5 to October 25.* Commercial fishing for salmon by means of any trap is prohibited in the period from 6 o'clock antemeridian October 5 to 6 o'clock postmeridian October 25.*

§ 223.12 *Closed season, commercial salmon fishing other than trolling in Tenakee Inlet.* Commercial fishing for salmon, other than trolling, is prohibited in Tenakee Inlet from 6 o'clock postmeridian July 24 to 6 o'clock antemeridian October 5 in each year.*

A new section to be known as § 223.12a is hereby inserted between §§ 223.12 and 223.13, to read as follows:

§ 223.12a *Weekly closed period, commercial salmon fishing.* The 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock postmeridian of Friday of each week until 6 o'clock antemeridian of the Monday following, making a weekly closed period of 60 hours: *Provided,* That this extension of 24 hours closed period each week shall not apply to trolling.*

Section 223.22 (f) *Areas open to salmon traps,* is hereby revoked and deleted, and § 223.22 (e) is amended to read as follows:

* * * * *

(e) Chichagof Island: East coast (1) from 57 degrees 48 minutes 52 seconds north latitude to 57 degrees 48 minutes 25 seconds north latitude, (2) within 2,500 feet of a point at 57 degrees 44 minutes 18 seconds north latitude, 134 degrees 55 minutes 4 seconds west longitude, (3) from 57 degrees 36 minutes 37 seconds north latitude to 57 degrees 35 minutes 52 seconds north latitude, and (4) within 2,500 feet of a point at 57 degrees 30 minutes 4 seconds north latitude, 134 degrees 49 minutes 38 seconds west longitude.*

* * * * *

PART 224.9—SOUTHEASTERN ALASKA AREA, EASTERN DISTRICT, SALMON FISHERIES

Section 224.9 is hereby amended to read as follows:

§ 224.9 *Open and closed seasons, commercial salmon fishing other than trolling.* Commercial fishing for salmon, other than trolling, is prohibited for the remainder of each calendar year after 6 o'clock postmeridian August 19: *Provided,* That this prohibition shall not apply to the use of drift gill nets in Taku Inlet from 6 o'clock antemeridian September 5 to 6 o'clock postmeridian September 30: *And provided further,* That this prohibition shall not apply to commercial fishing for salmon south of 58 degrees north latitude from 6 o'clock antemeridian October 5 to 6 o'clock postmeridian October 25.*

A new section to be known as § 224.10a is hereby inserted between §§ 224.10 and 224.11, to read as follows:

§ 224.10a *Waters of Favorite Channel, Auke Bay, and Gastineau Channel in which commercial salmon fishing, except trolling, is prohibited.* Commercial fishing for salmon, except by trolling, is prohibited in all waters within a line extending from a point on the mainland on the north side of the mouth of Eagle River indicated by a marker to the most northerly point of Shelter Island, thence along the eastern shore of Shelter Island to its most southerly point, thence in a straight line to Outer Point on Douglas Island, thence along the northern and eastern shores of Douglas Island to Point Tantallon, thence to Point Salisbury.*

Section 224.11 is hereby amended to read as follows:

§ 224.11 *Traps prohibited, commercial salmon fishing from October 5 to October 25.* Commercial fishing for salmon by means of any trap is prohibited in the period from 6 o'clock antemeridian October 5 to 6 o'clock postmeridian October 25.*

A new section to be known as § 224.11a is hereby inserted between §§ 224.11 and 224.12, to read as follows:

§ 224.11a *Weekly closed period, commercial salmon fishing.* The 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock postmeridian of Friday of each week until 6 o'clock antemeridian of the Monday following, making a weekly closed period of 60 hours: *Provided,* That this extension of 24 hours closed period each week shall not apply to trolling.*

Section 224.17 (a) *Areas open to salmon traps,* is hereby revoked and deleted, and § 224.17 (1) is amended to read as follows:

* * * * *

(1) Kuiu Island: Northwest coast (1) within 2,500 feet of a point at 56 degrees 33 minutes 15 seconds north latitude, 134 degrees 17 minutes 53 seconds west longitude; (2) from a point 1 statute mile north of the north side of the entrance to Washington Bay to 56 degrees 45 minutes 56 seconds north latitude; (3) from 56 degrees 47 minutes 51 seconds north latitude to 56 degrees 48 minutes 11 seconds north latitude; and (4) from 56 degrees 50 minutes 26 seconds north latitude to the point at the east side of the entrance to Band Cove.*

* * * * *

Section 224.18 (b) *Waters closed to commercial salmon fishing,* is hereby amended by renumbering the paragraph, which henceforth will be designated as § 224.18 (b–1), and by inserting a new paragraph, to be known as § 224.18 (b–2), between § 224.18 (b–1) and § 224.18 (c), as follows:

* * * * *

(b–1) Windham Bay, indenting mainland: All waters of the bay east of 133 degrees 21 minutes 57 seconds west longitude.

(b–2) Limestone Inlet, indenting mainland: All waters in Limestone Inlet.*

* * * * *

Section 224.18 (n) *Waters closed to commercial salmon fishing,* is hereby amended to read as follows:

* * * * *

(n) Little Port Walter, east coast of Baranof Island: All waters in Little Port Walter.*

PART 226—SOUTHEASTERN ALASKA AREA, SUMNER STRAIT DISTRICT, SALMON FISHERY

Sections 226.8, 226.9, and 226.10 are hereby amended to read as follows:

§ 226.8 *Closed seasons, commercial salmon fishing other than trolling in Ernest Sound, Zimovia Strait, and Bradfield Canal.* Commercial fishing for salmon, other than trolling, in Ernest Sound, Zimovia Strait, and Bradfield Canal is prohbited prior to 6 o'clock antemeridian July 10 in each calendar year, from 6 o'clock postmeridian August 19 to 6 o'c'clock antemeridian October 5 in each year, and for the remainder of each calendar year after 6 o'clock postmeridian October 25.*

§ 226.9 *Closed seasons, commercial salmon fishing other than trolling; exceptions.* Commercial fishing for salmon other than trolling is prohibited, except in Ernest Sound, Zimovia Strait, and Bradfield Canal, prior to 6 o'clock antemeridian July 20 in each calendar year, from 6 o'clock postmeridian August 23 to 6 o'clock antemeridian October 5 in each year, and for the remainder of each calender year after 6 o'clock postmeridian October 25: *Provided,* That this prohibition shall not apply to the use of gill nets and beach seines in Wrangell Narrows, exclusive of all waters within 1 statute mile of the mouth of Petersburg Creek, from 6 o'clock antemeridian September to to 6 o'clock postmeridian September 15.*

§ 226.10 *Traps prohibited, commercial salmon fishing from October 5 to October 25.* Commercial fishing for salmon by means of any trap is prohibited in the period from 6 o'clock antemeridian October 5 to 6 o'clock postmeridian October 25.*

A new section to be known as § 226.10a is hereby inserted between §§ 226.10 and 226.11, to read as follows:

§ 226.10a *Weekly closed period, commercial salmon fishing.* The 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock postmeridian of

Friday of each week until 6 o'clock antemeridian of the Monday following, making a weekly closed period of 60 hours: *Provided*, That this extension of 24 hours closed period each week shall not apply to trolling.*

Section 226.18 (f), (i), (o), and (q), *Areas open to salmon traps*, are hereby revoked and deleted, and § 226.18 (m) is amended to read as follows:

* * * * *

(m) Prince of Wales Island: North coast within 4,500 feet westerly of Point Colpoys.*

* * * * *

Section 226.19 (i) *Waters closed to commercial salmon fishing*, is hereby amended to read as follows:

* * * * *

(i) Barrie Creek, north of Point Barrie southwest shore of Kupreanof Island: All waters within 2 statute miles of the mouth of the creek.*

* * * * *

PART 227—SOUTHEASTERN ALASKA AREA, CLARENCE STRAIT DISTRICT, SALMON FISHERIES

Section 227.2 is hereby amended to read as follows:

§ 227.2 *Definition, Clarence Strait district.*[1] All territorial waters within a line extending from a point on the southwest coast of Prince of Wales Island at 54 degrees 44 minutes 21 seconds north latitude, 132 degrees 18 minutes 36 seconds west longitude, near Point Marsh, thence south to the international boundary at a point 132 degrees 20 minutes west longitude, thence east along the international boundary to a point at 131 degrees 40 minutes west longitude, thence north to a point west of Point Davison at 55 degrees north latitude, 131 degrees 40 minutes west longitude, thence to the southern extremity of Point Davison, thence northerly along the watershed of Annette Island to the northern extremity of Walden Point, thence to the southern extremity of Gravina Point, thence northwesterly to the northern extremity of Vallenar Point, thence to the southern extremity of Caamano Point, thence northeasterly along the watershed of Cleveland Peninsula to a point at 55 degrees 45 minutes 30 seconds north latitude, 132 degrees west longitude, thence in a northwesterly direction through Union Point to the southern extremity of Ernest Point, thence northerly to a point on Etolin Island at 55 degrees 54 minutes 45 seconds north latitude, 132 degrees 21 minutes west longitude, thence in a northerly and westerly direction along the watershed of Etolin Island to a point northwest of the head of Mosman Inlet at 56 degrees 9 minutes 45 seconds north latitude, 132 degrees 37 minutes 15 seconds west longitude, thence southerly to a point at 56 degrees 6 minutes north latitude, 132 degrees 37 minutes and 15 seconds west longitude, thence in a northwesterly direction along the watershed to the northern extremity of Point Harrington, thence in a westerly direction to the northern extremity of East Island, thence in a southwesterly direction to the southern extremity of West Island, thence in a westerly direction to a point on the east shore of Prince of Wales Island at 56 degrees 9 minutes 15 seconds north latitude, 133 degrees 2 minutes 45 seconds west longitude, thence southerly along the watershed of Prince of Wales Island to the point of beginning at 54 degrees 44 minutes 21 seconds north latitude, 132 degrees 18 minutes 36 seconds west longitude.*

Sections 227.8 to 227.12 inclusive are hereby amended to read as follows:

§ 227.8 *Closed seasons, commercial salmon fishing in northern section of Clarence Strait.* Commercial fishing for salmon, other than trolling, north of a line extending from Narrow Point to Ernest Point is prohibited prior to 6 o'clock antemeridian July 25, from 6 o'clock postmeridian August 28 to 6 o'clock antemeridian October 5, and for the remainder of each calendar year after 6 o'clock postmeridian October 25.*

§ 227.9 *Closed seasons, commercial salmon fishing in central section of Clarence Strait.* Commercial fishing for salmon, other than trolling, between a line extending from Narrow Point to Ernest Point and a line extending from Approach Point to Caamano Point is prohibited prior to 6 o'clock antemeridian July 25, from 6 o'clock postmeridian August 26 to 6 o'clock antemeridian October 5, and for the remainder of each calendar year after 6 o'clock postmeridian October 25.*

§ 227.10 *Closed seasons, commercial salmon fishing in southeast section of Clarence Strait.* Commercial fishing for salmon, other than trolling, south of a line extending from Approach Point to Caamano Point and east of a line extending down the middle of Clarence Strait is prohibited prior to 6 o'clock antemeridian July 25, from 6 o'clock postmeridian August 24 to 6 o'clock antemeridan October 5, and for the remainder of each calendar year after 6 o'clock postmeridian October 25.*

§ 227.11 *Closed seasons, commercial salmon fishing in southwest section of Clarence Strait.* Commercial fishing for salmon, other than trolling, south of a line extending from Approach Point to Caamano Point and west of a line extending down the middle of Clarence Strait is prohibited prior to 6 o'clock antemeridian July 20, from 6 o'clock postmeridian August 24 to 6 o'clock antemeridian October 5, and for the remainder of each calendar year after 6 o'clock postmeridian October 25.*

§ 227.12 *Traps prohibited, commercial salmon fishing from October 5 to October 25.* Commercial fishing for salmon by means of any trap is prohibited in the period from 6 o'clock antemeridian October 5 to 6 o'clock postmeridian October 25.*

A new section to be known as § 227.12a is hereby inserted between §§ 227.12 and 227.13, to read as follows:

§ 227.12a *Weekly closed period, commercial salmon -fishing.* The 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock postmeridian of Friday of each week until 6 o'clock antemeridian of the Monday following, making a weekly closed period of 60 hours: *Provided*, That this extension of 24 hours closed period each week shall not apply to trolling.*

Section 227.17 (k), (m), and (t), *Areas open to salmon traps*, are hereby amended to read as follows:

* * * * *

(k) Cleveland Peninsula: West coast (1) from a point at 55 degrees 44 minutes 12 seconds north latitude, 132 degrees 15 minutes 31 seconds west longitude, southerly to 55 degrees 43 minutes 5 seconds north latitude, (2) from 55 degrees 40 minutes 5 seconds north latitude to 55 degrees 39 minutes 35 seconds north latitude, (3) from 55 degrees 36 minutes 15 seconds north latitude to 55 degrees 34 minutes 50 seconds north latitude, (4) from 55 degrees 33 minutes 35 seconds north latitude to 55 degrees 32 minutes 35 seconds north latitude, 132 degrees 3 minutes 55 seconds west longitude, and (5) from 55 degrees 31 minutes 27 seconds north latitude, 132 degrees 1 minute 55 seconds west longitude, to 131 degrees 59 minutes 55 seconds west longitude.

* * * * *

(m) Gravina Island: West coast (1) from South Vallenar Point to 55 degrees 20 minutes 48 seconds north latitude, (2) from 55 degrees 18 minutes 50 seconds north latitude to 55 degrees 8 minutes 15 seconds north latitude, including the rocky islets adjacent to this coast, and (3) the Bronaugh Islands south of 55 degrees 7 minutes 10 seconds north latitude.

* * * * *

(t) Prince of Wales Island: East coast (1) from 55 degrees 20 minutes 15 seconds north latitude to 55 degrees 20 minutes 56 seconds north latitude, 132 degrees 9 minutes 38 seconds west longitude, and (2) within 2,500 feet of a point at 55 degrees 22 minutes 22 seconds

[1] All of the fisheries regulations herein prescribed for the Clarence Strait district of the Southeastern Alaska area are also applicable in the waters of the Annette Island Fishery Reserve. This Reserve was created by Presidential procamation on August 28, 1916, for the use of the Metlakatla Indians who reside in this vicinity. Part of the waters of this Reserve are in the southern district.

north latitude, 132 degrees 11 minutes 15 seconds west longitude.*

* * * * *

Five additional paragraphs, designated as § 227.17 (cc), (dd), (ee), (ff), and (gg), *Areas open to salmon traps,* are hereby inserted after § 227.17 (bb). These paragraphs, formerly designated a § 228.14 (y), (x), (w), (v), and (u), *Areas open to salmon traps,* have been deleted from Part 228 and transferred in reverse order to Part 227, to read as follows:

* * * * *

(cc) Prince of Wales Island: From a point near Nichols Bay at 132 degrees 4 minutes 55 seconds west longitude eastward and southward for a distance of 5,000 feet.

(dd) Bean Island: Within 2,500 feet of a point at 54 degrees 41 minutes 15 seconds north latitude, 132 degrees 6 minutes 5 seconds west longitude.

(ee) Prince of Wales Island: South coast from a point at 54 degrees 42 minutes 34 seconds north latitude, 132 degrees 9 minutes 55 seconds west longitude, easterly to a point at 54 degrees 41 minutes 30 seconds north latitude, 132 degrees 7 minutes 46 seconds west longitude.

(ff) Prince of Wales Island: South coast within 3,000 feet northeasterly from the extremity of land at 54 degrees 43 minutes 9 seconds north latitude, 132 degrees 13 minutes 30 seconds west longitude.

(gg) Coast line within 450 feet of the eastern extremity of the island situated at 54 degrees 42 minutes 55 seconds north latitude, 132 degrees 16 minutes 10 seconds west longitude.*

PART 228—SOUTHEASTERN ALASKA AREA, SOUTH PRINCE OF WALES ISLAND DISTRICT, SALMON FISHERIES

Section 228.2 is hereby amended to read as follows:

§ 228.2 *Definition, South Prince of Wales Island district.* All territorial waters within a line extending from a point west of the Maurelle Islands at 55 degrees 40 minutes north latitude, 134 degrees 17 minutes 10 seconds west longitude, thence to a point west of Cape Addington at 55 degrees 25 minutes 30 seconds north latitude, 134 degrees west longitude, thence to a point southwest of Forrester Island at 54 degrees 40 minutes north latitude, 133 degrees 35 minutes west longitude, thence to the southern extremity of Cape Muzon, thence along the international boundary to a point at 132 degrees 20 minutes west longitude, thence north to a point on the southwest coast of Prince of Wales Island at 54 degrees 44 minutes 21 seconds north latitude, 132 degrees 18 minutes 36 seconds west longitude, near Point Marsh, thence northerly along the watershed of Prince of Wales Island to a point at 55 degrees 40 minutes north latitude, 132 degrees 50 minutes west longitude, thence to the point of beginning at 55 degrees 40 minutes north latitude, 134 degrees 17 minutes 10 seconds west longitude.*

Sections 228.8 and 228.9 are hereby amended to read as follows:

§ 228.8 *Closed seasons, commercial salmon fishing other than trolling.* Commercial fishing for salmon, other than trolling, is prohibited prior to 6 o'clock antemeridian July 25 in each calendar year, from 6 o'clock postmeridian August 29 to 6 o'clock antemeridian October 5 in each year, and for the remainder of each calendar year after 6 o'clock postmeridian October 25.*

§ 228.9 *Traps prohibited, commercial salmon fishing from October 5 to October 25.* Commercial fishing for salmon by means of any trap is prohibited in the period from 6 o'clock antemeridian October 5 to 6 o'clock postmeridian October 25.*

A new section to be known as § 228.9a is hereby inserted between sections 228.9 and 228.10, to read as follows:

§ 228.9a *Weekly closed period, commercial salmon fishing.* The 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock postmeridian of Friday of each week until 6 o'clock antemeridian of the Monday following, making a weekly closed period of 60 hours: *Provided,* That this extension of 24 hours closed period each week shall not apply to trolling.*

Section 228.14 (m) *Areas open to salmon traps,* is hereby revoked and deleted and Section 228.14 (u) to (y) inclusive are deleted from Part 228 and transferred in reverse order to Part 227. Henceforth these five paragraphs will be designated as § 227.18 (cc) to (gg) inclusive, *Areas open to salmon traps.**

PART 229—SOUTHEASTERN ALASKA AREA, SOUTHERN DISTRICT, SALMON FISHERIES

Sections 229.8 and 229.9 are hereby amended to read as follows:

§ 229.8 *Closed seasons, commercial salmon fishing other than trolling.* Commercial fishing for salmon, other than trolling, is prohibited prior to 6 o'clock antemeridian July 15, from 6 o'clock postmeridian August 19 to 6 o'clock antemeridian October 5, and for the remainder of each calendar year after 6 o'clock postmeridian October 25.*

§ 229.9 *Traps prohibited, commercial salmon fishing from October 5 to October 25.* Commercial fishing for salmon by means of any trap is prohibited in the period from 6 o'clock antemeridian October 5 to 6 o'clock postmeridian October 25.*

A new section to be known as § 229.9a is hereby inserted between §§ 229.9 and 229.10, to read as follows:

§ 229.9a *Weekly closed period, commercial salmon fishing.* The 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock postmeridian of Friday of each week until 6 o'clock antemeridian of the Monday following, making a weekly closed period of 60 hours: *Provided,* That this extension of 24 hours closed period each week shall not apply to trolling.*

Section 229.15 is hereby amended to read as follows:

§ 229.15 *Closed seasons, commercial salmon fishing by trolling in Burroughs Bay.* Commercial fishing for salmon by trolling is prohibited in Burroughs Bay (indenting mainland north of Revillagigedo Island) for the remainder of each calendar year after 6 o'clock postmeridian August 16: *Provided,* That this prohibition shall not apply to the period from 6 o'clock antemeridian October 5 to 6 o'clock postmeridian October 25 in each year.*

§ 229.18 (f) *Waters closed to commercial salmon fishing,* is hereby amended to read as follows:

* * * * *

(f) Boca de Quadra, indenting mainland: All waters within 1 statute mile of the mouth of any salmon stream tributary to Boca de Quadra.*

* * * * *

The regulations contained in this document shall be in full force and effect immediately from and after the date of their publication in the FEDERAL REGISTER.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 40-778; Filed, February 23, 1940; 9:28 a. m.]

Notices

WAR DEPARTMENT.

APPOINTMENT OF OFFICERS IN THE AIR CORPS, REGULAR ARMY

1. Under authority of section 24e, National Defense Act, as amended by section 7, act April 3, 1939 (53 Stat. 555), examination of applicants for appointment as second lieutenant in the Air Corps, Regular Army, in accordance with the provisions of A. R. 605-5 and special conditions hereinafter set forth, will be held as follows, provided that funds are made available under War Department appropriation:

Preliminary examination to be completed not later than April 6.

Final examination, Part II to be completed April 27, Part I to be completed April 30.

2. Candidates will submit applications, accompanied by photographs and all required papers, to corps area and department commanders through channels in accordance with section III, A.R. 605-5, not later than March 20. Corps area and

department commanders will proceed with the preliminary and final examinations without forwarding applications to the Chief of the Air Corps as provided in paragraph 14*d*, A. R. 605–5. They will also transmit to the preliminary and final boards all efficiency reports and pertinent records of the candidate. Candidates who are not in the active military service will submit their applications to the nearest Air Corps station.

3. All applicants who are not in the active military service at the time of making application for examination will be required to demonstrate their proficiency as pilots of service type equipment before the board conducting the preliminary examination. A report showing the flying proficiency of the candidate will be submitted by the preliminary examining board.

4. *a.* Eligibility to compete in the final examination will be confined to graduates of the Air Corps Training Center who are qualified pilots of service equipment and who—

(1) Fulfill the necessary mental, moral, and physical qualifications for appointment as second lieutenants in the Regular Army.

(2) Are physically qualified for flying duty.

(3) Have not reached the age of twenty-nine years and ten months on May 1, 1940.

b. All boards which give consideration to the examination of moral character and general fitness as prescribed in paragraphs 20 and 33, A. R. 605–5, as changed by Section I, Circular No. 1, War Department, 1938, will arrange all candidates in a recommended order of merit within the classifications of superior, excellent, very satisfactory, and satisfactory.

5. The final examination will consist of two parts—Part I and Part II. Examinations will be written, and the candidate will certify on each examination paper that he has received or given no unauthorized assistance during the examination. Questions will be prepared and marks awarded by the War Department. Examination in any subject will be taken simultaneously by all candidates before any board. Reexaminations will not be permitted.

a. Part I.—Part I of the examination is designed to determine whether or not those candidates who have not been graduated from a recognized college or university possess the educational requirements of an officer of the Regular Army. To qualify mentally for appointment, all candidates who are required to undergo Part I of the examination must attain a general average of 75 on the entire part and a grade of not less than 65 percent in each subject. The subjects of Part I are divided into three groups as follows:

(1) (*a*) *Group A.*

1. English rhetoric, composition, and literature.
2. History of modern Europe or history of the United States (choice of one).
3. General mathematics.

(*b*) *Group B.*

1. Calculus.
2. Physics.
3. Chemistry.
4. Electricity.
5. Surveying.
6. Civil Engineering.
7. Mechanical engineering.

(*c*) *Group C.*

1. French.
2. Spanish.
3. Economics.
4. Political science.

(2) Examinations must be taken in six different subjects, to be selected in the following manner. Unless exempted, all of Group A must be taken with the choice of history indicated in Group A 2, and three examinations are to be selected from Groups B and C, provided that one must be selected from Group B, one from Group C, and the third from either Group B or C.

b. Part II.—The requirements and subjects of Part II are shown below. Prior to being commissioned in the Air Corps, it must be established that the candidate has—

(1) Successfully completed the regular or special heavier-than-air flying course at the Air Corps Training Center.

(2) Received an aeronautical rating as pilot which was given in conformity with the provisions of A. R. 95–60 and at the time of examination is a qualified pilot of service type equipment.

(3) Satisfactorily passed an examination in the following subjects:

	Weight
(a) Airplane engine:	
Part I	25
Part II	25
(b) Air navigation:	
Part I	25
Part II	25
	100

6. *Exemptions.*—*a.* All exemptions from a subject or subjects of Part I which are approved by corps area commanders will be recognized by the final board. The following exemptions are authorized:

(1) *From all of Part I.*—Such candidates for commission in the Air Corps as are graduates of a recognized college or university or who made a qualifying grade in Part I of a previous examination for appointment as a commissioned officer in the Regular Army who have successfully completed the course of flying training given at the Air Corps Training Center and who, at the time of examination, are fully qualified as pilots of service type equipment. The exemptions will be granted only upon submission by the candidate of satisfactory evidence to substantiate the claim.

(2) *From individual subjects of Part I.*—Exemption in a subject will be granted to persons who are not college graduates and who have attended a recognized college or university and who have graduated from the Air Corps Training Center, only on satisfactory evidence from school records submitted by the candidate, showing qualification under school requirements in the subjects of Part I, from which exemptions are requested.

b. The burden of submitting satisfactory evidence to substantiate the fulfillment of the conditions in *a* above rests upon the candidate and will be submitted by him to the examining board prior to or upon reporting for the preliminary examination. A certified transcript of graduation record and class standing will serve to support condition in *a* (1) above.

c. No exemptions will be granted from Part II.

7. *General scope of subjects of examination, Part I and Part II.*—*a. Part I.*

(1) *English rhetoric, composition, and literature.*—The examination will require a thorough knowledge of the basic rules of rhetoric and their applications, a knowledge of the meaning of words, familiarity with the rules of composition showing the ability to write a clear and well organized theme, and general knowledge of the principal periods of American and English literature, together with familiarity with the principal writers of each period and their important works. The scope of the examination will be that covered in rhetoric and composition by Wooley and Scott's "College Handbook", or equivalent, and in literature by Long's "English Literature" and Pancoast's "Introduction to American Literature", or equivalents.

(2) *History of Modern Europe.*—The examination will require a knowledge of facts of modern European history from the Reformation to the present day, and the ability to analyze and interpret outstanding trends and developments—political, social, and economic—in that period. The scope will be that covered by Hayes' "Political and Cultural History of Modern Europe", Vols. I and II, or equivalent.

(3) *History of the United States.*—The examination will cover the political, economic, social, and military developments of the United States from 1492 to the present, as presented in Muzzey's "United States of America", Revised Edition, 1933, Vols. I and II, or equivalent.

(4) *General mathematics.*—The examination will require a thorough knowledge of algebra as covered by W. L. Hart's "College Algebra", or equivalent, together with a working knowledge of the principles of geometry and trigonometry as covered by Phillips and Fisher's "Elements of Geometry" and W. L. Hart's "Plane trigonometry", or equivalents.

(5) *Calculus.*—The examination will require a knowledge of calculus as covered by Woods and Bailey's "Elementary Calculus", or equivalent.

(6) *Physics.*—The examination will require a knowledge of physics as covered by Duff's "College Physics", or equivalent.

(7) *Chemistry.*—The scope of this examination will be that of a final examination in this subject given by recognized colleges and technical schools at the end of sophomore or junior years in the scientific courses. The scope will be as covered in Alexander Smith's "College Chemistry" (Kendall), or equivalent.

(8) *Electricity.*—The scope of this examination will be that of a final examination in this subject given by recognized colleges and technical schools at the end of the sophomore or junior years in the scientific courses. The scope of the subject will be as covered by Chester L. Dawes' "Electrical Engineering", Vol. I (Direct Currents), and by the first and second chapters only of Vol. II (Single Phase Alternating Currents), or equivalents.

(9) *Surveying.*—The examination will cover the principles of plane, geodetic, and serial photographic surveying and their application, and will require a knowledge of the following:

(*a*) Instruments, their adjustments and uses.

(*b*) Plane surveying to include methods of computing areas of limited boundaries and volumes of irregular shape, and topographic surveying mapping.

(*c*) Geodetic surveying.

1. Field astronomy, method of determining time, latitude, longitude, and azimuth.

2. Triangulation, field work, computations, and adjustments.

3. Trigonometric and precise spirit leveling.

4. Projection of maps, especially polyconic projection.

(*d*) Aerial surveys.

The examination may include an application of this knowledge to the solution of problems in which the required forms, formulas, and tables will be furnished the candidate for use during the solution of the problems. The extent of the knowledge required will conform to the contents of Davis, Foote, and Rayner's "Surveying, Theory and Practice" (latest edition), or equivalent.

(10) *Civil engineering.*—Theory and practice of engineering construction, including buildings, highways, retaining walls, dams, foundations, water-supply and sewerage systems, and materials of construction (equivalent to that covered by Mitchell's "Civil Engineering", Baker's "Treatise on Masonry Construction" (tenth edition), Spofford's "Theory of Structures", Merriman's "Elements of Sanitary Engineering", and Johnson's "Materials of Construction").

(11) *Mechanical engineering.*—This examination will require a knowledge of—

(*a*) Advance mechanics, and

(*b*) A knowledge of either—

1. Hydraulics, or

2. Thermodynamics, such as is required in the final examination in each subject as given by recognized colleges and technical schools at the end of the sophomore or junior years, in the scientific courses and as covered by recognized standard textbooks such as the following:

For advanced mechanics: Seely and Ensign's "Analytical Mechanics for Engineers", latest edition; Maurer and Roark's "Technical Mechanics", latest edition; Frank L. Brown's "Engineering Mechanics", latest edition.

For hydraulics: Russell's "Textbook on Hydraulics", latest edition; Daugherty's "Hydraulics", latest edition; Kind and Wisler's "Hydraulics", latest edition; Hughes and Safford's "Hydraulics", latest edition; Schoder and Dawson's "Hydraulics", latest edition.

For thermodynamics: Moyer, Calderwood, and Potter's "Elements of Engineering Thermodynamics", latest edition; William D. Ennis' "Thermodynamics Abridged", latest edition; V. W. and G. A. Young's "Elementary Engineering Thermodynamics", latest edition.

(12) *French.*—The examination will require a knowledge of vocabulary, verb, grammar, composition, and idiomatic expression as covered in Morrison and Gauthier's "A French Grammar", and Martin and Russell's "At West Point", or any other recognized textbook of similar scope on the grammar and composition of the French language.

(13) *Spanish.*—The examination will require a knowledge of vocabulary, verb, grammar, composition, and idiomatic expression as covered in Torres' "Essentials of Spanish", and Seymour and Carnahan's "Short Spanish Review Grammar", or any other recognized textbooks of similar scope on the grammar and composition of the Spanish language.

(14) *Economics.*—The scope of this examination will be equivalent to that given as a final examination in recognized colleges at the end of a year's course in elementary economics, including—

(*a*) The economic organization of modern society, with special reference to the United States.

(*b*) A consideration of the part which money and credit play in the operation of this organization. Textbooks: Fairchild, Purniss, and Buck's "Elementary Economics", or equivalent.

(15) *Political science.*—The scope of this examination will cover a survey of—

(*a*) Political forms from the prehistoric era to the present.

(*b*) Political systems extant today.

(*c*) An analysis of the organization and operation of Government in the United States. The scope will be that covered by Maxey's "The American Problem of Government", or equivalent.

b. Part II.—Professional subjects.

(1) *Airplane engines.*

(*a*) *Part I.*—The examination will require a knowledge of airplane engines as covered by Chapters 1 to 7, inclusive, of the Air Corps Primary Flying School text, "Airplane Engines."

(*b*) *Part II.*—The examination will require a knowledge of airplane engines as covered by Chapters 8 to 14, inclusive, of the Air Corps Primary Flying School text, "Airplane Engines."

(2) *Air navigation.*

(*a*) *Part I.*—The examination will require a knowledge of air navigation as covered by Chapters 1 to 6, inclusive, of the Air Navigation text of the U. S. Army Air Corps.

(*b*) *Part II.*—The examination will require a knowledge of air navigation as covered by Chapters 7 to 11, inclusive, of the Air Navigation text of the U. S. Army Air Corps.

8. *Notification of acceptance or rejection.*—Examination papers will be marked as indicated below. Appointees will be selected by the War Department. This work will be expedited as much as circumstances permit and candidates will be notified, as early as practicable, of their acceptance or rejection. Prior to such notification no information will be given concerning candidates under consideration.

9. *Correction and review of final examinations.*—*a. Part I.*—Under direction of the Superintendent, United States Military Academy.

b. Part II.—Under direction of the Chief of the Air Corps.

c. Physical examination.—Physical examination reports will be reviewed by The Surgeon General and recommendation will be made by him in each case as to physical eligibility of the candidates.

10. *Weights of parts of examination.* Part I will be given no weight other than to determine whether the candidate has or has not the general education required of an officer in the Regular Army. The weights of Part II are as shown in paragraph 5*b* following each subject.

11. *Determination of successful candidates.*—Selection of candidates for appointment from among those qualified will be determined as follows:

a. The mark to be assigned to Part II will be the sum of the assigned weights attained in all subjects in Part II.

b. A numerical value will be assigned to each candidate's general fitness rating as determined by the final selecting board. The classifications satisfactory, very satisfactory, excellent, and superior, will be assigned values of 60 to 64, 65 to 70, 90 to 95, and 96 to 100, respectively.

c. The final mark, or the figure of merit, of each candidate will be determined by adding the value attained on the examinations of Part II to the value assigned to his efficiency rating, as determined in *a* and *b*, respectively, above.

d. Candidates will be selected for appointment in accordance with the quota established by the Secretary of War, and in the relative order of their final mark, determined as indicated in *c* above.

* * * * *

15. *Appointment; notification of rejection.*—When the selecting board has completed its duties, appointments will be tendered and rejected applicants will be notified of rejection. Appointees will be given a reasonable time to accept appointments.

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[Cir. No. 19, W. D., Feb. 16, 1940]

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

[F. R. Doc. 40–780; Filed, February 23, 1940; 10:39 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[SRB–401–Special Counties, Tex.]

1940 SPECIAL AGRICULTURAL CONSERVATION PROGRAM

SOUTHERN REGION BULLETIN 401

Applicable Only to Dallam, Deaf Smith, Hansford, Hartley, Moore, Oldham, and Sherman Counties, Texas. Program Effective From January 1, 1940 to November 30, 1940

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Payments and grants of aid will be made for participation in the 1940 Special Agricultural Conservation Program (hereinafter referred to as the 1940 program), in accordance with the provisions of this bulletin and such modifications thereof as may hereafter be made.

SECTION 1. *Farm acreage allotments and goals.* The county committee, with the assistance of other local committees in the county, shall determine acreage allotments, restoration land, and soil-building goals, in accordance with the provisions contained herein and instructions issued by the Agricultural Adjustment Administration (hereinafter referred to as the A. A. A.). The soil-depleting acreage allotments determined for all farms in the county shall not exceed the county acreage allotments established for the county by the A. A. A., and the sum of the acreage allotments for farms furnishing required forms and information shall not exceed their proportionate share of the county acreage allotments.

(a) *Soil-depleting acreage allotments.* (1) *Total soil-depleting acreage allotment.* The total soil-depleting acreage allotment for any farm shall be determined on the basis of good soil management, tillable acreage on the farm, type of soil, topography, degree of erosion, and the acreage of all soil-depleting crops customarily grown on the farm, taking into consideration special crop acreage allotments determined for the farm. The total soil-depleting acreage allotment for any farm shall be comparable with the allotments determined for other farms in the same community which are similar with respect to such factors.

(2) *Wheat allotment.* Acreage allotments of wheat shall be determined for farms on which wheat has been planted for harvest in one or more of the years 1937, 1938, and 1939, on the basis of tillable acreage and crop-rotation practices, as reflected in the usual acreage of wheat on the farm, or the ratio of wheat acreage to cropland in the community or in the county, and on the basis of the type of soil and topography. Not more than 3 percent of the county wheat acreage allotment shall be apportioned to farms in the county on which wheat was not planted for harvest in any one of the three years 1937, 1938, and 1939, but on which wheat is planted for harvest in 1940. This apportionment shall be made on the basis of the tillable acreage, crop-rotation practices, type of soil, and topography. The wheat acreage allotment for any farm shall be comparable with the allotment determined for other farms in the same community which are similar with respect to such factors. In no event shall a wheat acreage allotment be determined for a farm which is owned or leased by a conservation district, an association determined by the State committee to have been organized for conservation purposes, or a State agency authorized by law to own or lease land for conservation or wind-erosion-control purposes.

(b) *Restoration land.* Restoration land shall be designated by the county committee, with the assistance of other local committees in the county, in accordance with instructions issued by the A. A. A., on the basis of the land in the farm which was designated as restoration land under the 1938 or 1939 program, and any additional land in the farm which has been cropped at least once since January 1, 1930, but on which, because of its physical condition and texture and because of climatic conditions, a permanent vegetative cover should be restored: *Provided,* That new restoration land shall be designated only on a farm which is operated by the owner or where such designation has been approved by the owner in the case of a tenant-operated farm. The county committee shall designate practices to be carried out on restoration land determined to be in need of additional practices. Land formerly designated as restoration land may, if such land was improperly designated, be restored to its former cropland status, with the approval of the State committee, when offset by an equal acreage of land in the county which is properly designated for 1940 as restoration land.

(c) *Soil-building goal.* The soil-building goal for any farm shall be one soil-building practice unit for each acre of cropland, each acre of restoration land, and each 10 acres of non-crop open pasture land in the farm. The county committee shall determine which of the approved practices listed in Sec. 2, "Soil-building practices," and the number of units of each such practice that shall count toward meeting the soil-building goal for the farm.

SEC. 2. *Soil-building practices.* If approved by the county committee for the farm, the soil-building practices listed in the following schedule shall count toward the achievement of the soil-building goal, when carried out in 1940 in accordance with specifications, if any, issued by the Director of the Southern Division, and when performed in a workmanlike manner and in accordance with good farming practice for the locality.

Practices carried out with labor, seed, and materials furnished entirely by any State or Federal agency other than the AAA shall not be counted toward the achievement of the soil-building goal. If a portion of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency other than the AAA and such portion represents one-half or more of the total cost of carrying out such practice, such practice shall not be counted toward the achievement of the soil-building goal; if such portion represents less than one-half of the total cost of carrying out such practice, one-half of such practice shall be counted toward the achievement of the soil-building goal.

Wind-erosion-control practices and restoration land measures carried out with the use of equipment furnished by

the Soil Conservation Service on a farm owned or leased by a conservation district, an association determined by the State committee to have been organized for conservation purposes, or a State agency authorized by law to own or lease land for conservation or wind-erosion-control purposes, shall not (by virtue of the use of such equipment) be deemed to be paid for in whole or in part by a State or Federal agency.

Schedule of Soil-Building Practices

The soil-building practices in the following schedule will count toward the achievement of the soil-building goal, if carried out in a workmanlike manner in accordance with good farming practice for the locality and in accordance with the specifications shown in connection with each practice. Credit shall not be given for carrying out more than one of such practices on the same acreage.

A. Each acre of the following shall be counted as one unit:

(1) Leaving on the land, as a protection against wind erosion, the stalks (at least 8 inches in height) of sorghums or Sudan grass listed in rows not over 44 inches wide or drilled, or a good turf of Sudan grass, sorghums, or millet, drilled with spacing not over 14 inches, if approved by the county committee and if the operator's farming plan provides that such cover will be left on the land until the spring of 1941.

(2) Contour listing or pit cultivation, or contour cultivation with a furrowing or shovel-type implement approved by the county committee, (a) on summer-fallowed land, provided such practice is carried out in an approved manner before June 15, 1940, or (b) on small-grain stubble or for the protection of cropland from wind erosion following crop failure.

(3) Contour farming of intertilled crops.

(4) Natural vegetative cover (of native grasses and other proper vegetative growth to prevent erosion) or small-grain stubble of crops harvested in 1940 and left on cropland, where it is determined by the county committee that such cover is necessary as a protection against wind erosion, and the operator's farming plan provides that such cover will be left on the land until the spring of 1941.

(5) Contour seeding of small grain if sufficient growth is obtained to prevent wind erosion.

B. Each acre of the following shall be counted as two units:

(6) Border planting of Sudan grass, sorghums, or millet, the stalks (at least 8 inches in height) to be left on the land until the spring of 1941; the border to be not less than 100 feet wide on four sides of the field, unless a fewer number of sides of the field is approved by the county committee.

(7) Stripcropping, consisting of alternating strips of sorghums, Sudan grass, small grains, or fallow, such strips to be not less than 2 rods wide. Credit will be given for strips of crops if protecting fallow, and only for the sorghum or Sudan grass strips if for the protection of wheat.

C. The following shall count as one unit:

(8) Terracing: 2 chains (132 feet).

D. Each of the following shall be counted as one unit: *Provided*, That credit for such practices shall not exceed the amount of the soil-building goal computed for the non-crop open pasture land on the farm:

(9) Deferred grazing of 7 acres of pasture land.

(10) Contour listing or furrowing of one acre of pasture land.

(11) Seven cubic yards of earth moved in the construction of reservoirs and dams.

(12) Eradication of one acre of pricklypear.

(13) Mowing of 4 acres of undesirable weeds and shrubs from pasture land.

SEC. 3. *Productivity indexes.* A productivity index shall be established for each farm by the county committee, with the assistance of other local committees and with the approval of the State committee. Such productivity index shall be based upon the normal yield of wheat per acre for the farm as compared with the normal yield of wheat per acre in the county. Where the normal yield of wheat does not accurately reflect the productivity of a farm, the yield of grain sorghums or any other crop, or any farming practice adopted during the year, that reflects the productivity of the farm may be used: *Provided*, That the productivity index for such farm shall be adjusted, if necessary, so as to be fair and equitable as compared with the productivity indexes for other farms in the county having similar soils or productive capacity.

The average productivity index for all farms in the county shall not exceed 100, unless it is determined that farms for which such indexes are established are not representative of all farms in the county and a variation from 100 is approved by the AAA.

SEC. 4. *Soil-depleting acreages.* Soil-depleting acreage means the acreage of land devoted during the 1940 crop year to one or more of the following crops or uses (land on which a volunteer crop is harvested shall be classified as if the crop had been planted):

(1) Corn planted for any purpose, except roasting ear corn or popcorn grown in a home garden for use on the farm.

(2) Grain sorghums planted for any purpose.

(3) Broomcorn planted for any purpose.

(4) Wheat planted (or regarded as planted) for any purpose.

(5) Oats, barley, rye, or mixtures of these crops, harvested for grain.

(6) Sudan grass, sweet sorghums, or millet, harvested for grain, seed, or sirup.

(7) Land summer-fallowed and not protected from wind and water erosion by methods approved by the State committee.

(8) Annual truck and vegetable crops planted for any purpose, except when grown in a home garden for use on the farm.

SEC. 5. *Maximum farm payment.* The average farm payment (referred to herein as the county rate) for each county shall be as follows: Dallam 68 cents; Deaf Smith 71 cents; Hansford 72 cents; Hartley 68 cents; Moore 75 cents; Oldham 69 cents; and Sherman 71 cents.

The maximum payment that may be made with respect to any farm in the county shall be the county rate, adjusted for the productivity of the farm, multiplied by the sum of the following: (i) the acreage of cropland, (ii) the acreage of restoration land, and (iii) one-tenth of the acreage of non-crop open pasture land on the farm.

SEC. 6. *Net farm payment or deduction.* The net payment or net deduction computed for any farm in the county shall be the maximum farm payment less the sum of the following:

(a) *Deductions for excess acreages of soil-depleting crops*—(1) *Wheat.* 50 cents per bushel of the normal yield for the farm for each acre planted to wheat in excess of the wheat acreage allotment.

(2) *Total soil-depleting acreage.* $4.00, adjusted for the productivity of the farm, for each acre of soil-depleting crops in excess of the total soil-depleting acreage allotment, less the acreage for which deduction is made for exceeding the wheat acreage allotment.

(b) *Failure to carry out soil-building practices.* The county rate, adjusted for the productivity of the farm, for each unit by which the soil-building goal is not reached.

(c) *Cropping restoration land.* $3.00 for each acre of restoration land which is plowed or tilled in 1940 for any purpose other than tillage practices to protect the land from wind erosion or tillage operations in connection with the seeding of an approved non-depleting cover crop or permanent grass mixture, unless the breaking of such land is approved by the county committee as a good farming practice and is matched acre for acre by new restoration land elsewhere in the county. With the approval of the State committee, land improperly designated as restoration land under the 1938 or 1939 program may be restored to its former cropland status when offset by an equal acreage of land in the county which is properly designated in 1940 as restoration land.

(d) *Breaking out native sod.* $3.00 for each acre of native sod or any other land on which a permanent vegetative cover has been established, broken out during the period November 1, 1939, to October 31, 1940, inclusive, less the acre-

age of such land broken out with the approval of the county committee as a good farming practice, for which an equal acreage of cropland is restored to permanent vegetative cover on any farm in the county.

SEC. 7. *Division of payments and deductions.* The net payment or net deduction computed with respect to any farm shall be divided between the landlord and tenant in proportion to the extent to which such landlord and tenant contributed to the carrying out of soil-building practices on the farm. The tenant shall be deemed to have contributed 80 percent and the landlord 20 percent to the carrying out of soil-building practices on the farm, unless such persons establish to the satisfaction of the county committee that their respective contributions thereto were different from such respective percentages, in which event such payment or deduction shall be divided in the proportion in which the county committee determines that each such person contributed to the carrying out of soil-building practices on the farm. On any farm where there is more than one landlord the contribution of each landlord to the carrying out of the soil-building practices shall be deemed to be in proportion to the contribution made by each such landlord to the total soil-depleting acreage allotment determined for the farm, unless such landlord establishes to the satisfaction of the county committee that his respective contribution to carrying out the practices was different from such respective percentage, in which event such payment or deduction shall be divided in the proportion in which the county committee determines that such landlord contributed to the carrying out of soil-building practices on the farm.

SEC. 8. *General provisions relating to payments and deductions*—(a) *Increase in small payments.* The total payment computed for any person with respect to any farm shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1;

(2) Any payment amounting to more than 71 cents but less than $1 shall be increased by 40 percent;

(3) Any payment amounting to $1 or more shall be increased in accordance with the following schedule:

Amount of payment computed:	*Increase in payment*
$1.00 to $1.99	$0.40
$2.00 to $2.99	.80
$3.00 to $3.99	1.20
$4.00 to $4.99	1.60
$5.00 to $5.99	2.00
$6.00 to $6.99	2.40
$7.00 to $7.99	2.80
$8.00 to $8.99	3.20
$9.00 to $9.99	3.60
$10.00 to $10.99	4.00
$11.00 to $11.99	4.40
$12.00 to $12.99	4.80
$13.00 to $13.99	5.20
$14.00 to $14.99	5.60
$15.00 to $15.99	6.00
Amount of payment computed—Continued.	*Increase in payment*
$16.00 to $16.99	6.40
$17.00 to $17.99	6.80
$18.00 to $18.99	7.20
$19.00 to $19.99	7.60
$20.00 to $20.99	8.00
$21.00 to $21.99	8.20
$22.00 to $22.99	8.40
$23.00 to $23.99	8.60
$24.00 to $24.99	8.80
$25.00 to $25.99	9.00
$26.00 to $26.99	9.20
$27.00 to $27.99	9.40
$28.00 to $28.99	9.60
$29.00 to $29.99	9.80
$30.00 to $30.99	10.00
$31.00 to $31.99	10.20
$32.00 to $32.99	10.40
$33.00 to $33.99	10.60
$34.00 to $34.99	10.80
$35.00 to $35.99	11.00
$36.00 to $36.99	11.20
$37.00 to $37.99	11.40
$38.00 to $38.99	11.60
$39.00 to $39.99	11.80
$40.00 to $40.99	12.00
$41.00 to $41.99	12.10
$42.00 to $42.99	12.20
$43.00 to $43.99	12.30
$44.00 to $44.99	12.40
$45.00 to $45.99	12.50
$46.00 to $46.99	12.60
$47.00 to $47.99	12.70
$48.00 to $48.99	12.80
$49.00 to $49.99	12.90
$50.00 to $50.99	13.00
$51.00 to $51.99	13.10
$52.00 to $52.99	13.20
$53.00 to $53.99	13.30
$54.00 to $54.99	13.40
$55.00 to $55.99	13.50
$56.00 to $56.99	13.60
$57.00 to $57.99	13.70
$58.00 to $58.99	13.80
$59.00 to $59.99	13.90
$60.00 to $185.99	14.00
$186.00 to $199.99	(1)
$200.00 and over	(2)

[1] Increase to $200.00.
[2] No increase.

(b) *Payments limited to $10,000.* The total of all payments made in connection with programs for 1940 under section 8 of the Soil Conservation and Domestic Allotment Act to any individual, partnership, or estate, with respect to farms and ranching units located within a single State, territory, or possession, shall not exceed the sum of $10,000, prior to deduction for association expenses in the county or counties with respect to which the particular payment is made. The total of all payments made in connection with such programs to any person other than an individual, partnership, or estate, with respect to farms, ranching units, and turpentine places in the United States (including Alaska, Hawaii, and Puerto Rico), shall not exceed the sum of $10,000, prior to deduction for association expenses in the county or counties with respect to which the particular payment is made.

All or any part of any payment which has been or otherwise would be made to any person under the 1940 program may be withheld or required to be returned, if he has adopted or participated in adopting any scheme or device, including the dissolution, reorganization, revival, formation, or use of any corporation, partnership, estate, trust, or any other means, which was designed to evade, or would have the effect of evading, the provisions of this section.

(c) *Deductions incurred on other farms.* (1) If the deductions computed for any farm in the county exceed the payment computed for such farm, a landlord's or tenant's share of the amount by which the deduction exceeds the payments shall be deducted from the landlord's or tenant's share of the payment which would otherwise be made to him for performance on any other farms in the county.

(2) If the deductions computed for a landlord or tenant for one or more farms in the county exceed the payments computed for such landlord or tenant on other farms in the county, the amount of such excess deductions shall be deducted from the payments computed for the landlord or tenant for performance on any other farms in Texas, if the State committee finds that the crops grown and practices adopted on the farm for which such deductions are computed substantially offset the contribution to the program made on such other farms.

(d) *Deduction for association expenses.* There shall be deducted from the payments for any farm all or such part as the Secretary may prescribe of its pro rata share of the estimated administrative expenses incurred or to be incurred by the county agricultural conservation association in the county in which the farm is located.

(e) *Payment restricted to effectuation of purposes of the program.* (1) All or any part of any payment which otherwise would be made to any person under the 1940 program may be withheld or required to be returned (i) if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the 1940 or previous agricultural conservation programs, or (ii) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized.

(2) No payment will be made to any person with respect to any farm which such person owns or operates in the county, if the county committee finds that such person has been negligent and careless in his farming operations by failing to carry out approved wind-erosion-control measures on land under his control, to the extent that any part of such land has become a wind-erosion hazard in 1940 to the community in which such farm is located.

(f) *Excess cotton acreage.* Any person who makes application for payment with respect to any farm located in a county in which cotton is planted in 1940 shall file with such application a statement that he has not knowingly planted cotton or caused cotton to be

planted, during 1940, on land in any farm in which he has an interest, in excess of the cotton acreage allotment for the farm for 1940, and that cotton was not planted in excess of such allotment by his authority or with his consent.

Any person who knowingly plants cotton, or causes cotton to be planted on his farm in 1940 on acreage in excess of the cotton acreage allotment for the farm for 1940 shall not be eligible for any payment whatsoever on that farm or any other farm under the provisions of the 1940 program. Any person having an interest in the cotton crop on a farm on which cotton is planted in 1940 on an acreage in excess of the cotton acreage allotment for the farm for 1940 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of the farm allotment is mailed to him prior to the completion of the planting of cotton on the farm, unless the farmer establishes the fact that the excess acreage was planted to cotton due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton on the farm in 1940.

(g) *Payment computed and made without regard to claims.* Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in paragraph (i) of this Sec. 8 and indebtedness to the United States subject to set-off orders issued by the Secretary), and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

(h) *Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.* If on any farm in 1940 any change of the arrangements which existed on the farm in 1939 is made between the landlord and the tenants that would cause a greater proportion of the payments to be made to the landlord under the 1940 program than would have been made to him under the 1939 program, payments to the landlord under the 1940 program shall not be greater than the amount that would have been paid to him if the arrangements had not been changed, if the county committee certifies that the change is not justified and disapproves the change.

If on any farm the number of tenants in 1940 is less than the average number on the farm during the years 1937 to 1939, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord, such payments to the landlord shall not be greater than the amount that would otherwise be made, if the county committee certifies that the reduction is not justified and disapproves the reduction.

If the State committee finds that any person who files an application for payment under the 1940 program has employed any other scheme or device (including coercion, fraud, or misrepresentation), the effect of which would be or has been to deprive any other person of any payment under any agricultural conservation program to which such other person would normally be entitled, the Secretary may withhold, in whole or in part, from the person participating in or employing such a scheme or device, or require such person to refund, in whole or in part, the amount of any payment which has been or would otherwise be made to such person under the 1940 program.

(i) *Assignments.* Any person who may be entitled to any payment in connection with the 1940 program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1940. No such assignment will be recognized unless the assignment is made in writing on Form ACP-69, in accordance with instructions (ACP-70) issued by the A. A. A., and unless such assignment is entitled to priority as determined under the instructions governing the recording of such assignments issued by the A. A. A.

Nothing contained in this paragraph (i) shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled. As provided by statute, neither the Secretary nor any disbursing agent shall be subject to any suit or liability if payment is made to the farmer without regard to the existence of an assignment.

SEC. 9. *Application for payment*—(a) *Persons eligible to file applications.* An application for payment for a farm may be made by any person who, under the provisions of Sec. 7, shares in the payment which may be computed for any farm and (i) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (ii) who is owner or operator of such farm and participates thereon in 1940 in carrying out approved soil-building practices or in carrying out conservation measures designed to promote restoration of a permanent vegetative cover on restoration land.

(b) *Time and manner of filing application and information required.* Payment will be made only upon application submitted through the county office by March 31, 1941. The Secretary reserves the right (i) to withhold payment from any person who fails to file any form or furnish any information required on any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (ii) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the Director of the Southern Division. At least two weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms. Such notice shall be given by mailing the same to the office of the county committee and making copies of the same available to the press.

(c) *Application for other farms.* If a person has the right to receive all or a portion of the crops, or proceeds therefrom, produced on more than one farm in a county and makes application for payment on one of such farms, such person must make application for payment on all such farms which he operates or rents to other persons. Upon request of the State committee, any person shall file with the committee such information as it may request regarding any other farm in the State from which he has the right to receive all or a portion of the crops, or proceeds thereof, or rents to another for cash.

SEC. 10. *Appeals.* Any person may, within 15 days after notice is forwarded to or made available to him, request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters respecting any farm in the operation of which he has an interest as landlord, tenant, or sharecropper: (a) eligibility to file an application for payment; (b) any acreage allotment or goal; (c) the division of payment; or (d) any other matter affecting the right to or the amount of his payment with respect to the farm.

The county committee shall notify such person in writing of its decision within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee, he may appeal in writing to the State committee within 15 days after such decision is forwarded to or made available to him. The State committee shall inform such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee, he may request the Director of the Southern Division to review the decision of the State committee within 15 days after such decision is forwarded to or made available to him.

Written notice of any decision rendered under this section by the county or State committee shall also be issued to each person known to it who, as landlord, tenant, or sharecropper having an interest in the operation of the farm, may be adversely affected by such decision. Only a person who shows that he is adversely affected by the outcome of any request for reconsideration or appeal may appeal the matter further, but any person who, as landlord, tenant, or sharecropper having an interest in the operation of the farm, would be affected by the decision to be made on any re-

consideration by the county committee or subsequent appeal shall be given a full and fair hearing if he appears when the hearing thereon is held.

SEC. 11. *Definitions.* For the purposes of the 1940 program—

Secretary means the Secretary of Agriculture of the United States.

Director of the Southern Division means the Director of the Southern Division of the Agricultural Adjustment Administration in charge of the 1940 Agricultural Conservation Program in the Southern Region.

Southern Region means the area included in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina, and Texas.

State Committee means the group of persons designated to assist in the administration of the 1940 Agricultural Conservation Program in Texas.

County Committee means the group of persons elected within the county to assist in the administration of the 1940 program.

Person means an individual, partnership, association, corporation, estate, or trust, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

Landlord means a person who owns land and rents such land to another person or operates such land.

Tenant means a person who rents land from another person (for cash, a fixed commodity payment, or a share of the proceeds of the crops) and is entitled under a written or oral lease or agreement to receive all or a share of the proceeds of the crops produced thereon.

Farm means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm land which the county committee, in accordance with instructions issued by the A. A. A., determines is operated by the same person as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

A farm shall be regarded as located in the county or administrative area, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or administrative area, as the case may be, in which the major portion of the farm is located.

Cropland means farm land which in 1939 was tilled or was in regular rotation, excluding restoration land and any land which constitutes, or will constitute if such tillage is continued, a wind-erosion hazard to the community.

Restoration Land means farm land which is subject to serious wind erosion and is unsuited to continued production of cultivated crops, which was cropped at least once since January 1, 1930, and which is designated by the county committee as land on which, because of its physical condition and texture and because of climatic conditions, a permanent vegetative cover should be restored.

Non-Crop Open Pasture means pasture land (other than rotation pasture land and range land) on which the predominant growth is forage suitable for grazing and on which the number or grouping of any trees or shrubs is such that the land could not fairly be considered as woodland.

General Soil-Depleting Crops means all soil-depleting crops grown in the county other than wheat planted.

Acreage Planted to Wheat means (1) any acreage seeded to wheat (except when it is seeded in a mixture containing less than 50 percent by weight of wheat, or containing 25 percent or more by weight of rye, barley, vetch, or Austrian winter peas, and the seeding mixture may reasonably be expected to produce a crop that could not be harvested as wheat for grain or seed); (2) any acreage of volunteer wheat which is on the farm after May 1, 1940; and (3) any acreage seeded to a mixture containing wheat designated under item (1) above but the crops other than wheat fail to reach maturity and the wheat reaches maturity.

SEC. 12. *Authority, availability of funds, and applicability.* (a) 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, and in connection with the effectuation of the purposes of section 7 (a) of said Act in 1940, payments and grants of aid will be made for participation in the 1940 Special Agricultural Conservation Program (herein referred to as the 1940 program) in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

(b) The provisions of the 1940 program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amount of such payments in any county will necessarily be within the limits finally determined by such appropriation, the final estimate of payments which would be made in the county under the 1940 Special Agricultural Conservation Program, and the extent of participation in such county. *As an adjustment for participation, the rates of payment and deduction specified herein may be increased or decreased by as much as 10 percent.*

(c) The provisions of the 1940 Special Agricultural Conservation Program (except Sec. 8 (b) are not applicable to (1) counties other than Dallam, Deaf Smith, Hansford, Hartley, Moore, Oldham, and Sherman, and (2) land in which the beneficial ownership is in the United States.

Done at Washington, D. C., this 23d day of February, 1940. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 40–787; Filed, February 23, 1940; 11:52 a. m.]

Division of Marketing and Marketing Agreements.

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF HOPS GROWN IN STATES OF OREGON, CALIFORNIA, WASHINGTON, AND IDAHO

[Docket No. A–127 O–127]

Whereas, pursuant to the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture of the United States has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to such handling of hops grown in the States of Oregon, California, Washington, and Idaho as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects such commerce:

Now, therefore, pursuant to the said act and said General Regulations, notice is hereby given of a hearing to be held on a proposed marketing agreement and a proposed order regulating such handling of hops grown in the States of Oregon, California, Washington, and Idaho in the Auditorium, Chamber of Commerce Building, Yakima, Washington, on March 11, 1940, at 9:30 a. m., Pacific standard time; in the Marion Hotel, Salem, Oregon, on March 14, 1940, at 9:30 a. m., Pacific standard time; and in the Moose Hall, 521 Third Street, Santa Rosa, California, on March 18, 1940, at 9:30 a. m., Pacific standard time.

This public hearing is for the purpose of receiving evidence as to the economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each provides, in similar terms, a plan for the regulation of such handling of the aforesaid hops as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects such commerce. Among other matters relating to such regulation, the proposed marketing agreement and order provide for: (a) the establishment of a Control Board; (b) the establishment of a Growers Allocation Committee; (c) the establishment of advisory committees; (d) determination of the salable quantity of hops for the crop years 1940 and 1941, respectively, and allotment of such quantity among growers; (e) regulation of certain unfair trade practices and unfair methods of competition; (f) expenses of administration; and (g) confidential reports by handlers regarding the handling of hops.

Copies of the proposed marketing agreement and order may be procured from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, in Room 0310 South Building, Washington, D. C., or may be there inspected.

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

Dated, February 23, 1940.

[F. R. Doc. 40-783; Filed, Feb. 23, 1940; 11:10 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

[Administrative Order No. 41]

APPOINTMENT OF INDUSTRY COMMITTEE NO. 11 FOR THE PULP AND PRIMARY PAPER INDUSTRY

1. By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938, I, Harold D. Jacobs, Administrator of the Wage and Hour Division, U. S. Department of Labor, do hereby appoint and convene for the pulp and primary paper industry (as such industry is defined in paragraph 2) an industry committee composed of the following representatives:

For the Public:

John A. Lapp, Chairman, Chicago, Illinois; Wayne Lyman Morse, Eugene, Oregon; Sumner Huber Slichter, Cambridge, Massachusetts; William John Wilgus, Washington, D. C.; Henry A. Grady, Newberne, North Carolina; Mrs. Elizabeth Brandeis Raushenbush, Madison, Wisconsin.

For the Employees:

H. W. Sullivan, Washington, D. C.; Frank P. Barry, Albany, New York; Charles O. Dunton, Rumford, Maine; Maxwell Loomis, Port Townsend, Washington; Paul Phillips, Mobile, Alabama; Ray Thomason, Richmond, Virginia.

For the Employers:

David J. Zellerbach, San Francisco, California; Dwight Stocker, Plainwell, Michigan; Stuart E. Kay, New York, New York; W. J. Alford, Ridgefield Park, New Jersey; L. J. Parant, Woodland, Maine; G. Alan Goldsmith, Chillicothe, Ohio.

Such representatives having been appointed with due regard to the geographical regions in which such industry is carried on.

2. For the purpose of this order the term "pulp and primary paper industry" means the manufacture of pulp, for any purpose, from fibrous material capable of yielding cellulose fibre and the manufacture of Paper and of Board from such pulp and from such fibrous material or either of them with or without addition of any non-cellulose fibre, colorant or filler.

The term "manufacture" as used in this order means all operations involved in the production of pulp, paper, and board, starting with the unloading of raw materials at the mill site and ending with the delivery of the finished paper or board to carriers for sale as such or to converting departments within the same mill or company. It includes finishing operations normally performed in the paper or board mill, such as packing, trimming, cutting to size, sorting, plating, sizing, super-calendering, and other processing, but does not include any treating, processing or refabrication of finished paper or board to produce converted paper or board products.

3. The definition of the pulp and primary paper industry covers all occupations in the industry which are necessary to the production of the articles specified in the definition, including clerical, maintenance, shipping and selling occupations.

4. The industry committee herein created, in accordance with the provisions of the Fair Labor Standards Act of 1938 and rules and regulations promulgated thereunder, shall meet at the call of its chairman and shall proceed to investigate conditions in the industry and recommend 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 virtue of the provisions of Section 13 (a) and employees coming under the provisions of Section 14.

Signed at Washington, D. C., this 16th day of February, 1940.

HAROLD D. JACOBS,
Administrator.

[F. R. Doc. 40-772; Filed, February 21, 1940; 3:38 p. m.]

NOTICE OF ISSUANCE OF A SPECIAL CERTIFICATE FOR THE EMPLOYMENT OF LEARNERS IN THE APPAREL INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Apparel Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued to the employers listed below effective February 24, 1940, until May 25, 1940, unless otherwise indicated, subject to the following terms and limited to the number of learners indicated opposite the employer's name:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Apparel Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has had less than eight weeks experience in the past three years upon a stitching operation in the Apparel Industry.

(2) The employment of learners under these Certificates is limited to the operation of stitching machines and for eight (8) weeks for any one learner. During this period, learners shall be paid at least 22½¢ per hour. If experienced workers are paid on a piece rate basis, the same piece rates shall be paid to the learners employed on similar work and they shall receive earnings on such piece rates if in excess of 22½¢ per hour but in no case less than 22½¢ per hour.

(3) These Special Certificates are issued on representations by the employer that (a) experienced stitching machine operators are not available and (b) that he is actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment.

(4) Under these Special Certificates, no learner shall be employed at a subminimum wage until and unless the Certificate is posted and kept posted in a conspicuous place in the plant in which learners are employed.

(5) These Special Certificates are issued ex parte under Section 14 of the said Act and Section 522.5 (b) of the Regulations, Part 522, as amended. For fifteen days following the publication of this notice, the Administrator will receive detailed written objections as provided for in said Section 522.5 (b). Such Special Certificates may be canceled as of the date of issuance and if so canceled, reimbursement of all persons employed under such Certificate must be made in an amount equal to the difference between the applicable statutory minimum wage and any lesser wage paid such persons.

Name and address of firm	Product	Number of learners
Metro Pants Company, Harrisonburg, Virginia.	Boy's Trousers.	10

Signed at Washington, D. C., this 23rd day of February 1940.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 40–792; Filed, February 23, 1940; 12:50 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE APPAREL INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Apparel Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued ex parte under Section 14 of the said Act, Section 522.5 (d) of Regulations Part 522, as amended, to the employers listed below effective February 24, 1940 until October 24, 1940, subject to the following terms:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Apparel Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has had less than eight weeks experience in the past three years upon a stitching operation in the Apparel Industry.

(2) The employment of learners under these Certificates is limited to the operation of stitching machines and for eight (8) weeks for any one learner. During this period, learners shall be paid at least 22½¢ per hour. If experienced workers are paid on a piece rate basis, the same piece rates shall be paid to the learners employed on similar work and they shall receive earnings on such piece rates if in excess of 22½¢ per hour, but in no case less than 22½¢ per hour.

(3) These Special Certificates are issued on representations by the employers that experienced stitching machine operators are not available.

(4) Any one of these Special Certificates may be canceled as of the date of its issue if found that experienced workers were available when the Certificate was issued and may be canceled prospectively or as of the date of violation if found that any of its terms have been violated or that skilled workers have become available.

(5) Under these Special Certificates, no learner shall be employed at a subminimum wage until and unless the Certificate is posted and kept posted in a conspicuous place in the plant in which learners are employed.

NUMBER OF LEARNERS

Not in excess of 5% of the total number of stitching machine operators employed in the plant may be employed under any of these Certificates, unless otherwise indicated hereinbelow opposite the employer's name:

NAME AND ADDRESS OF FIRM AND PRODUCT

Century Overall Company, Sandwich, Illinois (4 learners), overalls, work pants, and slack suits.

Delaware Garment Company, Wilmington, Delaware, ladies' shirts and blouses.

Metro Pants Company, Harrisonburg, Virginia, boy's trousers.

Rex Manufacturing Co., Inc., New Orleans, Louisiana, work shirts and pants.

Topkis Brothers Company, Wilmington, Delaware, pajamas and sport shirts.

Signed at Washington, D. C., this 23rd day of February 1940.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 40–793; Filed, February 23, 1940; 12:50 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE TEXTILE INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Textile Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued ex parte under Section 14 of the said Act and Section 522.5 (d) of Regulations Part 522, as amended, to the employers listed below effective February 24, 1940, until October 24, 1940, subject to the following terms:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Textile Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has had less than six (6) weeks experience in the aggregate in any of the learner occupations listed below in any branch of the Textile Industry except tufted bedspreads and curtains.

(2) Learners may be employed under these Certificates only in the occupations of machine operating, tending, fixing, and jobs immediately incidental thereto, but not in occupations similar to those performed by the following: sweepers, scrubbers, yard employees, watchmen, clerical workers and supervisors, timekeepers, machine cleaners, janitors, truckers, and employees engaged in similar work, and no learner shall be employed at less than the minimum rate for more than six (6) weeks.

(3) No learner may be paid at a rate less than 25 cents an hour: *Provided, however,* That if experienced workers are paid on a piecework rate, learners shall be paid at least the same piecework rate and shall receive earnings on such rates if in excess of 25 cents per hour but in no event less than 25 cents per hour.

(4) Experienced workers may not be employed at less than the minimum rate and no learner may be employed at less than the minimum rate unless hired when experienced workers were not available. No learner may be employed under these Certificates until and unless a copy of the certificate is posted and kept posted in a conspicuous place in the plant in which learners are to be employed.

(5) These Certificates expire October 24, 1940 and are subject to cancelation sooner by the Administrator or his authorized representative for cause. These Certificates are issued on representations by the employers that experienced workers are not available and may be canceled as of the date of issue if it is found that they were issued when experienced workers were available and may be canceled prospectively or as of the date of violation if it is found that any of their terms have been violated or that experienced workers have become available. A copy of the employer's certificate must be available at all times for inspection. Altering or attempting to alter any Certificate will render it invalid.

NUMBER OF LEARNERS

Not in excess of three (3) percent of the total number of persons in the learner occupations herein described employed in the plant may be employed under these Certificates unless otherwise indicated hereinbelow opposite the employer's name.

NAME AND ADDRESS OF FIRM AND PRODUCT

American Thread Company, Kerr Mills, Fall River, Massachusetts, cotton thread.

Signed at Washington, D. C., this 23rd day of February 1940.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 40–794; Filed, February 23, 1940; 12:50 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE TEXTILE INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Textile Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued to employers listed below effective February 24, 1940, until May 24, 1940, unless otherwise indicated, subject to the following terms and limited to the number of learners indicated opposite the employer's name.

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Textile Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has had less than six (6) weeks experience in the aggregate in any of the learner occupations listed below in any branch of the Textile Industry except tufted bedspreads and curtains.

(2) Learners may be employed under these Certificates only in the occupation of machine operating, tending, fixing, and jobs immediately incidental thereto, but not in occupations similar to those performed by the following: sweepers, scrubbers, yard employees, watchmen, clerical workers and supervisors, timekeepers, machine cleaners, janitors, truckers, and employees engaged in similar work, and no learner shall be employed at less than the minimum rate for more than six (6) weeks.

(3) No learner may be paid at a rate less than 25 cents an hour provided, however, that if experienced workers are paid on a piecework rate, learners shall be paid at least the same piecework rate and shall receive earnings on such rates if in excess of 25 cents per hour but in no event less than 25 cents per hour.

(4) Experienced workers may not be employed at less than the minimum rate and no learner may be employed at less than the minimum rate unless hired when experienced workers were not available and no learner may be employed under these Certificates until and unless a copy of the certificate is posted and kept posted in a conspicuous place in the plant in which learners are to be employed.

(5) These Special Certificates are issued on representations of employers that: (a) experienced operators are not available and (5) that they are actually in need of learners at sub-minimum rates in order to prevent curtailment of opportunities for employment. These Special Certificates are issued ex parte under Section 14 of the said Act and Section 522.5 (b) of the Regulations Part 522, as amended, and are subject to cancellation by the Administrator or his authorized representative for cause. These Certificates may be canceled as of the date of their issuance if it is found, upon objection duly filed within fifteen (15) days following publication of notice of their issuance, that the issuance of these Certificates was not necessary in order to prevent curtailment of opportunities for employment. They may be canceled prospectively or as of the date of violation if it is found that any of their terms have been violated or that experienced workers have become available. A copy of the employer's Certificate must be available at all times for inspection. Altering or attempting to alter any Certificate will render it invalid.

Name and address of firm	Product	Number of learners
Century Ribbon Mills, Inc., Radford, Virginia.	Silk and rayon ribbon.	10

Signed at Washington, D. C., this 23rd day of February 1940.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 40-795; Filed, February 23, 1940; 12:50 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE TUFTED BEDSPREAD BRANCH OF THE TEXTILE INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Tufted Bedspread Branch of the Textile Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued ex parte under Section 14 of the said Act and Section 522.5 (d) of Regulations Part 522, as amended, to the employers listed below effective February 24, 1940, until October 24, 1940, subject to the following terms:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Tufted Bedspread Branch of the Textile Industry under these Certificates is limited to the following occupations, learning periods and minimum wage rates:

(1) A learner is a person who has had less than eight (8) weeks' experience as a chenille operator or less than sixteen (16) weeks' experience as a punch work operator.

(2) Learners may be employed under these Certificates only as punch work operators or as chenille operators. During this period no learners may be paid at a rate less than 25¢ an hour provided, however, that if experienced workers are paid on a piecework rate, learners shall be paid at least the same piecework rate and shall receive earnings on such rate if in excess of 25¢ per hour but in no event less than 25¢ per hour, and no learner shall be employed at less than the minimum rate for more than eight (8) weeks as a chenille operator or longer than sixteen (16) weeks as a punch work operator or longer than one eight-week retraining period as a chenille operator learning punch work.

(3) Experienced workers may not be employed at less than the minimum rate and no learner may be employed at less than the minimum rate unless hired when an experienced worker was not available. No learner may be employed under these Certificates until and unless a copy of the Certificate is posted and kept posted in a conspicuous place in the plant in which learners are to be employed.

(4) These Certificates expire October 24, 1940, and are subject to cancelation sooner by the Administrator or his authorized representative for cause. These Certificates are issued on representations by the employers that experienced workers are not available and they may be cancelled as of the date of their issuance if it is found that they were issued when experienced workers were available and may be cancelled prospectively or as of the date of violation if it is found that any of their terms have been violated or that experienced workers have become available. A copy of the employer's Certificate must be available at all times for inspection. Altering or attempting to alter any Certificate will render it invalid.

NUMBER OF LEARNERS

Not in exceed of 5% of the total number of chenille and punch work operators employed in the plant may be employed under these Certificates unless otherwise indicated hereinbelow opposite the employer's name:

NAME AND ADDRESS OF FIRM AND PRODUCT

Chenille Crafts Corporation of Massachusetts, 907 Broadway, Fall River, Massachusetts (5 learners), chenille bedspreads.

Monarch Textile Corporation, 206 Globe Mills Avenue, Fall River, Massachusetts (5 learners), chenille bedspreads.

N. A. Textile Corporation, New Bedford, Massachusetts, chenille bedspreads.

Signed at Washington, D. C., this 23rd day of February 1940.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 40-796; Filed, February 23, 1940; 12:51 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE TUFTED BEDSPREAD BRANCH OF THE TEXTILE INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Tufted Bedspread Branch of the Textile Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued to the employers listed below effective February 24, 1940, until August 24, 1940, unless otherwise indicated subject to the following terms and limited to the number of learners indicated opposite the employer's name.

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Tufted Bedspread Branch of the Textile Industry under these Certificates is limited to the following occupations, learning periods and minimum wage rates:

(1) A learner is a person who has had less than eight (8) weeks experience as a chenille operator or less than sixteen (16) weeks experience as a punch work operator or less than eight (8) weeks experience as a chenille operator plus eight (8) weeks retraining as a punch work operator.

(2) Learners may be employed under these Certificates only as punch work

operators or as chenille operators. During this period, no learner may be paid at a rate less than 25¢ an hour: *Provided, however,* That if experienced workers are paid on a piecework rate, learners shall be paid at least the same piecework rate and shall receive earnings on such rate if in excess of 25¢ per hour but in no event less than 25¢ per hour and no learner shall be employed at less than the minimum rate for more than eight (8) weeks as a chenille operator or longer than sixteen (16) weeks as a punch work operator or longer than one eight-week retraining period as a chenille operator learning punch work.

(3) Experienced workers may not be employed at less than the minimum rate and no learner may be employed at less than the minimum rate unless hired when an experienced worker was not available. No learner may be employed under these Certificates until and unless a copy of the Certificate is posted and kept posted in a conspicuous place in the plant in which learners are to be employed.

(4) These Special Certificates are issued on representations by the employers that: (a) experienced operators are not available and (b) that they are actually in need of learners at sub-minimum rates in order to prevent curtailment of opportunities for employment.

(5) These Special Certificates are issued ex parte under Section 14 of the said Act and Section 522.5 (b) of Regulations Part 522, as amended, and are subject to cancelation sooner by the Administrator or his authorized representative for cause. These Certificates may be cancelled as of the date of their issuance, if it is found upon objection duly filed within fifteen (15) days following the publication of notice of their issuance that the issuance of these Certificates are not necessary to prevent curtailment of opportunities for employment. They may be cancelled prospectively or as of the date of violation if it is found that any of their terms have been violated or that experienced workers have become available. A copy of the Employer's Certificate must be available at all times for inspection. Altering or attempting to alter any Certificate will render it invalid.

Name and address of firm	Product	Number of learners
Chenille Crafts Corp. of Massachusetts, 907 Broadway, Fall River, Massachusetts.	Chenille bedspreads.	20
Monarch Textile Corporation, 206 Glove Mills Avenue, Fall River, Massachusetts.	Chenille bedspreads.	20

Signed at Washington, D. C., this 23rd day of February 1940.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 40-797; Filed, February 23, 1940; 12:51 p. m.]

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 7-401 (E)-1]

IN THE MATTER OF THE APPLICATION OF MARQUETTE AIRLINES, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 401 (e) (1) OF THE CIVIL AERONAUTICS ACT OF 1938

[Docket No. 315]

IN THE MATTER OF THE APPLICATION OF TRANSCONTINENTAL & WESTERN AIR, INC. UNDER SECTIONS 408 (b), 412 (b) AND 401 (i) OF THE CIVIL AERONAUTICS ACT OF 1938 FOR APPROVAL BY THE AUTHORITY OF A CONTRACT DATED OCTOBER 6, 1939, ETC.

NOTICE OF HEARING

The above-entitled dockets, consolidated for the purpose of hearing by order of the Authority dated February 20, 1940, are hereby assigned for public hearing on March 12, 1940, 10 o'clock a. m. (Eastern Standard Time) at the Raleigh Hotel, 12th Street and Pennsylvania Ave., N. W., Washington, D. C., before Examiner Francis W. Brown.

Dated Washington, D. C., February 21, 1940.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 40-779; Filed, February 23, 1940; 10:38 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Docket No. 5367]

IN RE APPLICATION OF MIAMI BROADCASTING CO. (NEW)

Dated May 30, 1938; for construction permit; class of service, broadcast; class of station, broadcast; location, Miami, Florida, operating assignment specified: Frequency, 1420 kc.; power, 250 w. night—250 w. LS., hours of operation, unlimited

[File No. B3-P-2151]

AMENDED NOTICE OF HEARING

Notice is hereby given that issue No. 3, in the Notice of designation for hearing,[1] of the application described above, dated February 16, 1940, has been amended to read as follows:

3. To determine whether the operation of the proposed local (Class IV) station, in the same city where the applicant is presently the licensee of an existing regional (Class III) station, would serve public interest, convenience and necessity.

The applicant's address is as follows:

Miami Broadcasting Company,
327-329 NE. 1st Avenue,
Miami, Florida.

[1] 5 F.R. 759.

Dated at Washington, D. C., February 21, 1940.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-785; Filed, February 23, 1940; 11:23 a. m.]

[Docket No. 5811]

IN RE APPLICATION OF NORTHSIDE BROADCASTING CORPORATION (WGRC)

Dated November 2, 1939; for ML to move main studio; class of service, broadcast; class of station, broadcast; location, Louisville, Kentucky; operating assignment specified: Frequency, 1370 kc.; power, 250 w. night—250 w. day; hours of operation, unlimited

[File No. B4-ML-905]

NOTICE OF HEARING

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether the application may be granted in view of the Commission's Rules Governing Standard Broadcasting Stations, particularly Section 3.22 (d) and 3.30 (b), (Part 3), and the Standards of Good Engineering Practice.

2. To determine the extent to which the station renders a primary service in the Louisville area as compared with the New Albany and Southern Indiana area and the reasons for the requested removal of the main studio.

3. To determine whether there have been any changes in local conditions at New Albany, Indiana, since the establishment of Station WGRC, which would warrant the removal of the main studio from New Albany to Louisville, Kentucky.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of Section 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of Section 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Northside Broadcasting Corp.,
Radio Station WGRC,
407 Vincennes St.,
New Albany, Indiana.

Dated at Washington, D. C., February 21, 1940.

By the Commission.

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

[F. R. Doc. 40-786; Filed, February 23, 1940; 11:23 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT-5589]

IN THE MATTER OF ARKANSAS-MISSOURI POWER CORPORATION

ORDER POSTPONING DATE OF HEARING

FEBRUARY 20, 1940.

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

It appearing to the Commission that:

(a) On February 17, 1940, the Arkansas-Missouri Power Corporation filed with the Commission a petition requesting that the hearing in this proceeding, now scheduled to commence on February 26, 1940, be postponed to a later date;

(b) Good cause has been shown for granting a postponement for a reasonable period of time;

The Commission orders that:

(A) The public hearing in this proceeding, now scheduled to commence on February 26, 1940, be and it is hereby postponed until March 26, 1940, at 10 o'clock, a. m., in the hearing room of the Federal Power Commission, 1757 K Street N. W., Washington, D. C.;

(B) The order of the Commission of December 7, 1939,[1] in this proceeding, in all other respects, shall remain and continue in full force and effect.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 40-776; Filed, February 23, 1940; 9:28 a. m.]

[Docket No. IT-5590]

IN THE MATTER OF ARKANSAS UTILITIES COMPANY

ORDER POSTPONING DATE OF HEARING

FEBRUARY 20, 1940.

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

It appearing to the Commission that:

By order of December 7, 1939, the Commission fixed the date of hearing in this proceeding as February 26, 1940, at 10 o'clock, a. m., in the hearing room of the Federal Power Commission, 1757 K Street, N. W., Washington, D. C.;

The Commission, upon its own motion, orders that:

(A) The public hearing in this proceeding, now fixed for February 26, 1940, be and it is hereby postponed to March 26, 1940, at 10 o'clock, a. m., in the hearing room of the Federal Power Commission, 1757 K Street, N. W., Washington, D. C.;

(B) The said order of December 7, 1939,[1] in all other respects, shall remain and continue in full force and effect.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 40-777; Filed, February 23, 1940; 9:28 a. m.]

[1] 4 F.R. 4812.

RAILROAD RETIREMENT BOARD.

NOTICE OF POSTPONEMENT OF HEARING ON PROPOSED REVISION OF REGULATIONS ON TIME LOST CLAIMS

Board Order 40-39, dated January 23, 1940, provides in part as follows:

"Whereas it is necessary in the administration of the Railroad Retirement Act of 1937 that the present regulations issued under the provisions of the Act with respect to 'remuneration paid for time lost as an employee' be revised, to the end that the scope of those provisions will be clearly set out in the regulations, in order that 'time lost' claims under the Act may be properly adjudicated, and 'employers' under the Act may be guided in their reporting of compensation to the Board; and

"Whereas the Board, in its consideration of certain proposed revisions of the present regulations, desires the benefit of such data, argument, and suggestions as representatives of 'employers' and of 'employees' under the Act may wish to present;

"The Board, pursuant to its authority under section 10 (b) (4) of the Railroad Retirement Act of 1937, orders and directs that a hearing on the revision of its regulations defining the term, 'remuneration paid for time lost as an employee,' as used in the Railroad Retirement Act of 1937, be held before the Board on Friday, March 1, 1940, at 10:00 a. m., at the offices of the Board, Washington, D. C., or at such other time, date, and place as is arranged by the Chairman to meet the convenience of the Board and the convenience of interested parties. An opportunity will be given to present evidence and argument pertinent to the matter under consideration."

Under authority of the above order the hearing therein described and originally scheduled to be held on Friday, March 1, 1940 (F. R. 344) is postponed and notice is hereby given that such hearing will be held before the Board on Tuesday, April 2, 1940, at 10:00 a. m., at the offices of the Board, 10th and U Streets, Northwest, Washington, D. C. Any party interested therein may appear and may, prior thereto, on request receive from the Chairman copy of a statement on the proposed revision.

By authority of the Board.

MURRAY W. LATIMER, *Chairman.*

Dated, February 21, 1940.

[1] 4 F.R. 4811.

[F. R. Doc. 40-769; Filed, February 21, 1940; 2:29 p. 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 21st day of February, A. D. 1940.

[File No. 56-84]

IN THE MATTER OF CHARLES TRUE ADAMS, TRUSTEE OF THE ESTATE OF UTILITIES POWER & LIGHT CORPORATION, AND IN THE MATTER OF INDIANAPOLIS POWER & LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

The Commission having on February 12, 1940 entered an order providing that a hearing be held on February 29, 1940 with regard to an application filed by Charles True Adams, Trustee of the Estate of Utilities Power & Light Corporation, pursuant to the Public Utility Holding Company Act of 1935, for approval of the sale by said trustee, to underwriters for resale to the public of 645,980 shares of common stock without par value of Indianapolis Power & Light Company, an Indiana corporation, which said shares constitute a portion of the Estate of Utilities Power & Light Corporation and comprise all of the presently outstanding common stock of the said Indianapolis Power & Light Company; and

The said Indianapolis Power & Light Company having filed on February 19, 1940 the following:

A. A declaration pursuant to Section 7 of said Act with respect to altering the priorities, preferences, voting power, or other rights of the holders of an outstanding security of said company

(1) By granting to the holders of the common stock of the company a preemptive or preferential right to subscribe to their proportionate share of any additional shares of common stock of the company sold or offered for sale for a consideration payable in cash, whether now or hereafter authorized and to any obligations or preferred stock convertible into common stock of the company, issued or sold for a consideration payable in cash; and

(2) By dividing the number of directors of the company into three classes, the

first class to consist of four directors to be elected for a term of three years, the second class to consist of four directors to be elected for a term of two years and the third class to consist of three directors to be elected for a term of one year, and upon the expiration of the term of office of any class of directors, their successors to be elected for a term of three years.

B. An application pursuant to the third sentence of Section 6 (b) of said Act with respect to the following:

(a) The issue and sale by said company of 70,000 shares of its common stock without par value to underwriters for resale to the public—the said shares being additional to the shares of common stock presently outstanding and proposed to be sold by the before mentioned trustee;

(b) The issue and sale by said company of 2,500 shares of its 6% Cumulative Preferred Stock of the par value of $100 per share at private sale—the said shares being additional to all shares of preferred stock of said company presently outstanding;

It appearing to the Commission that all of the matters herein mentioned should be heard and considered together;

It is ordered, That a joint hearing with respect to said matters under the applicable provisions of said Act and the rules of the Commission thereunder be held on March 6, 1940, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matters. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

It is further ordered, That the before mentioned order of February 12, 1940 be and it hereby is amended accordingly;

Notice of such joint hearing is hereby given to the parties and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before February 29, 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-788; Filed, February 23, 1940; 12:14 p. m.]