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Washington, Tuesday, May 2, 1939

The President

EXECUTIVE ORDER

ADMINISTRATION OF BENEFITS PROVIDED BY ACT OF CONGRESS APPROVED APRIL 3, 1939

WHEREAS section 1 of the act of August 30, 1935, c. 830, 49 Stat. 1028, as amended by section 5 of the act entitled "An Act to provide more effectively for the national defense by carrying out the recommendations of the President in his message of January 12, 1939, to the Congress," approved April 3, 1939 (Pub., No. 18, 76th Congress), provides, in part, as follows:

"* * * That all officers, warrant officers, and enlisted men of the Army of the United States, other than the officers and enlisted men of the Regular Army, if called or ordered into the active military service by the Federal Government for extended military service in excess of thirty days, and who suffer disability or death in line of duty from disease or injury while so employed shall be deemed to have been in the active military service during such period and shall be in all respects entitled to receive the same pensions, compensation, retirement pay, and hospital benefits as are now or may hereafter be provided by law or regulation for officers and enlisted men of corresponding grades and length of service of the Regular Army.";

WHEREAS the said act is silent as to what agency shall administer the benefits provided thereby; and

WHEREAS it is deemed appropriate and desirable that such administration be placed in the Veterans' Administration:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, and by the act of July 3, 1930, c. 863, 46 Stat. 1016, the duties, powers, and functions incident to the administration and payment of the benefits provided by the statute as above set out are hereby vested in the Veterans' Administration: *Provided,* That in the administration of the retirement provisions of the said statute, the determination whether disability exists and whether such disability was incurred in line of duty shall be made by the Secretary of War, or by someone designated by him in the War Department, in the manner, and in accordance with the standards, provided by law or regulations for Regular Army personnel.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 28, 1939.

[No. 8099]

[F. R. Doc. 39-1461; Filed, April 29, 1939; 11:22 a. m.]

EXECUTIVE ORDER

ENLARGING THE HOMOCHITTO NATIONAL FOREST

MISSISSIPPI

By virtue of and pursuant to the authority vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1095, 1103, as amended (U.S.C., title 16, sec. 471), and by the act of June 4, 1897, 30 Stat. 34, 36 (U.S.C., title 16, sec. 473), it is ordered that, subject to valid existing rights, the following-described public land in Mississippi be, and it is hereby, included in and reserved as a part of the Homochitto National Forest:

Washington Meridian

T. 4 N., R. 2 W., sec. 37, lot 4, 34.80 acres.

Executive Order No. 6964 of February 5, 1935, as amended, withdrawing public lands for classification, is hereby revoked so far as it affects the above-described land.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 28, 1939.

[No. 8100]

[F. R. Doc. 39-1462; Filed, April 29, 1939; 11:22 a. m.]

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LAND FOR USE OF THE WAR DEPARTMENT AS A TARGET RANGE FOR THE WYOMING NATIONAL GUARD

WYOMING

By virtue of the authority vested in me by the act of June 25, 1910, c. 421,

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THE PRESIDENT

RULES, REGULATIONS ORDERS

(Continued on next page)

FEDERAL REGISTER

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36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497, it is ordered as follows:

SECTION 1. Executive Order No. 6910 of November 26, 1934, as amended, temporarily withdrawing all public lands in certain states for classification and other purposes, is hereby revoked in so far as it affects the following-described tracts of land in Wyoming:

Sixth Principal Meridian

T. 33 N., R. 99 W.,
sec. 3, S½SE¼, and SE¼SW¼,
sec. 10, S½, E½NW¼ and NE¼,
sec. 15, N½, SE¼ and E½SW¼,
1240 acres.

SECTION 2. Subject to the conditions expressed in the above-mentioned acts and to all valid existing rights, the tracts of land described in section 1 of this order are hereby temporarily withdrawn from settlement, location, sale, or entry, and reserved for use of the War Department as a target range for the Wyoming National Guard.

SECTION 3. The reservation made by section 2 of this order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 28, 1939.

[No. 8101]

[F. R. Doc. 39-1463; Filed, April 29, 1939; 11:22 a. m.]

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LANDS FOR USE AS A MILITARY RESERVATION

ALASKA

By virtue of the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, and subject to all valid existing rights, it is ordered as follows:

1. The public lands in the following-described areas in the Territory of Alaska are hereby temporarily withdrawn from settlement, location, sale, entry, and all forms of appropriation, and placed under the control and jurisdiction of the War Department for use as a military reservation:

Seward Meridian

T. 13 N., R. 2 W., all, partly unsurveyed.
T. 14 N., R. 2 W., secs. 13 to 15 and 20 to 36 inclusive, partly unsurveyed.
T. 13 N., R. 3 W., secs. 3, 4, S½N½, S½ sec. 5, lots 3, 4, E½SE¼ sec. 6, secs. 7, 8 and 9.
T. 14 N., R. 3 W., secs. 23, 25 to 27 and 34 to 36 inclusive.

2. Public lands within any of the above-described areas which are on the date of this order under existing reservations for public purposes are exempted from the provisions of this order so long as such existing reservations remain in force and effect.

3. This order shall continue in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 29, 1939.

[No. 8102]

[F. R. Doc. 39-1481; Filed, May 1, 1939; 12:31 p. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Cotton 307, Sup. 1]

PART 722—REGULATIONS PERTAINING TO COTTON MARKETING QUOTAS FOR THE 1939-1940 MARKETING YEAR

SUPPLEMENT 1

CONTENTS [1]

[1] The following contents are referable and should be added to the table of contents for Sec. 722.111 through Sec. 722.118 of Chapter VII, Title 7, issued December 20, 1938 (3 F.R. 3053 DI).

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938), as amended, I do make, prescribe, publish, and give public notice of the following amendments to the Regulations Pertaining to Cotton Marketing Quotas for the 1939–1940 Marketing Year (designated as Cotton 307) issued by me on December 20, 1938: [1]

(1) Section 722.111 (b) (23) is hereby amended to read as follows:

(23) *Farm.* All adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(i) Any other adjacent or nearby farm land which the county committee, in accordance with instructions issued by the Agricultural Adjustment Administration, 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

(ii) 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.

(2) Section 722.111 (b) is hereby further amended by the addition of the following:

(41) *Underplanted farm.* A farm on which the acreage planted to cotton in 1939 is not in excess of the farm acreage allotment established therefor.

(42) *Overplanted farm.* A farm on which the acreage planted to cotton in 1939 is in excess of the farm acreage allotment established therefor.

(43) *Carry-over penalty cotton.* The amount of cotton from any previous crop which a producer has on hand which, if marketed during the 1938–1939 marketing year, would have been subject to the penalty.

(44) *Carry-over penalty free cotton.* The amount of cotton from any previous crop which a producer has on hand which, if marketed during the 1938–1939 marketing year, would not have been subject to the penalty.

(45) *A white marketing card.* A white marketing card is form Cotton 311.

(46) *A red marketing card.* A red marketing card is form Cotton 312.

(47) *A blue marketing card.* A blue marketing card is form Cotton 314.

(3) Section 722.115 is hereby amended by the addition of the following new paragraph:

(i) *Reapportionment of unused farm acreage allotment.* After making the allotments under this section, any part of the acreage allotted to individual farms which it is determined, in accordance with applicable instructions, will not be planted to cotton in 1939, shall be deducted from the allotments to such farms and may be apportioned in accordance with applicable instructions, preference being given to farms in the same county receiving allotments which are inadequate and not representative in view of the past production of cotton on each farm. Notwithstanding the foregoing provisions of this paragraph, the acreage shall be apportioned to those farms designated by the county committee. In designating the farm to which the apportionment is to be made, the county committee shall consider only the character and adaptability of the soil and other physical facilities affecting the production of cotton and the need of the operator of such farm for an additional allotment to meet the requirement of the families engaged in the production of cotton in 1939 on the farm. Any transfer of allotments for 1939 as set forth in this paragraph shall not affect apportionment for any subsequent year. [Sec. 344 (h)]

(4) Cotton 307 is hereby further amended by the addition of the following new sections:

Farm Marketing Quotas

§ 722.119 *Farm marketing quota—* (a) *Amount of farm marketing quota.* The farm marketing quota for any farm for the 1939–1940 marketing year shall be that number of pounds of lint cotton equal to the sum of the following:

(1) The amount of the normal production or the actual production, whichever is the greater, of the farm acreage allotment, and

(2) The amount of any carry-over penalty free cotton.

(b) *Initial farm marketing quotas.* Notwithstanding the foregoing provisions of this section, the amount of the normal production of the farm acreage allotment, plus the amount of any carry-over penalty free cotton, shall be considered to be the farm marketing quota for any farm, unless and until it is determined by the county committee that the actual production of the farm acreage allotment for such farm is in excess of the normal production of the farm acreage allotment.

[1] 3 F.R. 3053 DI.

(c) *Farm marketing quotas based on actual production.* When the actual production for 1939 of the farm acreage allotment for any farm, as shown by the reports of cotton ginned from the farm or other satisfactory evidence, is found by the county committee to be in excess of the normal production of the farm acreage allotment, the farm marketing quota for the farm shall be adjusted upward by the amount by which the actual production of the farm acreage allotment exceeds the normal production thereof. Such adjustment shall be made as soon as practicable after all the cotton produced on the farm in 1939 has been harvested and satisfactory records pertaining thereto have been presented to or are available to the county committee; however, intermediate adjustments with respect to any farm may be made earlier if requested by the operator of the farm and deemed by the county committee to be justifiable on the basis of the amount of cotton produced on the farm in 1939 that has been harvested at the time of the request. [Sec. 346 (a)]

§ 722.120 *Publication of farm acreage allotments, normal yields, and farm marketing quotas.*—(a) *Preparation of form Cotton 310.* Immediately upon the establishment of farm acreage allotments and the determination of normal yields per acre of lint cotton for farms in a county or other local administrative area, the county committee shall cause to be prepared a list on form Cotton 310 showing the calendar year for which the farm acreage allotments are made and the marketing year for which the farm marketing quotas shown are in effect and giving for each farm for which a farm acreage allotment is established (1) the farm serial number, (2) the name of the owner or operator, (3) the legal description or location of the farm or the name by which it is commonly known, (4) the farm acreage allotment, (5) the normal yield per acre of lint cotton, and (6) the farm marketing quota (for the purpose of publishing farm marketing quotas, the farm marketing quota for each farm shall be expressed in terms of the normal production of the farm acreage allotment).

(b) *Distribution of form Cotton 310.* A copy of the list prepared on form Cotton 310 shall be permanently kept freely available for public inspection in the office of the county committee and a copy of it shall be posted for not less than thirty calendar days in a conspicuous place in the county (or in each local administrative area in the county if the county is divided into two or more local administrative areas for the purposes of the cotton marketing quota provisions of the Act). Another copy of form Cotton 310 shall be furnished to the county agricultural extension agent in the county, who shall keep the list permanently available for public inspection in his office. Each list on form Cotton 310, or copy thereof, shall be plainly marked on the front page "Property of the Government of the United States—must not be removed, taken, carried away, mutilated, altered, destroyed, or concealed." [Sec. 362]

§ 722.121 *Notice of farm marketing quotas.* Immediately upon the establishment of farm acreage allotments and the determination of normal yields per acre of lint cotton for farms in a county or other local administrative area, the county committee shall cause to be mailed to the operator of each farm for which a farm acreage allotment was established a written notice on form Cotton 309 of the farm marketing quota for the farm. The notice shall contain at or near the top thereof the following statement: "To each person who as operator, landlord, tenant, or sharecropper is interested in the farm for which this quota is established". Notice so given shall constitute notice to all such persons. The notice shall contain the information required by Sec. 722.120 to be contained in the list of farm acreage allotments, normal yields per acre of lint cotton, and farm marketing quotas for publication, together with a brief statement to the effect that the amount of the farm marketing quota for the farm is the number of pounds of lint cotton equal to the amount of the normal production of the farm acreage allotment plus the amount of any carry-over penalty free cotton plus the amount, if any, by which the actual production of the farm acreage allotment exceeds the normal production thereof. The notice shall contain also on the face or back thereof a statement of the procedure whereby application for review of the quota may be made under Section 363 of the Act. A copy of each notice on form Cotton 309, containing a notation thereon of the date of mailing the notice to the operator of the farm, shall be kept among the records of the county committee, and upon request a copy thereof, duly certified as true and correct, shall be furnished without charge to any person who as operator, landlord, tenant, or sharecropper is interested in the cotton produced in 1939 on the farm with respect to which the notice was given. [Sec. 362]

§ 722.122 *Apportionment of farm marketing quotas.* The county committee shall apportion to each producer on the farm a share of the farm marketing quota (such share being herein referred to as "producer marketing quota") in accordance with the following:

(1) The producer marketing quota for each producer shall first be determined, as soon as practicable after measurements with respect to the farm have been made, to be such proportion of the normal production of the farm acreage allotment for the farm that his share of the acreage planted to cotton in 1939 on the farm bears to the total acreage planted to cotton in 1939 on the farm.

(2) If a final adjustment is made in the amount of the farm marketing quota on the basis of actual production as set forth in Sec. 722.119 (c), or if the farm marketing quota is finally determined to be the normal production of the farm acreage allotment plus the amount of any carry-over penalty free cotton and the actual production of the acreage planted to cotton in 1939 on the farm is in excess of the normal production of the farm acreage allotment, the producer marketing quota previously determined for each producer shall be adjusted to be such proportion of the farm marketing quota that the amount of his share of the production in 1939 on the farm bears to the total production in 1939 on the farm. If an intermediate adjustment in the farm marketing quota based on actual production is made as set forth in Sec. 722.119 (c), the producer marketing quota for each producer shall be increased in the same proportion that the farm marketing quota was increased. In making adjustments in producer marketing quotas under this item, no producer on the farm who produces in 1939 more than the amount of the producer marketing quota previously apportioned to him shall have his producer marketing quota reduced, and any part of the producer marketing quota of any producer on the farm which is in excess of his share in the actual production in 1939 on the farm plus any carry-over penalty cotton which he has marketed at the time of the reapportionment shall be reapportioned to the other producer or producers on the farm. The adjustments provided for in this item shall be made only if they will result in a change in the amount of any producer marketing quota.

(3) If the actual production of the acreage planted to cotton on the farm in 1939 does not exceed the normal production of the farm acreage allotment, the producer marketing quota for each producer on such farm shall be adjusted so as to be equal to the amount of his share in such actual production. In case any producer on such a farm has any carry-over penalty cotton, the amount by which the normal production of the farm acreage allotment exceeds the actual production of the acreage planted to cotton in 1939 on the farm plus the carry-over penalty cotton which each such producer has marketed shall be apportioned to the producers on the farm who have carry-over penalty cotton in proportion to the amount of such cotton which each such producer has.

(4) If any producer on a farm complains in writing to the county committee that the apportionment of the farm marketing quota to producers as originally determined under item (1), or as adjusted under item (2) or item (3), is not fair and equitable because of variations in productivity, the acreage planted to cotton by each producer, crop failure, or any other cause, and the county committee has good ground to believe that any complaint so made is well-founded, it shall review the apportionment made under item (1), item (2), or item (3), as the case may be, and, if it finds that such

apportionment is not fair and equitable, shall reapportion the farm marketing quota among the various producers on the farm in a manner which, in view of all the facts adduced, is fair and equitable to all producers on the farm.

(5) There shall be added to and made a part of any producer marketing quota, as determined in accordance with this section, the amount of any carry-over penalty free cotton which the county committee determines, in accordance with applicable instructions, that the producer has at the time of the determination.

(6) Notwithstanding the foregoing provisions of this section, if no producer on an underplanted farm has any carry-over penalty cotton, each producer shall be entitled to a share of the farm marketing quota equal to the amount of his share in the cotton produced thereon in 1939 plus the amount of any carry-over penalty free cotton which he has on hand. The county committee shall not apportion the farm marketing quota for such farm among the producers thereon, as provided in the foregoing provisions of this section, unless and until a red marketing card is to be issued or a blue marketing card is to be issued to a producer on the farm.

(7) The producer marketing quota or the sum of all the producer marketing quotas with respect to any farm shall not exceed the sum of (a) the normal production of the farm acreage allotment or the actual production of the farm acreage allotment, whichever is the greater, and (b) the amount of any carry-over penalty free cotton. [Sec. 375 (b)]

§ 722.123 *Successors in interest.* Any person who succeeds to the interest of a producer in a farm or in a cotton crop or cotton for which a farm marketing quota has been established shall, to the same extent as his predecessor, be entitled to all the rights and privileges incident to such marketing quota and be subject to the restrictions on the marketing of cotton. [Sec. 375 (b)]

§ 722.124 *Transfer of marketing quotas.* A farm marketing quota is established with respect to a farm and may not be assigned or otherwise transferred in whole or in part to any other farm. A producer marketing quota may not be assigned or otherwise transferred in whole or in part, except that it may be reapportioned among producers on a farm as set forth in these regulations. [Sec. 375 (b)]

§ 722.125 *Review of quotas*—(a) *Review committees.* Any producer who is dissatisfied with the farm marketing quota established for his farm may, by making application within 15 days after the mailing to him of the notice on form Cotton 309 provided for in Sec. 722.121, have such quota reviewed by a local review committee composed of three farmers appointed by the Secretary of Agriculture. Unless such application is made within 15 days the original determination of the farm marketing quota shall be final. All applications for review shall be made in accordance with the Review Regulations (38–AAA–2) issued by the Secretary of Agriculture. [Secs. 363 and 364]

(b) *Court review.* If the producer is dissatisfied with the determination of the review committee he may, within 15 days after notice is mailed to him by registered mail, file a bill in equity against the review committee to have the determination of the review committee reviewed by a court in accordance with Section 365 of the Act. [Secs. 365 and 366]

§ 722.126 *Marketing quotas in effect.* Marketing quotas shall be in effect during the 1939–1940 marketing year with respect to the marketing of cotton. Cotton produced in the calendar year 1939 shall be subject to the quotas in effect notwithstanding that it may be marketed prior to August 1, 1939. [Sec. 345]

Measurement of Farms

§ 722.127. *Provision for measuring farms.* The county committee shall provide for measuring each farm in the county for which a farm acreage allotment was established, for the purpose of ascertaining whether the acreage planted thereon to cotton in 1939 is in excess of the farm acreage allotment established therefor. The measuring of any farm shall be done in accordance with the established procedure used by the Agricultural Adjustment Administration. [Sec. 374]

§ 722.128 *Report of measurements.* The county committee shall keep a record of the measurements made on all farms and shall file promptly with the State committee a written report on form Cotton 318 setting forth for each overplanted farm (1) the farm serial number, (2) the name of the operator, (3) the name of each person having an interest in the cotton crop produced thereon in 1939 or in the proceeds thereof, (4) the total acreage in cultivation in 1939, (5) the farm acreage allotment, and (6) the acreage planted to cotton in 1939. [Sec. 374]

Marketing Cards and Marketing Certificates

§ 722.129 *Issuing white marketing cards*—(a) *Producers on underplanted farms eligible to receive white marketing cards.* As soon as practicable after measurements have been made as provided in Sec. 722.127, the county committee shall, except as provided in paragraph (e), issue a white marketing card (form Cotton 311) to the operator of each underplanted farm on which the county committee determines that there is no producer who has carry-over penalty cotton and, unless the county committee finds that it will not serve a useful purpose, to other producers on the farm, as evidence that the operator and all other producers on the farm may market without penalty all cotton (including cotton produced from seed of a pure strain of Sea Island or American-Egyptian cotton) produced thereon in 1939 and the amount of carry-over penalty free cotton. Each white marketing card shall show (1) the name and address of the operator, (2) the name and address of the producer, if other than the operator, to whom issued, (3) the State and county code and serial number of the farm, (4) the signature of a member of the county committee signing for the county committee, (5) the countersignature of the operator or other producer to whom the card is issued, or his duly authorized agent, and (6) any other information which the county committee considers to be necessary in identifying the farm on which the cotton was produced.

(b) *Penalty secured.* If the county committee (1) has made an estimate of the amount of cotton to be produced in excess of the farm marketing quota in 1939 on any overplanted farm and has ascertained the amount of cotton which the producers have on hand from any previous crop, or (2) has ascertained the amount of carry-over penalty cotton for an underplanted farm, and (3) determines that the payment of the penalty as estimated has been secured, as provided for in Sec. 722.149, it may issue a white marketing card to the operator and, unless the county committee finds that it will not serve a useful purpose, to other producers on the farm, as evidence that such operator and other producers may market all cotton produced in 1939 on the farm and cotton from any previous crop which they have on hand without paying any penalty at the time of marketing. A marketing card issued under this paragraph shall be evidence of the fact that the penalty, if any, shall be paid as provided for in Sec. 722.149 and shall show information comparable to that provided to be shown on a marketing card issued under paragraph (a), except that the words "Penalty Secured" shall be endorsed in bold characters across its face. The county committee shall not issue a white marketing card under this paragraph to any producer on the farm unless and until all marketing cards previously issued in respect thereto have been returned to and canceled by the county committee by endorsing thereon in bold characters the notation "Canceled." Any marketing card issued pursuant to this paragraph shall be issued upon the condition that any producer to or for whom it is issued shall nevertheless be subject to the penalty with respect to the marketing of cotton in excess of the farm marketing quota for the farm.

(c) *Farms producing one thousand pounds or less.* The county committee may, upon request, issue to any producer on an overplanted farm a white marketing card as evidence of the fact that, notwithstanding the amount of the marketing quota for the farm, there may be marketed, without regard to the manner

prescribed in Sec. 722.147 and Sec. 722.148 for the payment, collection, and remittance of penalties, the entire amount of the cotton produced on the farm in 1939 plus the amount of cotton from any previous crop which the producers thereon have on hand, if the county committee finds (1) that the actual production or the estimated production in 1939 on the entire farm does not exceed one thousand pounds of lint cotton, and (2) that no producer on the farm has carry-over penalty cotton, and (3) that any marketing card or cards previously issued with respect to such farm have been returned to and canceled by the county committee by endorsing thereon in bold characters the notation "Canceled." A white marketing card issued under this paragraph shall show information comparable to that provided to be shown on a marketing card issued under paragraph (a), except that the words "One Thousand Pounds" shall be endorsed in bold characters across its face. Any white marketing card issued under this paragraph shall be issued upon the condition that any producer to or for whom it is issued shall nevertheless be subject to the penalty with respect to the marketing of cotton in excess of the farm marketing quota for the farm if the total production in 1939 of the farm exceeds one thousand pounds of lint cotton.

(d) *Farms producing less than normal production of farm acreage allotment.* If the county committee determines that (1) the carry-over penalty cotton plus the estimated production of the acreage planted to cotton in 1939 on the farm will not exceed the normal production of the farm acreage allotment therefor, and (2) in view of all the facts, the issuance of a white marketing card is justifiable, the county committee may issue a white marketing card to the operator and, unless the county committee finds that it will not serve a useful purpose, to other producers on the farm, as evidence that such operator and other producers may market all cotton produced in 1939 on the farm and cotton from any previous crop which they have on hand without paying any penalty at the time of marketing. A marketing card issued under this paragraph shall show information comparable to that provided to be shown on a marketing card issued under paragraph (a), except that the words "Penalty Secured" shall be endorsed in bold characters across its face. The county committee shall not issue a white marketing card under this paragraph unless and until all marketing cards previously issued for the farm have been returned to and canceled by the county committee by endorsing thereon in bold characters the notation "Canceled." Any marketing card issued pursuant to this paragraph shall be issued upon the condition that any producer to or for whom it is issued shall nevertheless be subject to the penalty with respect to the marketing of cotton in excess of the farm marketing quota for the farm.

(e) *Producers not eligible to receive white marketing cards.* A white marketing card shall not be issued to any producer who is engaged in the production of cotton on any overplanted farm in the county or who has carry-over penalty cotton, except as provided in the foregoing paragraphs of this section. If the county committee determines that the issuance of a red marketing card rather than the issuance of a white marketing card to any producer with respect to any farm is necessary to enforce the provisions of the Act, a white marketing card shall not be issued to or for him and a red marketing card shall be issued to him and, if the county committee finds it necessary, to any other producer on any farm in which he has an interest as a cotton producer in the manner otherwise provided for in these regulations. [Secs. 346 (b), 375 (a), and 375 (b)]

§ 722.130 *Issuing red marketing cards*—(a) *Producers eligible to receive red marketing cards.* As soon as practicable after it has been determined that (1) the farm is an overplanted farm or (2) any producer thereon has any carry-over penalty cotton, the county committee shall (except as otherwise provided for in Sec. 722.129 or paragraph (b) of this section) issue a red marketing card (form Cotton 312) to each producer on the farm, as evidence that the producer to whom it is issued is entitled to market without penalty an amount of cotton equal to the amount entered thereon, provided that any cotton so marketed is produced by or for him on such farm in 1939 or is cotton from any previous crop which he has on hand. Any red marketing card so issued shall show (1) the name and address of the operator, (2) the name and address of the producer, if other than the operator, to whom issued, (3) the State and county code and serial number of the farm, (4) the signature of a member of the county committee signing for the county committee, (5) the countersignature of the operator or other producer to whom issued, or his duly authorized agent, (6) the amount of the producer marketing quota for the producer as first determined under Sec. 722.122, or if the card is issued to the operator under paragraph (b), the amount of the farm marketing quota as first determined under Sec. 722.119 (b), and (7) any other information which the county committee considers to be necessary in identifying the farm on which the cotton was produced. The total of all producer marketing quotas or the farm marketing quota, as evidenced by red marketing cards or a red marketing card issued under this paragraph or paragraph (b), as the case may be, shall not be greater than the normal production of the farm acreage allotment for the farm plus the amount of carry-over penalty free cotton, exclusive of any amount of carry-over penalty free cotton pledged as security for a Commodity Credit Corporation loan. In addition a red marketing card shall be issued to any person who was engaged in the production of cotton in 1938 and who has carry-over penalty free cotton, as evidence that the person to whom it was issued is entitled to market without penalty an amount of cotton equal to the amount entered thereon.

(b) *Appointment of operator to receive red marketing card in trust for all producers.* In cases where more than one producer shares in the acreage planted to cotton in 1939 on a farm, if all producers on the farm agree in writing on form Cotton 312–A, a red marketing card showing the entire amount of the farm marketing quota for the farm as determined under Sec. 722.119 (b), and an additional red marketing card showing the amount, if any, by which the farm marketing quota for the farm is increased under Sec. 722.119 (c) may be issued to the operator, but the operator shall nevertheless make available to each producer on the farm the amount of the producer marketing quota to which he is entitled under Sec. 722.122. Such operator shall report to the county committee, as provided in Sec. 722.158 (b), the distribution of the farm marketing quota among the producers on the farm.

(c) *Issuing red marketing cards on the basis of an additional apportionment or reapportionment of the farm marketing quota.* (1) If red marketing cards were issued to each producer on a farm, as provided in paragraph (a) and (i) the farm marketing quota for the farm is increased above the normal production of the farm acreage allotment on the basis of the actual production thereof and is apportioned or reapportioned among the producers thereon or (ii) the farm marketing quota for the farm is not so increased but is reapportioned among the producers thereon on the basis of the actual production, the county committee shall issue to each producer on the farm a red marketing card showing the amount by which his producer marketing quota was increased pursuant to Sec. 722.122 as a result of the additional apportionment or reapportionment of the farm marketing quota. A marketing card issued under this paragraph shall be evidence of the fact that the producer to or for whom it is issued is entitled to market without penalty an amount of cotton equal to the amount entered thereon, provided that any cotton so marketed is produced by or for him on such farm in 1939 or is cotton from any previous crop which he has on hand and shall show information comparable to that provided to be shown on the marketing card originally issued to the producer, except that the word "Additional" shall be endorsed in bold characters across its face.

(2) In the event a portion or all of a producer marketing quota is reapportioned among other producers on the farm, as provided in Sec. 722.122, the county committee shall deduct the portion so reapportioned from such producer marketing quota, as shown on the marketing card, by entering thereon the amount deducted and the amount of such producer marketing quota which remains unused after the reapportionment. The reduction in the amount of the producer marketing quota shall be evidenced further by the signature or initials of a member of the county committee signing for it opposite the entry on the marketing card. Any red marketing card issued to any producer shall be returned by him to the county committee at the time a portion or all of his producer marketing quota is reapportioned. In the event any producer fails or refuses to deliver to the county committee, within ten calendar days after the date of a request in writing to do so, any marketing card issued in evidence of a producer marketing quota a portion or all of which has been reapportioned, the county committee shall forthwith cancel such marketing card by giving notice to such producer that such marketing card is void and of no effect by depositing written notice to that effect in the United States mails, registered and addressed to such producer at his last-known address. A copy of such notice, containing a notation thereon of the date of mailing, shall be kept among the records of the county committee. The county committee shall immediately notify the ginners and buyers in the county that the marketing card has been canceled and shall also notify the county committee of each adjoining county, which shall in turn notify the ginners and buyers in their respective counties.

(3) If a red marketing card was issued to the operator of the farm and the farm marketing quota for the farm is adjusted upward on the basis of the actual production under Sec. 722.119 (c), the red marketing card showing the amount of the upward adjustment shall be issued to the operator as provided in paragraph (b).

(4) The farm marketing quota or the total of all producer marketing quotas with respect to any farm, as evidenced by marketing cards issued under this paragraph and paragraph (a) or paragraph (b), as the case may be, shall not be greater than the amount of the farm marketing quota for the farm determined as provided for in Sec. 722.119. [Sec. 375 (a)]

§ 722.131 *Issuing blue marketing cards*—(a) *Producers eligible to receive blue marketing cards.* The county committee shall (except as otherwise provided for in Sec. 722.129 or paragraph (b) of this section) issue a blue marketing card (form Cotton 314) to each producer on a farm who has carry-over penalty cotton, as evidence that the producer to whom it is issued is entitled to market subject to the penalty of two cents per pound an amount of cotton not to exceed the amount entered thereon. In addition a blue marketing card shall be issued to any person who was engaged in the production of cotton in 1938 and who has carry-over penalty cotton as evidence that the person to whom it was issued is entitled to market subject to the penalty of two cents per pound an amount of cotton not to exceed the amount shown thereon. Any blue marketing card so issued shall show (1) the name and address of the operator, (2) the name and address of the producer, if other than the operator, to whom issued, (3) the State and county code and serial number of the farm, (4) the signature of a member of the county committee signing for the county committee, (5) the countersignature of the operator or other producer to whom issued, or his duly authorized agent, (6) the amount of carry-over penalty cotton, exclusive of any amount thereof pledged as security for a Commodity Credit Corporation loan, and (7) any other information which the county committee considers to be necessary in identifying the farm in connection with which it is to be marketed.

(b) *Appointment of operator to receive blue marketing card in trust for all producers.* If all producers on the farm who have carry-over penalty cotton agree in writing, on form Cotton 314–A, a blue marketing card may be issued to the operator showing the sum of the amounts of such cotton for which blue marketing cards would have been issued to such producers but the operator shall nevertheless make available to each producer on the farm his share therein. Such operator shall report to the county committee, as provided in Sec. 722.158 (b), the amount thereof made available to each such producer. [Sec. 375 (a)]

§ 722.132 *Issuing marketing cards for cotton pledged as security for a Commodity Credit Corporation loan.* If any producer to whom a red marketing card was issued desires to market any carry-over penalty free cotton which is pledged as security for a Commodity Credit Corporation loan, the county committee shall, upon his request, issue to him a red marketing card for the amount of such cotton which he desires to market. If the cotton so pledged is carry-over penalty cotton, the county committee shall, upon the producer's request, issue to him a blue marketing card for the amount of such cotton which the producer desires to market. A red or blue marketing card may be issued by the county committee to the operator of the farm under the agreement on form Cotton 312–A or 314–A, subject to the terms and conditions of Sec. 722.130 or Sec. 722.131. [Sec. 375 (a)]

§ 722.133 *Issuing marketing cards for multiple farms*—(a) *Issuing white marketing cards.* In case a producer is engaged in 1939 in the production of cotton on more than one farm in a county and all such farms are underplanted farms and the producer does not have any carry-over penalty cotton or the penalty with respect to overplanted farms or carry-over penalty cotton has been secured as provided for in Sec. 722.149, separate white marketing cards shall, except as provided in paragraph (b) of this section, be issued by the county committee with respect to each of such farms in accordance with the provisions of Sec. 722.129.

(b) *Issuing red marketing cards.* In case a producer is engaged in 1939 in the production of cotton on more than one farm in a county and the producer has carry-over penalty cotton, it will be necessary for him to designate one or more of such farms in connection with which the carry-over penalty cotton is to be marketed and for the purposes of this paragraph each farm so designated shall be treated as an overplanted farm in connection with the issuance of red marketing cards. In case a producer is engaged in 1939 in the production of cotton on more than one farm in the county and (1) all of such farms are overplanted farms, separate red marketing cards shall be issued by the county committee to or for all producers on each of such farms in accordance with the provisions of Sec. 722.130 unless the estimated amount of the penalty in respect thereto has been secured as provided for in Sec. 722.149, or (2) one or more but not all of such farms are overplanted farms and the county committee finds it necessary in order to enforce the provisions of the Act, separate red marketing cards shall be issued by the county committee to or for all producers on each of such farms in accordance with the provisions of Sec. 722.130 unless the estimated amount of the penalty in respect thereto has been secured as provided for in Sec. 722.149, or (3) one or more but not all of such farms is an overplanted farm, a red marketing card shall be issued by the county committee, in accordance with the provisions of Sec. 722.130, to or for such producer and all other producers on each overplanted farm, unless the estimated amount of the penalty in respect thereto has been secured as provided for in Sec. 722.149, and no marketing card shall be issued to or for such producer with respect to each underplanted farm, except that a red marketing card for the amount of his producer marketing quota may be issued to him upon his request, but the county committee shall nevertheless, except as provided in Sec. 722.129 or in this paragraph, issue a white marketing card to or for all other producers on each underplanted farm.

(c) *Farms in other counties.* Notwithstanding any other provisions of this section, if a red marketing card is issued to a producer who is engaged in 1939 in the production of cotton on farms in more than one county the procedure outlined in this section for issuing marketing cards for multiple farms in a

county shall be followed with respect to all such farms in a State, if the State committee has reason to believe that the procedure would be necessary in order to enforce the Act. If such a procedure is followed, the State committee may require any producer so affected to file with it a list of all farms on which he is engaged in 1939 in the production of cotton, together with any other pertinent data which are deemed to be of any assistance in enforcing the Act. [Sec. 375 (a)]

§ 722.134 *Issuing marketing certificates.* Upon request of a responsible executive officer of any publicly-owned agricultural experiment station, the State committee shall issue to such experiment station, with respect to cotton which is grown solely for experimental purposes by it, a certificate, signed by the chairman or the secretary of the State committee, evidencing the fact that the marketing of such cotton is not subject to the penalty. Such request shall be made in writing and shall show: (1) the name and address of the experiment station, (2) the location of the land on which such cotton was or is being produced, (3) the number of acres planted to cotton on such experiment station in 1939 for experimental purposes only, and (4) the number of acres planted to cotton for other purposes. [Sec. 375 (a)]

§ 722.135 *Lost, destroyed, or stolen marketing cards or certificates*—(a) *Report of loss, destruction, or theft.* In case any marketing card or certificate issued to a producer is lost, destroyed, or stolen, any person having knowledge thereof shall, insofar as he is able, immediately notify the county committee of (1) the name of the operator of the farm for which such marketing card or certificate was issued, (2) the name of the producer to whom the marketing card or certificate was issued, if someone other than the operator, (3) the serial number of the marketing card or certificate, (4) the color or description of the marketing card or certificate, and (5) whether in his judgment it was lost, destroyed, or stolen and by whom.

(b) *Investigation and findings of county committee.* The county committee shall make or cause to be made a thorough investigation of the circumstances of such loss, destruction, or theft. If the county committee finds, on the basis of its investigation, that such marketing card or certificate was in fact lost, destroyed, or stolen, it shall cancel such marketing card or certificate by giving notice to the producer to whom the card or certificate was issued that it is void and of no effect. A written notice to that effect addressed to the producer at his last-known address shall be deposited in the United States mails. If it also finds that there has been no collusion or connivance in connection therewith on the part of the producer to or for whom the marketing card or certificate was issued, it shall issue to or for him a marketing card or certificate of the same kind and bearing the same name, information, and identification as the lost, destroyed, or stolen marketing card or certificate. However, if the marketing card lost, destroyed, or stolen was a red marketing card or a blue marketing card, the county committee shall enter on the duplicate marketing card issued a deduction for the amount of the cotton which it determines has been marketed by or for the producer or producers to or for whom the marketing card was issued. Each marketing card or certificate issued under this section shall bear across its face in bold characters the word "Duplicate". In case a marketing card or certificate is canceled as provided for in this section, the county committee shall immediately notify the ginners and buyers in the county that the marketing card or certificate has been canceled and a duplicate has been issued. The county committee shall also notify the county committee of each adjoining county, which shall in turn notify the ginners and buyers in their respective counties. Any ginner or buyer or any other person coming into possession of a canceled marketing card or certificate shall immediately return it to the county committee which issued it. [Sec. 375 (a)]

§ 722.136 *Cancellation of marketing cards or certificates issued in error.* In the event any marketing card or certificate has been erroneously issued, the producer to whom it was issued shall, upon request, forthwith return it to the county committee and it shall be canceled by the county committee by endorsing thereon in bold letters the notation "Canceled." In the event any producer fails or refuses to deliver to the county committee, within ten calendar days after the date of the request, any marketing card or certificate issued erroneously, the county committee shall forthwith cancel such marketing card or certificate by giving notice to such producer that it is void and of no effect by depositing written notice to such effect in the United States mails, registered and addressed to such producer at his last-known address. A copy of such notice, containing a notation thereon of the date of mailing, shall be kept among the records of the county committee. The county committee shall immediately notify the ginners and buyers in the county that the marketing card or certificate has been canceled. The county committee shall also notify the county committee of each adjoining county, which shall in turn notify the ginners and buyers in their respective counties. [Sec. 375 (a)]

Identification of Cotton

§ 722.137 *Identification where no marketing card or certificate is presented.* Each buyor or transferee who buys or receives cotton during the marketing year, or prior to the beginning of the marketing year if the cotton was produced in the calendar year 1939, shall, unless it is identified by the producer as provided in these regulations, deem it to be identified as cotton subject to the penalty of three cents per pound provided for in Section 348 of the Act. [Sec. 375 (a)]

§ 722.138 *Identification by white marketing cards.* A white marketing card shall be used to identify cotton (including cotton produced from seed of a pure strain of Sea Island or American-Egyptian cotton) with respect to which it was issued as—

(1) cotton which is not subject to the penalty provided for in Section 348 of the Act;

(2) cotton with respect to which the estimated penalty has been secured by a bond of indemnity or money held in escrow;

(3) cotton produced on a farm with respect to which the county committee has estimated that no penalty will be incurred because the actual production of the acreage planted to cotton in 1939 on the farm plus the amount of carryover penalty cotton will not exceed the normal production of the farm acreage allotment for the farm; or

(4) cotton with respect to which the penalty, if any, will not be paid until it is determined whether the total production of lint cotton in 1939 on the farm on which it was produced exceeds 1,000 pounds.

If such cotton is marketed directly to and in the presence of the buyer or transferee, the producer shall identify the cotton by showing his marketing card to the buyer or transferee. If the marketing of such cotton is effected by telephone, telegraph, or mail, or by any means or method other than directly to and in the presence of the buyer or transferee, the producer shall identify such cotton by delivering to the buyer or transferee a certificate properly executed in duplicate on form Cotton 311-A, as evidence that the county committee has issued a white marketing card to such producer. [Sec. 375 (a)]

§ 722.139 *Identification by red marketing cards.* A red marketing card, accompanied by a certified statement properly executed on form Cotton 313, shall be used to identify cotton with respect to which it was issued as cotton the marketing of which is not subject to the penalty provided for in Section 348 of the Act until the amount identified by such red marketing card and marketed thereunder is equal to the farm or producer marketing quota shown on such card and thereafter as cotton the marketing of which is subject to the penalty of three cents per pound provided for in Section 348 of the Act. If such cotton is marketed directly to and in the presence of the buyer or transferee, the producer shall identify such cotton by showing his red marketing card and by delivering to the buyer or transferee a certified statement properly executed on

form Cotton 313. If the marketing of such cotton is effected by telephone, telegraph, or mail, or any means or method other than directly to and in the presence of the buyer or transferee, the producer shall identify such cotton by delivering to the buyer or transferee a certified statement properly executed on form Cotton 313. [Sec. 375 (a)]

§ 722.140 *Identification by blue marketing cards.* A blue marketing card, accompanied by a certified statement properly executed on form Cotton 315, shall be used to identify cotton with respect to which it is issued as cotton the marketing of which is subject to the penalty of two cents per pound provided for in Section 348 of the Act, until the amount of lint cotton identified by such blue marketing card and marketed thereunder is equal to the amount shown thereon and thereafter any other cotton as cotton the marketing of which is subject to the penalty of three cents per pound provided for in Section 348 of the Act. If such cotton is marketed directly to and in the presence of the buyer or transferee, the producer shall identify such cotton by showing his blue marketing card and by delivering to the buyer or transferee a certified statement properly executed on form Cotton 315. If the marketing of such cotton is effected by telephone, telegraph, or mail, or any means or method other than directly to and in the presence of the buyer or transferee, the producer shall identify such cotton by delivering to the buyer or transferee a certified statement properly executed on form Cotton 315. [Sec. 375 (a)]

§ 722.141 *Identification by certificate for publicly-owned agricultural experiment stations.* A marketing certificate issued with respect to publicly-owned agricultural experiment stations shall be presented by the producer to the buyer or transferee at the time the cotton is marketed, for the purpose of identifying the cotton with respect to which it is issued as cotton grown solely for experimental purposes by publicly-owned agricultural experiment station and the marketing of which is not subject to the penalty provided for in Section 348 of the Act. [Secs. 372 (d) and 375 (a)]

§ 722.142 *Identification of long staple cotton.* A certificate on form Cotton 321 by a federally-licensed cotton classifier that the staple of cotton covered by such certificate is 1½ inches or more in length shall, if presented by the producer to the buyer or transferee at the time of marketing, be used to identify such cotton as not subject to the penalty provided for in Section 348 of the Act. [Secs. 350 and 375 (a)]

Penalties

§ 722.143 *Penalties in general.* Any producer who markets cotton in excess of the farm marketing quota for the 1939–1940 marketing year for the farm on which such cotton was produced shall be subject to a penalty of three cents per pound with respect to the excess so marketed, except that the penalty shall be two cents per pound with respect to the amount of carry-over penalty cotton which is marketed in excess of the farm marketing quota. (The penalty of three cents per pound or two cents per pound, as the case may be, is herein referred to as "the penalty.") Any producer shall be deemed to have marketed cotton subject to the penalty of three cents per pound if it is marketed in excess of the farm marketing quota or the producer marketing quota apportioned to him under these regulations, as evidenced by the red marketing card issued to or for him in accordance with these regulations, or subject to the penalty of two cents per pound if it is identified when marketed by the blue marketing card issued to him in accordance with these regulations and is not marketed in excess of the amount of cotton shown thereon. [Sec. 348]

§ 722.144 *Farms producing less than 1,000 pounds of lint cotton.* The penalty shall not apply to cotton produced in 1939 on a farm for which a farm acreage allotment was established which is marketed in excess of the farm marketing quota for the farm if the total production of lint cotton thereon in 1939 does not exceed 1,000 pounds. [Sec. 346 (b)]

§ 722.145 *Long staple cotton.* The penalty shall not apply to the marketing of cotton the staple of which is 1½ inches or more in length. Cotton produced from seed of a pure strain of Sea Island or American-Egyptian cotton shall be presumed to be cotton the staple of which is 1½ inches or more in length. Notwithstanding the fact that a white marketing card has been issued with respect to cotton produced from seed of a pure strain of Sea Island or American-Egyptian cotton, such cotton shall nevertheless be subject to the penalty provided for in Section 348 of the Act if it is determined that such cotton has in fact a staple of less than 1½ inches in length and is marketed in excess of the farm marketing quota for the farm on which it was produced. Any other cotton shall be deemed to be cotton the staple of which is less than 1½ inches in length unless the producer thereof obtains a certification by a federally-licensed cotton classifier that such cotton has a staple of 1½ inches or more in length. Such certification shall be made in triplicate on form Cotton 321. [Sec. 350]

§ 722.146 *Cotton marketed by publicly-owned agricultural experiment stations.* Except as set forth in Sec. 722.144 and Sec 722.145, the penalty shall apply to any cotton grown by any publicly-owned agricultural experiment station which is not grown solely for experimental purposes. The penalty shall not apply to the marketing of any cotton grown for experimental purposes only by any publicly-owned agricultural experiment station. [Sec. 372 (d)]

§ 722.147 *Payment and collection of penalties*—(a) *Time when penalties become due.* The penalty shall be due at the time the cotton is marketed by sale, barter, or exchange. Cotton shall be deemed to be sold when either title to or actual or constructive possession of the cotton is delivered by or on behalf of the producer or any part of the purchase price is paid. Cotton shall be deemed to have been marketed by barter or exchange when it is delivered to the transferee of the cotton by actual or constructive delivery or the transferer has received any part of the property, goods, or services for which the cotton is being bartered or exchanged.

(b) *Persons liable for collection and payment of penalties.* The penalty in connection with the marketing of cotton by sale to any person within the United States shall be collected by the buyer at the time of sale. The penalty in connection with the marketing of cotton by sale to any person not within the United States or by barter or exchange shall be paid by the producer liable for the penalty and may be collected by the person to whom such cotton is transferred, in the case of an exchange or barter, if the producer and the transferee of such cotton agree, as evidenced by the form Cotton 313 or form Cotton 315 covering the transaction, that the penalty shall be collected by the transferee as in the case of the marketing of cotton by sale to any person within the United States. The penalty, if any, due in connection with the marketing of any cotton produced on any farm for which a white marketing card is issued shall not be collected by the buyer or transferee of such cotton but shall be paid by the producer who marketed such cotton.

(c) *Payment of a penalty prior to the marketing of cotton.* Any producer who would be liable for the penalty upon the marketing of any cotton produced by or for him may nevertheless pay such penalty prior to the time such cotton is marketed and the treasurer of the county committee for the county in which such cotton was produced shall receive the penalty as in the case of other penalties.

(d) *Manner of collection.* The penalty may be collected by a buyer by receiving the amount thereof from the producer or by deducting from the purchase price of the cotton the amount of the penalty due with respect to the marketing thereof.

(e) *Issuance of receipts for penalties collected.* Any buyer or transferee of cotton who, as provided for in paragraph (a), collects the penalty with respect to the marketing of cotton shall issue a receipt to the producer from whom the penalty is collected. [Sec. 372]

§ 722.148 *Remittance of penalties to the treasurer of the county committee*—

(a) *Time of remittance.* The penalty shall be remitted not later than thirty calendar days next succeeding the day on which the cotton was marketed by the producer. For and on behalf of the Secretary of Agriculture, the treasurer of the county committee for the county in which the farm on which the cotton was produced is located shall receive the penalty and issue to the person remitting the penalty a receipt therefor on form Cotton 319 or form Cotton 319–A.

(b) *Form of remittance.* The penalty shall be remitted only in legal tender or by draft, check, or money order drawn payable to the order of the Treasurer of the United States. All checks, drafts, or money orders tendered in payment of the penalty shall be received by the treasurer of the county committee subject to collection and payment at par, and any receipt issued in connection therewith as provided for in paragraph (a) shall bear a notation to that effect and a description of the check, draft, or money order. The penalty collected by the buyer or transferee, as provided for in Sec. 722.147, shall be accompanied at the time it is remitted by a copy of the receipt issued by such buyer or transferee to the producer from whom the penalty was collected. [Sec. 372]

§ 722.149. *Securing payment of the penalties upon request*—(a) *Methods of securing the penalty.* The county committee may, upon request of the owner or operator of any overplanted farm or any farm on which a producer has carry-over penalty cotton, estimate the amount of the penalty which may become due with respect to the marketing of cotton in excess of the farm marketing quota for the farm and, unless it is estimated that the penalty will not accrue with respect to the marketing of cotton produced on such farm in 1939 because it is estimated that the actual production of the acreage planted to cotton in 1939 on the farm plus the amount of any carry-over penalty cotton will not exceed the normal production of the farm acreage allotment for the farm, the penalty with respect to the marketing of such cotton may be paid as provided for in paragraph (e), provided that either (1) a good and sufficient bond of indemnity on form Cotton 323 is executed and filed with the treasurer of the county committee in an amount equal to not less than the amount of the estimated penalty for which the producers having an interest in the cotton crop produced on the farm would otherwise be liable, or (2) an amount of money not less than the amount of such estimated penalty is deposited with the Treasurer of the United States to be held in escrow to secure the payment of any penalty which might accrue.

(b) *Execution of bond.* Any bond filed pursuant to paragraph (a) shall be made on form Cotton 323 and executed as principal by the owner or operator of the farm for and on behalf of each producer on such farm and as sureties by two owners of real property (other than such owner or operator or producers) situated within the county and shall contain the condition that so much of the principal sum of such bond as is equal to the penalty incurred shall be forthwith paid to the Secretary of Agriculture upon the proof that the penalty secured thereby or any part or amount thereof has not been paid as provided for in paragraph (c). The county committee shall examine the bond and, if it finds such bond to be good and sufficient and in proper form and otherwise acceptable, the same shall be marked "Approved" and signed by a member of the committee acting for the committee and the bond shall be delivered to the treasurer of the county committee for safekeeping.

(c) *Placing funds in escrow.* Any funds delivered by the owner or operator of the farm to be held in escrow to secure the payment of the penalty shall be only in legal tender or in the form of a cashier's check or money order drawn payable to the order of the Treasurer of the United States and shall be deposited as provided for in Sec. 722.151. The treasurer of the county committee shall issue a receipt for such funds to the person who tenders them to be held in escrow. Such funds shall be received subject to payment and collection at par.

(d) *Estimating the penalty secured and amount of bond or funds in escrow.* In estimating the production of cotton for any farm under this section, the county committee shall take into consideration the appraised yield of the cotton crop and the number of acres planted to cotton on the farm. Such estimate shall be made after bolls are formed on the cotton plants for which the estimate is made. The number of pounds of lint cotton estimated to be produced on the farm in excess of the farm marketing quota shall be the amount by which the total estimated production of lint cotton in 1939 on the farm is in excess of the normal production of the farm acreage allotment established for the farm. Any bond or funds to be held in escrow pursuant to the foregoing provisions of this section shall be in an amount not less than the sum of the following: (1) The amount determined by multiplying three cents by the number of pounds so estimated to be produced in excess of the farm marketing quota and (2) the amount determined by multiplying two cents by the number of pounds of carry-over penalty cotton.

(e) *Report to county committee and payment of penalty.* The owner or operator of the farm shall file a report with the county committee, as provided for in Sec. 722.158 (b), for and on behalf of every producer on the farm. The report shall be in writing on form Cotton 317 and certified to be true and correct by the owner or operator, as the case may be, and shall show the amount of any penalty due for the marketing of cotton in excess of the farm marketing quota for the farm. If the county committee finds such report to be true and accurate and in proper form, the same shall be marked "Approved" and signed by a member of the committee acting for the committee, and the report shall be delivered to the treasurer of the county committee. The amount of the penalty set forth in the report as approved by the county committee shall forthwith be paid to the Secretary of Agriculture through the treasurer of the county committee. If funds are held in escrow to secure payment of the penalty, the penalty shall be paid by the use of such funds or, in the event such funds are not sufficient to cover the amount of the penalty incurred, the producer or producers who incurred the penalty shall pay a sufficient additional amount. Any part of the funds held in escrow which is in excess of the amount of the penalty set forth in the report as approved by the county committee shall be returned to the owner or operator, as the case may be, in accordance with Sec. 722.150.

(f) *Multiple farms.* If a producer is engaged in the production of cotton on more than one farm in the county in 1939, the county committee shall not accept funds to be placed in escrow or a bond to secure payment of the penalty under this section from or on behalf of such producer for any one of the farms unless such funds or bond is offered and accepted with respect to all such farms for which the penalty may become due.

(g) *Apportionment of farm marketing quota.* The provisions of this section shall have no effect on the apportionment of the farm marketing quota for a farm among producers as provided for in Sec. 722.122. [Secs. 372 and 375 (b)]

§ 722.150 *Refunds of money in excess of the penalty*—(a) *Conditions under which refunds may be made.* After the farm marketing quota for any farm has been finally determined, as provided for in Sec. 722.119, and finally apportioned or reapportioned among the producers thereon, as provided in Sec. 722.122, the county committee and the treasurer of the county committee, upon their own motion or upon the request of any person who has paid money in connection with marketing cotton for the farm, shall review the amount of money paid in connection with marketing cotton to determine whether the amount so paid is in excess of that due as the penalty for one or more of the following reasons:

(1) The money was received in connection with marketing cotton produced on a farm on which the actual production of the farm acreage allotment for the farm is greater than the amount of the farm marketing quota for the farm as expressed in terms of the normal production of the farm acreage allotment for the farm;

(2) The money was received in connection with marketing cotton produced on a farm for which the farm marketing

quota was increased by a determination of a review committee appointed by the Secretary of Agriculture or as a result of a court review of the determination of the review committee;

(3) The money was received in connection with marketing cotton produced on a farm on which the total amount of lint cotton produced in 1939 on the farm did not exceed 1,000 pounds;

(4) The money was received in connection with marketing cotton the staple of which is 1½ inches or more in length;

(5) The money was received in connection with marketing cotton grown for experimental purposes only by a publicly-owned agricultural experiment station; or

(6) The money was received through error.

No refund of money shall be made under this section unless the money has been remitted to the treasurer of the county committee and transmitted by him to the secretary of the State committee but has not been covered into the general fund of the Treasury of the United States. No refund of money shall be approved unless and until the interest of every person on the farm in the money received in connection with marketing cotton is determined.

(b) *Determination of amounts of refunds.* The county committee and the treasurer of the county committee shall determine the total amount of the penalty incurred with respect to the marketing of cotton in excess of the farm marketing quota for the farm and, on the basis of the apportionment or reapportionment of the farm marketing quota among the producers on the farm, shall determine the total amount of money received from each producer and the total amount of the penalty incurred by each producer in connection with marketing cotton with respect to the farm. If money has been received in connection with marketing cotton by any person other than the producer by or for whom it was produced, and the person from whom the money was received has been reimbursed therefor, either by deducting the amount thereof from the purchase price of the cotton or otherwise, any refund under this section shall be made to the person who actually bore the burden of the payment. If the person from whom the money was received has not been reimbursed therefor, no refund under this section shall be made to him for so much of the money received as may be necessary to cover the amount of the penalty incurred with respect to the marketing of the cotton. If the money received with respect to the farm is in excess of the total amount of the penalty incurred for the farm, the county committee and the treasurer of the county committee shall determine for each person the amount received from him which is in excess of that due as the penalty and which, insofar as the sum in excess of the penalty incurred with respect to the farm and the amounts of such excess due other producers on the farm will permit, may be certified for refund to such person. If the county committee and the treasurer of the county committee find that the money received with respect to the farm is not in excess of the total amount of the penalty incurred, no refund under this section shall be made. If the county committee and the treasurer of the county committee find that the money received with respect to the farm is in excess of the total amount of the penalty incurred but that the amounts of such excess due one or more persons with respect to the farm equal or exceed the total amount of such excess, no refund under this section shall be made to other persons from whom money may have been received in connection with marketing cotton with respect to the farm. Any determination made by the county committee and the treasurer of the county committee under the terms of this section shall not prejudice the right of any person from whom a sum of money has been received in connection with the marketing of cotton from the farm with respect to which the determination was made to file a claim with the Secretary of Agriculture in accordance with the procedure set forth in Sec. 722.153. Any determination of the county committee and treasurer of the county committee under the terms of this section shall be made in writing on form Cotton 324 (and form Cotton 325 if necessary) and signed by at least one member of such committee and such treasurer. The county committee shall conduct any investigation or hold any hearing it deems necessary for a proper settlement of any case arising under this section.

(c) *Certification of refunds.* At least one member of the county committee, acting for the committee, and the treasurer of the county committee shall certify on form Cotton 324 the amount which may be refunded to each person with respect to the farm and forward form Cotton 324 (and form Cotton 325 if necessary) to the secretary of the State committee, who shall cause to be certified to the Chief Disbursing Officer of the Treasury Department for payment such amounts as have been approved. [Sec. 372 (b)]

§ 722.151 *Deposit of funds.* All funds received by the treasurer of the county committee in connection with the marketing of cotton shall be scheduled for collection and transmitted by him on the day received, or not later than the morning of the succeeding day, to the secretary of the State committee for deposit to the credit of a special deposit account with the Treasurer of the United States in the name of the Chief Disbursing Officer of the Treasury Department (herein referred to as "special deposit account"). In the event the funds so received are in the form of cash, the treasurer of the county committee shall purchase a postal money order in the amount thereof, payable to the order of the Treasurer of the United States. The expense incurred by the treasurer of the county committee in purchasing postal money orders shall be paid by him in accordance with existing procedure from the funds provided for the administrative expenses of the county agricultural conservation association. The treasurer of the county committee shall make and keep a record of each amount received by him, showing the name of the person who remitted the funds, the identification of the farm or farms in connection with which the funds were received, and the names of the producer or producers who marketed the cotton in connection with which the funds were remitted. As soon as practicable after the farm marketing quota for any farm has been finally apportioned or reapportioned among the producers thereon as provided in Sec. 722.122, the county committee and the treasurer of the county committee shall review the amount of the funds received for the farm and notify the secretary of the State committee of the amounts thereof which are penalties to be covered into the general fund of the Treasury of the United States and the amounts thereof tendered in excess of the amount due as the penalty. The secretary of the State committee shall cause to be scheduled for transfer from the special deposit account and covered into the general fund of the Treasury of the United States the amount of the penalties so determined. [Sec. 372 (b)]

§ 722.152 *Records and accounts of treasurer of county committee.* The treasurer of each county committee or his successor in office is hereby authorized and empowered to receive for and on behalf of the Secretary of Agriculture all moneys received in connection with the payment of the penalties referred to in Sec. 722.143 and to keep records prescribed in connection therewith. Whenever a treasurer of a county committee is succeeded in office, the secretary of the State committee shall cause the records and accounts of the former treasurer to be audited. [Sec. 372 (b)]

§ 722.153 *Refund of penalties.* Whenever, pursuant to a claim filed with the Secretary of Agriculture within the time prescribed by law after payment to him of the penalty collected from any person, the Secretary of Agriculture finds that the penalty was erroneously, illegally, or wrongfully collected, he shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary of Agriculture finds the claimant is entitled to receive as a refund of all or a portion of the penalty. Any claim filed with the Secretary of Agriculture pursuant to this section shall be made in accordance with regulations prescribed by him. [Sec. 372 (c)]

§ 722.154 *Report of violations and court proceedings to collect penalty.* It

shall be the duty of the county committee to report in writing to the State committee forthwith each case of failure or refusal to pay the penalty or to remit the same to the Secretary of Agriculture when collected. It shall be the duty of the State committee to report each such case forthwith in writing in triplicate to the United States Department of Agriculture with a view to the institution of proceedings by the United States Attorney for the appropriate district, under the direction of the Attorney General of the United States, to collect the penalties, as provided for in Section 376 of the Act. [Sec. 376]

Records and Reports

§ 722.155 *Records to be kept and reports to be submitted by ginners.*—(a) *Nature of record and report.* Each ginner shall, in conformity with Section 373 (a) of the Act, keep records and make reports on forms prescribed by the Administrator, which records and reports the Secretary of Agriculture hereby finds to be necessary to carry out with respect to cotton the provisions of Title III of the Act. Each record and report shall show with respect to each bale or lot of cotton of the 1939 crop ginned by him: (1) The serial number of the farm on which the cotton was produced; (2) the date of ginning; (3) the name of the operator of the farm on which the cotton was produced; (4) the name of the producer of the cotton; (5) the county in which the farm on which the cotton was produced is located; (6) the gin bale number or mark; (7) the serial number of the gin ticket or receipt issued by the ginner to the producer or prepared by the ginner with respect to the bale, or lot of cotton if less than a bale, and (8) the gross weight of each bale, or lot of cotton if less than a bale, ginned for each producer. In case a ginner buys seed cotton or gins cotton for a person who has purchased cotton in the seed, he shall attach to and make a part of his report the original of form Cotton 326 properly executed and retain one copy thereof.

(b) *Time of making reports.* The ginning record provided for in paragraph (a) shall be made for each period beginning with the first day of each month and ending on the fifteenth day of such month, and for each period beginning with the sixteenth day of each month and ending on the last day of such month during which any cotton from the 1939 crop is ginned by the ginner. The original of the record shall be submitted to the treasurer of the county committee for the county in which the gin is located not later than five calendar days next succeeding the last day of the period covered by the report. A copy of such record shall be retained by the ginner.

(c) *Penalty.* Any ginner failing to keep any record or make any report as required by this section or making any false report or false record shall, as provided for in Section 373 (a) of the Act, be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500.00 for each such offense. [Sec. 373 (a)]

§ 722.156 *Records to be kept and reports to be submitted by buyers*—(a) *Buyer's regular reports.* Each buyer shall, in conformity with Section 373 (a) of the Act, keep records and make reports, which records and reports the Secretary of Agriculture hereby finds to be necessary to carry out with respect to cotton the provisions of Title III of the Act, with respect to each transaction in which he purchases cotton during the marketing year, or prior to the beginning of the marketing year if the cotton was produced in the calendar year 1939, as follows:

(1) If the cotton is identified to him or his agent by the use of a white marketing card, as provided for in Sec. 722.138, or by the use of a certificate issued to a publicly owned agricultural experiment station, as provided for in Sec. 722.141, the buyer or his agent is not required to keep a record or make a report with respect to such cotton other than the record and report provided for in paragraphs (b) and (c) of this section.

(2) If the cotton is identified to him or his agent by the use of a certificate on form Cotton 311–A, as provided for in Sec. 722.138, or by the certification of a federally licensed cotton classifier on form Cotton 321, as provided for in Sec. 722.142, the buyer or his agent shall examine and execute each such certificate and shall retain the original thereof and shall forward one copy thereof on the postal card to the treasurer of the county committee of the county in which the cotton covered thereby was produced and one copy thereof shall be retained by the producer of the cotton covered thereby.

(3) If the cotton is identified to him or his agent by the use of a red marketing card and form Cotton 313 at the time cotton is purchased directly from and in the presence of the producer or his agent, as provided for in Sec. 722.139, the buyer or his agent, with the assistance of the producer, shall execute form Cotton 313 in triplicate by entering thereon, in the spaces provided, (i) the amount, if any, of the unused portion of the farm marketing quota or producer marketing quota, (ii) the amount of lint cotton purchased from the producer in the particular transaction, (iii) the amount of the farm marketing quota or producer marketing quota, as the case may be, remaining after deducting the amount of cotton purchased from the producer in the particular transaction from the amount of the unused portion of the farm marketing quota or producer marketing quota, as the case may be, or the amount of lint cotton purchased from the producer in the particular transaction which is in excess of the unused portion of the farm marketing quota or producer marketing quota, (iv) the amount of the penalty, if any, which is due with respect to the lint cotton marketed in the particular transaction, (v) the gin bale numbers or marks of the cotton purchased in the particular transaction, (vi) the date on which the cotton was purchased, (vii) the fact that the penalty with respect to the marketing of the cotton was or was not collected, (viii) the name of the producer to whom the red marketing card was issued, (ix) the State and county code number and the serial number of the farm, (x) the name and address of the buyer, and (xi) the name of each person having an interest in the cotton marketed and his share therein. After such entries have been made, form Cotton 313 shall be executed by the buyer and the producer, both of whom shall certify to the correctness of the entries. In case cotton is purchased in the seed, the buyer and the producer shall use the known or estimated amount of lint cotton for the purpose of entering the information required to be shown on form Cotton 313 and shall enter thereon in lieu of the gin bale numbers or marks the number of pounds of seed cotton marketed in the particular transaction followed by the words "pounds of seed cotton". Form Cotton 313 so executed by the buyer and the producer shall be the receipt from the buyer to the producer for the amount of the penalty, if any, collected by the buyer as provided for in Sec. 722.147 (b). One copy of form Cotton 313 so executed shall be retained by the producer, the original thereof shall be retained by the buyer, and the copy thereof on the postal card shall (a) be forwarded by the buyer to the treasurer of the county committee by depositing it in the United States mails, if no penalty was collected with respect to the marketing of the cotton covered thereby, or (b) delivered by the buyer to the treasurer of the county committee at the time the penalty with respect to the marketing of the cotton covered thereby is remitted as provided for in Sec. 722.148.

(4) If the cotton is identified to him or his agent by the use of form Cotton 313 when the cotton is marketed by telephone, telegraph, or letter, or by any means or method other than directly to and in the presence of the producer or his agent, as provided for in Sec. 722.139, the buyer or his agent shall examine the original of form Cotton 313 and the copy thereof on the postal card submitted by the producer and, if the information required to be shown thereon as provided for in item (3) of this paragraph has been correctly entered thereon by the producer, the buyer or his agent shall execute the original and copy thereof and state therein the fact that the penalty, if any, due with respect to the marketing of such cotton was or was not collected, as the case may be, and enter the date and place of his signature. Form

Cotton 313 may be returned by the buyer or his agent to the producer or his agent for the purpose of correcting any errors made in its execution by the producer or his agent. The original of form Cotton 313 so executed shall be retained by the buyer and the copy thereof on the postal card transmitted to the treasurer of the county committee in the manner provided for in item (3) of this paragraph. The buyer or his agent shall execute and transmit to the producer a receipt in a form acceptable to the producer for the amount of the penalty, if any, collected.

(5) If the cotton is identified to him or his agent by the use of a blue marketing card and form Cotton 315 at the time cotton is purchased directly from and in the presence of the producer or his agent, as provided for in Sec. 722.140, the buyer or his agent, with the assistance of the producer, shall execute form Cotton 315 in triplicate by entering thereon, in the spaces provided, (i) the amount of the cotton shown on form Cotton 314 which has not been marketed previously, (ii) the amount of lint cotton purchased from the producer in the particular transaction, (iii) the amount of the cotton shown on form Cotton 314 remaining after deducting the amount of cotton purchased from the producer in the particular transaction from the amount of the cotton shown on form Cotton 314 which has not been marketed previously or the amount of lint cotton purchased from the producer in the particular transaction which is in excess of the cotton shown on form Cotton 314 which has not been marketed previously, (iv) the amount of the penalty which is due with respect to the lint cotton marketed in the particular transaction, (v) the gin bale numbers or marks of the cotton purchased in the particular transaction, (vi) the date on which the cotton was purchased, (vii) the fact that the penalty with respect to the marketing of the cotton was or was not collected (the penalty shall be collected in all such cases unless it has already been paid as provided for in Sec. 722.147 (c)), (viii) the name of the producer to whom the blue marketing card was issued, (ix) the State and county code number and the serial number of the farm, (x) the name and address of the buyer, and (xi) the name of each person having an interest in the cotton marketed and his share therein. After such entries have been made, form Cotton 315 shall be executed by the buyer and the producer, both of whom shall certify to the correctness of the entries. In case cotton is purchased in the seed, the buyer and the producer shall estimate the amount of lint cotton for the purpose of entering the information required to be shown on form Cotton 315 and shall enter thereon in lieu of the gin bale numbers or marks the number of pounds of seed cotton marketed in the particular transaction followed by the words "pounds of seed cotton". Form Cotton 315 so executed by the buyer and the producer shall be the receipt from the buyer to the producer for the amount of the penalty, if any, collected by the buyer as provided for in Sec. 722.147 (b). One copy of form Cotton 315 so executed shall be retained by the producer, the original thereof shall be retained by the buyer, and one copy shall be delivered by the buyer to the treasurer of the county committee at the time the penalty with respect to the marketing of the cotton covered thereby is remitted as provided for in Sec. 722.148.

(6) If the cotton is identified to him or his agent by the use of form Cotton 315 when the cotton is marketed by telephone, telegraph, or letter, or by any means or method other than directly to and in the presence of the producer or his agent, as provided for in Sec. 722.140, the buyer or his agent shall examine the original of form Cotton 315 and the copy thereof submitted by the producer and, if the information required to be shown thereon as provided for in item (5) of this paragraph has been correctly entered thereon by the producer, the buyer or his agent shall execute the original and copy thereof and state therein the fact that the penalty due with respect to the marketing of such cotton was or was not collected, as the case may be, and enter the date and place of his signature (the penalty shall be collected in all such cases unless it has already been paid as provided for in Sec. 722.147 (c)). Form Cotton 315 may be returned by the buyer or his agent to the producer or his agent for the purpose of correcting any errors made in its execution by the producer or his agent. The original of form Cotton 315 so executed shall be retained by the buyer and the copy thereof transmitted to the treasurer of the county committee in the manner provided for in item (5) of this paragraph. The buyer or his agent shall execute and transmit to the producer a receipt in a form acceptable to the producer for the amount of the penalty collected.

(7) If the cotton is identified to him or his agent by the use of a red marketing card and form Cotton 313, or by the use of a blue marketing card and form Cotton 315, and the producer or his agent presents to the buyer or his agent a receipt, or receipts, describing the cotton purchased in the particular transaction, executed by the treasurer of the county committee on form Cotton 319–A, as evidence of the fact that the penalty with respect to the marketing of the cotton described in such receipt, or receipts, has been paid in advance by the producer, as provided for in item (6) of Sec 722.158 (a), the buyer or his agent shall execute form Cotton 313 or form Cotton 315 in the manner provided for in items (3), (4), (5), or (6), whichever is applicable, of this paragraph, except that the buyer shall state therein the fact that the penalty was not collected by him. The original of form Cotton 313 or form Cotton 315 and the original of each form Cotton 319–A relating thereto shall be retained by the buyer. One copy of form Cotton 315 and the copy of form Cotton 313 on the postal card shall be transmitted by the buyer to the treasurer of the county committee.

(b) *Buyer's special reports.* Persons buying cotton shall, in conformity with Section 373 (a) of the Act, report to the Secretary of Agriculture in the following manner the following information and keep the following records on form Cotton 320, which records and reports the Secretary of Agriculture hereby finds to be necessary to enable him to carry out with respect to cotton the provisions of Title III of the Act. In the event it is found by the county committee, upon the basis of evidence submitted to it or upon the basis of an investigation made or caused to be made by it or if it has reason to believe that any buyer has failed to collect or remit the penalty on any cotton which he has purchased, the marketing of which is subject to the penalty and was so identified to him as provided for in Sec. 722.137 through Sec. 722.142, or that any buyer has purchased any cotton without requiring the seller thereof to identify properly such cotton as provided for in Sec. 722.137 through Sec. 722.142, the buyer shall, within 15 days after being requested to do so in writing deposited in the United States mails, registered and addressed to such buyer at his last-known address by such county committee, make a report to such committee on all the cotton which he has purchased during the marketing year up to and including the day on which he was so notified, in order that the county committee may make an investigation or an additional investigation to determine whether any cotton purchased during such time by such buyer was cotton the marketing of which was subject to the penalty and the penalty was not collected. Such report shall include for each bale, or lot of cotton if less than a bale, purchased during such time by such buyer (1) the name and address of the producer from whom the bale or lot of cotton was purchased, (2) the gin bale number or mark on the bale of cotton or the number of pounds of seed cotton, (3) the number of pounds of lint cotton in the bale or lot, (4) a statement as to whether the buyer collected the penalty with respect to the marketing of the bale or lot of cotton, (5) the amount of any penalty, and (6) the county in which the cotton purchased was produced. Such information shall be reported on form Cotton 320 and the buyer shall submit with such report a statement verified by affidavit that the report is true and correct to his best knowledge.

(c) *Buyer's reports of seed cotton purchased.* Each person buying seed cotton shall, in conformity with Section 373 (a) of the Act, report to the Secretary of Agriculture through the county committee in the following manner the following information and keep the following rec-

ords on form Cotton 326, which information and records the Secretary of Agriculture hereby finds to be necessary to carry out with respect to cotton the provisions of Title III of the Act, with respect to all seed cotton of the 1939 crop purchased by each buyer: (1) The serial number of the farm on which the cotton was produced; (2) the name of the operator of the farm on which the cotton was produced; (3) the name of each producer having an interest in the cotton and his share therein; (4) the county in which the farm on which the cotton was produced is located; (5) the number of pounds of seed cotton purchased; (6) the estimated or known amount of lint cotton. The report on form Cotton 326 shall be prepared in triplicate and one copy shall be retained by the buyer and the original and one copy shall be delivered to the ginner at the time the cotton is ginned. The report on form Cotton 326 shall be in addition to any other report which is required pursuant to the provisions of these regulations.

(d) *Penalties.* Any person engaged in the business of purchasing cotton from producers failing to keep any record or make any report as required by this section or making any false report or false record shall, as provided for in Section 373 (a) of the Act, be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500.00 for each such offense. [Sec. 373 (a)]

§ 722.157 *Records to be kept and reports to be submitted by transferees.* Each transferee of cotton shall execute form Cotton 313 or form Cotton 315 by signing his name thereon in the space provided and by stating therein whether any penalty with respect to the marketing of such cotton was or was not collected by him from the producer. The original of form Cotton 313 or form Cotton 315 so executed shall be retained by the transferee. If the transferee collected the penalty with respect to the marketing of such cotton, as provided for in Sec. 722.147 (b), he shall issue and deliver to the producer who paid the penalty a receipt and receive from the producer a copy of form Cotton 313 or form Cotton 315 and deliver it to the treasurer of the county committee at the time of remitting the penalty as provided for in Sec. 722.148. [Sec. 375 (b)]

§ 722.158 *Records to be kept and reports to be submitted by producers—* (a) *Records of individual transactions.* A producer to whom a red marketing card or a blue marketing card, or both, was issued shall keep the following records and make the following reports in connection with all cotton marketed by him, which records and reports the Secretary of Agriculture hereby finds to be necessary to carry out with respect to cotton the provisions of Title III of the Act:

(1) If the producer or his agent markets cotton by sale directly to and in the presence of the buyer or his agent, the producer or his agent shall execute the applicable portion of form Cotton 313, or form Cotton 315, as the case requires, and assist the buyer or his agent in the execution thereof as provided for in item (3) or item (5) of Sec. 722.156 (a) and one copy thereof so executed by the buyer and the producer or their agents shall be retained by the producer.

(2) If the producer or his agent markets cotton by sale, by telephone, telegraph, or letter, or by any means or method other than directly to and in the presence of the buyer or his agent, the producer or his agent shall execute form Cotton 313 or form Cotton 315, as the case requires, by showing therein the information provided for in item (3) or item (5) of Sec. 722.156 (a) and shall (i) retain one copy thereof so executed and (ii) transmit the original thereof and the copy of form Cotton 313 on the postal card or a copy of form Cotton 315 to the buyer or his agent by attaching the original and copy thereof so executed to the bill of lading or the draft or exchange used in the transaction or by any other means or method consistent with the nature of the transaction.

(3) If the producer or his agent markets cotton by barter or exchange directly to and in the presence of the transferee or his agent, the producer or his agent shall execute form Cotton 313 or form Cotton 315, as the case requires, and assist the transferee or his agent in the execution thereof, as provided for in Sec. 722.157, and one copy thereof so executed by the transferee and the producer or their agents shall be retained by the producer and the original thereof delivered to the transferee. The copy of form Cotton 313 on the postal card or the copy of form Cotton 315, as the case may be, shall be (i) delivered to the transferee or his agent if the transferee collected the penalty, if any, with respect to the marketing of the cotton as provided for in Sec. 722.147 (b), or (ii) forwarded by the producer to the treasurer of the county committee by depositing it in the United States mails if no penalty was incurred with respect to the marketing of the cotton, or (iii) delivered by the producer to the treasurer of the county committee at the time the producer remits the penalty with respect to the marketing of the cotton as provided for in Sec. 722.148 (b).

(4) If the producer or his agent markets cotton by barter or exchange, by telephone, telegraph, or letter, or by any means or method other than directly to and in the presence of the transferee or his agent, the producer or his agent shall execute form Cotton 313 or form Cotton 315, as the case requires, by showing therein the information provided for in item (3) or item (5) of Sec. 722.156 (a) and the producer or his agent shall (i) retain one copy thereof so executed and (ii) transmit the original thereof to the transferee or his agent and (iii) transmit the copy of form Cotton 313 or the copy of form Cotton 315 to the transferee or his agent if the transferee collected the penalty, if any, with respect to the marketing of the cotton, as provided for in Sec. 722.147 (b), or deliver the copy thereof to the treasurer of the county committee at the time the producer remits the penalty with respect to the marketing of the cotton, as provided for in Sec. 722.148 (b), or forward it to the said treasurer by depositing it in the United States mails if no penalty was incurred with respect to the marketing of the cotton. If the penalty is collected by the transferee in such a transaction, as provided for in Sec. 722.147 (b), the transferee or his agent shall execute and transmit to the producer a receipt for the penalty collected in a form acceptable to the producer.

(5) If the producer or his agent markets the cotton to any person not within the United States the producer or his agent shall execute form Cotton 313 or form Cotton 315, as the case requires, by showing therein the information provided for in item (3) or item (5) of Sec. 722.156 (a) and shall indicate in the space provided thereon for the signature of the buyer or transferee that the buyer or transferee is a person not within the United States. The producer shall retain one copy of form Cotton 313 or form Cotton 315 so executed and shall forward the original thereof and the copy of form Cotton 313 on the postal card, or the copy of form Cotton 315, to the treasurer of the county committee, together with any penalty incurred with respect to the marketing of such cotton.

(6) If the producer pays the penalty with respect to the marketing of any cotton prior to the time such cotton is marketed, as provided for in Sec. 722.147 (c), the treasurer of the county committee to whom such penalty is paid shall execute, in triplicate, form Cotton 319–A by describing therein the cotton with respect to the marketing of which the penalty has been paid and shall retain one copy thereof and deliver the original and one copy thereof to the producer. The original of form Cotton 319–A so executed shall be delivered by the producer or his agent to the buyer or transferee of the cotton described therein at the time such cotton is marketed, and the producer or his agent shall execute form Cotton 313 or form Cotton 315, as the case requires, with respect thereto in accordance with the foregoing provisions of this paragraph.

(b) *Farm operator's report.* The operator of each overplanted farm or of each farm on which any producer has carry-over penalty cotton or, upon the request of the county committee, the operator of any other farm shall file with the Secretary of Agriculture through the county committee not later

than 30 calendar days after all the cotton on the farm has been marketed or March 1, 1940, whichever is the earlier, a report on form Cotton 317, which report the Secretary of Agriculture hereby finds to be necessary to carry out with respect to cotton the provisions of Title III of the Act, showing for each producer (1) the total pounds of lint cotton produced in 1939 by each producer on the farm, (2) the total pounds of carry-over penalty free cotton, (3) the total pounds of carry-over penalty cotton, (4) the producer marketing quota for each producer on the farm, (5) the amount of cotton marketed by each producer prior to the date of submitting this report, (6) the pounds of lint cotton marketed by each producer subject to the penalty of three cents per pound and the pounds subject to the penalty of two cents per pound, (7) the amount of the money received from each producer in connection with the marketing of cotton, (8) the amount refunded to each producer, and (9) the pounds of lint cotton each producer has on hand which has not been marketed at the time of submitting the report. In the event the total production of cotton in 1939 on such farm is not marketed prior to March 1, 1940, the operator shall make on form Cotton 317 and file with the county committee an additional report of the information required by this subsection after the total production of cotton in 1939 on such farm has been harvested and marketed or not later than August 1, 1940, whichever is the earlier. In addition, the operator of any farm shall, upon request of the county committee, furnish as a part of his report on form Cotton 317 the name and address of each buyer to whom he sold any cotton and the name and address of each ginner who ginned any cotton for him. [Sec. 373 (b)]

§ 722.159 *Data to be kept confidential.* Except as otherwise provided herein, all data reported to or acquired by the Secretary of Agriculture pursuant to and in the manner provided in these regulations shall be kept confidential by all officers and employees of the United States Department of Agriculture, members of county committees, other local committees, and State committees, county agents, and the employees of such committees and of county agents' offices, and shall not be disclosed to anyone not having an interest in or responsibility for any cotton, farm, or transaction covered by the particular data, record, information, report, or form and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them to anyone not having such an interest or not being employed in the administration of the Act and then only in a suit or administrative hearing under Title III of the Act. [Sec. 373 (c)]

§ 722.160 *Enforcement.* It shall be the duty of the county committee to report in writing to the State committee forthwith each case of failure or refusal to make any report or keep any record as required by these regulations and each case of making any false report or record. It shall be the duty of the State committee to report each such case forthwith in writing, in triplicate, to the United States Department of Agriculture with a view to the institution of proceedings by the United States Attorney for the appropriate district, under the direction of the Attorney General of the United States, to enforce the provisions of Title III of the Act. [Sec. 376]

Done at Washington, D. C., this 29th day of April 1939. Witness by hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 39-1471; Filed, April 29, 1939; 12:21 p. m.]

SUGAR DIVISION

[P. R. S. O. No. 14, Rev. 1 [1]]

PART 821—SUGAR QUOTAS

DECISION AND ORDER OF SECRETARY OF AGRICULTURE ALLOTTING THE 1939 SUGAR QUOTAS FOR PUERTO RICO

Whereas, General Sugar Quota Regulations Series 6, No. 1, Revision 1, issued March 31, 1939,[2] establishes the 1939 sugar quota for Puerto Rico for marketing in the continental United States at 806,642 short tons, raw value, and

Whereas, General Sugar Quota Regulations Series 6, No. 2, issued December 29, 1938, establishes the 1939 sugar quota for local consumption in Puerto Rico at 70,812 short tons, raw value, and

Whereas, I hereby find that the allotment of the 1939 sugar quota for Puerto Rico for shipment to the continental United States and the 1939 sugar quota for local consumption in Puerto Rico is necessary to prevent disorderly marketing and importation of such sugar and to afford all interested persons an equitable opportunity to market such sugar in the continental United States, and

Whereas, all interested Puerto Rican processors have waived their right to a hearing with respect to the allotment of such quotas, as provided in Section 205 (a) of the Sugar Act of 1937.

Now, therefore, upon the basis of the foregoing and pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the said act, it is hereby ordered that:

§ 821.36 *Original allotments.* The quantity of 806,642 short tons of sugar, raw value, and the quantity of 70,812 short tons of sugar, raw value, representing the 1939 quota for Puerto Rico for marketing in the continental United States and the 1939 quota for local consumption in Puerto Rico, respectively, are hereby allotted to the following processors in the amounts which appear opposite their respective names:

Name of processor	1939 U. S. allotment from processing	U. S. allotment from surplus stocks	Continental U. S. marketing allotment	Allotment for local consumption
Aguirre (3 mills)	82,004	3,356	85,360	7,493
Cambalache	36,686	1,501	38,187	3,352
Canovanas	26,613	1,089	27,702	2,432
Carmen	13,604	557	14,161	1,243
Coloso	33,177	1,358	34,535	3,032
Constancia-Toa	18,963	776	19,739	1,733
El Ejemplo	10,707	438	11,145	978
Eureka	16,997	696	17,693	1,553
Fajardo	50,760	2,077	52,837	4,638
Guanica	78,918	3,230	82,148	7,211
Guamani	9,295	380	9,675	849
Herminia	1,804	74	1,878	165
Igualdad	15,491	634	16,125	1,416
Juanita	20,598	843	21,441	1,882
Lafayette	25,585	1,047	26,632	2,338
Plazuela	18,297	749	19,046	1,672
Monserrate	11,138	456	11,594	1,018
Pellejas	3,529	144	3,673	322
Plata	14,491	593	15,084	1,324
Playa Grande	6,751	276	7,027	617
Rochelaise	7,753	317	8,070	708
Roig	22,645	927	23,572	2,069
Rufina	24,888	1,019	25,907	2,274
San Vicente	29,132	1,192	30,324	2,662
Santa Barbara	2,613	107	2,720	239
Soller	6,296	258	6,554	575
Vannina	13,952	571	14,523	1,275
Victoria	16,059	657	16,716	1,468
Eastern Sugar Associates	75,782	3,101	78,883	6,925
San Francisco	5,352	219	5,571	489
Caribe	5,389	221	5,610	493
Constancis-Ponce	6,406	262	6,668	585
Mercedita	28,679	1,174	29,853	2,621
Boca Chica	13,115	537	13,652	1,199
Canos	14,505	594	15,099	1,326
Rio Llano	5,688	233	5,921	520
Total	773,662	31,663	805,325	70,696
Reserve for future Allotment	1,265	52	1,317	116
	774,927	31,715	806,642	70,812

(Sec. 205, 50 Stat. 906; 7 U.S.C., Sup. IV, 1115)

§ 821.37 *Growers' share of allotments.* If settlement with growers has been made in terms of sugar, such growers shall share on a pro rata basis in the allotments herein made to processors from current processings and from surplus stocks. (Sec. 205, 50 Stat. 906; 7 U.S.C., Sup. IV, 1115)

§ 821.38 *Additional allotments.* The aforesaid quantity of sugar designated "Reserve for future allotment" shall be allotted to processors who contract to grind the proportionate shares represented thereby and the allotments of such processors set forth above shall be increased accordingly; and any increase or decrease in the 1939 sugar quotas for Puerto Rico shall be prorated among processors on the basis of the allotments set forth above. (Sec. 205, 50 Stat. 906; 7 U.S.C., Sup. IV, 1115)

§ 821.39 *Restrictions on shipments.* The above-named processors are hereby prohibited from bringing into the continental United States from Puerto Rico, for consumption during the calendar year 1939, or from marketing locally in Puerto Rico during the calendar year 1939, any sugar in excess of the respective marketing allotments established in Secs. 821.36 and 821.38 hereof. (Sec. 209, 50 Stat. 908; 7 U.S.C., Sup. IV, 1119)

§ 821.40 *Assignments prohibited.* The allotments established above

[1] 4 F.R. 1642 DI.
[2] 3 F.R. 3188 DI.

shall not be assigned or transferred without the approval of the Secretary or his duly appointed agent. (Sec. 504, 50 Stat. 915; 7 U.S.C., Sup. IV, 1174)

§ 821.41 *Rescission of prior order.* This order supersedes Puerto Rico Sugar Order No. 14, issued April 18, 1939. (Sec. 504, 50 Stat. 915; 7 U.S.C., Sup. IV, 1174)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington, this 29th day of April 1939.

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

[F. R. Doc. 39-1470; Filed, April 29, 1939; 12:20 p. m.]

PART 802—SUGAR DETERMINATIONS

DETERMINATION OF FARMING PRACTICES TO BE CARRIED OUT IN CONNECTION WITH THE PRODUCTION OF SUGARCANE DURING THE CROP YEAR 1938–39 FOR PUERTO RICO

[Revised]

Pursuant to the provisions of Section 301 (e) of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby make the following determination:

§ 802.43a *Farming practices in connection with the production of the 1938–39 crop of sugarcane in Puerto Rico*—(a) *For all farms, except in the Island of Vieques.* The requirements of section 301 (e) of the Sugar Act of 1937 shall be deemed to have been met with respect to a farm in Puerto Rico, except in the Island of Vieques, if there are carried out during the calendar year 1938 the following farming practices:

(1) *Farms containing more than 400 acres of sugarcane.* For farms on which more than 400 acres of sugarcane are growing at any time during 1938:

(i) The application to land on which sugarcane is planted during 1938 of sufficient chemical fertilizer to provide an average quantity of plant food per acre fertilized equal to not less than the greater of either 150 pounds or 80 percent of the average quantity of plant food contained in the chemical fertilizer applied to similar land in 1936 or 1937, whichever was smaller.

(ii) The application to land on which a ratoon crop of sugarcane is started during 1938 of sufficient chemical fertilizer to provide an average of not less than 120 pounds of plant food per acre fertilized.

(2) *Farms containing more than 100, but not more than 400, acres of sugarcane.* For farms on which more than 100, but not more than 400, acres of sugarcane are growing at any time during 1938:

(i) The application to land on which sugarcane is planted during 1938 of chemical fertilizer in an amount averaging not less than 400 pounds per acre fertilized.

(ii) The application to land on which a ratoon crop of sugarcane is started during 1938 of chemical fertilizer in an amount averaging not less than 320 pounds per acre fertilized.

(3) *Farms containing more than 10, but not more than 100, acres of sugarcane.* For farms on which more than 10, but not more than 100, acres of sugarcane are growing at any time during 1938:

(i) The application to land on which sugarcane is planted during 1938 of chemical fertilizer in an amount averaging not less than 250 pounds per acre fertilized.

(ii) The application to land on which a ratoon crop of sugarcane is started during 1938 of chemical fertilizer in an amount averaging not less than 200 pounds per acre fertilized.

(iii) In lieu of the provisions of subparagraphs (i) and (ii) of this paragraph, the carrying out on the farm of any of the soil building practices contained in the 1938 Agricultural Conservation Program Bulletin, Puerto Rico, for which payment would be made in an amount equal to at least $1.00 per acre of land on which sugarcane is planted or a ratoon crop of sugarcane is started during 1938.

(4) *Farms containing not more than 10 acres of sugarcane.* For farms on which not more than 10 acres of sugarcane are growing at any time during 1938:

(i) The application during the 1938 harvest season to the land from which sugarcane is harvested of the tops and trash cut from such sugarcane; or

(ii) The application of fertilizer in the amounts, and to the types of land, set forth in subparagraphs (i) and (ii) of paragraph (a) (3) of this section; or

(iii) The carrying out on the farm of any of the soil building practices contained in the 1938 Agricultural Conservation Program Bulletin, Puerto Rico, for which payment would be made in an amount equal to at least $0.50 per acre of land on which sugarcane is planted or a ratoon crop of sugarcane is started during 1938.

(b) *For farms in the Island of Vieques.* The requirements of said section 301 (e) of the Sugar Act of 1937 shall be deemed to have been met with respect to a farm in Puerto Rico in the Island of Vieques if there are carried out during the calendar year 1938 the following farming practices:

(1) *Farms containing more than 400 acres of sugarcane.* For farms on which more than 400 acres of sugarcane are growing at any time during 1938:

(i) The application to land on which sugarcane is planted during 1938 of sufficient chemical fertilizer to provide an average quantity of plant food per acre fertilized equal to not less than the greater of either 75 pounds or 80 percent of the average quantity of plant food contained in the chemical fertilizer applied to similar land in 1936 or 1937, whichever was smaller.

(ii) The application to land on which a ratoon crop of sugarcane is started during 1938 of sufficient chemical fertilizer to provide an average of not less than 60 pounds of plant food per acre fertilized.

(2) *Farms containing more than 100, but not more than 400, acres of sugarcane.* For farms on which more than 100, but not more than 400, acres of sugarcane are growing at any time during 1938:

(i) The application to land on which sugarcane is planted during 1938 of chemical fertilizer in an amount averaging not less than 200 pounds per acre fertilized.

(ii) The application to land on which a ratoon crop of sugarcane is started during 1938 of chemical fertilizer in an amount averaging not less than 160 pounds per acre fertilized.

(3) *Farms containing more than 10, but not more than 100, acres of sugarcane.* For farms on which more than 10, but not more than 100, acres of sugarcane are growing at any time during 1938:

(i) The application to land on which sugarcane is planted during 1938 of chemical fertilizer in an amount averaging not less than 125 pounds per acre fertilized.

(ii) The application to land on which a ratoon crop of sugarcane is started during 1938 of chemical fertilizer in an amount averaging not less than 100 pounds per acre fertilized.

(iii) In lieu of the provisions of subparagraphs (i) and (ii) of this paragraph, the carrying out on the farm of any of the soil building practices contained in the 1938 Agricultural Conservation Program Bulletin, Puerto Rico, for which payment would be made in an amount equal to at least $1.00 per acre of land on which sugarcane is planted or a ratoon crop of sugarcane is started during 1938.

(4) *Farms containing not more than 10 acres of sugarcane.* For farms on which not more than 10 acres of sugarcane are growing at any time during 1938:

(i) The application during the 1938 harvest season to the land from which sugarcane is harvested of the tops and trash cut from such sugarcane; or

(ii) The application of fertilizer in the amounts, and to the types of land, set forth in subparagraphs (i) and (ii) of paragraph (b) (3) of this section; or

(iii) The carrying out on the farm of any of the soil building practices contained in the 1938 Agricultural Conservation Program Bulletin, Puerto Rico,

for which payment would be made in an amount equal to at least $0.50 per acre of land on which sugarcane is planted or a ratoon crop of sugarcane is started during 1938.

(c) *Minimum acreage requirements for the application of fertilizer.* In every case in which the application of fertilizer is required as aforesaid, the number of acres on which fertilizer is to be applied in 1938 shall not be less than 100 percent of the number of acres on which sugarcane is planted during 1938 and not less than 90 percent of the number of acres on which a ratoon crop of sugarcane is started during 1938.

(d) *Additional credit in connection with 1938 Agricultural Conservation Program.* Where there is reference to payments which would be made under the terms of the 1938 Agricultural Conservation Program, Puerto Rico, in subparagraphs (3) (iii) and (4) (iii) of paragraphs (a) and (b), credit is to be allowed, in calculating the payment per acre, for chemical fertilizer applied, if any, at the rate of $0.50 per hundred pounds gross weight.

(e) *Definitions.* Wherever used in this section, except in paragraph (d), chemical fertilizer and plant food are to be defined as follows: "Chemical fertilizer" means commercial chemical fertilizer of which not less than 15 percent of the gross weight consists of plant food. "Plant food" means the aggregate amount of nitrogen, available phosphoric acid, and water soluble potash. (Sec. 301, 50 Stat. 909; 7 U.S.C., Sup. IV, 1131)

This determination supersedes the "Determination of Farming Practices to be Carried Out in connection with the Production of Sugarcane During the Crop Year 1938–39 for Puerto Rico, Pursuant to the Sugar Act of 1937," issued July 20, 1938.[1]

Done at Washington, D. C., this 29th day of April 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 39–1469; Filed, April 29, 1939; 12:20 p. m.]

PART 802—SUGAR DETERMINATIONS

DETERMINATION OF A FARM, AND OF FARMING PRACTICES TO BE CARRIED OUT IN CONNECTION WITH THE PRODUCTION OF SUGARCANE DURING THE CROP YEAR 1937–38 FOR PUERTO RICO

[Revised]

Pursuant to the provisions of Sections 301 (e) and 304 (b) of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby make the following determinations:

§ 802.40 *Definition of a farm in Puerto Rico.* A farm in Puerto Rico means all land which is farmed by a producer, or group of producers, as a single farming unit, with cropping practices, work stock, equipment, labor, and management substantially separate from that of any other such unit. (Sec. 304, 50 Stat. 912; 7 U.S.C., Sup. IV, 1134)

§ 802.43 *Farming practices in connection with the production of the 1937–38 crop of sugarcane in Puerto Rico.*—(a) *For all farms, except in the Island of Vieques.* The requirements of Section 301 (e) of the Sugar Act of 1937 shall be deemed to have been met with respect to a farm in Puerto Rico, except in the Island of Vieques, if there are carried out during the calendar year 1937 the following farming practices:

(1) *Farms containing more than 400 acres of sugarcane.* For farms on which there is growing at any time during the calendar year 1937 more than 400 acres of sugarcane, the application of chemical fertilizer to sugarcane land fertilized during the calendar year 1937 in an amount not less than that required for the farms referred to in I. R. Announcement 1, issued July 28, 1937, pursuant to the provisions of Insular Region Bulletin 101, Puerto Rico, issued May 4, 1937.

(2) *Farms containing more than 100, but not more than 400, acres of sugarcane.* For farms on which there is growing at any time during the calendar year 1937 more than 100, but not more than 400, acres of sugarcane, the application during 1937 of an average gross weight of chemical fertilizer, as defined in the said I. R. Announcement 1, to land on which sugarcane has been planted in 1937 and to land on which a crop of ratoon sugarcane has been started in 1937, in an amount not less than 400 pounds per acre of such land.

(3) *Farms containing more than 10, but not more than 100, acres of sugarcane.* For farms on which there is growing at any time during the calendar year 1937 more than 10, but not more than 100, acres of sugarcane, (i) the application during 1937 of an average gross weight of chemical fertilizer, as defined in the said I. R. Announcement 1, to land on which sugarcane has been planted in 1937 and to land on which a crop of ratoon sugarcane has been started in 1937, in an amount not less than 200 pounds per acre of such land; or (ii) the carrying out on the farm of any of the soil building practices set forth in the said Insular Region Bulletin 101, Puerto Rico, for which payment would be made in an amount equal to at least $1.00 per acre of land on which sugarcane is planted or a ratoon crop of sugarcane is started during 1937.

(4) *Farms containing not more than 10 acres of sugarcane.* For farms on which there is growing at any time during the calendar year 1937 not more than ten acres of sugarcane, (i) the application during the 1937 harvest season to the land from which sugarcane is harvested, of the tops and trash cut from such sugarcane; or (ii) the carrying out on the farm of any of the soil building practices set forth in the said Insular Region Bulletin 101, Puerto Rico, for which payment would be made in an amount equal to at least $.50 per acre of land on which sugarcane is planted or a ratoon crop of sugarcane is started during 1937.

(b) *For farms in the Island of Vieques.* The requirements of Section 301 (e) of the Sugar Act of 1937 shall be deemed to have been met with respect to a farm in Puerto Rico in the Island of Vieques if there are carried out during the calendar year 1937 the following farming practices:

(1) *Farms containing more than 400 acres of sugarcane.* For farms of the acreage designated in (a) (1) of this section, the required application of chemical fertilizer to sugarcane land fertilized in 1937 shall be in an amount of plant food contained in chemical fertilizer, as such plant food and chemical fertilizer are defined in the said I. R. Announcement 1, not less than the greater of either (i) 75 pounds of plant food per acre of such land; or (ii) 90% of the quantity of plant food which was applied during the calendar year 1936 per acre of sugarcane land fertilized during the calendar year 1936.

(2) *Farms containing more than 100, but not more than 400, acres of sugarcane.* For farms of the acreage designated in (a) (2) of this section, the application during 1937 of an average gross weight of chemical fertilizer, as defined in the said I. R. Announcement 1, to land on which sugarcane has been planted in 1937 and to land on which a crop of ratoon sugarcane has been started in 1937, in an amount not less than 200 pounds per acre of such land.

(3) *Farms containing more than 10, but not more than 100, acres of sugarcane.* For farms of the acreage designated in (a) (3) of this section, (i) the application during 1937 of an average gross weight of chemical fertilizer, as defined in the said I. R. Announcement 1, to land on which sugarcane has been planted in 1937 and to land on which a crop ratoon sugarcane has been started in 1937 in an amount not less than 100 pounds per acre of such land; or (ii) the carrying out on the farm of any of the soil building practices set forth in the said Insular Region Bulletin 101, Puerto Rico, for which payment would be made in an amount equal to at least $1.00 per acre of land on which sugarcane is planted or a ratoon crop of sugarcane is started during 1937.

(4) *Farms containing not more than 10 acres of sugarcane.* For farms of the acreage designated in (a) (4) of this section, (i) the application during the

[1] 3 F.R. 1786 DI.

1937 grinding season to the land from which sugarcane is harvested, of the tops and trash cut from such sugarcane; or (ii) the carrying out of any of the soil building practices set forth in Insular Region Bulletin 101, Puerto Rico, for which payment would be made in an amount equal to at least $0.50 per acre of land on which sugarcane is planted or a ratoon crop of sugarcane is started during 1937. (Sec. 301, 50 Stat. 909; 7 U.S.C., Sup. IV, 1131)

This determination supersedes the "Determination of a Farm, and of Farming Practices to be Carried Out in connection with the Production of Sugarcane during the Crop Year 1937–38 for Puerto Rico, Pursuant to Subsection (b) of Section 304 and Subsection (e) of Section 301 of the Sugar Act of 1937," issued October 7, 1937.[1]

Done at Washington, D. C., this 29th day of April, 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 39–1465; Filed, April 29, 1939; 12:19 p. m.]

PART 802—SUGAR DETERMINATIONS

DETERMINATION OF FAIR AND REASONABLE PRICES FOR THE 1939 CROP OF HAWAIIAN SUGARCANE

Whereas, subsection (d) of Section 301 of the Sugar Act of 1937, approved September 1, 1937, provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

> That the producer on the farm who is also, directly or indirectly, a processor of sugar beets or sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for any sugar beets or sugarcane grown by other producers and processed by him 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

Whereas, the Secretary of Agriculture on November 16, 1938, held a public hearing in Honolulu, T. H., for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable prices for the 1939 crop of Hawaiian sugarcane:

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

§ 802.32b *Fair Prices for the 1939 Crop of Hawaiian Sugarcane.* The prices heretofore agreed upon for the 1939 crop of Hawaiian sugarcane between the several processors in Hawaii and the producers of such sugarcane are fair and reasonable, and the payment of such prices shall be deemed to meet the requirements of subsection (d) of Section 301 of the Sugar Act of 1937 with respect to such crop. (Sec. 301, 50 Stat. 909; 7 U.S.C., Sup. IV, 1131)

Done at Washington, D. C., this 29th day of April, 1939. Witness my hand and seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 39–1466; Filed, April 29, 1939; 12:20 p. m.]

DECISION AND ORDER OF THE SECRETARY OF AGRICULTURE ALLOTTING THE 1939 SUGAR QUOTA FOR THE DOMESTIC BEET SUGAR AREA

PRELIMINARY STATEMENT

General Sugar Quota Regulations, Series 6, No. 1, Rev. 1, issued by the Secretary of Agriculture pursuant to the provisions of the Sugar Act of 1937 (hereinafter referred to as the "act"), established a 1939 sugar quota for the domestic beet sugar area of 1,566,719 short tons, raw value.

Under the provisions of section 205 (a) of the act, the Secretary is required to allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for any area. Section 205 (a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulations prescribe.

On February 2, 1939, the Secretary made the following finding:

"Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public No. 414, 75th Congress), and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1939 sugar quota for the domestic beet sugar area is necessary to prevent disorderly marketing of such sugar and to afford all interested persons an equitable opportunity to market such sugar in the continental United States. * * *"

The Secretary, on the basis of that finding and pursuant to the provisions of the act and General Sugar Regulations, Series 2, No. 2, Revised (issued February 3, 1939), gave due notice of a public hearing to be held at Chicago, Illinois, on February 21, 1939, for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the 1939 sugar quota for the domestic beet sugar area among persons who market such sugar in the continental United States.

The hearing was duly held at the time and place specified in the notice.

As to the preliminary question of the necessity for making allotments, the representative of the Sugar Beet Unit of the Sugar Division testified that, upon the basis of information available to the Department, the total supply of domestic beet sugar available for market in 1939 would be approximately 1,800,000 short tons, raw value, or approximately 215,000 short tons, raw value, in excess of the 1939 quota for the area of 1,584,524 short tons, raw value (R. p. 12–13).[1] These figures were based upon the stocks on hand January 1, 1939, the estimated 1938 crop processings after January 1, 1939, and the figure obtained by multiplying the estimated 1939 production by the average percentage of new crop sugars sold in the calendar year of the crop's production (R. p. 13). The testimony of other witnesses tended generally to confirm the necessity for allotment, and no testimony was offered to the effect that allotment of the 1939 quota was unnecessary.

As to the manner in which allotments should be made, the representative of the Sugar Beet Unit of the Sugar Division proposed that allotments be made on the basis of the first two factors given in the act, viz., processings of sugar from sugar beets to which proportionate shares, determined pursuant to section 302 (b) of the act, pertained (hereinafter referred to as "processings") and past marketings. He proposed that the processings from the 1938 crop be taken as the measure of processings, and that the average of deliveries of sugar for the three years 1936, 1937 and 1938 be taken as the measure of past marketings. He further proposed that two-thirds weight be given to the measure of processings, that one-third weight be given to the measure of past marketings, and that the result be adjusted ratably to the quota (R. pp. 14–15).

The representative of Utah-Idaho Sugar Company proposed that the proposal made by the representative of the Sugar Beet Unit be modified by giving such greater weight to the measure of processings as would require each processor to carry over a share of the surplus 1938 production (i. e., the amount by which the total processings from the 1938 crop exceeds the 1939 quota) proportionate to his processings from the 1938 crop (R. p. 233, p. 236, p. 237).

The representative of Great Western Sugar Company proposed that allotments be made on the basis of a formula giving equal weight to processings and past marketings. He proposed that processings be measured by the average of processings for 1937 and 1938, and that past marketings be measured in the

[1] 2 F.R. 2108.

[1] Calculated on the basis of the revised quota of 1,566,719 short tons, the excess would be approximately 233,281 short tons.

manner heretofore mentioned (R. p. 70). Representatives of Spreckels Sugar Company (R. p. 215) and Holly Sugar Corporation (R. p. 242) testified in favor of this proposal.

The representative of Amalgamated Sugar Company proposed that the allotments be made by allotting 80% of the quota on the basis of the effective inventory of each processor as of January 1, 1939 (i. e., the actual inventory as of January 1, 1939, plus any sugar processed thereafter from the 1938 crop, and by allotting 20% of the quota on the basis of proportionate share acreage for 1939 (R. pp. 143–145).

The representative of Michigan Sugar Company proposed that the allotments be made by allotting to each processor an amount equal to such processor's effective inventory as of January 1, 1939, and by prorating the balance of the quota to each processor on the basis of his record of new crop sales during the five-year period 1934–38 (R. p. 180, p. 186). Although not favoring the use of past marketings, he also proposed that, if any formula were adopted which took into consideration past marketings, the measure of past marketings should be the average of marketings during the five-year period 1934–38 (R. p. 186).

The representative of Great Lakes Sugar Company, Lake Shore Sugar Company, Monitor Sugar Company and Northeastern Sugar Company testified in favor of the formula proposed by the representative of the Michigan Sugar Company (R. p. 223, p. 228).

The representative of National Sugar Company (R. p. 53) and the representative of the American Crystal Sugar Company (R. pp. 218–220) testified concerning matters affecting their respective companies, but offered no proposal for the allotment of the quota.

BASIS OF ALLOTMENT

Section 205 (a) of the act provides, in part, as follows:

> Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; or the ability of such person to market or import that portion of such quota or proration thereof allotted to him.

It is believed that, in order to make a fair, efficient, and equitable distribution of the 1939 sugar quota for the domestic beet sugar area, allotments should be made on the basis of (1) processings, and (2) past marketings of sugar. In measuring past marketings, it is believed that the use of the average quantity of sugar marketed by each processor during the three calendar years 1936, 1937, and 1938, will afford a fair and reasonable measure of such marketings, and that the use of processings from proportionate shares of sugar beets of the 1938 crop will afford a fair and reasonable measure of processings.

It is believed further that the act contemplates a method of allotment which will not only result in a fair, efficient, and equitable distribution of the quota, but will at the same time afford protection to the producers of sugar beets. This result will be accomplished by giving one-fourth weight to past marketings and three-fourths weight to processings measured in the manner hereinbefore stated. This weighting will result in a fair, efficient, and equitable distribution of the quota, by taking into consideration the fluctuations of sugar beet production from year to year, and will also afford protection to producers.

FINDINGS OF FACT

On the basis of the record of the hearing, I hereby find:

1. That the total supply of domestic beet sugar available for market in 1939 is approximately 1,800,000 short tons of sugar, raw value, or approximately 233,281 short tons of sugar, raw value, in excess of the 1939 quota for such area of 1,566,719 short tons, raw value.[2]

2. That a fair and reasonable measure of the past marketings of each interested person is the average quantity of sugar marketed by him during the three calendar years 1936, 1937, and 1938, and that the past marketings of each interested person as so measured are, stated in terms of 100 pound bags of refined sugar, as follows:

Amalgamated Sugar Company	1,423,920
American Crystal Sugar Co	2,687,404
Central Sugar Company	206,181
Franklin County Sugar Co	202,217
Garden City Sugar Company	133,348
Great Lakes Sugar Company	401,490
Great Western Sugar Company	8,645,442
Gunnison Sugar Company	148,236
Holly Sugar Corporation	4,105,734
Isabella Sugar Company	196,988
Lake Shore Sugar Company	240,562
Layton Sugar Company	168,417
Los Alamitos Sugar Company	93,115
Menominee Sugar Company	74,605
Michigan Sugar Company	823,577
Monitor Sugar Company	291,593
National Sugar Company	131,587
Northeastern Sugar Company	65,211
Ohio Sugar Company	97,873
Paulding Sugar Company	119,985
Rock County Sugar Company	61,323
Spreckels Sugar Company	2,679,593
Superior Sugar Company	69,510
Union Sugar Company	325,044
Utah-Idaho Sugar Company	2,024,287

3. That a fair and reasonable measure of each interested person's processings of sugar from sugar beets to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302 of the act, pertained, is his processings of such sugar beets of the 1938 crop, and that each interested person's proceedings as so measured are, stated in terms of 100 pound bags of refined sugar, as follows:

Amalgamated Sugar Company	2,666,759
American Crystal Sugar Co	3,686,706
Central Sugar Company	301,251
Franklin County Sugar Co	313,741
Garden City Sugar Company	223,468
Great Lakes Sugar Company	795,885
Great Western Sugar Co	9,298,596
Gunnison Sugar Company	212,415
Holly Sugar Corporation	4,525,080
Isabella Sugar Company	278,818
Lake Shore Sugar Company	429,602
Layton Sugar Company	232,419
Los Alamitos Sugar Company	211,172
Menominee Sugar Company	163,832
Michigan Sugar Company	1,636,543
Monitor Sugar Company	430,150
National Sugar Company	135,360
Northeastern Sugar Company	179,086
Ohio Sugar Company	195,691
Paulding Sugar Company	174,105
Rock County Sugar Company	156,430
Spreckels Sugar Company	3,066,394
Superior Sugar Company	169,684
Union Sugar Company	512,060
Utah-Idaho Sugar Company	3,721,411

4. That a three-fourths weighting of processings and a one-fourth weighting of past marketings, as measured above, will make adequate provisions for those fluctuations which occur from year to year in sugar beet production, will afford protection to producers, and will give recognition to the fact that at least 75 percent of the processings from one year are normally marketed in the next year.

CONCLUSIONS

On the basis of the foregoing and after consideration of the briefs submitted by interested persons following the hearing, and the objections filed in opposition to the proposed findings of fact, conclusions, and order of the presiding officer who conducted the hearing, I hereby determine and conclude that the allotment of the 1939 sugar quota for the domestic beet sugar area is necessary to prevent disorderly marketing of such sugar and to afford all interested persons an equitable opportunity to market such sugar in the continental United States; and that in order to make a fair, efficient, and equitable distribution of such quota, as required by section 205 (a) of the act, allotments should be made by adjusting ratably to the quota the several figures computed for the interested persons named herein by adding (a) 25 percent of the past marketings of such person, as measured and found in the finding of fact numbered 2, and (b) 75 percent of such person's processings as measured and found in the finding of fact numbered 3.

ORDER

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered that:

§ 821.51 *Original allotments.* The 1939 sugar quota for the domestic beet sugar area is hereby allotted to the following processors in the amounts which appear opposite their respective names:

[2] Calculated on the basis of the revised quota set forth in General Sugar Quota Regulations, Series 6, No. 1, Rev. 1.

Processor	Allotment (short tons raw value)
Amalgamated Sugar Company	116,658
American Crystal Sugar Co	170,174
Central Sugar Company	13,739
Franklin County Sugar Co	14,154
Garden City Sugar Company	9,949
Great Lakes Sugar Company	34,526
Great Western Sugar Co	452,328
Gunnison Sugar Company	9,723
Holly Sugar Corporation	218,865
Isabella Sugar Company	12,792
Lake Shore Sugar Company	18,931
Layton Sugar Company	10,716
Los Alamitos Sugar Company	8,995
Menominee Sugar Company	7,007
Michigan Sugar Company	70,969
Monitor Sugar Company	19,583
National Sugar Company	6,656
Northeastern Sugar Company	7,458
Ohio Sugar Company	8,479
Paulding Sugar Company	7,951
Rock County Sugar Company	6,568
Spreckels Sugar Company	147,042
Superior Sugar Company	7,162
Union Sugar Company	23,039
Utah-Idaho Sugar Company	163,255
Other Processors	0
Total	1,566,719

(Sec. 205, 50 Stat. 906; 7 U.S.C., Sup. IV, 1115)

§ 821.52 *Additional allotments.* Any increase or decrease in the 1939 sugar quota for the domestic beet sugar area shall be prorated among processors on the basis of the allotments set forth in Sec. 821.51 hereof and such allotments shall be increased accordingly. (Sec. 205, 50 Stat. 906; 7 U.S.C., Sup. IV, 1115)

§ 821.53 *Restrictions on marketing.* Processors of sugar beets in the domestic beet sugar area are hereby prohibited from shipping, transporting, or marketing in interstate commerce, or in competition with sugar or liquid sugar shipped, transported, or marketed in interstate or foreign commerce, any sugar or liquid sugar produced from sugar beets grown in the domestic beet sugar area in excess of the marketing allotments established in Secs. 821.51 and 821.52 hereof. (Sec. 205, 50 Stat. 906; 7 U.S.C., Sup. IV, 1115)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington, this 28th day of April 1939.

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

[F. R. Doc. 39-1467; Filed, April 29, 1939; 12:19 p. m.]

DECISION AND ORDER OF SECRETARY OF AGRICULTURE ALLOTTING THE 1939 SUGAR QUOTA FOR THE MAINLAND CANE SUGAR AREA

PRELIMINARY STATEMENT

General Sugar Quota Regulations, Series 6, No. 1, Rev. 1, issued by the Secretary of Agriculture pursuant to the Sugar Act of 1937 (hereinafter referred to as the "act"), established a 1939 sugar quota for the mainland cane sugar area of 424,727 short tons, raw value.

Under the provisions of section 205 (a) of the act, the Secretary is required to allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for any area. Section 205 (a) also provides that such allotment shall be made after such hearing and upon such notices as the Secretary may by regulation prescribe.

On January 18, 1939, the Secretary issued the following finding:

"Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public No. 414, 75th Congress) and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1939 sugar quota for the Mainland Cane Sugar Area is necessary to prevent disorderly marketing of such sugar and to afford all interested persons an equitable opportunity to market such sugar in the continental United States. * * *"

The Secretary, on the basis of such finding and pursuant to General Sugar Regulations, Series 2, No. 2 (revised February 3, 1939), gave due notice of a public hearing to be held at Atlanta, Georgia, on February 7, 1939, for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the 1939 sugar quota for the mainland cane sugar area among persons who market such sugar in the continental United States. On January 28, 1939, the Secretary issued an amendment to the notice of hearing changing the place of the hearing to Mobile, Alabama, and the date to February 8, 1939.

The hearing was held at Mobile, Alabama, on the date specified in the amended notice.

Upon the preliminary question of the necessity for making allotments, the representative of the Sugar Division testified that, upon the basis of information available to the Department, the total supply of mainland cane sugar available for marketing in 1939 would be approximately 648,000 short tons, raw value, or 219,447 short tons, raw value, in excess of the 1939 quota for the area of 429,553 short tons, raw value (R. p. 18). These figures were based upon an estimated quantity of 1938–39 crop sugar available for distribution after January 1, 1939, of 303,000 short tons, raw value, and an estimated quantity of the 1939–40 crop sugar available for distribution in 1939 of 345,000 short tons. The latter figure represents the difference between the estimated production from 1939–40 crop of 406,000 short tons, raw value, and the estimated production after December 31, 1939, from such crop of 61,000 short tons, raw value (R. p. 19). No testimony was offered to the effect that allotment of the 1939 quota was unnecessary.

In regard to the manner in which allotments should be made, the representative of the Sugar Division proposed that allotments be made on the basis of the first two standards given in the act, namely, processings of sugar from sugarcane to which proportionate shares, determined pursuant to section 302 (b) of the act, pertained, and "past marketings" of sugar, inasmuch as the use of these standards would afford a reasonable and satisfactory measure of the other standard given in the act, that of "ability * * * to market" sugar (R. p. 20). The representative of the Sugar Division then proposed that each processor's share of the total quota be computed by giving equal weight to (1) "processings from proportionate shares" for the next preceding crop year of factory operation and (2) "past marketings" measured by any one of the following three options:

(1) 100 percent of the average quantity of sugar marketed during any three of the calendar years 1935, 1936, 1937, and 1938,

(2) 80 percent of the average quantity of sugar marketed during any two of the calendar years 1935, 1936, 1937, and 1938, or

(3) 70 percent of the average quantity of sugar marketed during any one of the calendar years 1935, 1936, 1937, and 1938. (R. pp. 21, 22.)

The representative of 56 of the 68 Louisiana processors (R. pp. 142–145) proposed that allotments be made so as to permit all processors to market all sugar on hand on January 1, 1939, and that the difference between the total quantity of sugar on hand on such date and the 1939 quota be allotted among all processors in accordance with the formula proposed by the representative of the Sugar Division (Barron, R. pp. 146, 147). The representative of the New Iberia Sugar Cooperative, Incorporated, testified in favor of the proposal of the representative of the Sugar Division, but proposed that, in order to afford protection to growers, 25 percent weight be given to past marketings and 75 percent weight be given to "processings from proportionate shares" (Landry, R. p. 176). The representative of the Vida Sugars, Incorporated, recommended that the proposal of the representative of the Sugar Division be adopted by the Secretary in fixing allotments (Blumenthal, R. p. 222).

BASIS OF ALLOTMENT

Section 205 (a) of the act provides, in part, as follows:

Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, deter-

mined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; or the ability of such person to market or import that portion of such quota or proration thereof allotted to him.

It is believed that, in order to make a fair, efficient, and equitable distribution of the 1939 sugar quota for the mainland cane sugar area, allotments should be made on the basis of (1) processings of sugar from sugarcane to which proportionate shares, determined pursuant to section 302 (b) of the act, pertained and (2) past marketings of sugar. In measuring past marketings, it is believed that the use of the most favorable option of the three proposed by the representative of the Sugar Division will afford a fair and reasonable measure of such marketings. The use of processings from proportionate shares of sugarcane for the 1938–39 crop will afford a fair and reasonable measure of that standard.

It is believed, further, that the act contemplates a method of allotment which will not only result in a fair, efficient, and equitable distribution of the quota but will at the same time afford a maximum of protection to the producers of sugarcane. This result may be accomplished by giving one-fourth weight to past marketings, measured in the manner hereinbefore stated, and three-fourths weight to processings from proportionate shares of sugarcane for the 1938–39 crop. This weighting will result in a fair, efficient, and equitable distribution of the quota and will also provide an incentive to processors to grind as much proportionate share sugarcane as possible for purposes of future allotments.

The Louisiana processors recommended at the hearing that Louisiana State University be given an allotment of 600 tons of sugar regardless of what allotment it would be entitled to under the method of allotment finally adopted (R. p. 150). It was stated that the allotment was necessary in order to enable the Audubon Sugar School to continue its educational and experimental undertakings. It is deemed advisable, therefore, before calculating allotments for other Louisiana processors, to allot to Louisiana State University, from that portion of the quota allocable to Louisiana processors under the foregoing formula, the difference between the quantity of sugar which would be allocated to it under such formula and the 600 tons requested.

FINDINGS OF FACT

On the basis of the record of the hearing, I hereby find:

1. That the total supply of mainland cane sugar available for market in 1939 is approximately 648,000 short tons of sugar, raw value, or 223,273 [1] short tons of sugar, raw value, in excess of the 1939 quota for such area.

2. That the use of the most favorable of the following options constitutes a fair and reasonable measure of past marketings of sugar for each processor:

(1) 100 percent of the average quantity of sugar marketed during any three of the calendar years 1935, 1936, 1937, and 1938,

(2) 80 percent of the average quantity of sugar marketed during any two of the calendar years 1935, 1936, 1937, and 1938, or

(3) 70 percent of the average quantity of sugar marketed during any one of the calendar years 1935, 1936, 1937, and 1938.

3. That the past marketings of each processor, measured by the best option of the three given above, are as follows:

Processor	Best option	Amount (short tons, raw value)
Alma Plantation, Ltd.[1]	Av. 1936-37-38	6,572
J. Aron & Co., Inc.[1]	70%—1937	7,035
Billeaud Sugar Factory [1]	Av. 1935-36-38	11,479
Blanchard Planting Co.[1]	Av. 1935-36-37	2,360
Caire & Graugnard [1]	Av. 1935-36-37	2,894
Caldwell Sugars, Inc.[1]	Av. 1935-36-37	7,118
A. & J. E. Champagne [1]	Av. 1936-37-38	722
Columbia Sugar Co.[1]	Av. 1936-37-38	4,089
Cora-Texas Mfg. Co., Inc.[1]	Av. 1936-37-38	2,885
Cypremort Sugar Co., Inc.[1] (R. p. 140).	Av. 1935-36-38	6,557
Delgado - Albania Plt'n Commission [1] (R. p. 194).	Av. 1936-37-38	7,363
Dugas & LeBlanc, Ltd.[1]	Av. 1936-37-38	6,285
Duhe & Bourgeois Sugar Co., Inc.[1]	70%—1938	5,086
Erath Sugar Company [1]	Av. 1936-37-38	8,580
Evan Hall Sugar Cooperative.[1]	70%—1937	6,602
Evangeline Pepper & Food Prod. Co.[1]	70%—1938	2,748
W. Prescott Foster [1]	Av. 1936-37-38	6,862
E. J. Gay Pltg. & Mfg. Co.[1]	70%—1936	3,521
Glenwood Sugar Coop., Inc.[1]	Av. 1936-37-38	5,596
Godchaux Sugars, Inc.[1]	Av. 1935-37-38	38,337
Haas Investment Co., Inc.[1]	70%—1937	3,195
Helvetia Sugar Coop., Inc.[1]	Av. 1936-37-38	5,184
Iberia Sugar Company [1]	70%—1938	7,858
M. J. Kahao [1]	Av. 1936-37-38	1,048
Kessler & Sternfels [1]	70%—1935	769
Lafourche Sugar Company [1]	70%—1938	6,356
T. Lanaux's Sons [1]	Av. 1935-37-38	612
Harry L. Laws and Co., Inc.[1]	Av. 1935-36-37	13,749
Levert-St. John, Inc.[1]	Av. 1935-36-38	9,626
Louisiana Penitentiary Board.[1]	Av. 1935-36-37	5,750
Magnolia Sugar Coop., Inc.[1]	Av. 1936-37-38	3,715
The Maryland Company, Inc.[1]	Av. 1936-37-38	4,447
S. M. Mayer [1]	70%—1936	290
Meeker Sugar Refining Co.[1]	Av. 1935-36-37	4,939
Louisiana State University [1]	70%—1936	4
Milliken & Farwell, Inc. [1]	Av. 1935-36-37	13,855
M. A. Patout & Son [1] (R. pp. 91–92).	Av. 1935-36-37	6,155
Poplar Grove Pltg. & Ref. Co.[1]	Av. 1936-37-38	6,595
Realty Operators, Inc.[1]	Av. 1935-36-37	32,670
Roane Sugars, Inc.[1]	Av. 1936-37-38	5,589
E. G. Robichaux Co., Ltd.[1]	Av. 1936-37-38	5,603
Ruth Sugar Company, Inc.[1]	Av. 1936-37-38	2,733
St. James Operators, Inc.[1]	70%—1937	2,239
San Francisco, P. & M. Co., Ltd.[1]	Av. 1936-37-38	2,469
Clarence J. Savoie [1]	Av. 1936-37-38	5,776
Shadyside Company, Ltd.[1]	Av. 1936-37-38	6,565
Slack Brothers [1] (R. p. 130 and Ex. Unnumbered).	Av. 1936-37-38	2,885
Smedes Brothers, Inc.[1]	Av. 1935-36-38	3,415
Mrs. L. M. Soniat (Estate)[1]	Av. 1935-37-38	3,858
South Coast Corporation [1]	Av. 1936-37-38	37,979
Sterling Sugars, Inc.[1] (R. p. 126 and Ex. Unnumbered).	Av. 1936-37-38	13,487
J. Supple's Sons Planting Co., Ltd.[1]	Av. 1935-36-37	5,248
Tally Ho, Inc.[1]	Av. 1935-36-37	5,131
Teche Sugar Co., Inc.[1]	Av. 1935-36-37	4,641
Valentine Sugars, Inc.[1]	70%—1936	10,088
Vermilion Sugar Company.[1]	Av. 1935-36-38	6,661
Vida Sugars, Inc.[1]	Av. 1936-37-38	4,566
Waguespack Planting Co.[1]	Av. 1935-36-37	964
Waterford Sugar Coop., Inc.[1] (R. p. 132).	Av. 1936-37-38	4,827
Waverly Sugar Manufacturing Co., Ltd.[1]	70%—1937	693
Webre-Steib Company, Ltd.[1]	Av. 1936-37-38	1,278
A. Wilbert's Sons L. & S. Co.[1]	Av. 1935-36-37	6,977
Youngsville Sugar Co.[1] (R. p. 77).	Av. 1935-36-38	7,463
Baldwin Sugar Co.[1]	70%—1938	398
Breaux Bridge Sugar Coop., Inc.[1]	70%—1938	2,881
McCollam Brothers (R. pp. 138–39).	70%—1937	384
D. Moresi's Sons [1] (R. p. 137).	70%—1938	1,732
Fellsmere Sugar Prod. Ass'n.[1]	Av. 1936-37-38	3,260
U. S. Sugar Corporation [1]	Av. 1936-37-38	52,367

[1] Gov't Ex. 2.

4. That the use of processings of sugar from proportionate shares of sugarcane for the 1938–39 crop affords a fair and reasonable measure of the statutory standard of "processings of sugar * * * from * * * sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained."

5. That the processings of sugar from proportionate shares of sugarcane for the 1938–39 crop are as follows:

Processor	*Amount (short tons, raw value)*
Alma Plantation, Ltd.[1]	7,414
J. Aron & Co., Inc.[1]	7,772
Billeaud Sugar Factory [1]	11,013
Blanchard Planting Company [1]	3,623
Caire & Graugnard [1]	4,013
Caldwell Sugars, Inc.[1]	8,958
A. & J. E. Champagne [1]	0
Columbia Sugar Company [1]	4,220
Cora-Texas Manufacturing Co., Inc. (R. p. 87)	5,485
Cypremort Sugar Company, Inc.[1]	8,140
Delgado-Albania Plt'n Commission (R. p. 194)	7,336
Dugas & LeBlanc, Ltd.[1]	7,821
Duhe & Bourgeois Sugar Co., Inc.[1]	7,188
Erath Sugar Company [1]	10,479
Evan Hall Sugar Cooperative [1]	11,943
Evangeline Pepper & Food Prod. Co.[1]	3,936
W. Prescott Foster [1]	7,109
E. J. Gay Pltg. Mfg. Co.[1]	3,561
Glenwood Sugar Coop., Inc.[1]	6,373
Godchaux Sugars, Inc.[1]	39,661
Haas Investment Co., Inc.[1]	3,372
Helvetia Sugar Cooperative, Inc.[1]	5,532
Iberia Sugar Company [1]	13,026
M. J. Kahao [1]	853
Kessler and Sternfels [1]	0
Lafourche Sugar Company [1]	9,528
T. Lanaux's Sons [1]	0
Harry L. Laws and Co., Inc. (R. pp. 80–82)	16,764
Levert-St. John, Inc.[1]	12,345
Louisiana Penitentiary Board [1]	6,973
Magnolia Sugar Cooperative, Inc. (R. p. 75)	4,846
The Maryland Company, Inc.[1]	4,093
Meeker Sugar Refining Co.[1]	6,477
Louisiana State University [1]	254
Milliken & Farwell, Inc.[1]	14,960
M. A. Patout & Son [1]	7,468
Poplar Grove Pltg. & Ref. Co.[1]	7,866
Realty Operators, Inc.[1] (R. pp. 84, 85)	37,781

[1] Gov't Ex. 3.

[1] Calculated on basis of revised quota set forth in General Sugar Quota Regulations, Series 6, No. 1, Rev. 1.

Processor	Amount (short tons, raw value)
Roane Sugars, Inc.[1]	5,444
E. G. Robichaux Co., Ltd.[1]	5,556
Ruth Sugar Company, Inc.[1]	2,973
St. James Operators, Inc.[1] (R. pp. 84, 85)	0
San Francisco P. & M. Co., Ltd.[1]	2,168
Clarence J. Savoie[1]	7,007
Shadyside Company, Ltd.[1]	6,944
Slack Brothers[1]	3,478
Smedes Brothers, Inc.[1]	4,280
Mrs. L. M. Soniat (Estate)[1]	4,691
South Coast Corporation[1]	42,346
Sterling Sugars, Inc.[1]	14,726
J. Supple's Sons Pltg. Co., Ltd.[1]	5,349
Tally Ho, Inc.[1]	4,309
Teche Sugar Co., Inc.[1]	5,255
Valentine Sugars, Inc.[1]	10,142
Vermilion Sugar Company[1]	7,578
Vida Sugars, Inc.[1]	4,098
Waguespack Planting Company[1]	1,196
Waterford Sugar Coop., Inc.[1]	7,613
Waverly Sugar Manufacturing Company, Ltd.[1]	0
Webre-Steib Company, Ltd.	1,050
A. Wilbert's Sons L. & S. Co.[1]	7,659
Youngsville Sugar Company[1]	6,716
Baldwin Sugar Co.[1]	885
Breaux Bridge Sugar Coop., Inc.[1]	6,892
McCollam Brothers (R. p. 138)	595
D. Moresi's Sons[1]	3,670
Fellsmere Sugar Prod. Association (R. p. 74)	6,900
U. S. Sugar Corporation[1]	86,876

[1] Gov't Ex. 3.

6. That the giving of one-fourth weight to past marketings of sugar and three-fourths weight to processings of sugar from proportionate shares of sugarcane for the 1938–39 crop will result in allotments to processors which are fair and reasonable and will afford protection to the producers of sugarcane.

CONCLUSIONS

On the basis of the foregoing, and after consideration of the briefs submitted following the hearing and the objections filed in opposition to the proposed findings of fact, conclusions, and order of the presiding officers who conducted the hearing, I hereby determine and conclude that the allotment of the 1939 sugar quota for the mainland cane sugar area is necessary to prevent disorderly marketing of such sugar and to afford all interested persons an equitable opportunity to market such sugar in the continental United States, and that in order to make a fair, efficient, and equitable distribution of such quota, as required by section 205 (a) of the act, allotments should be made by giving one-fourth weight to past marketings, measured by the most favorable of the following three options:

(a) 100 percent of the average quantity of sugar marketed during any three of the calendar years 1935, 1936, 1937, and 1938,

(b) 80 percent of the average quantity of sugar marketed during any two of the calendar years 1935, 1936, 1937, and 1938, or

(c) 70 percent of the average quantity of sugar marketed during any one of the calendar years 1935, 1936, 1937, and 1938;

and by giving three-fourths weight to processings from proportionate shares of sugarcane for the 1938–39 crop.

ORDER

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered that:

§ 821.41 *Original allotments.* The 1939 sugar quota for the mainland cane sugar area is hereby allotted to the following processors in the amounts which appear opposite their respective names:

Processor	Allotment (short tons, raw value)
Alma Plantation, Ltd	5,461
J. Aron & Co., Inc	5,752
Billeaud Sugar Factory	8,437
Blanchard Planting Company	2,507
Caire & Graugnard	2,830
Caldwell Sugars, Inc	6,442
A. & J. E. Champagne	136
Columbia Sugar Company	3,174
Cora-Texas Manufacturing Co., Inc	3,665
Cypremort Sugar Company, Inc	5,870
Delgado-Albania Plt'n Commission	5,566
Dugas & LeBlanc, Ltd	5,637
Duhe & Bourgeois Sugar Co., Inc	5,050
Erath Sugar Company	7,583
Evan Hall Sugar Cooperative	8,041
Evangeline Pepper & Food Prod. Co	2,758
W. Prescott Foster	5,342
E. J. Gay Pltg. & Mfg. Co	2,692
Glenwood Sugar Coop., Inc	4,684
Godchaux Sugars, Inc	29,813
Haas Investment Co., Inc	2,523
Helvetia Sugar Cooperative, Inc	4,127
Iberia Sugar Company	8,895
M. J. Kahao	684
Kessler & Sternfels	146
Lafourche Sugar Company	6,621
T. Lanaux's Sons	116
Harry L. Laws & Co., Inc	12,136
Levert-St. John, Inc	8,842
Louisiana Penitentiary Board	5,054
Magnolia Sugar Cooperative, Inc	3,459
The Maryland Company, Inc	3,170
S. M. Mayer	55
Meeker Sugar Refining Co	4,618
Louisiana State University	600
Milliken & Farwell, Inc	11,131
M. A. Patout & Son	5,412
Popular Grove Pltg. & Ref. Co	5,722
Realty Operators, Inc	27,671
Roane Sugars, Inc	4,154
E. G. Robichaux Co., Ltd	4,221
Ruth Sugar Company, Inc	2,208
St. James Operators, Inc	425
San Francisco P. & M. Co., Ltd	1,700
Clarence J. Savoie	5,078
Shadyside Company, Ltd	5,191
Slack Brothers	2,524
Smedes Brothers, Inc	3,081
Mrs. L. M. Soniat (Estate)	3,398
South Coast Corporation	31,272
Sterling Sugars, Inc	10,928
J. Supple's Sons Pltg. Co., Ltd	4,036
Tally Ho, Inc	3,990
Teche Sugar Co., Inc	3,867
Valentine Sugars, Inc	7,677
Vermilion Sugar Company	5,571
Vida Sugars, Inc	3,195
Waguespack Planting Company	863
Waterford Sugar Coop., Inc	5,243
Waverly Sugar Manufacturing Co., Ltd	131
Webre-Steib Company, Ltd	839
A. Wilbert's Sons L. & S. Co	5,676
Youngsville Sugar Company	5,233
Baldwin Sugar Company	578
Breaux Bridge Sugar Coop., Inc	4,464
McCollam Brothers	411
D. Moresi's Sons	2,415
Fellsmere Sugar Prod. Association	4,546
U. S. Sugar Corporation	59,390
Other Processors	0
Total	424,727

(Sec. 205, 50 Stat. 906; 7 U.S.C., Sup. IV. 1115)

§ 821.42 *Additional allotments.* Any increase or decrease in the 1939 sugar quota for the mainland cane sugar area shall be prorated among processors on the basis of the allotments set forth in Sec. 821.41 hereof and such allotments shall be increased accordingly. (Sec. 205, 50 Stat. 906; 7 U.S.C., Sup. IV, 1115)

§ 821.43 *Restrictions on marketing.* Processors of sugarcane in the mainland cane sugar area are here hereby prohibited from shipping, transporting, or marketing in interstate commerce, or in competition with sugar or liquid sugar shipped, transported, or marketed in interstate or foreign commerce, any sugar or liquid sugar produced from sugarcane grown in the mainland cane sugar area in excess of the marketing allotments established in Secs. 821.41 and 821.42 hereof. (Sec. 205, 50 Stat. 906; 7 U.S.C., Sup. IV, 1115)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the district of Columbia, city of Washington, this 28th day of April 1939.

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

[F. R. Doc. 39–1468; Filed, April 29, 1939; 12:19 p. m.]

TITLE 10—ARMY

WAR DEPARTMENT

CHAPTER IV—MILITARY EDUCATION

PART 43—PROMOTION OF RIFLE PRACTICE[1]

§ 43.6 *Targets and target accessories—allowances.*

* * * * *

(b) *Allowances.* The maximum allowances of target matériel authorized for use for the National Guard, the Organized Reserves, the Reserve Officers' Training Corps, the citizens' military training camps and schools operating under section 55c, national defense act, are as follows and will not be exceeded without the authority of the War Department:

(1) *The Reserve Officers' Training Corps.* (i) Subject to the provisions of paragraph (a) above, commanders of corps areas and exempted stations are

[1] These regulations supersede subparagraph (1), paragraph (b), Section 43.6, Title 10, of the Code of Federal Regulations.

authorized to issue for use by Reserve Officers' Training Corps Units and camps such articles of target matériel as are appropriate for the practice to be conducted. The matériel issued unless otherwise prescribed should not exceed the maximum authorized for use in a corresponding amount of similar practice by the Regular Army.

(ii) Subject to the provisions of paragraph (a) above, targets, landscape, sets, are authorized, until stock is exhausted, at not to exceed one set to each 200 student members or fraction thereof of units of Infantry, Cavalry, and Corps of Engineers, but not more than three sets will be issued to any one unit. Type A, B, or C sets may be issued according to availability.

* * * * *

(45 Stat. 510; 32 U.S.C. 181) [Paragraph 8c, AR 760–400, Jan. 18, 1928, amended by Sec. III, Cir. No. 24, WD, April 27, 1939]

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

[F. R. Doc. 39–1475; Filed, May 1, 1939; 10:34 a. m.]

CHAPTER VI—ORGANIZED RESERVES

PART 62—RESERVE OFFICERS' TRAINING CORPS [1]

Administration and Training

§ 62.26 *Honor graduates of colleges and universities.* (a) Each college and university maintaining a Reserve Officers' Training Corps unit may designate at the close of the academic year as honor graduates 5 per cent of the total number of students enrolled in each unit rated as excellent or satisfactory at the last annual inspection who on March 1 of that year were enrolled in the second year of the advanced course of such units. The students so designated will be selected from the academic graduates of that year; students who completed the advanced course in previous years are eligible for the designation. In computing the number which each institution may designate under the foregoing provisions, major fractions will be considered as a unit; minor fractions will be disregarded.

(b) The designation as honor graduate does not give the individual any claim or right to an appointment in the Regular Army.

(c) The term "honor graduate" as applied to the senior division, Reserve Officers' Training Corps will apply to graduates of the institution and of the Reserve Officers' Training Corps, citizens of the United States, who have been selected by the president of the institution for scholastic excellence, and who have been designated as honor graduates by the professor of military science and tactics as possessing outstanding qualities of leadership, character, and aptitude for military service. (Sec. 40, 39 Stat. 191; sec. 33, 41 Stat. 776; 10 U.S.C. 381) [Par. 79, AR 145–10, May 28, 1931, amended by Sec. I, Cir. No. 25, WD, April 26, 1939]

§ 62.28 *Definition of term "honor graduate" of honor military schools.* The term "honor graduate" as applied to honor military schools will apply to graduates of the institution who have been members of the Reserve Officers' Training Corps for at least two years while at the school, citizens of the United States, who have been selected by the president of the institution for scholastic excellence, and who have been designated as honor graduates by the professor of military science and tactics as possessing outstanding qualities of leadership, character, and aptitude for military service. (Sec. 40, 39 Stat. 191; sec. 33, 41 Stat. 776; 10 U.S.C. 381) [Par. 81, AR 145–10, May 28, 1931, amended by Sec. I, Cir. No. 25, WD, April 26, 1939]

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

[F. R. Doc. 39–1474; Filed, May 1, 1939; 10:34 a. m.]

CHAPTER VIII—PROCUREMENT AND DISPOSALS OF EQUIPMENT AND SUPPLIES

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS [1]

Advertising for Bids

§ 81.10 *Invitations for Bids* — (a) *How prepared.*

* * * * *

(7) *Performance or payment bond.* If performance and payment bonds or a performance bond only will be required, a clause to that effect indicating the amounts or amount thereof will be included in the invitation. If no bond is to be required the invitation will so state. See AR 5–220 (secs. 81.21 [2]–81.31) and paragraph (f) below.

* * * * *

(R. S. 3709; 41 U.S.C. 5; 31 Stat. 905; 32 Stat. 514; 10 U.S.C. 1201) [Par. 6g, AR 5–140, July 27, 1936, amended by Sec. I, Proc. Cir. No. 9, WD, April 20, 1939]

Bid, Performance, Payment and Patent Infringement Bonds.

§ 81.26 *Performance bonds* — (a) *When required*—(1) *Supply contracts.* At the discretion of the chief of arm, service, or bureau concerned, performance bonds may be required or waived in special cases, or by general instructions issued to contracting officers, except that such bond may not be waived when it has been stated in an invitation for bids that a performance bond will be required. A performance bond may not be required unless it has been stated in the invitation for bids that it will be required. See subparagraph (7), paragraph (a) section 81.10.

* * * * *

(20 Stat. 36, 22 Stat. 487; 5 U.S.C. 218) [Par. 10a (1), AR 5–220, Oct. 6, 1936, amended by par. 1, Sec. II, Proc. Cir. No. 9, WD, April 20, 1939]

§ 81.29 *Patent infringement bonds.* When, in accordance with AR 5–140 (secs. 81.10 and 81.11), the invitation for bids requires a patent infringement bond, such bond will be in the form prescribed in advance by the chief of the supply arm, service, or bureau concerned and in an amount which the contracting officer considers sufficient for the protection of the Government, provided that, where the invitation for bids is silent as to a patent infringement bond, no patent infringement bond may be required by the contracting officer as a condition to the award. The form of "Affidavit By Individual Surety" will conform to that on U. S. Standard Form No. 25 (Revised), approved by the Secretary of the Treasury, September 16, 1935. (R. S. 161; 5 U.S.C. 22) [Par. 13, AR 5–220, Oct. 6, 1936, amended by par. 2, Sec. II, Proc. Cir. No. 9, WD, April 20, 1939]

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

[F. R. Doc. 39–1477; Filed, May 1, 1939; 10:35 a. m.]

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

[Regulation 401–F–1 as Amended]

TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY ISSUED UNDER SECTION 401 OF THE ACT

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 28th day of April 1939.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a) and 401 (f) thereof, and finding that its action is necessary and appropriate to carry out the provisions of the Act, and is required by the public interest, the Civil Aeronautics Authority hereby amends Regulation 401–F–1 to read as follows:

Unless the order authorizing the issuance of a particular certificate shall otherwise provide, there shall be attached to the exercise of the privileges granted by each certificate of public convenience and necessity issued pursuant to section 401 of the Civil Aeronautics Act of 1938, the terms, conditions, and limitations hereinafter set forth, and such other terms, conditions and limitations as may from time to time be prescribed by the Authority.

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[1] These regulations supersede Sections 62.26 and 62.28, Title 10, Code of Federal Regulations.

[1] These regulations supersede the indicated sections, paragraphs, etc. of Part 81, Chapter VIII, Title 10, of the Code of Federal Regulations.

[2] 4 F.R. 1029 DI.

I

If at any time the holder of the certificate desires to render a scheduled non-stop service between any two points not consecutively named in the certificate, and if non-stop service between such points is not then regularly scheduled by such holder, such holder shall file with the Authority written notice of its intention to inaugurate such service. Such notice shall be filed at least twenty days prior to inaugurating such service, shall be conspicuously entitled "Notice of Non-Stop Service" and shall fully describe such service. At the time such notice is filed with the Authority a copy thereof shall be served by such holder upon the Postmaster General and upon such other persons as the Authority may require: *Provided,* That subject to the provisions of section 405 (e) of the Act, non-stop service may be inaugurated between any two points at any time without the filing of the notice herein prescribed if, during the twelve months preceding such inauguration, non-stop service was regularly scheduled by such holder between such points during a period of at least forty-five days.

Such non-stop service may be inaugurated upon the expiration of twenty days after the filing of such notice unless (1) the Authority notifies such holder within said twenty-day period that a direct straight-line course between the points between which such service is to be operated appears to involve a substantial departure from the shortest course between such points as determined by the route described in the certificate, in which event such service shall not be inaugurated unless and until the Authority finds, upon application of the holder and after notice and public hearing, that the public interest would not be adversely affected by such service on account of such substantial departure; or (2) such service involves a schedule designated for the transportation of mail and the inauguration of such service on such date would be prohibited pursuant to the provisions of section 405 (e) of the Act, in which event the inauguration of such service shall be subject to said section.

The Authority may, subject to the provisions of section 405 (e) of the Act, permit non-stop service to be inaugurated at any time after the filing of the "Notice of Non-Stop Service" herein prescribed whenever the circumstances warrant such action.

The holder of a certificate issued pursuant to section 401 (e) (1) of the Act may, subject to the provisions of section 405 (e) of the Act, continue to render any non-stop service regularly scheduled on the date of issuance of such certificate, although such non-stop service was not regularly scheduled by the holder on August 22, 1938, if the holder files a "Notice of Non-Stop Service" with respect to such service with the Authority within thirty days after such date of issuance: *Provided,* That if a direct straight-line course between the points between which such service is operated appears to involve a substantial departure from the shortest course between such points as determined by the route described in the certificate, and if the Authority shall, after notice and public hearing instituted within ninety days after such date of issuance, find that the public interest would be adversely affected by such service on account of such substantial departure, such service shall thereupon be discontinued: *Provided further,* That subject to the provisions of section 405 (e) of the Act, non-stop service may be continued between any two points without the filing of the notice herein prescribed if, during the twelve months preceding the date of issuance of the certificate, non-stop service was regularly scheduled by the holder of the certificate between such points during a period of at least forty-five days.

II

If the holder of the certificate desires to serve regularly a point through any airport not then regularly used by such holder, such holder shall file with the Authority written notice of its intention so to do. Such notice shall be filed at least thirty days prior to inaugurating the use of such airport. Such notice shall be conspicuously entitled "Airport Notice," shall clearly describe such airport and its location, and shall state the reasons the holder deems the use of such airport to be desirable. At the time such notice is filed with the Authority, a copy thereof shall be served by the holder upon the Postmaster General and upon such other persons as the Authority may require.

The use of any such airport may be inaugurated upon the expiration of thirty days after the filing of such notice, unless within said thirty-day period the Authority shall serve upon the holder an order directing such holder to show cause why such use should not be disapproved: *Provided,* That the Authority may permit the use of any airport prior to the expiration of such thirty-day period whenever the circumstances warrant such action. Upon service of such order, such use shall not thereafter be inaugurated, except as may be expressly permitted by such order, unless and until the Authority finds, after notice and public hearing, that the public interest would not be adversely affected by such use.

In no event, however, shall the holder use the provisions of this Article as authority to receive regularly passengers or property at one airport and discharge the same at any other airport serving the same point.

III

It shall be a condition upon the holding of the certificate that any intentional contravention in fact by the holder of the terms of Title IV of the Act or of the orders, rules, or regulations issued thereunder or of the terms, conditions, and limitations attached to the exercise of the privileges granted by the certificate, even though occurring without the territorial limits of the United States, shall, except to the extent that such contravention in fact shall be necessitated by an obligation, duty, or liability imposed by a foreign country, be a failure to comply with the terms, conditions, and limitations of the certificate within the meaning of section 401 (h) of the Act.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 39-1472; Filed, April 29, 1939; 12:30 p. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

STOCK DRIVEWAY WITHDRAWALS NOS. 9 AND 81, NEW MEXICO NOS. 3 AND 12, REDUCED

APRIL 20, 1939.

Departmental orders of February 28, 1918, April 29, 1919, June 28, and December 16, 1921, August 19, 1922, January 18, 1928, and August 19, 1931, establishing and modifying Stock Driveway Withdrawals Nos. 9 and 81, New Mexico Nos. 3 and 12, under section 10 of the act of December 29, 1916 (39 Stat. 862), as amended by the act of January 29, 1929 (45 Stat. 1144), are hereby revoked, in so far as they affect the following described lands, which are within New Mexico Grazing District No. 2, established March 27, 1936:

New Mexico Principal Meridian

T. 13 N., R. 1 E., all of secs. 4, 10, 12, 14 and 24;
T. 14 N., R. 1 E., all of secs 18, 20, 28, 30 and 34;
T. 13 N., R. 2 E., all of fractional sec. 18, all of secs. 20, 22, 25, 26, 28, 30 and 34;
T. 16 N., R. 2 E., E½ of sec. 25;
T. 13 N., R. 3 E., all of sec. 6 not in Santa Ana Pueblo Grant, all of secs. 7, 8, and 17 to 30, inclusive;
T. 15 N., R. 3 E., all of secs. 5 and 6 outside of San Isidro Grant;
T. 16 N., R. 3 E., all of sec. 30, all of sec. 31 outside of San Isidro Grant;
T. 14 N., R. 1 W., all of secs. 4, 10, 14 and 24;
T. 15 N., R. 1 W., Lots 1, 2 and 3 sec. 7, all of secs. 8, 9, 10, 11, 14, 15, 18 and 20, E½, N½NW¼, S½SW¼ sec. 22, N½, N½SW¼, SE¼SW¼, SE¼ sec. 23, N½, SE¼ sec. 26, all of secs. 28 and 34;
T. 27 N., R. 4 W., N½, E½SW¼, SE¼ sec. 17, SE¼NE¼, S½SE¼ sec. 18, N½N½ of secs. 19 and 20;
T. 27 N., R. 5 W., all of sec. 6, S½SE¼ sec. 22, S½NE¼, NE¼SW¼, S½SW¼, N½SE¼, SW¼SE¼ sec. 23, N½NE¼, NE¼NW¼, S½NW¼, NW¼SW¼ sec. 24, N½NW¼ sec. 26, N½ of secs. 27, 28 and 29, NE¼, NE¼NW¼, S½NW¼, SW¼, N½SE¼ sec. 30;
T. 28 N., R. 5 W., all of fractional sec. 8, lots 1 and 2, SW¼SW¼, SE¼SE¼ sec. 9, all of fractional sec. 10, all of sec. 17, NE¼, E½NW¼, S½ sec. 19, all of secs. 20, 30 and 31;
T. 29 N., R. 5 W., all of sec. 4, S½S½ sec. 8, all of sec. 9, W½W½ sec. 17, SE¼SE¼ sec. 18, E½E½ sec. 19, W½ sec. 20, S½SW¼ sec. 28, all of sec. 29, NE¼, E½NW¼, S½SW¼, SE¼ sec. 33, W½W½ sec. 34;

T. 30 N., R. 5 W., W½ of sec. 5, all of sec. 6, NE¼, N½SE¼, SE¼SE¼ sec. 7, NW¼, N½SW¼ sec. 8, S½NW¼, SW¼ sec. 17, E½ of secs. 18 and 19, W½ sec. 20, all of secs. 28 and 29, E½ sec. 30, all of sec. 33;
T. 31 N., R. 5 W., all of secs. 40 and 31;
T. 24 N., R. 6 W., E½ of sec. 3, NE¼ sec. 10, all of sec. 11, N½, SW¼, N½SE¼ sec. 12, NW¼, S½ sec. 13, all of sec. 14, S½ of secs. 21 and 22, all of secs. 23 to 28, inclusive, 33 and 34, NW¼NW¼, S½N½ and S½ of sec. 35;
T. 25 N., R. 6 W., SW¼ sec. 3, W½W½ sec. 4, NW¼NE¼, S½NE¼, SE¼SW¼, SE¼ sec. 5, NE¼, E½W½, W½SE¼ sec. 8, NE¼NE¼, NW¼NW¼, S½N½ sec. 9, W½NW¼ sec. 10, NE¼, NE¼NW¼, NE¼SE¼ sec. 17, E½ sec. 21, E½SW¼ sec. 27, NE¼, N½SE¼ sec. 28, W½NE¼, N½NW¼, SE¼NW¼, NW¼SE¼, S½SE¼ sec. 34;
T. 26 N., R. 6 W., Lots 2 and 3, E½SW¼ sec. 19, W½E½, E½NW¼, NE¼SW¼ sec. 30, N½NE¼, SE¼NE¼ sec. 31;
T. 27 N., R. 6 W., all of sec. 1, S½ of sec. 3, N½SW¼, SE¼ sec. 4, SW¼, N½SE¼, SW¼SE¼ sec. 5, S½ of sec. 6, N½ of sec. 10, N½, N½SE¼, SE¼SE¼ sec 11, all sec. 12, N½, N½SW¼ sec. 13;
T. 31 N., R. 6 W., E½, E½NW¼ sec. 3, E½ sec. 10, all of secs. 11, 14, 23, 25 and 26;
T. 32 N., R. 6 W., NE¼SE¼, S½SE¼ sec. 12, E½, SE¼NW¼, NE¼SW¼, S½SW¼ sec. 13, E½SE¼ sec. 22, NE¼NE¼, S½N½, S½ sec. 23, NW¼ sec. 24, W½ sec. 26, E½NE¼, SE¼ sec. 27, E½, E½W½ sec. 34, W½ sec. 35;
T. 26 N., R. 7 W., SW¼NW¼, SW¼, W½SE¼ sec. 5, NE¼, NE¼NW¼, NE¼SE¼ sec. 6, NW¼NE¼, S½NE¼ sec. 8, NW¼NE¼, S½NE¼, NE¼NW¼, S½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼, sec. 9, S½NW¼, SW¼, SW¼SE¼ sec. 10, SW¼, SW¼SE¼ sec. 13, NW¼NW¼, S½NW¼, N½S½, SE¼SE¼ sec. 14, NE¼, NE¼NW¼ sec. 15, NE¼, NE¼NW¼, E½SE¼ sec. 24;
T. 27 N., R. 7 W., all of sec. 1, SW¼SW¼ sec. 30, W½NW¼, SW¼, S½SE¼ sec. 31;
T. 28 N., R. 7 W., S½N½, S½ sec. 19, S½N½, SW¼, N½SE¼ sec. 20, S½N½, N½S½, SE¼SE¼ sec. 21, SW¼NW¼, NW¼SW¼, S½SW¼ sec. 22, W½ sec. 27, N½NE¼, NW¼, NW¼SW¼ sec. 30, S½NE¼, NW¼, N½S½ sec. 34, S½NW¼, S½ sec. 35, all of sec. 36;
T. 27 N., R. 8 W., W½NW¼, SW¼ sec. 3, E½NE¼, NE¼SE¼ sec. 4, W½ sec. 10, SW¼NE¼, W½, W½SE¼ sec. 15, NW¼NE¼, S½NE¼, E½NW¼, SE¼ sec. 22, SW¼SW¼ sec. 23, SW¼, NW¼SE¼, S½SE¼ sec. 25, N½, N½SE¼, SE¼SE¼ sec. 26, NE¼NE¼ sec. 27;
T. 28 N., R. 8 W., NW¼NE¼, S½NE¼, NW¼, SW¼SW¼, NE¼SE¼ sec. 21, SW¼NW¼, N½SW¼, SE¼SW¼, SE¼ sec. 22, SW¼SW¼ sec. 23, S½NE¼, SE¼ sec. 24, NE¼, S½ sec. 25, SW¼NE¼, NW¼, NE¼SW¼, N½SE¼, SE¼SE¼ sec. 26, NE¼NE¼ sec. 27, SW¼NE¼, NW¼, NE¼SW¼, SE¼ sec. 28, E½NE¼ sec. 29, NE¼, E½SE¼ sec. 33, SW¼NW¼, W½SW¼ sec. 34;
T. 29 N., R. 10 W., all of sec. 3, N½ sec. 10, N½, E½SW¼, SE¼ sec. 11, W½ sec. 12, N½, SW¼, N½SE¼ sec. 13, NE¼, E½NW¼ sec. 14, N½NW¼ sec. 24;
T. 30 N., R. 10 W., S½ sec. 18, all of secs. 19, 28, 29, 30, 33 and 34;
T. 30 N., R. 11 W., all of sec. 24;
T. 3 S., R. 5 W., all of secs. 19 and 20;
T. 3 S., R. 6 W., SW¼ sec. 7, all of secs. 19, 22, 23 and 24;
T. 3 S., R. 7 W., S½NE¼, SE¼SW¼, W½SE¼ sec. 12, all of secs. 22, 23 and 24;
T. 7 S., R. 9 W., NW¼NE¼, NW¼, NW¼SW¼ sec. 3, NE¼NE¼, S½NE¼, SE¼NW¼, SW¼, N½SE¼, SW¼SE¼ sec. 4, S½SE¼ sec. 5, all of sec. 7, N½, N½SW¼ sec. 8, N½NW¼ sec. 9;
T. 7 S., R. 10 W., E½NE¼, SE¼ sec. 11, all of sec. 12, NW¼ sec. 13, all of sec. 14, SE¼ sec. 15, NW¼NW¼, S½NW¼, SW¼, NW¼SE¼, S½SE¼ sec. 18, NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼ sec. 19, all of secs. 20, 21 and 22, NW¼, NW¼SW¼ sec. 23;
T. 7 S., R. 11 W., SE¼SE¼ sec. 7, S½ of secs. 8, 9, 10 and 11, SW¼, NW¼SE¼, S½SE¼ sec. 12, all of secs. 13, 14 and 15, N½ sec. 17, N½, NW¼SW¼ sec. 18;
T. 7 S., R. 12 W., all of sec. 13, E½ sec. 22, all of secs. 23, 24 and 26, E½ sec. 27, E½, SE¼SW¼ sec. 34, all of sec. 35;
T. 8 S., R. 12 W., NE¼, NE¼NW¼, S½NW¼, S½ sec. 3, SE¼SE¼ sec. 4, SW¼NE¼, NW¼NW¼, S½NW¼, S½ sec. 7, SE¼NE¼, S½ sec. 8, NE¼NE¼, S½N½, S½ sec. 9, N½NE¼, W½ sec. 10, N½N½ sec. 17, N½NE¼, NE¼NW¼ sec. 18;
T. 8 S., R. 13, W., NE¼NE¼, S½NE¼, S½ sec. 8, S½ sec. 9, all of secs. 10, 11, 12 and 17, SE¼NE¼, S½SW¼, SE¼ sec. 18, N½, SW¼, NW¼SE¼ sec. 19, NW¼NE¼, NW¼ sec. 20;
T. 8 S., R. 14 W., S½S½ of secs. 13 and 14, all of secs. 23 and 24;
aggregating 122,772.09 acres.

HARRY SLATTERY,
Under Secretary of the Interior.

[F. R. Doc. 39–1460; Filed, April 29, 1939; 10:47 a. m.]

TITLE 45—PUBLIC WELFARE

CIVILIAN CONSERVATION CORPS

PART 3—REGULATIONS RELATIVE TO ENROLLMENT, DISCHARGE, HOSPITALIZATION, DEATH, AND BURIAL OF ENROLLEES [1]

§ 3.09 *Allowances* — (a) *General.* (1) The allowance of pay of enrollees has been fixed at the following rates per month:

For enrollees	$30
For assistant leaders	36
For leaders	45

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

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

(c) *Absent due to own misconduct and without leave.* Any enrollee who, without authority, absents himself from duty for a period in excess of 24 hours or who becomes incapacitated for full duty as a result of his own misconduct will not be entitled to receive any pay and allowances nor will any pay and allowances accrue to his credit for the period of such absence or incapacitation. The company commander will make final decision in cases arising under this paragraph. (50 Stat. 319) [CCC Regs., WD, Dec. 1, 1937, as changed by C 25, April 18, 1939]

§ 3.18 *Transportation and travel allowances.*

* * * * *

(b) *Transportation in kind from places of discharge*—(1) *Juniors.* Subject to subparagraphs (4), (5), (6), and (7) below, and to subparagraph (3) paragraph (e), section 3.21, to places of selection by the Department of Labor or to their homes if the distance thereto is equal to or shorter than that to the places of selection, irrespective of the factors which caused discharge, or to places nearer than to places of selection or their homes.

(2) *Veterans.* Subject to subparagraphs (4), (5), (6), and (7) below, and to subparagraph (3), paragraph (e), section 3.21, to their places of permanent address as given at the time of enrollment, or to places of equal distance, regardless of the distance to places of selection by the Veterans' Administration, or to their homes, and irrespective of the factors which caused discharge, or to places nearer than to such places of permanent address; provided, however, that a veteran, who is accepted for enrollment in a corps area other than the corps area within which his permanent address as given at the time of enrollment is located, may not be furnished transportation to a point which is a greater distance from the place of discharge than the distance from place of discharge to place of acceptance for enrollment.

(3) *Former enrollees discharged to accept positions with the technical services or with the Army and subsequently reenrolled without selection.* Subject to subparagraphs (4), (5), (6), and (7) below and to subparagraph (3), paragraph (e), section 3.21, to the places of selection for the last previous enrollment from which discharged to accept the positions or to their homes, whichever is nearer to the place of discharge, without regard to the place of reenrollment and irrespective of the factors which caused discharge.

* * * * *

(6) *Time limit of transportation.* In all cases of discharge, except as indicated in subparagraph (7) below, transportation will be furnished with a view to the arrival of the discharged enrollee at his destination as soon as practicable after discharge or upon completion of such treatment or hospitalization as may be authorized. If on date of discharge an enrollee is suffering from injury or disease for which treatment is authorized under these regulations at the expense of Civilian Conservation Corps funds, after discharge he will be furnished transportation and sent to a hospital when facilities for treatment at duty station are not available. If hospital facilities are available for such treat-

[1] These regulations amend the indicated sections and paragraphs of Title 45, of the Code of Federal Regulations. Section 3.09 as previously printed in the Federal Register appears at 3 F.R. 2856 DI.

ment at duty station, no transportation will be furnished at time of discharge. Upon completion of such treatment, either at duty station or at a hospital elsewhere, the remainder of the transportation authorized in subparagraphs (1), (2), (3), and (4) above, as the case may be, will be furnished, subject to subparagraph (5) above, provided Civilian Conservation Corps funds remain available at the time of travel. Transportation will not be furnished under the provisions of this paragraph later than 60 days after discharge or completion of hospitalization as the case may be. See also paragraph (d) below.

(7) *Dishonorable discharge.* When an enrollee is given a dishonorable discharge, he will not be furnished either transportation in kind or travel allowances of any nature, except that he will be permitted to return to his home or place of acceptance at Government expense with the next group of discharged enrollees leaving the camp from which he was discharged at the end of their enrollments or, in case he is in a foreign corps area, with those being returned to their home corps area for discharge. When he is permitted to travel as authorized above, he will be furnished all allowances that are furnished to the other enrollees or ex-enrollees with whom he is traveling.

* * * * *

(50 Stat. 319) [CCC Regs. WD, Dec. 1, 1937, as changed by C 25, April 18, 1939]

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

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TITLE 50—WILDLIFE

BUREAU OF BIOLOGICAL SURVEY

PART 91—REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE ALASKA GAME LAW

Pursuant to the authority and direction contained in section 10 of the Alaska Game Law of January 13, 1925[1] (43 Stat. 739), as amended by acts of February 14, 1931, 46 Stat. 1111, and June 25, 1938, 52 Stat. 1169 (48 U.S.C. 198), I, H. A. Wallace, Secretary of Agriculture, upon consultation with and recommendation from the Alaska Game Commission, and having determined when, to what extent, and by what means game animals, land fur-bearing animals, game birds, nongame birds, and nests and eggs of birds may be taken, possessed, transported, bought, or sold in Alaska, do hereby amend regulations 1, 2, 3, 7, 8, 9, 12, 13, 14, 16, 17, 18, 22, 25, and 29, and schedules A of regulation 5 and B of regulation 6, of the regulations adopted under the Alaska Game Law by the Secretary of Agriculture on April 25, 1938 (50 CFR 91), to read as follows:

§ 91.1 [Regulation 1] *Definitions.* For the purpose of these regulations the following shall be construed, respectively, to mean:

(a) *Secretary.* The Secretary of Agriculture of the United States.

(b) *Commission.* The Alaska Game Commission.

(c) *Territory.* Territory of Alaska.

(d) *Person.* The plural or the singular, as the case demands, including individuals, associations, partnerships, and corporations, unless the context otherwise requires.

(e) *Indian.* Natives of one-half or more Indian blood.

(f) *Eskimo.* Natives of one-half or more Eskimo blood.

(g) *Take.* Taking, pursuing, disturbing, hunting, capturing, trapping, or killing game animals, land fur-bearing animals, game or nongame birds; attempting to take, pursue, disturb, hunt, capture, trap, or kill such animals or birds; or setting or using a net, trap, or other device for taking them, or collecting the nests or eggs of such birds, unless the context otherwise requires. Whenever the taking of animals, birds, or nests or eggs of birds is permitted, reference is had to taking by lawful means and in lawful manner.

(h) *Open season.* The time during which birds or animals may lawfully be taken. Each period of time prescribed as an open season shall be construed to include the first and last days thereof.

(i) *Closed season.* The time during which birds and animals may not be taken.

(j) *Transport.* Shipping, transporting, carrying, importing, exporting, or receiving or delivering for shipment, transportation, carriage, or export, unless the context otherwise requires.

(k) *Game animals.* Deer, moose, caribou, elk, mountain sheep, mountain goat, bison, musk ox, the large brown and grizzly bears, black bear, including its brown and blue (or glacier bear) color variations, and such other animals as have been or may hereafter be transplanted, introduced, or reintroduced into the Territory or any part thereof and found and declared by the Secretary of Agriculture to be game animals, which shall be known as big game.

(l) *Land fur-bearing animals.* Beaver, muskrat, marmot, raccoon, pika, squirrel, fisher, fox, lynx, marten or sable, mink, weasel or ermine, land otter, wolverine, and polar bear, and such other animals as have been or may hereafter be transplanted, introduced, or reintroduced into the Territory or any part thereof and found and declared by the Secretary of Agriculture to be fur-bearing animals.

(m) *Game birds.* Anatidae, commonly known as waterfowl, including ducks, geese, brant, and swans; Haematopodidae, Charadriidae, Scolopacidae, and Phalaropodidae, commonly known as shorebirds, including oyster-catchers, plover, sandpipers, snipe, curlew, and phalaropes; Gruidae, commonly known as cranes; and the several species of grouse and ptarmigan, and such other birds as have been or may hereafter be transplanted, introduced, or reintroduced into the Territory or any part thereof and found and declared by the Secretary of Agriculture to be game birds.

(n) *Nongame birds.* All wild birds except game birds.

§ 91.2 [Regulation 2] *Licenses of hunters, trappers, and guides.* (a) These regulations do not permit any person to take, possess, or transport game animals, land fur-bearing animals, or birds, or to purchase or sell land fur-bearing animals or parts thereof, or to act as a guide in the Territory unless he is in possession of a valid license bearing his signature written in ink on the face thereof, if he is required by the Alaska Game Law or regulations of the Commission thereunder to have such license, and he shall have his license on his person when taking such animals or birds or when acting as a guide and shall produce it for inspection by any wildlife agent or other person requesting to see it.

(b) Each application for a license shall be made on the form prescribed by the Commission and if the application is made by mail it shall be accompanied by a bank draft or an express or postal money order payable to the Treasurer of the United States for the amount of the license fee.

(c) No native Indian or Eskimo exempted from the license requirements under the Alaska Game Law shall take game animals, land fur-bearing animals, or birds in the Territory, or deal in the skins of land fur-bearing animals, without first having obtained a certificate, on a form supplied by the Commission, signed by a representative of the United States Indian Service or by a representative of the Commission certifying that such person is a native Indian or Eskimo as defined by section 2 of the Alaska Game Law.

(d) Each native Indian or Eskimo to whom is issued a certificate to take animals or birds, or to deal in furs, shall keep records and make the same reports required of licensed hunters, trappers, and fur dealers.

§ 91.3 [Regulation 3] *Taking animals and birds in emergencies.* An Indian or Eskimo, or an explorer, prospector, or traveler, may take animals or birds in any part of the Territory at any time for food when in absolute need thereof and other food is not available, but he shall not transport or sell any animal, bird, or part thereof so taken, and an Indian or Eskimo also may take, possess, and transport, at any time, auks, auklets, guillemots, murres, and puffins and their eggs for food, and their skins for clothing for their own use and that of their immediate families.

[1] 43 Stat. 743; 48 U.S.C. 198 and Sup. IV.

§ 91.7 [Regulation 7] *Taking game animals and methods of taking.* Game animals may be taken on areas not closed by regulations 5 and 6, during the respective open seasons and in the numbers not exceeding the respective season limits prescribed in regulation 8, with a shotgun (not larger than No. 10 gage, nor capable of holding more than three shells), rifle, or pistol, but not with the aid or use of a dog, machine or submachine gun, set gun of any description, bow and arrow or spear, pit, deadfall, fire, jack light, searchlight, or other artificial light, or from or by means of a motor vehicle, airplane, steam or power launch, or any boat other than one propelled by paddle, oars, or pole, or while such animals are swimming, or within the First and Third Judicial Divisions of the Territory by shooting from, on, or across, or within 33 feet of the center line of any public highway; and when legally taken such animals, or parts thereof, may be possessed, transported, or sold as permitted by regulations 9 and 11.

§ 91.8 [Regulation 8] *Open seasons and limits on certain game animals.* (a) Deer, bucks (with horns not less than 3 inches in length above the top of the skull). East of longitude 138° in southeastern Alaska, August 20 to November 15.

West of longitude 138°, in the drainage to Prince William Sound north of the center of the C. R. & N. W. Railway and west of Mountain Slough, including the island of said sound, except Hawkins and Knight Islands, September 20 to September 30.

Limit. East of longitude 138°, 3 a season. In area west of longitude 138°, 1 a season.

(b) *Moose, bulls (except yearlings and calves).* September 1 to December 31.

Limit. 1 a season.

(c) *Caribou.* North of the Yukon River, no close season. South of the Yukon River, August 20 to December 31.

Limit. North of the Yukon River: By resident, 5 a year; by nonresident, 2 a year.

South of the Yukon River: By resident, 3 a season; by nonresident, 2 a season.

(d) *Mountain sheep, rams (except lambs).* August 20 to November 30.

Limit. By nonresident, on the Kenai Peninsula south of Turnagain Arm, Portage Creek, and a line from its head to the head of Passage Canal, 1 a season; in rest of Territory, 2 a season.

By resident, south of the Arctic Circle, 2 a season, except on the Kenai Peninsula south of Turnagain Arm, Portage Creek, and a line from its head to the head of Passage Canal, 1 a season; north of the Arctic Circle, 3 a season.

(e) *Mountain goat (except kids).* August 20 to November 30.

Limit. 2 a season.

(f) *Bear (large brown or grizzly).* September 1 to June 20, except that a resident is restricted to this season in the following described areas only:

Alaska Peninsula south of the Kvichak River and Iliamna Lake.

The drainage to Cook Inlet from the west northward to the south banks of the Happy and Skwentna Rivers.

That portion of the drainage to Cook Inlet south and west of the Yentna River to its confluence with the Susitna River.

That area east and south of the left banks of the Susitna River and Willow Creek and of a line from the head of Willow Creek to the mouth of the Knik River.

That portion of the mainland draining to Cook Inlet, Prince William Sound, and the Gulf of Alaska south to Knik Arm, Knik River, Knik Glacier, and the divide of the Chugach Mountains from the head of said glacier running generally easterly through Thompson Pass to the head of Childs Glacier; thence down the center line of said glacier to the center of the C. R. & N. W. Railway bridge across Copper River at mile 49; thence up the center line of Miles Glacier to the summit of the Chugach Mountains; thence along the summit of said mountains to Mount St. Elias.

All of southeastern Alaska east of longitude 141°.

The islands of the Kodiak-Afognak group (except Afognak Island), Montague, Hinchinbrook, Hawkins, Yacobi, Kruzof, Chichagof, Baranof, and Admiralty. A large brown or grizzly bear may be killed at any time or place in the Territory when about to attack or molest persons or their property. Persons so killing such animal shall make a written report to the Commission setting forth the reasons for such killing and the time and place.

Limit. By resident, on Admiralty Island, 1 a season; in the above specially described areas, 2 in the aggregate a season; in rest of Territory, no limit.

By nonresident, on Admiralty Island, 1 a season; in rest of Territory, 2 in the aggregate a season.

(g) *Bear (black, including its brown and blue, or glacier bear, color variations).* In the First and Third Judicial Divisions of the Territory, September 1 to June 20. In the rest of Territory, no close season.

Limit. By nonresident, throughout Territory, 3 a season. By resident, in First and Third Judicial Divisions, 3 a season; elsewhere in Territory, no limit. A black bear may be killed at any time or place in the Territory when about to attack or molest persons or their property. Persons so killing such animal shall make a written report to the Commission setting forth the reason for such killing and the time and place.

§ 91.9 [Regulation 9] *Possession and transportation of game animals.* (a) Game animals (except live animals) legally taken in numbers not exceeding the respective season limits prescribed in regulation 8, the hides, heads, and feet thereof, and articles made therefrom, may be possessed and transported by any person at any time within the Territory, and, as hereinafter permitted by this regulation, may be transported out of the Territory; but until dismembered for consumption, no carcass of deer, moose, or mountain sheep shall be so mutilated that the sex cannot be determined.

(b) *By resident.* (1) At the discretion of the Commission, a permit may be issued to a resident of the Territory for the export by express or freight of a legally taken or acquired game animal, or part thereof, for purposes other than sale. Such permit may be obtained from any wildlife agent upon payment of the required fee. The permit must accompany the bill of lading covering shipment to the port of clearance, where it will be taken up by the collector of customs and returned to the Commission.

(2) A resident may export by express, freight, or parcel post for mounting and return to the Territory within 1 year, but not for sale, any game animal or part thereof legally taken or acquired by him upon first procuring a resident export license, which license shall accompany the bill of lading when shipment is made by freight or express, and if made by parcel post, the license shall be attached securely to the outside of the package in a conspicuous place. On return of the trophy to the licensee by express or freight, the export license shall accompany the bill of lading, but if returned by parcel post, the license shall be attached securely to the outside of the package in a conspicuous place, and the collector of customs at the port of entry, or the postmaster through whose office the package is received, shall detach the license, note thereon the contents of the shipment, and promptly return it to the Commission.

(3) A resident may, without a permit, export by express, freight, parcel post, or by other lawful means, black bears or parts thereof legally taken or acquired by him, but all such shipments must be accompanied by a statement as required by regulation 16.

(c) *By nonresident.* A nonresident citizen or an alien who is the holder of a valid license may possess and transport within the Territory, or export, by express or freight only, when legally taken by him, not to exceed in the aggregate 3 deer, not more than 1 of which shall have been taken west of longitude 138°; 1 moose, 2 caribou; 2 mountain sheep, not more than 1 of which shall have been taken on the Kenai Peninsula as

particularly described in regulation 8; 2 mountain goats; 2 in the aggregate of large brown and grizzly bears, not more than 1 of which shall have been taken on Admiralty Island; and 3 black bears; or any part of such animals. Before any such animal or part thereof shall be exported, the person offering it for export shall first deliver to the transportation agent at the point of shipment his affidavit that he has not violated any of the provisions of the Alaska Game Law or the regulations thereunder; that such animal or part thereof has not been purchased or sold and is not being shipped for sale; and that he legally killed and is the owner of such animal or part thereof. If the shipment consists of a mountain sheep, or deer, or part thereof, the affidavit must show where in the Territory the animal was killed. Such affidavit shall accompany the express or freight bill of lading to the port of clearance, there to be taken up and promptly transmitted to the Commission by the collector of customs.

(d) *Manufactured articles and shed antlers.* Any person may without a permit or license possess and transport at any time within or out of the Territory any article manufactured from the hides or hoofs of deer, caribou, or mountain goats, or skins of black bear, legally taken; and in fur districts 5 and 8 parka hood trimmings cut from the hides of grizzly bears in strips not to exceed 4 inches in width legally taken; and the shed antlers of deer, moose, and caribou.

(e) *Possession without license.* Any person possessing any game animal or part thereof without a valid hunting or trapping license or native Indian or Eskimo certificate shall furnish on demand to any officer authorized to enforce the Alaska Game Law an affidavit showing the name or license or certificate number of the person from whom he received it, together with such other information as the officer may require.

§ 91.12 [Regulation 12] *Sale of trophies of game animals.* Any person may without a permit or license buy and sell at any time in the Territory the hides or parts of hides and the hoofs and articles manufactured therefrom of black bear, deer, moose, caribou, and mountain goats, and in fur districts 5 and 8, parka hood trimmings cut from the hides of grizzly bears in strips not to exceed 4 inches in width, legally taken; and the shed antlers of deer, moose, and caribou.

§ 91.13 [Regulation 13] *Fur districts and open seasons and limits on land fur-bearing animals.* The following-named land fur-bearing animals may be taken in the fur districts, herein defined, other than in areas closed to such taking by regulations 5 and 6 in the open seasons and in the numbers not exceeding the respective season limits prescribed in this regulation:

Fur district 1. All of southeastern Alaska from Dixon Entrance to Cape Fairweather and along longitude 138° to the international boundary:

Open seasons:

Mink, marten, land otter, weasel (ermine), fox (red, cross, and silver), and lynx. December 10 to January 20.

Muskrat. March 1 to April 30.

Beaver. No open season.

Wolf, coyote, wolverine, marmot, and squirrel. No close season; may be taken by any person at any time in a legal manner.

Fur district 2. That part of southern Alaska draining to the Gulf of Alaska and Cook Inlet, beginning with the western boundary line of fur district 1 and following longitude 138° from Cape Fairweather to the international boundary and along this boundary to Mount St. Elias; thence following the summit of the Chugach Range to the head of Miles Glacier; thence down the center line of said glacier to the center of the C. R. & N. W. Railway bridge across the Copper River at mile 49; thence up the center line of Childs Glacier to its summit; thence along the divide through Marshall Pass and Thompson Pass; thence along the divide to Tahneta Pass; thence along the divide separating the waters of the Matanuska River from the Nelchina River and the Talkeetna River from the Oshetna River; thence along the divide separating the waters of the Oshetna River from Kosina Creek to and across the Susitna River at a point 4 miles northwest of the mouth of Goose Creek; thence along the divide separating the waters flowing northwest into the Susitna River from those flowing southerly into the Susitna River; thence following said divide separating the waters flowing north into the Nenana River from those flowing southerly into the Susitna and Chulitna Rivers and across Broad Pass and the Alaska Railroad at mile 308; thence along the divide separating the waters flowing south into the Chulitna River from those flowing north into Cantwell Creek and the Nenana River to the summit of the Alaska Range; thence along said summit through Rainy Pass to Merrill Pass; thence along the summit of the Chigmit Mountains, separating the waters flowing easterly into Cook Inlet from those flowing westerly into the Kuskokwim River and Bristol Bay, to its intersection with the old portage from Kamishak Bay to Kakhonak Bay on Iliamna Lake; thence along said portage to Kamishak Bay.

Open seasons:

Mink, marten, land otter, weasel (ermine), fox (red, cross, and silver), and lynx. December 1 to the last day of February.

Muskrat. April 1 to May 31.

Beaver. April 10 to May 10; except on Kenai Peninsula, no open season.

Limit. 10 a season.

Wolf, coyote, wolverine, marmot, and squirrel. No close season; may be taken by any person at any time in a legal manner.

Fur district 3. Consisting of the Aleutian Islands, Unimak Island, Amak Island, all the islands lying south of the Alaska Peninsula, the Kodiak-Afognak Islands group, the Barren Islands, Augustine Island, and the Alaska Peninsula from False Pass to the mouth of Reindeer Creek; thence following said creek and a line to the center of Aniakchak Crater, and including that part of said peninsula consisting of the drainage to the Pacific Ocean south of a line following the divide from the center of Aniakchak Crater to the old portage from Kamiahak Bay to Kakhonak Bay; thence along said portage on the boundary of fur district 2 to Kamishak Bay.

Open seasons:

Mink, land otter, weasel (ermine), fox (red, cross, silver, white, and blue), and lynx. November 16 to January 15; except that there shall be no open season for mink, land otter, or weasel (ermine) on Unimak Island.

Marten. No open season.

Muskrat. March 10 to May 10.

Beaver. No open season.

Wolf, coyote, wolverine, marmot, and squirrel.—No close season; may be taken by any person at any time in a legal manner.

Fur district 4. All the drainage to Bristol Bay, bounded on the south by the northern boundary of fur district 3, on the east by the western boundary of fur district 2, and on the north by a line beginning at Cape Newenham and extending along the summit of the divide separating the waters flowing northerly into Kuskokwim Bay and Kuskokwim River from those flowing southerly into Bristol Bay, to its intersection with the western boundary of fur district 2 at a point approximately 22 miles south of Merrill Pass.

Open seasons:

Mink, marten, land otter, weasel (ermine), fox (red, cross, silver, white, and blue), and lynx. December 1 to February 15.

Muskrat. March 10 to May 10.

Beaver. April 10 to May 10.

Limit. 10 a season.

Wolf, coyote, wolverine, marmot, and squirrel. No close season; may be taken by any person at any time in a legal manner.

Fur district 5. That part of western Alaska draining to Kuskokwim Bay, Bering Sea, Norton Sound, and Kotzebue Sound, bounded on the east by a line beginning at Cape Newenham and extending along the divide separating the waters flowing into Kuskokwim Bay and Kuskokwim River from those flowing into Bristol Bay and the Tikchik Lakes; thence along the divide separating the waters flowing into Tulasak River and Whitefish Lake from those flowing into

the Aniak River and Swift Creek; thence to a point on the Kuskokwim River opposite the mouth of the first stream on the north bank above Ohagamut; thence across the Kuskokwim River and following the center of said first north-bank stream above Ohagamut to its head; thence along the divide separating the waters of Paimute Portage flowing into Big Lake from those flowing into the Yukon River; thence to a point on the Yukon River 15 miles below Paimiut Village; thence following down the south bank of the Yukon River to a point 5 miles below Dogfish Village; thence across the Yukon River to Mount Chiniklik; thence along the divide separating the waters flowing into the Stuyahok River from those flowing into the Kuyukutuk River; thence continuing along said divide separating the waters flowing easterly into the Yukon River from those flowing westerly into Norton Sound; thence continuing along said divide separating the waters flowing into the Koyukuk River from those flowing into Kotzebue Sound to the summit of the divide separating those flowing into the Colville River from those flowing into the Noatak River; thence westerly along the divide separating the waters flowing north into the Arctic Ocean from those flowing south into the Noatak and Kukpuk Rivers to the coast of Cape Lisburne.

Open seasons:

Mink, marten, land otter, weasel (ermine), fox (red, cross, silver, white, and blue), and lynx.—November 16 to March 10.

Muskrat. North of the Unalakleet River drainage, April 1 to June 7; except Golovin Bay drainage, no open season; south of the Unalakleet River, including its drainage, April 1 to May 31.

Beaver. April 1 to April 30.

Limit. 10 a season.

Wolf, coyote, wolverine, polar bear, marmot, and squirrel. No close season; may be taken by any person at any time in a legal manner.

Fur district 6. All the watershed of the Tanana River, the upper Copper River, part of the lower Yukon River, and the upper Kuskokwim River, bounded on the east by the international boundary, on the south by the northern boundaries of fur districts 2 and 4, on the west by the eastern boundary of fur district 5, and on the north by a line beginning at International Boundary Monument No. 146 and following the divide separating the waters of the north fork of the Ladue River from those of the Ladue River; thence along the divide separating the waters flowing northerly into the Yukon River from those flowing southerly into the Tanana River, through Far Mountain, Twelve Mile Summit, and Wickersham Dome; thence along the divide separating the waters flowing easterly into Beaver Creek from those flowing westerly into Hess Creek; thence along the divide separating the waters flowing southwesterly into Hess Creek from those flowing northerly into the Yukon River; thence along the divide separating the waters flowing southerly into Waldron Creek from those flowing northerly into the Yukon River, to the site of old Fort Hamlin; thence across the Yukon River to the divide separating the waters flowing northerly into the Dall River from those flowing southerly into the Ray River; thence along the divide separating the waters flowing northerly into the Kanuti River from those flowing southerly into the Yukon River; thence along the divide separating the waters flowing westerly into the Koyukuk River from those flowing southerly into the Melozitna River; thence along the divide separating those waters flowing into the Koyukuk River above the upper end of Treat Island from those entering below said point, to the Koyukuk River; thence across the Koyukuk River at the upper end of Treat Island and northwesterly along the divide separating the waters flowing easterly into the Hogatza River and Koyukuk River from those flowing southerly into the Koyukuk River, to Cone Mountain; thence along the divide separating the waters flowing easterly into the Hogatza River from those flowing westerly into the Dakli River, to the intersection with the eastern boundary of fur district 5.

Open seasons:

Mink, marten, land otter, weasel (ermine) fox (red, cross, silver, white, and blue), and lynx. November 16 to February 20.

Muskrat. April 1 to May 31.

Beaver. No open season.

Wolf, coyote, wolverine, marmot, and squirrel. No closed season; may be taken by any person at any time in a legal manner.

Fur district 7. All the drainage to the upper Koyukuk and upper Yukon Rivers bounded on the east by the international boundary, on the north by the summit of the Brooks Range, on the west by the eastern boundary of fur district 5, and on the south by the northern boundary of fur district 6.

Open seasons:

Mink, marten, land otter, weasel (ermine), fox (red, cross, solver, white, and blue), and lynx. November 6 to February 20.

Muskrat. March 1 to May 31.

Beaver. No open season.

Wolf, coyote, wolverine, marmot, and squirrel. No close season; may be taken by any person at any time in a legal manner.

Fur district 8. The Arctic coast of Alaska, consisting of all the drainage to the Arctic Ocean north of the northern boundaries of fur districts 5 and 7.

Open seasons:

Mink, marten, land otter, weasel (ermine), fox (red, cross, silver, white, and blue), and lynx. December 1 to April 15.

Muskrat. April 10 to June 10.

Beaver. No open season.

Wolf, coyote, wolverine, polar bear, marmot, and squirrel. No close season; may be taken by any person at any time in a legal manner.

§ 91.14 [Regulation 14] *Methods of taking land fur-bearing animals.* (a) Land fur-bearing animals are not permitted to be taken by means, aid, or use of a set gun of any description, a shotgun, fire, jack light, pit lamp, searchlight, or other artificial light, trap or device known as the "klips," steel bear trap or any other trap with jaws having a spread exceeding 9 inches, strychnine, or other poison. No dog shall be used to take any such animal (except polar bears in fur district 8 and wolves and coyotes in fur districts 5, 6, 7, and 8), and no land fur-bearing animal on which there is a close season shall be taken from its home, den, or hole by digging, smoking, or use of chemicals.

(b) *Fish traps,* commonly used near the Bering Sea coast and adjacent streams for taking blackfish, pike, ling, and white fish, shall be provided with a top-well of not less than 10 inches in diameter so as to allow the escape of any fur-bearing animal which may have entered the trap.

(c) *Beavers.* No trap shall be set within 25 feet of any beaver house or den.

(d) *Beaver and muskrat* homes, houses, dens, dams, or runways are not permitted to be injured or destroyed.

(e) *Foxes* are not permitted to be taken by the use of a trap set within 100 feet of a fox den.

§ 91.16 [Regulation 16] *Possession and transportation of skins of land fur-bearing animals.* (a) The skins or parts thereof of land fur-bearing animals on which an open season is prescribed by regulation 13, when legally taken or acquired, and the skins or parts thereof of wolves, coyotes, and land fur-bearing animals on which there is no close season, may be possessed and transported by any person at any time, under the conditions prescribed in this chapter, but no person who is engaged in fur farming or is a fur dealer shall possess or transport the skin or part thereof of any land fur-bearing animal unless at the time of such possession or transportation he has a valid fur-farm or fur-dealer license, as the case may be, issued to him pursuant to the Alaska Game Law. No person is permitted to possess or transport at any time the skin or part thereof of a land fur-bearing animal that has been illegally taken or acquired.

(b) Where transportation is by express or freight, the shipper shall first deliver to the transportation agent at the point of shipment, or where by parcel post, to the postmaster at the point of mailing, a statement correctly showing the number and kinds of skins in each shipment and stating that no illegal skin or unsealed beaver skin is contained therein. Such statement shall accompany the express or freight ship-

ment to the port of clearance, there to be taken up by the collector of customs, or in the case of parcel post shipments, by the postmaster at the office where mailed. Where such skins are transported out of the Territory by means other than express, freight, or parcel post, the person transporting them shall make and deliver a like statement to the collector of customs at the port of clearance. Collectors and postmasters shall promptly transmit such statements to the Commission.

(c) Transportation agents and postmasters shall not knowingly accept shipments containing skins or parts thereof of such land fur-bearing animals without such statement.

§ 91.17 [Regulation 17] *Purchase and sale of skins of land fur-bearing animals.* (a) A person who is engaged or employed in the business of trading in skins of land fur-bearing animals and who is in possession of a valid license or a native Indian or Eskimo certificate, issued pursuant to the Alaska Game Law, authorizing him so to do may at any time buy and sell the skins of land fur-bearing animals legally taken, tagged, or sealed, as the case may be, and such person shall have his license with him when buying or selling such skins, except that a person buying or selling skins at an established place of businesss shall have his license posted conspicuously on the premises, and each such licensee shall produce his license for inspection by any wildlife agent or other person requesting to see it.

(b) A person who is not engaged or employed in the business of trading in the skins of land fur-bearing animals may acquire by purchase or trade without a license the skins of such animals legally taken, possessed, or sealed, as the case may be, for his own use, but he is not permitted to sell the skins so acquired.

(c) A native-born Indian or Eskimo, or a licensed hunter or trapper, may sell without a fur-dealer's license the skins or parts thereof of land fur-bearing animals which he has legally taken and which, if required by this chapter, are legally tagged or sealed.

§ 91.18 [Regulation 18] *Sealing, possession, and sale of beaver skins.* (a) Skins of beavers imported into the Territory shall be sealed with a seal prescribed by the Commission. Persons importing such skins shall within 30 days after such importation present them to a wildlife agent or other officer authorized by the Commission to seal such skins, together with such proof of entry and legal possession by affidavit or otherwise as the Commission or any such officer may require.

(b) Persons taking the skins of beavers in the Territory shall during the open season in which they were legally taken or within 90 days immediately thereafter personally present them for sealing or tagging to a wildlife agent or any other officer authorized by the Commission to seal or tag skins, together with an affidavit of legal taking on a form furnished by the Commission and such other affidavits as may be required by any officer authorized to seal or tag skins. Persons residing in remote localities and finding it impracticable to present skins to an officer authorized to seal them may present such skins, together with an affidavit of lawful taking on a form furnished by the Commission to any person authorized by the Commission to attach thereto a tag permitting skins, if legally taken, to be sold and transported within the Territory, or to be shipped in care of the Alaska Game Commission, 1523 Smith Tower, Seattle, Washington, subject to examination and authentication by a representative of the Commission. Skins so tagged shall be presented by a lawful possessor to a wildlife agent or any other officer authorized by the Commission to seal skins, for sealing during the open season in which they were taken or within 90 days immediately thereafter, but such officer may require further affidavits of the person taking the skins at any time before he accepts and seals them. No person is permitted to sell, trade, or otherwise dispose of the skins of beavers during the open season or within 90 days thereafter unless they have been sealed or tagged as hereinbefore provided, or to purchase or otherwise procure any such untagged or unsealed skins at any time.

(c) Skins of beavers, unless sealed as prescribed by this regulation, are not permitted to be possessed or transported by any person after the expiration of the time within which they are required by this regulation to be sealed.

(d) No person other than a bona fide fur dealer is permitted to possess at any time in the Territory, unless sealed, number of skins of beavers in excess of the season limit prescribed in regulation 13.

§ 91.22 [Regulation 22] *Duties of fur farmers and fur dealers.* Each licensed fur farmer or fur dealer, including Indians, Eskimos, and stores operated by missions or otherwise for native Indians or Eskimos, must comply with the provisions of all Territorial laws relating to fur farmers and fur dealers, as the case may be, and at all reasonable hours shall allow any member of the Commission, any wildlife agent, or any authorized employee of the United States Department of Agriculture to enter and inspect the premises where operations are being carried on under the Alaska Game Law and the regulations thereunder, and to inspect the books and records relating thereto. Each licensed fur farmer shall submit annually a written report on a form furnished by the Commission stating the numbers and kinds of land fur-bearing animals farmed, the number and kinds of live land fur-bearing animals or skins or pelts thereof bought or sold, and the methods of fur farming employed.

§ 91.25 [Regulation 25] *Possession and transportation of grouse and ptarmigan.* (a) Grouse and ptarmigan legally taken and the skins and feathers thereof and articles made therefrom may be possessed and transported by any person at any time within the Territory, and, as hereinafter permitted by this regulation, may be transported out of the Territory.

(b) *By resident.* (1) At the discretion of the Commission, a permit may be issued to a resident of the Territory for the export by express or freight of legally taken or acquired grouse or ptarmigan, or parts thereof, for purposes other than sale. Such permit may be obtained from any wildlife agent upon payment of the required fee. The permit must accompany the bill of lading covering shipment to the port of clearance, where it will be taken up by the collector of customs and returned to the Commission.

(2) A resident may export by express, freight, or parcel post for mounting and return to the Territory within 1 year, but not for sale, any grouse or ptarmigan or part thereof legally taken or acquired by him upon first procuring a resident export license, which license shall accompany the bill of lading when shipment is made by freight or express, and if made by parcel post, the license shall be attached securely to the outside of the package in a conspicuous place. On return of the mounted specimen to the licensee by express or freight, the export license shall accompany the bill of lading, but if returned by parcel post, the license shall be attached securely to the outside of the package in a conspicuous place, and the collector of customs at the port of entry, or the postmaster through whose office the package is received, shall detach the license, note thereon the contents of the shipment, and promptly return it to the Commission.

(c) *By nonresident.* A nonresident citizen or an alien who is the holder of a valid license may possess and transport within the Territory grouse and ptarmigan legally taken by him, or he may export, by express or freight only, not to exceed in the aggregate 1 day's limit of such grouse or ptarmigan. Before any such grouse or ptarmigan or part thereof shall be exported, the person offering it for export shall first deliver to the transportation agent at the point of shipment his affidavit that he has not violated any of the provisions of the Alaska Game Law or the regulations thereunder; that such grouse or ptarmigan or part thereof has not been purchased or sold and is not being shipped for sale; and that he legally killed or is the owner of such grouse or ptarmigan or part thereof. Such affidavit shall accompany the express or freight bill of lading to the port of clearance, there to be taken up and promptly transmitted to the Commission by the collector of customs.

(d) Any person possessing any grouse or ptarmigan or part thereof without a

valid license shall furnish on demand to any officer authorized to enforce the Alaska Game Law an affidavit showing the name and license number of the person from whom he received such grouse or ptarmigan or part thereof together with such other information as the officer may require.

§ 91.29 [Regulation 29] *Transportation of migratory game birds.* (a) Migratory game birds, and parts thereof, may be possessed and transported within or out of the Territory as permitted by the regulations under the Migratory Bird Treaty Act referred to in regulation 28, under the following conditions:

(b) *By resident.* (1) At the discretion of the Commission a permit may be issued to a resident of the Territory for the export by express or freight of a legally taken or acquired migratory game bird, or part thereof, for purposes other than sale. Such permit may be obtained from any wildlife agent upon payment of the required fee. The permit must accompany the bill of lading covering shipment to the port of clearance, where it will be taken up by the collector of customs and returned to the Commission.

(2) A resident may export by express, freight, or parcel post for mounting and return to the Territory within 1 year, but not for sale, any migratory game bird or part thereof legally taken or acquired by him, upon first procuring a resident export license, which license shall accompany the bill of lading when shipment is made by freight or express, and if made by parcel post, the license shall be attached securely to the outside of the package in a conspicuous place. On return of the mounted specimen to the licensee by express or freight, the export license shall accompany the bill of lading, but if returned by parcel post, the license shall be attached securely to the outside of the package in a conspicuous place, and the collector of customs at the port of entry, or the postmaster through whose office the package is received, shall detach the license, note thereon the contents of the shipment, and promptly return it to the Commission.

(c) *By nonresident.* A nonresident citizen or an alien who is the holder of a valid license may possess and transport migratory game birds within the Territory during the open seasons prescribed by the aforesaid regulations, and in any one calendar week during such open seasons, respectively, may export by express or freight only, not to exceed the number of migratory game birds legally taken and permitted to be possessed and transported under the said Migratory Bird Treaty Act Regulations. Before any such migratory game bird or part thereof shall be exported, the person offering it for export shall first deliver to the transportation agent at the point of shipment his affidavit that he has not violated any of the provisions of the Alaska Game Law or the regulations thereunder; that such migratory game bird or part thereof has not been purchased or sold and is not being shipped for sale; and that he legally obtained and is the owner of such bird or part thereof. Such affidavit shall accompany the express or freight bill of lading to the port of clearance, there to be taken up and promptly transmitted to the Commission by the collector of customs.

§ 91.5a [Schedule A—Chapter I, Regulation 5] *Areas in which there is a continuous close season on all species, except for scientific or propagating purposes.*

(a) Mount McKinley National Park.
(b) Katmai National Monument.
(c) Glacier Bay National Monument.
(d) Sitka National Monument.
(e) Any bird refuge or other wildlife refuge or reservation except under permit or regulation of the Secretary of Agriculture.

(f) Eyak Lake area, embracing the drainage area of Eyak Lake and Power Creek, north and east of Cordova, more particularly described as follows: Beginning on the north boundary line of the town of Cordova at a point where said boundary line is crossed by the divide between Eyak Lake and Power Creek and Orca Inlet and Orca Bay; thence in a general northeasterly direction along said divide to the intersection with parallel 60°40′ north; thence east along said parallel to the intersection with the divide between the watershed of Power Creek and Eyak Lake and the watershed of Ibek Creek; thence in a general southwesterly direction along said divide to the headwaters of Allen Creek; thence southwesterly along the course of Allen Creek to its confluence with Eyak Lake; thence southerly along the shore of Eyak Lake to the northerly side line of the C. R. & N. W. Railway right-of-way; thence in a general westerly direction along the northerly side line of said railway right-of-way to the intersection with the east boundary line of the town of Cordova; thence north along said east boundary line to the northeast corner of said town; thence west along the northern boundary line of said town to the point of beginning (containing approximately 22,000 acres).

(g) Ward Lake and Mendenhall Lake acres, Tongass National Forest, as posted and described by the United States Forest Service.

(h) Mitkof Island area, embracing the drainage area of Wrangell Narrows from Sandy Beach on the north side of Mitkof Island southward to Blind Point, more particularly described as follows: Beginning at meander corner between secs. 23 and 26 of Township 60 South, Range 79 East, Copper River Meridian, located on Blind Point in Wrangell Narrows; thence easterly 88.13 chains to the southeast corner of sec. 24 of the same township; thence north along the township line 4 miles to the northeast corner of sec. 1 of the same township; thence northerly along the summit of the ridge bounding the drainage area tributary to Wrangell Narrows and Frederick Sound until the shore of Frederick Sound is reached at the Witness Corner Meander Corner between secs. 35 and 36 of Township 58 South, Range 79 East, Copper River Meridian, on the shore thereof; thence northwesterly along the shore of Frederick Sound to the entrance of Wrangell Narrows; thence southerly along the shore of Wrangell Narrows to the place of beginning on Blind Point.

(i) Any island occupied under lease or permit for fur-farming purposes, except by the occupant thereof.

The following-described areas along the line of the Alaska Railroad:

1. Strip one mile wide between mileposts 40 and 52, situated one-half mile on either side of the center line of the railroad.

2. Strip one-half mile wide between mileposts 176 and 177, situated to the westward of the center line of the railroad.

3. Strip one-half mile wide between milepost 181.5 and 182.5, situated to the westward of the center line of the railroad.

4. Strip one-half mile wide between mileposts 190 and 191, situated to the westward of the center line of the railroad.

5. Strip one-half mile wide between mileposts 195.5 and 196.5, situated to the westward of the center line of the railroad.

6. Strip one mile wide between mileposts 234.5 and 236.5, situated one-half mile on either side of the center line of the railroad.

7. Strip one mile wide between mileposts 247 and 254, situated one-half mile on either side of the center line of the railroad.

8. Strip one mile wide between mileposts 247 and 248, situated one-half mile on either side of the center line of the railroad.

9. Strip 2,000 feet wide between mileposts 283 and 293, situated 1,000 feet on either side of the center line of the railroad.

10. Strip 2 miles wide, situated as follows: Beginning at a point on the railroad 6 miles north of the Curry Hotel; thence east 1 mile; thence south 7 miles; thence west 2 miles; thence north 7 miles; thence east 1 mile to the place of beginning.

§ 91.6a [Schedule B—Chapter I, Regulation 6] *Areas in which there are continuous close seasons on specified game animals, land fur-bearing animals, and game birds, except for scientific or propagating purposes.*—(a) *Any game animal or game bird.* In Keystone Canyon, embracing an area one-half mile on each side of and paralleling the Richardson Highway from milepost 13 (from Valdez) to milepost 20 (from Valdez).

In the Big Delta area described as follows: Beginning at a point on the south bank of the Tanana River 1 mile east of

the ferry at Big Delta post office; thence south parallel to the Richardson Highway to a point 1 mile east of and opposite milepost 269 (from Valdez); thence westerly across and to a point on the west bank of the Big Delta River due west of aforesaid milepost 269; thence north along the west bank of the Big Delta River to its junction with the south bank of the Tanana River; thence easterly along the south bank of the Tanana River to the place of beginning.

(b) *Deer.* In Yakutat Bay region between longitude 138° and 141°. In the Kodiak-Afognak Islands group.

(c) *Moose.* In Yakutat Bay region between longitude 138° and 141°. On the Alaska Peninsula south and west of Kvichak River, Iliamna Lake, and the old portage from Kamishak Bay to Kakhonak Bay. On the Kenai Peninsula in the area beginning at the true point for the meander corner of fractional secs. 23 and 26, T. 6 N., R 12 W., on the east shore of Cook Inlet, at low water; the approximate geographic position is in latitude 60°34'17" N., and longitude 151°19'36" W. from Greenwich; thence from said initial point easterly between secs. 23 and 26 and secs 24 and 25 to the corner of secs. 19, 24, 25, and 30, T. 6 N., Rs. 11 and 12 W.; thence easterly, in T. 6 N., R. 11 W., along the north boundary of secs. 30, 29, and 28 to the NE. corner of sec. 28; thence southerly, along the east boundary of secs. 28 and 33, to the corner of secs. 3, 4, 33, and 34, Tps. 5 and 6 N., R. 11 W.; thence easterly along the north boundary of secs. 3, 2, and 1, to the NE. corner of T. 5 N., R. 11 W.; thence southerly, along the east boundary of sec. 1 to the meander corner of fractional secs. 1 and 6, on the right bank of the Kenai River; thence up the right bank of the Kenai River, at low water, to the outlet and westerly end of Skilak Lake; thence easterly, along and following the northerly shore of Skilak Lake, at low water, to a point on the northeasterly shore of the said lake at the mouth of the Kenai River; thence northeasterly, up the right bank of the Kenai River, at low water, to a point opposite the mouth of Russian River; this point falls on the west boundary of the Chugach National Forest as defined by Proclamation No. 1307, dated August 2, 1915; thence due north, following the west boundary of the Chugach National Forest as described by Proclamation No. 1741, dated May 29, 1925, to its intersection with Thurman Creek; thence following down the west bank of said creek and the Chickaloon River to Chickaloon Bay on Turnagain Arm of Cook Inlet, at low water; thence westerly and northwesterly along the shore of Chickaloon Bay, at low water, to Point Possession; thence southwesterly, along the southeast shore of Cook Inlet, at low water, to the true point for the meander corner of fractional secs. 23 and 26, T. 6 N., R. 12 W., the place of beginning.

In the drainages of the Chilkoot and the Chilkat Rivers in southeastern Alaska.

Along all the public highways on Kenai Peninsula embracing areas one-half mile on either side of said highways.

(d) *Caribou.* Along Steese Highway embracing areas 1 mile on either side of and paralleling the center line of the said highway from milepost 85 to milepost 88 (Twelve Mile Summit); and from milepost 106 to milepost 111 (Eagle Summit).

(e) *Mountain sheep and mountain goat.* In the eastern part of the Kenai Peninsula east of the center line of the Alaska Railroad.

In the Girdwood area beginning at the center of the bridge of the Crow Creek road over California Creek, at approximately latitude 60°58' north and longitude 149°8' west of Greenwich, as shown on the preliminary topographic map of the Girdwood District, Alaska, 1931, published by the Geological Survey, Department of the Interior; thence on a course bearing due east continuing in a straight line to the west bank of Glacier Creek; thence northeasterly following the west and north bank of said creek and its largest northern tributary to its head; thence along the west side of the glacier it drains to the summit of the divide between Glacier Creek and the drainage to the north at approximately latitude 61°2'30" north, longitude 149° west; thence westerly and northerly along said divide around the head of Raven Glacier to a point where said divide intersects the western margin of the most northern glacier in Raven Creek basin; thence following northeasterly and westerly along the western and southern margin of Eagle Glacier to its termination; thence westerly in a straight line to the junction of Camp and Raven Creeks; thence southwesterly along the south bank of Camp Creek to its head, at the divide between Camp Creek and the North Fork Ship Creek; thence northwesterly down the valley of the North Fork Ship Creek to a small lake in this valley; thence westerly along the south shore of said lake and continuing westerly along the south bank of North Fork Ship Creek to the junction of said creek with its first large tributary from the south, entering it about 1 mile east of Bird Creek Pass; thence southerly along the west bank of said tributary and its most westerly branch to the divide between North Fork Ship Creek and Bird Creek; thence southwesterly in a straight line to the junction of Bird Creek with its first large tributary from the head entering it from the south; thence southeasterly along the northern and eastern side of the stream bed of said tributary to the summit of the divide between the said tributary and the drainage of California Creek; thence southerly along the divide between California Creek and Bird Creek to a summit marked 4322 on the said preliminary topographic map of Girdwood District, Alaska, said point being in approximately latitude 60°59' north, longitude 149°11'15" west; thence southeasterly in a straight line to the point of beginning (containing approximately 77 square miles).

(f) *Mountain goat.* On Baranof and Chichagof Islands.

(g) *Large brown or grizzly bear.* On Afognak Island. In that area of land and water embracing the Glacier Bay National Monument, a part of the Tongass National Forest, and other lands included within the following-described boundary: Beginning at the summit of Mount Fairweather, in approximate latitude 58°54' N. and approximate longitude 137°31' W., which point is identical with angle point No. 164 on the international boundary between Alaska and British Columbia and common to the most westerly point of the Glacier Bay National Monument, as established February 26, 1925; thence southwesterly to Cape Fairweather on the Pacific Ocean, at the northwest corner of the Tongass National Forest as established June 10, 1925; thence southeasterly along the Pacific coast, including all islands along the coast to the center channel of Cross Sound at the point of confluence with the Pacific Ocean; thence northeasterly, easterly, and southeasterly through the center channel of Cross Sound, North Inian Pass, North Passage, and Icy Passage to the center channel of Excursion Inlet, at the point of confluence with Icy Passage; thence easterly to a point on the east shore of Excursion Inlet at the foot of the spur ridge, which point is approximately 3 miles northeast of the Porpoise Islands; thence northeasterly, following the summit of the spur ridge to the summit of the watershed between Excursion Inlet and Lynn Canal; thence northerly, northwesterly, and westerly, along the summit of the watershed between Excursion Inlet and Lynn Canal to the intersection of the east boundary of the Glacier Bay National Monument and the watershed divide of Excursion Inlet, Endicott River, and Glacier Bay, which point is in approximate latitude 58°42' N., and approximate longitude 135°41' W.; thence northwesterly along the east and north boundary of the Glacier Bay National Monument, as now established, to the most northerly corner of said Glacier Bay National Monument, at a point on the international boundary between Alaska and British Columbia; thence southwesterly along the international boundary between Alaska and British Columbia through angle points Nos. 157, 158, 159, 160, 161, 162, and 163 to the summit of Mount Fairweather, the point of beginning; excepting and reserving from the above-described area all sur-

veyed lands within fractional Tps. 39 and 40 S., Rs. 57, 58, and 59 E., Copper River Meridian.

In the following areas on Admiralty Island:

Thayer Mountain. Beginning at the foot of the waterfall at the mouth of Hasselborg River on Salt Lake, head of Mitchell Bay; thence along the easterly bank of the Hasselborg River to the outlet of Hasselborg River; thence along the west shore of said lake to the outlet of the creek flowing into the head of the lake; thence upstream along the east bank of said creek to the trail crossing; thence in a southwesterly direction along the trail to the head of Thayer Lake; thence along the easterly shore of said lake to the extreme southern end of the lake; thence southeasterly approximately 2 miles in a straight line to the west end of Salt Lake at the head of Mitchell Bay; thence along the line of mean high tide of Salt Lake to the foot of the waterfall on Hasselborg River, the place of beginning (containing approximately 60 square miles); and

Pack Creek. The entire watershed of Pack Creek, which empties into Seymour Canal near the north side of the entrance to Windfall Harbor (containing approximately 21 square miles).

(h) *Black bear.* In the drainage of Anan Creek.

(i) *Buffalo (bison), musk ox, and elk.* In any part of Alaska.

(j) *Beaver.* On Baranof and Chichagof Islands.

In the drainage to the Mendenhall Valley east of the main Glacier Highway.

In Fairbanks area, beginning at a point on the east bank of the Tanana River at the entrance of Pile Driver Slough; thence along the east bank of Pile Driver Slough to a point 4 miles south of Moose Creek; thence east along the divide between Moose Creek and French Creek around the head of Moose Creek and including all the drainage thereto; thence northwesterly along the divide between Moose Creek and Chena River; thence across the flats of Chena River to a point marked on Big Chena Bluffs; thence down the north bank of Chena River to its confluence with Tanana River; thence south along the east bank of Tanana River to the place of beginning.

On the Kodiak - Afognak Islands group.

(k) *Snowshoe hare.* On the Kodiak-Afognak Islands group.

(l) *Muskrat.* In the Golovin Bay drainage.

On the Kodiak - Afognak Islands group.

(m) *Raccoon.* In any part of Alaska.

These amendments shall become effective on July 1, 1939.

In testimony whereof I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the city of Washington, this 28th day of April, 1939.

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

[F. R. Doc. 39-1458; Filed, April 28, 1939; 4:08 p. m.]

DECLARATION OF THE SECRETARY OF AGRICULTURE REGARDING ELIGIBILITY FOR RESIDENT TRAPPERS' LICENSES IN ALASKA

§ 91.2a Inquiry and investigation having been conducted in Alaska to determine whether the economic welfare and interests of native Indians and Eskimos or the fur resources of Alaska are threatened by the influx of trappers from without the Territory, and it having been determined that the economic welfare and interests of native Indians and Eskimos and the fur resources of Alaska are threatened by the influx of trappers from without the Territory, I, H. A. Wallace, Secretary of Agriculture, do by virtue of authority of the Alaska Game Law of January 13, 1925 (43 Stat. 739), as amended by Act of February 14, 1931, 46 Stat. 1111 (48 U.S.C. 198), and as further amended by act of June 25, 1938 (52 Stat. 1169), require that citizens of the United States, who are nonresidents of the Territory, and foreign-born persons and aliens within the meaning of said Alaska Game Law shall have resided in Alaska for a continuous period of three years instead of one year before being eligible to obtain resident trapping licenses under the provisions of the Alaska Game Law, as amended, and regulations issued pursuant thereto. (Sec. 3,[1] 43 Stat. 739 as amended by 52 Stat. 1169, 48 U.S.C., Sup. IV, 197)

In testimony whereof, I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the city of Washington, this 28th day of April 1939.

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

[F. R. Doc. 39-1457; Filed, April 28, 1939; 4:08 p. m.]

PART 92—REGULATIONS OF THE ALASKA GAME COMMISSION RELATING TO GUIDES, POISONS, AND LICENSES

By virtue of the authority conferred upon the Alaska Game Commission by the act of January 13, 1925, 43 Stat. 739, as amended February 14, 1931, 46 Stat. 1111; U.S.C., title 48, secs. 192–211, and June 25, 1938, 52 Stat. 1169, entitled "An Act to establish an Alaska Game Commission to protect game animals, land fur-bearing animals, and birds in Alaska, and for other purposes," the following regulations for the protection of game animals, land fur-bearing animals, and birds in Alaska are made and published, to take effect July 1, 1939:

REGULATION A—EMPLOYMENT OF GUIDES BY NONRESIDENTS AND ALIENS

Nonresidents of the Territory or aliens taking game animals for any purpose, or polar bears for sport or trophies, or going afield to photograph large brown or grizzly bears, except nonresident Federal officials engaged in wildlife investigations in Alaska exempted by special permit of the Commission, are required to employ and be accompanied by a guide registered with and licensed by the Commission; but no such guide shall accompany in the field more than one nonresident or alien except husband and wife and minor child all of whom are in possession of the required hunting licenses.

REGULATION B—QUALIFICATIONS FOR GUIDE LICENSES AND ISSUANCE THEREOF

Only resident citizens who have resided in the Territory for the five years immediately preceding application for registration and a guide license will be registered and licensed to act as guides for nonresidents and aliens taking game animals for any purpose, or polar bears for sport or trophies, or going afield to photograph large brown or grizzly bears.

The Alaska Game Commission will establish guide districts and maintain a register of such persons as are duly qualified and licensed to act as guides in such districts.

Applications for such registration and guide license shall be made on a form issued by the Commission and shall state applicant's citizenship and resident status, age, physical characteristics, permanent address, and district or districts in which he desires to operate, together with full information relative to his qualifications to act as guide, and shall be subscribed and sworn to by the applicant before an officer authorized to administer oaths.

Upon receipt of such application the Commission, through one of its members or such person as it shall designate, will arrange to determine, by such written and oral examinations and otherwise as it shall require, the qualifications of such applicant to act as a guide and his knowledge of the Alaska Game Law and regulations.

The member of the Commission or other person authorized to conduct such examination shall promptly file his report thereof with the Commission, together with his recommendation thereon, which report and recommendation shall be attached to the application and considered and determined at a regular or special meeting of the Commission.

If the Commission determines that the applicant does not possess sufficient field experience to qualify him to act as a principal guide but has all other qualifications, an assistant guide license may

[1] 43 Stat. 740, as amended by sec. 2, 52 Stat. 1170; 48 U.S.C. 202, 207 and Sup. IV.

be issued to him, which shall authorize him to act as assistant to a principal guide.

In cases of emergency the Executive Officer of the Commission may, after investigation and satisfying himself of an applicant's qualifications, issue a special guide license to him upon payment of the required fee authorizing him to guide the nonresident or alien hunter named in the application for such special license.

Extension or renewal of guiding privileges authorized by any guide license shall be made, in the discretion of the Commission, only upon examination and approval as hereinbefore provided.

A registered guide license must bear the signature of the Executive Officer of the Commission. Each license shall expire on June 30 next succeeding its issuance, shall be revocable at the discretion of the Commission, and shall not be transferable.

Each licensed guide shall submit to the Commission, immediately upon completion of a hunting or photographing trip, a report containing the name and address of the nonresident or alien for whom he acted as guide, period covered by his services, number and species of animals taken, wounded and not secured, numbers and localities of each species of big game animal observed on the trip, and such other information as the Commission may require.

REGULATION C—DESIGNATION AND USE OF POISON

Pursuant to section 9 of the Alaska Game Law, the following substances are by the Commission designated poisons: strychnine, arsenic, phosphorus, antimony, barium, the cyanides, corrosive sublimate, or any derivative or derivatives, compound or compounds thereof, which, by said section 9, are forbidden

(1) to be used at any time to kill any game or wild fur-bearing animal or bird,

(2) to be put out where any game or wild fur-bearing animal or bird may come in contact with it,

(3) to be sold or given to any hunter or trapper, or

(4) to be possessed by any hunter or trapper.

Any person selling or otherwise disposing of any of the aforesaid poisons is required by said section 9 of the Alaska Game Law to keep a record in a special book showing the name and address of each person purchasing or otherwise procuring such poison, and the kind and amount thereof, such record to be, at all times, open to inspection by any wildlife agent or other officer authorized to enforce the Alaska Game Law and information thereof to be transmitted monthly to the Alaska Game Commission.

REGULATION D—RESIDENT TRAPPING AND HUNTING LICENSES

No resident of the Territory over 16 years of age, except a native-born Indian or Eskimo, shall take game animals, land fur-bearing animals, or birds in the Territory without first having obtained a resident hunting license for game animals or birds or a trapping license for land fur-bearing animals, but a person who is the holder of such trapping license shall be entitled to the privilege of hunting game animals or birds during the respective open seasons without a hunting license.

On and after July 1, 1939, all former regulations of the Alaska Game Commission relating to guides, poisons, and resident hunting and trapping licenses shall be and are hereby revoked.

In testimony whereof, we have hereunto set our hands and caused the official seal of the Commission to be affixed in the City of Juneau, Territory of Alaska, this 17th day of January 1939.

EARL N. OHMER,
Commissioner First Judicial Division and Chairman.
FRANK P. WILLIAMS,
Commissioner Second Judicial Division.
[SEAL] ANDREW A. SIMONS,
Commissioner Third Judicial Division.
JOHN HAJDUKOVICH,
Commissioner Fourth Judicial Division.
FRANK DUFRESNE,
Secretary Executive Officer, Chief Representative of Bureau of Biological Survey resident in Alaska.

[F. R. Doc. 39–1459; Filed, April 28, 1939; 4:09 p. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Bureau of Biological Survey.

DECLARATION REGARDING STATUS OF BLACK BEARS IN ALASKA

Inquiry and investigation having been conducted in Alaska to determine whether and in what part of the Territory the black bear and its color variations are predominantly hunted as game animals rather than as fur bearers, and it having been found by me that the black bear and its color variations are predominantly hunted as game animals rather than fur bearers in Alaska, by virtue of the Alaska Game Law of January 13, 1925 (43 Stat. 739), as amended by act of February 14, 1931, 46 Stat. 1111 (48 U.S.C. 198), and as further amended by act of June 25, 1938 (52 Stat. 1169), I do hereby declare that the black bear and its color variations are predominantly hunted in Alaska as game animals rather than as fur bearers.

In testimony whereof, I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the city of Washington, this 28th day of April, 1939.

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

[F. R. Doc. 39–1456; Filed, April 28, 1939; 4:08 p. m.]

DEPARTMENT OF LABOR.

Children's Bureau.

IN THE MATTER OF THE PROPOSED FINDING AND ORDER RELATING TO THE EMPLOYMENT OF MINORS BETWEEN 16 AND 18 YEARS OF AGE IN THE MANUFACTURE OF EXPLOSIVES INCLUDING GOODS CONTAINING EXPLOSIVE COMPONENTS

APRIL 27, 1939.

Whereas, section 12 (a) of the Fair Labor Standards Act of 1938 (52 Stat. 1060) prohibits the shipment or delivery for shipment of goods in commerce, as defined in the Act, which are produced in establishments situated in the United States in or about which within 30 days prior to the removal of such goods therefrom any oppressive child labor has been employed; and

Whereas, section 3 (l) of the said Act which defines oppressive child labor provides in part as follows:

(l) "Oppressive child labor" means a condition of employment under which (1) an employee under the age of sixteen years is employed by an employer * * * in any occupation, or (2) any employee between the ages of sixteen and eighteen years is employed by an employer in any occupation which the Chief of the Children's Bureau in the Department of Labor shall find and by order declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being; * * *

and

Whereas, the Chief of the Children's Bureau issued on November 3, 1938, a regulation prescribing the "Procedure Governing Determinations of Hazardous Occupations"; [1] and

Whereas, pursuant to the said regulation, an investigation was conducted with respect to the hazardous nature of occupations in or about plants manufacturing explosives or articles containing explosive components with special reference to the employment of minors between 16 and 18 years of age; and

Whereas, a report of the investigation was submitted to the Chief of the Children's Bureau; and

Whereas, such report shows that, despite progress in the promotion of safe working conditions, the manufacture of explosives and articles containing explosive components is hazardous in nature; that according to available figures the accident severity rate for such manufacture was approximately twice as great as the average for all manufacturing industries in 1936; that workmen's compensation experience likewise shows a high injury cost for such manufacture; that employ-

[1] 3 F.R. 2640 DI.

ment in plants manufacturing explosives or articles containing explosive components is especially hazardous for young workers who are characteristically lacking in the exercise of caution; that, in recognition of the particular hazards for young workers of employment in connection with explosives, 22 States have set a specific minimum age for such employment higher than for other employment; and that the policy of many manufacturers of explosives or articles containing explosive components is to employ no minors under 18 years of age in their plants; and

Whereas, a finding and order relating to occupations in or about plants manufacturing explosives or articles containing explosive components was proposed for final adoption by the Chief of the Children's Bureau under the authority of section 3 (l) of the said Act; and

Whereas, a public hearing was held in Washington, D. C. on March 28, 1939, by the Chief of the Children's Bureau, pursuant to public notice of the time and place thereof published in the FEDERAL REGISTER on March 16, 1939,[2] at which public hearing all parties appearing were given opportunity to be heard with respect to the said proposed finding and order, to question witnesses, to file briefs and additional statements subsequent to the hearing; and

Whereas, all such evidence and arguments submitted in connection with the said hearing have been carefully considered and upon the basis thereof it has been found appropriate to make certain changes in the provisions of the proposed finding and order,

Now, therefore, notice is hereby given that objections will be received for a period of 15 days following publication in the FEDERAL REGISTER of the following proposed finding and order, as revised, after which time the proposed finding and order, as revised, will be made final by the Chief of the Children's Bureau unless, in her opinion, objections thereto disclose just cause for further revision thereof:

Proposed Finding and Order

[As Revised]

[Regulation No. 11]

CHILD LABOR

PART 422. OCCUPATIONS PARTICULARLY HAZARDOUS FOR THE EMPLOYMENT OF MINORS BETWEEN 16 AND 18 YEARS OF AGE OR DETRIMENTAL TO THEIR HEALTH OR WELL-BEING

§ 422.1 *Occupations in or about plants manufacturing explosives or articles containing explosive components*—(a) *Finding of fact.* By virtue of and pursuant to the authority conferred by section 3 (l) of the Fair Labor Standards Act of 1938 (52 Stat. 1060) and pursuant to the regulation prescribing the "Procedure Governing Determinations of Hazardous Occupations,"[1] an investigation and public hearing having been conducted with respect to the hazards for minors between 16 and 18 years of age in occupations in or about plants manufacturing explosives or articles containing explosive components, and sufficient reason appearing therefor, I, Katharine F. Lenroot, Chief of the Children's Bureau of the United States Department of Labor, hereby find all occupations in or about such plants to be particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) *Order.* Accordingly, I hereby declare that all occupations in or about any plant manufacturing explosives or articles containing explosive components are particularly hazardous for the employment of minors between 16 and 18 years of age.

Definitions. For the purpose of this order—

(1) The term "plant manufacturing explosives or articles containing explosive components" means the land with all buildings and other structures thereon, used in connection with the manufacturing or processing of explosives or articles containing explosive components;

(2) The terms "explosives" and "articles containing explosive components" mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder and all goods classified and defined as explosives by the Interstate Commerce Commission in "Regulations for Transportation by Rail of Explosives, etc." as amended, Docket 3666, issued pursuant to the Act of March 4, 1921 (c. 172, 41 Stat. 1444, U.S.C., title 18, sec. 382).

This order shall become effective on July 1, 1939, and shall be in force and effect until amended or repealed by order hereafter made and published by the Chief of the Children's Bureau.

[SEAL] KATHARINE F. LENROOT, *Chief.*

[F. R. Doc. 39–1464; Filed, April 29, 1939; 11:46 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT–5546]

IN THE MATTER OF MONTANA-DAKOTA UTILITIES CO.

ORDER FIXING DATE OF HEARING

APRIL 28, 1939.

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

Upon the application filed April 24, 1939, by Montana-Dakota Utilities Co., a corporation having its principal business office at 831 Second Avenue South, Minneapolis, Minnesota, for authorization:

(a) To issue $9,000,000 in principal amount of its First Mortgage Sinking Fund Bonds, 4½% Series Due 1954, to bear interest at the rate of 4½% per annum and to be partially retired before maturity through the operation of a sinking fund;

(b) To execute its Indenture of Mortgage constituting a lien on all the natural gas and electric public utility fixed assets of the applicant and securing the said bonds and any additional bonds to be issued thereunder on account of subsequent additions to the properties of the applicant; and

(c) Simultaneously with the issue of the aforesaid bonds to issue $2,100,000 in principal amount of unsecured Serial Promissory Notes to mature serially in six equal consecutive annual installments beginning March 15, 1940, the said notes to be issued to certain named banks in designated amounts to represent loans for which applications have been made;

The Commission *orders:*

That a hearing on said application be held beginning at 10:00 o'clock A. M., May 10, 1939, in the Commission's Hearing Room in the Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

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

[F. R. Doc. 39–1473; Filed, May 1, 1939; 10:34 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of April, A. D. 1939.

[File No. 30–5]

IN THE MATTER OF FOSTER PETROLEUM CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 5 (d) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on May 18, 1939, at 10:00 o'clock in the forenoon of that day at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as

[2] 4 F.R. 1286 DI.

[1] Issued November 3, 1938, pursuant to the authority conferred by section 3 (l) of the Fair Labor Standards Act of 1938 (52 Stat. 1060, published in 3 F.R. 2640 DI, November 5, 1938.

to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

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

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 13, 1939.

The matter concerned herewith is in regard to an application filed by Foster Petroleum Corporation asking that the Commission enter an order declaring that the applicant has ceased to be a holding company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-1480; Filed, May 1, 1939; 11:56 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of May, A. D. 1939.

[File No. 46-136]

IN THE MATTER OF UTILITIES EMPLOYEES SECURITIES COMPANY

NOTICE OF AND ORDER FOR HEARING

An application, pursuant to sections 10 (a) (1) and 9 (c) (3) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on May 10, 1939, at 10:15 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

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

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 5, 1939.

The matter concerned herewith is in regard to an application by Utilities Employees Securities Company, a subsidiary of Associated Gas and Electric Company and an affiliate of New England Gas and Electric Association, seeking the approval for the use of current funds ordinarily available for investment in the acquisition of securities of companies which are subsidiary to or affiliated with Associated Gas and Electric Company and subsidiary to or affiliated with New England Gas and Electric Association. It is stated that the funds available, to the amount of 60%, will be employed to purchase bonds which are secured by a first mortgage on the physical assets of the issuers and that the bonds will be, at the date of acquisition, paying current interest rates and the issues will not be in default under any of the provisions of the governing indentures or other pertinent legal instruments affecting same. It is further stated that the bonds will be selected only if at the date of the acquisition the issuer is adequately earning its current interest requirements on all bonds of the issuer then outstanding. It is proposed that the balance of the available funds will be invested according to the discretion of the management of the applicant company. The application states that the selection of investments to be made within the above-mentioned limitations will be entirely in the discretion of the management of the applicant but that it is contemplated that such acquisitions will be diversified as to issuers and issues in such instances as said management determines.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-1478; Filed, May 1, 1939; 11:55 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of May, A. D. 1939.

[File No. 46-137]

IN THE MATTER OF TRUSTEES UNDER PENSION TRUST AGREEMENT DATED DECEMBER 14, 1937 (AS AMENDED)

NOTICE OF AND ORDER FOR HEARING

An application, pursuant to section 10 (a) (1) and section 9 (c) (3) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named part;

It is ordered, That a hearing on such matter be held on May 10, 1939, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

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

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 5, 1939.

The matter concerned herewith is in regard to an application by Trustees Under Pension Trust Agreement dated December 14, 1937 (as amended), a subsidiary of Associated Gas and Electric Company and an affiliate of New England Gas and Electric Association, seeking the approval for the use of current funds ordinarily available for investment in the acquisition of bonds of public-utility companies which are subsidiary to or affiliated with Associated Gas and Electric Company and subsidiary to or affiliated with New England Gas and Electric Association. It is stated that the funds will be employed only to purchase bonds which are secured by a first mortgage on the physical assets of the issuers and that the bonds will be, at the date of acquisition, paying current interest rates and the issuers will not be in default under any of the provisions of

the governing indentures or other pertinent legal instruments affecting same. It is further stated that the bonds will be selected only if at the date of the acquisition the issuer is adequately earning its current interest requirements on all bonds of the issuer then outstanding. The application states that the selection of the bonds to be acquired within the above-mentioned limitations will be entirely in the discretion of the management of the applicant, but that it is contemplated that such acquisition will be diversified as to issuers and issues in such instances as said management determines.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39–1479; Filed, May 1, 1939; 11:55 a. m.]