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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER V—FEDERAL SURPLUS COMMODITIES CORPORATION

RULES OF PROCEDURE AND PRACTICE GOVERNING THE INVESTIGATION AND DETERMINATION OF ALLEGED VIOLATIONS OF REGULATIONS AND CONDITIONS PERTAINING TO FOOD ORDER STAMPS

By virtue of the authority vested in the President or the Acting President of the Federal Surplus Commodities Corporation, I, Milo Perkins, President of the Federal Surplus Commodities Corporation, do hereby prescribe and promulgate the following rules of procedure and practice to be in force and effect from the date of the execution hereof until amended or superseded by rules hereafter prescribed by the President or Acting President of the Federal Surplus Commodities Corporation.

ARTICLE I—DEFINITIONS

§ 100 As used in these rules, or in any document or instrument issued in connection with or by virtue of these rules, unless the context clearly indicates another meaning, the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States.

(b) "Corporation" means the Federal Surplus Commodities Corporation, an agency of the United States under the direction of the Secretary.

(c) "Department" means the United States Department of Agriculture.

(d) "Office of the Solicitor" means the Office of the Solicitor of the Department.

(e) "Regulations and conditions" mean regulations and conditions made and prescribed by the Secretary, and any amendment thereto, governing the issuance of food order stamps by the Corporation by virtue of the authority contained in Section 32, Public Law No. 320, 74th Congress, as amended, and Public Law No. 165, 75th Congress.

(f) "Conditions" mean the conditions of the regulations and conditions.

(g) "Examiner" means an officer or employee of the Corporation, or of the Office of the Solicitor, duly authorized by the President or the Acting President of the Corporation to exercise such investigatory functions and duties as are hereafter prescribed in these rules for an Examiner.

(h) "Alleged violator" means any person participating in the food order stamp program of the Corporation charged with violation of the conditions.

(i) "Person" means an individual, partnership, firm, joint-stock company, corporation, association, trust, or estate.

ARTICLE II—CITATION TO SHOW CAUSE

§ 200 *Issuance of citation.* Whenever the President or the Acting President of the Corporation, or such officer or employee of the Corporation as he may designate for the purpose, has reason to believe that any person has violated, or is violating, any condition or conditions, the President or Acting President of the Corporation, or such officer or employee of the Corporation as he may designate for the purpose, in the name of the President of the Corporation may, by citation in writing served personally upon such person, or by depositing in the United States mails a citation in writing registered and addressed to such person at the last known business or other address of such person, order such person to show cause in writing on or before a certain date to be named in the citation why the President or Acting President of the Corporation should not issue an order denying to such person further participation as provided in the regulations and conditions.

§ 201 *Contents of citation.* Such citation shall contain:

(a) A statement of the alleged violations of the conditions;

(b) A statement of the time (which shall not be less than five days after service or mailing of such citation, as required herein) within which the alleged violator may comply with the citation to show cause by filing, at such place or places and with such person or persons as shall be designated in the

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FEDERAL REGISTER

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citation, a written answer in triplicate to the charges contained in the citation;

(c) A statement that, pending a determination by the President or Acting President of the Corporation, or an order of dismissal, as hereinafter provided, (1) payment of claims evidenced by food order stamps shall be suspended by the Corporation as to the alleged violator as of the date provided in the citation; or (2) no further stamp books shall be available to the alleged violator: *Provided,* That, in the event of a determination by the President or Acting President of the Corporation favorable to the alleged violator, or of an order of dismissal, payments shall be made, in accordance with the regulations and conditions, upon claims evidenced by food order stamps which are or which may be in the possession of the alleged violator, or further stamp books shall be available to the alleged violator;

(d) A statement that there is attached to the citation a copy of the rules herein prescribed.

§ 202 *Answer.* (a) Within the time required by the citation, the alleged violator shall file, at such place or places and with such person or persons as shall be designated in the citation, a written answer in triplicate to the charges contained in the citation.

(b) The answer shall contain admissions or denials of the several charges and facts alleged in such citation, and all denials therein contained shall be amplified by full and frank statements of the facts relating to the alleged violations and the matters of defense relied upon.

(c) The answer shall contain a statement of the correct name and address of the alleged violator upon whom the citation has been personally served or to whom it has been mailed. If the alleged violator is incorporated, such fact shall be stated together with the name of the State of incorporation, the date of incorporation, and the names, addresses, and respective positions of the officers and directors of the corporation. If such alleged violator is a member of an unincorporated association, partnership, or other business unit, the answer shall disclose the correct names and addresses of all the members constituting such business unit. If the alleged violator is not a natural person, the answer shall contain the name and address of an individual upon whom, as agent of such alleged violator, notice of further proceedings may be personally served or to whom it may be mailed.

(d) The answer shall be supported by an affidavit as to the truth of the matters stated therein, made by the alleged violator or a duly authorized agent of the alleged violator who has knowledge of the facts.

(e) In the event the alleged violator desires to appear and be orally heard upon any of the matters alleged in the citation, he shall set forth in the answer a request for such oral hearing, which hearing shall be held if the President or the Acting President of the Corporation shall so determine. In the absence of such a request for oral hearing, no hearing shall be held, unless oral hearing is deemed desirable in the public interest by the President or the Acting President of the Corporation.

§ 203 *Failure to file an answer.* Failure to file an answer within the time and in the manner herein prescribed shall be regarded as an admission of the facts alleged in the citation.

§ 204 *Action upon filed answer.* If, after examination of the answer filed by the alleged violator, the President or the Acting President of the Corporation shall deem the answer to be sufficient, he may issue an order dismissing the proceeding, whereupon such alleged violator shall be duly notified of the dismissal of the proceeding. If, after such examination, the President or the Acting President of the Corporation shall deem the answer to be insufficient, he may either (1) enter an order denying participation to the alleged violator, as provided in the regulations and conditions, without further proceeding; or (2) permit the alleged violator to amend or supplement his answer, or (3) permit the alleged violator to appear and be orally heard upon the matters as to which the answer is deemed unsatisfactory.

§ 205 *Notice of oral hearing.* If it be determined by the President or the Acting President of the Corporation that an oral hearing is to be held, the President or the Acting President of the Corporation, or such officer or employee of the Corporation as he may designate for the purpose, may appoint a time (which shall not be earlier than five days after the date on which the answer is required to be filed) and designate a place for a hearing to be held. The President or the Acting President of the Corporation, or such officer or employee of the Corporation as he may designate for the purpose, shall give the alleged violator written notice, which shall specify the time, place, and purpose of such hearing, by serving such written notice personally upon such alleged violator or his agent at least three days prior to the date appointed for such hearing, or by depositing such written notice at least five days prior to the day appointed for such hearing in the United States mails, registered and addressed to such alleged violator or his agent at the last known business address of such alleged violator, or agent.

§ 206 *Time and place of oral hearing.* Such hearing shall be held at the time and place set forth in the notice of hearing, or in any subsequent notice amending or suspending a prior notice thereof, and may also, without notice other than announcement thereof at the hearing by the Examiner, in the exercise of his discretion, be continued from day to day or

adjourned to a different place, or to a later date.

§ 207 *Conduct of oral hearing.* Every such hearing shall be conducted by an Examiner, who shall be the President or the Acting President of the Corporation, or such officer or employee of the Corporation or of the Office of the Solicitor as the President or the Acting President of the Corporation may authorize for the purpose. Any such authorization may be made or revoked by the President or the Acting President of the Corporation at any time before or during such hearing. Such hearing shall be conducted in such manner, to be determined by the Examiner, as will be most conducive to the proper dispatch of business and the attainment of justice. At any such hearing the Examiner need not apply the technical rules of evidence. All witnesses shall be sworn. All evidence introduced, whether written or oral, shall be voluntary and for the purpose of adducing facts in aid of an investigation. The Examiner shall determine whether the privilege of cross-examination shall be afforded. Written briefs, in triplicate, typewritten, mimeographed, or printed, may be filed with such person as the Examiner may designate within such time after the conclusion of the hearing, and upon such terms, as the Examiner may designate. At the conclusion of the taking of the evidence, and as a part of the hearing, opportunity may be afforded by the Examiner for the presentation of oral arguments based on the evidence. In his discretion, having regard to the nature and quantity of the evidence and to the importance of the issues, the Examiner may limit the time to be consumed by such oral arguments and the number of such arguments.

§ 208 *Execution and amendment of procedural documents.* All citations, authorizations, notices, and other documents requiring the signature of the President or of the Acting President of the Corporation under the provisions of these rules, except any findings of fact and any order dismissing the proceedings or denying participation as provided in the regulations and conditions, as the case may be, may be signed in the name of the President or of the Acting President of the Corporation by such officer or employee of the Corporation or of the Office of the Solicitor as the President or the Acting President of the Corporation may authorize for the purpose, and any such authorization may be made or revoked at any time before or during any proceeding. The President or the Acting President of the Corporation, or the Examiner, or such officer or employee of the Corporation as the President or the Acting President of the Corporation may designate for the purpose, shall, upon due application therefor and within his discretion, grant, upon such reasonable terms as to him may seem right and proper, the privilege of amendment of the answer and of any other procedural document filed by the alleged violator in such proceeding. The President or the Acting President of the Corporation, or the Examiner, or such officer or employee of the Corporation as the President or Acting President of the Corporation may designate for the purpose, may, at any time upon his own motion and upon such reasonable terms as to him may seem right and proper, make or allow amendment to the citation to show cause and to any procedural document filed by or on behalf of the Corporation as provided in these rules.

§ 209 *The record.* Every such hearing shall be publicly conducted and the testimony given at the hearing shall be reported *verbatim.* The record of the proceeding shall consist of the citation to show cause, answer, notice of hearing and other procedural documents, transcript of testimony, oral arguments, and all documentary evidence offered and received at the hearing. Any person desiring a copy of the transcript of testimony shall be entitled to the same upon application to the Office of the Solicitor and upon payment of the fees fixed by the regulations of the Department.

§ 210 *Decision.* Any decision made upon the record of the proceeding shall be rendered by the President or the Acting President of the Corporation. If the President or the Acting President of the Corporation finds upon the record of the proceeding that the alleged violator has not violated any of the provisions of the conditions respecting which the citation to show cause has been issued, the President or the Acting President of the Corporation may enter an order dismissing the proceeding. If the President or the Acting President of the Corporation finds that the alleged violator has violated any of the provisions of the conditions respecting which the citation to show cause was issued, he may enter an order in accordance with the regulations and conditions. Any order issued by the President or the Acting President of the Corporation as provided in these rules shall be served upon the alleged violator in a manner equivalent to the service of the citation as hereinbefore provided and shall be made available for public inspection by the Corporation.

ARTICLE III—CONSTRUCTION

§ 300 Nothing contained in these rules shall be, or shall be construed to be, in derogation or modification of the rights of the United States, of the Secretary, or of the Corporation (1) to exercise any jurisdiction or powers granted by law or by the regulations and conditions, and (2) to act in the premises in accordance with such jurisdiction and powers whenever such action is deemed advisable.

ARTICLE IV—PUBLIC NOTICE OF FOREGOING RULES

§ 400 Public notice of the issuance of the foregoing rules may be given by publication of such rules in the FEDERAL REGISTER. A copy of the foregoing rules shall be attached to each citation to show cause issued in accordance with such rules.

Done this 16th day of January 1940, in the city of Washington.

[SEAL] MILO PERKINS,
President.

[F. R. Doc. 40-326; Filed, January 20, 1940; 9:58 a. m.]

DESIGNATION OF AREAS UNDER SURPLUS FOOD STAMP PROGRAM

Pursuant to the applicable regulations and conditions prescribed by Henry A. Wallace, Secretary of Agriculture of the United States of America, the following areas are hereby designated as areas in which food order stamps may be used and in which the agricultural commodities and products listed in Surplus Commodities Bulletin No. 4,[1] effective 12:01 A. M., E. S. T., December 15, 1939 shall be considered surplus foods on the effective dates of such areas.

The area within the city limits of Portland, Maine and the immediate environs thereof as defined by the local representative of the Federal Surplus Commodities Corporation. The posting of the definition of "the immediate environs" in the office of the local representative of the Federal Surplus Commodities Corporation shall constitute due notice thereof.

The area within the county limits of Los Angeles County, California.

The area within the county limits of Lancaster County, Nebraska.

The area within the county limits of Douglas County, Nebraska.

The area within the county limits of Allegheny County, Pennsylvania.

The area within the county limits of Richland County, South Carolina.

The area within the county limits of Hall County, Texas.

The effective dates for the above areas shall be announced by the local representative of the Federal Surplus Commodities Corporation for the respective areas in local newspapers of general circulation.

[SEAL] MILO PERKINS,
President.

JANUARY 16, 1940.

[F. R. Doc. 40-337; Filed, January 20, 1940; 12:50 p. m.]

[ACP-1940-5]

CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION

PART 701—1940 AGRICULTURAL CONSERVATION PROGRAM

SUPPLEMENT NO. 5

JANUARY 19, 1940.

Pursuant to the authority vested in the Secretary of Agriculture under sections

[1] 4 F.R. 2725 DI.

7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act (49 Stat. 1148), as amended, the 1940 Agricultural Conservation Program is amended as follows:

Paragraph (c) of Section 701.103[1] is amended to read

"(c) Soybeans harvested for seed or when seed matures in Area A except Texas, Oklahoma, Arkansas, and the following counties in Missouri: Butler, Dunklin, Mississippi, New Madrid, Pemiscot, Ripley, Scott, and Stoddard."

Done at Washington, D. C., this 19th day of January 1940. Witness the seal of the Department of Agriculture.

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

[F. R. Doc. 40-325; Filed, January 20, 1940; 9:57 a. m.]

CHAPTER IX—DIVISION OF MARKETING AND MARKETING AGREEMENTS

[Order No. 4, as amended]

MARKETING ORDERS

PART 904—ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE GREATER BOSTON, MASSACHUSETTS, MARKETING AREA*

Sec.

Whereas, H. A. Wallace, Secretary of Agriculture of the United States of America, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended, issued, effective February 9, 1936, Order No. 4 regulating the handling of milk in the Greater Boston, Massachusetts, marketing area, amendments to which order were issued pursuant to said act as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, effective August 1, 1937, and January 16, 1939; and

Whereas, the Secretary of Agriculture executed, effective January 16, 1939, a marketing agreement regulating the handling of milk in the Greater Boston, Massachusetts, marketing area; and

Whereas, the Secretary, having reason to believe that an amendment to said marketing agreement and to said order, as amended, would tend to effectuate the declared policy of the act, gave, on the 30th day of September 1939, notice of a public hearing to be held at Concord, New Hampshire, on the 9th day of October 1939, and at Boston, Massachusetts, on the 10th day of October 1939, which hearing was held at Concord, New Hampshire, on the 9th day of October 1939, and at Boston, Massachusetts, on the 10th, 11th, 16th, and 17th days of October 1939, and at said times and places conducted public hearings at which all interested parties were afforded an opportunity to be heard on the proposed amendments to the marketing agreement and to the order, as amended; and

§ 904.0 *Findings.* Whereas, the Secretary finds, upon the evidence introduced at the last above-mentioned hearings, said findings being in addition to findings made upon the evidence introduced at the original hearings on said order and on said two amendments and being in addition to the other findings and determinations made prior to or at the time of the original issuance of said order and of the two amendments thereto (which findings are hereby ratified and affirmed save only as such findings are in conflict with the findings hereinafter set forth):

1. That the prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to sections 2 and 8e of said act, are not reasonable in view of the prices of feeds, the available supplies of feed, and other economic conditions which affect the market supply of and demand for such milk, and that the minimum prices fixed in this order, as amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; that the fixing of such prices does not have for its purpose the maintenance of prices to producers above the levels which are declared in the act to be the policy of Congress to establish; that the method provided for fixing the value of skim milk in milk classified as Class II milk is a method which bears a direct and reasonable relationship to the value of that skim milk;

2. That the provisions relating to the transfers of milk to and from the marketing area by handlers, allow for a more economical use of the available facilities for handling milk and delineate more specifically milk produced for sale in the marketing area;

3. That the period used in computing the butterfat differential allows handlers to make more economically a final settlement for additional butterfat delivered on a semi-monthly basis;

4. That handlers who do not dispose of at least ten percent of their total receipts of milk as Class I milk in the marketing area do not so burden, obstruct, or affect the handling of milk in interstate commerce as to require regulation of such handlers to the same extent as is imposed upon handlers disposing of more than ten percent of their total receipts of milk as Class I milk in the marketing area, and that the provisions relating to handlers who do not dispose of ten percent of their total receipts of Class I milk in the marketing area adequately regulate the handling of milk by such handlers to the extent that they do burden, obstruct, or affect the handling of milk in interstate commerce;

5. That the provision which allows the freight allowance for Class I milk on a portion of Class II milk shipped as milk to the marketing area adequately recognizes the necessity of handlers' shipping some Class II milk to the marketing area in order to cover daily fluctuations of Class I milk in the marketing area and adequately compensates such handlers for the movement of such milk;

6. That all of the remaining provisions of this order, as amended, are necessary to effectuate the other provisions of the order, as amended;

7. That the order, as amended, regulates the handling of milk in the same manner as a marketing agreement upon which hearings have been held;

8. That the issuance of this order, as amended, and all of its terms and conditions, will tend to effectuate the declared policy of the act:

Now, therefore, the Secretary of Agriculture, pursuant to the authority vested in him by the act, hereby orders that such handling of milk in the Greater Boston, Massachusetts, marketing area as is in the current of interstate commerce or as directly burdens, obstructs, or affects interstate commerce shall, from the effective date hereof, be in compliance with the following terms and conditions:

§ 904.1 *Definitions*—(a) *Terms.* The following terms shall have the following meanings:

(1) The term "act" means the Agricultural Marketing Agreement Act of 1937 which reenacts and further amends Public Act No. 10, 73d Congress, as amended.

(2) The term "Secretary" means the Secretary of Agriculture of the United States.

(3) The term "Greater Boston, Massachusetts, marketing area," hereinafter called the "marketing area," means the territory included within the boundary lines of the cities and towns of Arlington, Belmont, Beverly, Boston, Braintree, Brookline, Cambridge, Chelsea, Dedham, Everett, Lexington, Lynn, Malden, Marblehead, Medford, Melrose, Milton, Nahant, Needham, Newton, Peabody, Quincy, Reading, Revere, Salem, Saugus, Somerville, Stoneham, Swampscott, Wakefield, Waltham, Watertown, Wellesley, Weymouth, Winchester, Winthrop, and Woburn, Massachusetts.

(4) The term "person" means any individual, partnership, corporation, association, or any other business unit.

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[1] 4 F.R. 3877 DI.

*Section 904.0 to and including Section 904.12 issued under the authority contained in 48 Stat. 31 (1933), 7 U.S.C. 601 et seq. (1934) 750 (1935); 50 Stat. 246 (1937); 7 U.S.C. 601 et seq. (Supp. IV 1938).

(5) The term "producer" means any person who, in conformity with the health regulations which are applicable to milk which is sold for consumption as milk in the marketing area, produces milk and distributes, or delivers to a handler, milk of his own production, including any person reported by a handler as under contract with that handler, either individually or through a qualified association of producers of which he is a member, to have his milk received and paid for as part of the handler's supply for the marketing area, but whose milk may be delivered to another plant of that handler, the handling of milk in which plant is not otherwise subject to the terms hereof.

(6) The term "handler" means any person, irrespective of whether such person is a producer or an association of producers, wherever located or operating, who engages in such handling of milk, which is sold as milk or cream in the marketing area, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in milk and its products.

(7) The term "market administrator" means the person designated pursuant to Sec. 904.2 as the agency for the administration hereof.

(8) The term "delivery period" means the current marketing period from the effective date hereof to and including the last day of that month. Subsequent to that month "delivery period" means the current marketing period from the first to and including the last day of each month.

§ 904.2 *Market administrator*—(a) *Selection, removal, and bond.* The market administrator shall be selected by the Secretary and shall be subject to removal by him at any time. The market administrator shall, within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

(b) *Compensation.* The market administrator shall be entitled to such reasonable compensation as may be determined by the Secretary.

(c) *Powers.* The market administrator shall have power:

(1) To administer the terms and provisions hereof;

(2) To receive, investigate, and report to the Secretary complaints of violations of the terms and provisions hereof.

(d) *Duties.* The market administrator, in addition to the duties hereinafter described shall:

(1) Keep such books and records as will clearly reflect the transactions provided for herein;

(2) Submit his books and records to examination by the Secretary at any and all times;

(3) Furnish such information and such verified reports as the Secretary may request;

(4) Obtain a bond with reasonable security thereon covering each employee who handles funds entrusted to the market administrator;

(5) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 15 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to Sec. 904.5 or (b) made payments pursuant to Sec. 904.8;

(6) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof; and

(7) Pay out of the funds provided by Sec. 904.10, (a) the cost of his bond and of the bonds of such of his employees as handle funds entrusted to the market administrator, (b) his own compensation, and (c) all other expenses which will necessarily be incurred by him for the maintenance and functioning of his office and the performance of his duties.

(e) *Responsibility.* The market administrator, in his capacity as such, shall not be held responsible in any way whatsoever to any handler, or to any other person, for errors in judgment, for mistakes, or for other acts either of commission or omission, except for his own willful misfeasance, malfeasance, or dishonesty.

§ 904.3 *Classification of milk*—(a) *Basis of classification.* All milk received by a handler from producers or received pursuant to paragraph (c) (2) of this section shall be classified in the classes set forth in paragraph (b) of this section in accordance with its utilization by the handler who received it from producers: *Provided,* Subject to paragraph (c) of this section, That if milk, including skim milk, is moved to the plant of another person who distributes milk or manufactures milk products, classification of such milk may be in accordance with its utilization by such second person. Any utilization of milk claimed by a handler shall be subject to verification by the market administrator.

(b) *Classes of utilization.* The classes of utilization of milk shall be as follows:

(1) Class I milk shall be all milk sold or distributed as or in milk, chocolate or flavored whole or skim milk, including all milk referred to in paragraph (c) (1) of this section, and all milk the utilization of which is not established as Class II milk;

(2) Class II milk shall be all milk the utilization of which is established (a) as being sold, distributed, or disposed of other than as or in milk, chocolate or flavored whole or skim milk, and (b) as actual plant shrinkage, within reasonable limits, on milk received from producers: *Provided,* That if milk is received from producers, from other handlers, from other plants, or received pursuant to paragraph (c) (2) of this section, such actual plant shrinkage, within reasonable limits, shall be prorated between the milk received from each source in proportion to the volume of milk received from each.

(c) *Transfers of milk to and from other markets.* (1) Milk received by a handler from producers at a plant of that handler, the handling of milk in which plant is not otherwise subject to the terms hereof, and milk transferred by a handler to such a plant from such handler's plant for the Greater Boston marketing area, shall be considered Class I milk.

(2) Milk received by a handler at such handler's plant for the marketing area (i) from persons reported by the handler as being under contract with that handler either individually or through a qualified association of producers, of which they are members, to have their milk received and paid for as part of that handler's supply for marketing areas other than the Greater Boston marketing area, or (ii) from such handlers' plants, the handling of milk in which plants is not otherwise subject to the terms hereof, shall be classified pursuant to paragraphs (a) and (b) of this section, but, in making the computations set forth in Sec. 904.7 (a) (3), the market administrator shall treat such milk as if it were classified in Class II.

§ 904.4 *Minimum Prices*—(a) *Class I prices to associations of producers.* Each handler shall pay any association of producers for Class I milk containing 3.7 percent butterfat content not less than the following prices:

(1) For such milk delivered from a plant of such association to such handler's plant located not more than 40 miles from the State House in Boston, the applicable price pursuant to paragraph (b) (1) of this section plus 12 cents;

(2) For such milk delivered from a plant of such association to such handler at a railroad delivery point not more than 40 miles from the State House in Boston, the applicable price pursuant to paragraph (b) (1) of this section plus 7 cents;

(3) For such milk delivered to such handler f. o. b. railroad cars or trucks at a plant of such association where received from producers and which is more than 40 miles from the State House in Boston, the applicable price pursuant to paragraph (b) (2) of this section plus 25 cents: *Provided,* That if such handler furnishes containers for the transportation of such milk, the price shall be the applicable price pursuant to paragraph (b) (2) of this section plus 22 cents;

(4) If such milk is delivered containing butterfat more or less than 3.7 percent, such handler shall add or subtract, as the case may be, a differential for each one-tenth of 1 percent above or below 3.7 percent, which differential is the result of dividing by 330 the cream price used in paragraph (c) (1) of this section.

(b) *Class I prices to producers.* Each handler shall pay producers, in the manner set forth in Sec. 904.8, for Class I milk delivered by them, not less than the following prices:

(1) $3.46 per hundredweight during delivery periods prior to May 1, 1940, and thereafter, $3.06 per hundredweight for such milk delivered from producers' farms to such handler's plant located not more than 40 miles from the State House in Boston: *Provided,* That with respect to Class I milk disposed of under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be $3.06 per hundredweight during delivery periods prior to May 1, 1940, and thereafter, $2.66 per hundredweight.

(2) $3.28 per hundredweight during delivery periods prior to May 1, 1940, and thereafter, $2.88 per hundredweight, for such milk delivered from producers' farms to such handler's plant located more than 40 miles from the State House in Boston, less an amount per hundredweight (considering 85 pounds to one 40-quart can) equal to the lowest rail tariff, for the transportation in carlots of milk in 40-quart cans, as published in the New England Joint Tariff, M2, including revisions or supplements thereof, for the distance from the railroad shipping point for such handler's plant to such handler's railroad delivery point in the marketing area, or, if the handler has no plant in the marketing area, for the distance to Boston: *Provided,* That with respect to Class I milk disposed of under a program approved by the Secretary for the sale or disposition of milk to low-income consumers including persons on relief, the price shall be $2.88 per hundredweight during delivery periods prior to May 1, 1940, and thereafter $2.48 per hundredweight, less an amount per hundredweight equal to the freight as computed above.

(3) For the purpose of this paragraph, the milk which was sold or distributed during each delivery period by each handler as Class I milk in the marketing area shall be considered to have been first that milk which was (a) received from producers' farms at such handler's plant located not more than 40 miles from the State House in Boston then (b) received pursuant to Sec. 904.3 (c) (2) and then (c) shipped from the nearest plant located more than 40 miles from the State House in Boston.

(c) *Class II prices.* Each handler shall pay producers, in the manner set forth in Sec. 904.8, for Class II milk not less than the following prices per hundredweight:

(1) In the case of such milk delivered to a handler's plant located not more than 40 miles from the State House in Boston, a price which the market administrator shall calculate as follows: divide by 33 the weighted average price per 40-quart can of bottling quality cream in the Boston market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered, or the last such price reported for a delivery period if no such price is reported for the delivery period during which such milk is delivered, multiply the result by 3.7 and substract 28 cents: *Provided,* That any plus amount for skim value shall be added which results from the average of the two following computations: (a) compute the average of all the weekly hot roller process dry skim milk quotations, "other brands, human consumption, barrels, carlots," and for "other brands, animal feed, carlots, bags or barrels" (using midpoint of any range as one quotation), published during such delivery period in The Producers' Price-Current, subtract 4¼ cents, multiply by 7; and (b) compute the average of all weekly quotations (using midpoint of any range as one quotation), published during the delivery period in the Oil, Paint, and Drug Reporter for domestic 20-30 mesh casein in bags in carlots at New York, subtract 6.6 cents and multiply by 2.2: *Provided further,* That if either computation results in a minus amount, the other shall be used in lieu of the average.

(2) Except as provided in subparagraph (3) of this paragraph, in the case of such milk delivered to a handler's plant located more than 40 miles from the State House in Boston, the price shall be (a) for that quantity of such milk (up to 5 percent of the handler's Class I milk —exclusive of milk delivered in bulk to other handlers—disposed of in the marketing area or in the areas referred to in paragraph (d) (2) of this section) which is shipped to a plant located not more than 40 miles from the State House in Boston, the price calculated pursuant to subparagraph (1) of this paragraph, less an amount per hundredweight equal to the freight rate as computed in paragraph (b) (2) of this section (such shipment to be considered to be from the nearest plant after allowance has been made for Class I milk under paragraph (b) (3) of this section), and (b) for the remainder the price calculated pursuant to subparagraph (1) of this paragraph minus 5½ cents.

(3) During the May, June, and September delivery periods, in the case of such milk made into butter at a plant more than 40 miles from the State House in Boston, the minimum price shall be computed by the market administrator, instead of the price otherwise applicable pursuant to this paragraph, as follows: from the average of the prices reported daily during such delivery period by the United States Department of Agriculture for 92-score butter at wholesale in the New York market, deduct 5 cents, add 16⅔ percent and multiply by 3.7: *Provided,* That any plus amount shall be added which results from the skim value as computed in subparagraph (1) of this paragraph less 15 cents.

(d) *Sales outside the marketing area.* The price to be paid to associations of producers, or to producers in the manner set forth in Sec. 904.8, by each handler for milk utilized as Class I milk outside the marketing area shall be:

(1) Except as provided in subparagraph (2) of this paragraph, the applicable price pursuant to paragraph (a) and (b) of this section, adjusted by (a) the difference between such applicable price and the price ascertained by the market administrator as the prevailing price paid by processors for milk of equivalent use in the market where such Class I milk is utilized and (b) the difference between the freight allowance, if any, set forth in paragraph (b) (2) of this section and an amount equal to the lowest rail tariff for the transportation in carlots of milk in 40-quart cans, as published in the New England Joint Tariff, M2, including revisions or supplements thereof, for the distance from the railroad shipping point for the plant where such Class I milk is received from producers to the railroad delivery point serving the market where such Class I milk is utilized: *Provided,* That (a) if the market where such Class I milk is utilized is less than 10 miles from the plant where such Class I milk is received from producers, the railroad shipping point for such plant shall be presumed to be the railroad delivery point serving such market, and (b) if the market where such Class I milk is utilized is located in Barnstable, Plymouth, Norfolk, Dukes, or Nantucket Counties, Massachusetts, such handler's railroad delivery point in the marketing area shall be considered to be the railroad delivery point serving such market.

(2) For Class I milk sold or distributed in milk marketing areas numbers 10A, 10D, 13A, 14A, 15A, and 17, as defined by official orders of the Milk Control Board of the Commonwealth of Massachusetts, in effect on December 1, 1938, the prices applicable pursuant to paragraphs (a) and (b) of this section.

(e) *Publication of Class II prices.* On or before the 5th day after the end of each delivery period, the market administrator shall publicly announce the Class II price in effect for such delivery period.

§ 904.5 *Reports of handlers*—(a) *Periodic reports.* On or before the 8th day after the end of each delivery period, each handler shall, except as set forth in Sec. 904.6 (a), with respect to milk or cream which was, during such delivery period, (a) received from producers, (b) received from handlers, (c) produced by such handler, and (d) received pursuant to Sec. 904.3 (c) (2), report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(1) The receipts at each plant from producers who are not handlers;

(2) The receipts at each plant from any other handler, including any handler who is also a producer;

(3) The quantity, if any, produced by such handler;

(4) Receipts at each plant pursuant to Sec. 904.3 (c) (2); and

(5) The respective quantities of milk which were sold, distributed, or used, including sales to other handlers, for the purpose of classification pursuant to Sec. 904.3.

(b) *Reports as to producers.* Each handler shall report to the market administrator:

(1) Within 10 days after the market administrator's request with respect to any producer for whom such information is not in the files of the market administrator, and with respect to a period or periods of time designated by the market administrator: (a) the name, post office address, and farm location, (b) the total pounds of milk delivered, (c) the average butterfat test of milk delivered, and (d) the number of days upon which the deliveries were made;

(2) Within 10 days after any producer begins or resumes milk deliveries: (a) the name, post office address, and farm location of such producer, (b) the date upon which such producer began or resumed milk deliveries, (c) the plant at which such producer delivered milk, and (d) the plant, if known, at which such producer delivered milk immediately prior to the beginning of delivery to such handler;

(3) Within 5 days after any producer has failed to make deliveries for 5 consecutive days: (a) the name, post office address, and farm location of such producer, (b) the date upon which milk was last received, (c) the plant at which such producer delivered milk, and (d) the reason, if known, for such failure to deliver;

(4) Within 10 days after any producer moves from one farm to another: (a) the name, post office address, and location of the respective farms operated by such producer and (b) the date upon which milk was first received from the new location; and

(5) On or before the 8th day after the end of each delivery period each handler shall report the names of any persons whose milk he is reporting pursuant to Sec. 904.3 (c) and include a certification that these persons have contracts as specified in Sec. 904.3 (c).

(c) *Reports of payments to producers.* Each handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the delivery period, his producer pay roll for such delivery period, which shall show for each producer: (a) the daily and total pounds of milk delivered with the average butterfat test thereof and (b) the net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

(d) *Outside cream purchases.* Each handler shall report, as requested by the market administrator, his purchases, if any, of bottling quality cream from handlers who receive no milk from producers, showing the quality and the source of each such purchase and the cost thereof at Boston.

(e) *Verification of reports.* In order that the market administrator may submit verified reports to the Secretary pursuant to Sec. 904.2 (d) (3), each handler shall permit the market administrator or his agent, during the usual hours of business to (a) verify the information contained in reports submitted in accordance with this section and (b) weigh, sample, and test milk for butterfat.

§ 904.6 *Application of provisions*—(a) *Handlers who are also producers.* (1) No provision hereof shall apply to a handler whose sole source of milk supply consists of receipts from his own production and/or receipts from other handlers, except that such handler shall make reports to the market administrator at such time and in such manner as the market administrator may require.

(2) In the case of a handler who is also a producer and who received milk from producers, the market administrator shall, before making the computations set forth in Sec. 904.7, (a) exclude from such handler's Class I milk up to but not exceeding 90 percent of the quantity of milk received from his own farm production, (b) exclude the milk received by him in each class from other handlers, and (c) exclude from his remaining Class II milk the balance of the milk received from his own farm production: *Provided,* That in computing the value of milk for such handler pursuant to Sec. 904.7, the market administrator shall not use a quantity of Class I milk in excess of the total quantity of milk received by such handler from other producers.

(b) *Producers for other markets.* The provisions hereof will not apply, except as provided in Sec. 904.3 (c) (2), to the handling of milk of any person who is reported by a handler as being under contract with that handler, either individually or through a qualified association of producers of which he is a member, to have his milk received and paid for as a part of the supply of milk for a plant of the handler, the handling of milk in which plant is not otherwise subject to the terms hereof and such persons shall not be considered producers under the terms hereof.

(c) *Milk received from producers who are also handlers.* Milk of a handler's own production which is delivered in bulk to another handler shall be considered as being delivered by a producer unless the receiving handler is a producer and receives no other milk from producers.

(d) *Handlers with less than 10 percent of total receipts as Class I in the marketing area.* In the case of a handler who sells or distributes as Class I milk in the marketing area less than 10 percent of his total receipts of milk, the provisions hereof shall not apply except as follows:

(1) The handler shall, with respect to his total receipts and utilization of milk, make reports to the market administrator at such time, and in such manner, as the market administrator may require, and allow verification of such reports by the market administrator.

(2) The handler shall, with respect to that quantity of milk actually sold or distributed as Class I milk in the marketing area, make payments as provided for in Sec. 904.8 (g) and Sec. 904.10.

§ 904.7 *Determination of uniform prices to producers*—(a) *Computation of value of milk for each handler.* For each delivery period the market administrator shall compute, subject to the provisions of Sec. 904.6, the value of milk sold, distributed, or used by each handler, which was not received from other handlers, in the following manner:

(1) Multiply the quantity of milk in each class by the price applicable pursuant to paragraphs (b), (c), and (d) of Sec. 904.4;

(2) Add together the resulting value of each class;

(3) Multiply the quantity of milk received pursuant to Sec. 904.3 (c) (2) by the Class II price in effect for the plant at which such milk is received; subtract such amount from the amount computed pursuant to subparagraph (2) of this paragraph;

(4) In the case of a handler who receives milk from producers only, at a plant located not more than 40 miles from the State House in Boston; who receives Class I milk from another handler or handlers on which there is a freight allowance pursuant to Sec. 904.4 (b) (2); and who has Class II milk in excess of 5 percent of his total Class I milk, there shall be added to the amount computed pursuant to subparagraph (2) of this paragraph, the following amount: multiply the freight rate on such Class I milk received from other handlers less 5½ cents by either the total quantity of the Class II milk less 5 percent of his total Class I milk or his total receipts of Class I milk from other handlers, whichever is smaller: *Provided,* That if the handler or handlers, from whom such milk is received, ship from more than one plant located more than 40 miles from the State House in Boston, the weighted average freight allowance to such handler or handlers pursuant to subparagraphs (2) and (3) of Sec. 904.4 (b) on his or their total Class I milk reported shipped to the marketing area shall be used in lieu of that otherwise applicable.

(b) *Computation and announcement of uniform prices.* The market administrator shall compute and announce the uniform prices per hundredweight of

milk delivered during each delivery period in the following manner:

(1) Combine into one total the respective values of milk, computed pursuant to paragraph (a) of this section, for each handler from whom the market administrator has received at his office a report for such delivery period prior to the 12th day after the end of such delivery period, and who has made the payments, required by Sec. 904.8 (b) (3) for milk received during each delivery period since the effective date of the most recent amendment hereof;

(2) Add the total amount of payments required from handlers pursuant to Sec. 904.8 (g);

(3) Add the total net amount of the differentials applicable pursuant to Sec. 904.8 (e);

(4) Subtract the total amount to be paid to producers pursuant to Sec. 904.8 (b) (2);

(5) Divide by the total quantity of milk which is included in these computations except that milk required to be paid for pursuant to Sec. 904.8 (b) (2), the quantity of milk included in the computation pursuant to Sec. 904.8 (g); and the quantity of milk received pursuant to 904.8 (c) (2);

(6) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in connection with the payments set forth in Sec. 904.8 (b) (3);

(7) Add an amount which will prorate, pursuant to paragraph (c) of this section, any cash balance available; and

(8) On the 12th day after the end of each delivery period, mail to all handlers and publicly announce (a) such of these computations as do not disclose information confidential pursuant to the act, (b) the blended price per hundredweight which is the result of these computations, (c) the names of the handlers whose milk is included in the computations, and (d) the Class II price.

(c) *Proration of cash balance.* For each delivery period the market administrator shall prorate, by an appropriate addition pursuant to paragraph (b) of this section, the cash balance, if any, in his hands from payments made by handlers for milk received during any delivery period to meet obligations arising out of Sec. 904.8 (b) (3): *Provided*, That for the period January 16–31, 1939, the cash balance thus prorated shall be that in the hands of the market administrator from such payments made by handlers for milk received prior to January 1, 1939: Provided further, That if any such proration would result in an increase in the blended price in excess of 20 cents per hundredweight, then the proration shall be made on the basis of a recomputation of the blended price for each delivery period for which such payment was due, following the same method of computation and using the same class prices that were used in making the original computation for such delivery periods. The market administrator shall credit each handler's account for each such delivery period with the difference between the blended price as originally computed plus any applicable differentials pursuant to Sec. 904.8 (e) for such period and the blended price as recomputed, plus any applicable differentials pursuant to Sec. 904.8 (e), for such period times the quantity of milk received by the handler in such period from producers not required to be paid for such period pursuant to Sec. 904.8 (b) (2). Handlers shall thereupon, in such manner as is determined by the market administrator to be necessary in order to insure such payments being received by such producers, make such payments to producers which will, when added to the sums such producers have previously received for milk delivered in each such period, result in the payment to such producer of an amount not less than that required on the basis of the recomputed blended price for each such period.

§ 904.8 *Payments for milk*—(a) *Advance payments.* On or before the 10th day after the end of each delivery period subsequent to January 31, 1940, each handler shall make payment to producers for the approximate value of milk received during the first 15 days of such delivery period. In no event shall such advance payment be at a rate less than the Class II price for such delivery period.

(b) *Final payments.* On or before the 25th day after the end of each delivery period, each handler shall make payment, subject to the butterfat differential set forth in paragraph (d) of this section, for the total value of milk received during such delivery period as required to be computed pursuant to Sec. 904.7 (a), as follows:

(1) To each producer, except as set forth in subparagraph (2) of this paragraph at not less than the blended price per hundredweight computed pursuant to Sec. 904.7 (b), subject to the differentials set forth in paragraph (e) of this section, for the quantity of milk delivered by such producer;

(2) To any producer, who did not regularly sell milk for a period of 30 days prior to February 9, 1936, to a handler or to persons within the marketing area, at not less than the Class II price in effect for the plant at which such producer delivered milk, except that during the May, June, and September delivery periods the price pursuant to Sec. 904.4 (c) (3) shall apply, for all the milk delivered by such producer during the period beginning with the first regular delivery of such producer and continuing until the end of 2 full calendar months following the first day of the next succeeding calendar month; and

(3) To producers, through the market administrator, by paying to on or before the 23d day after the end of each delivery period, or receiving from the market administrator, as the case may be, the amount by which the payments required to be made pursuant to subparagraphs (1) and (2) of this paragraph are less than or exceed the value of milk as required to be computed for such handler pursuant to Sec. 904.7 (a), as shown in a statement rendered by the market administrator on or before the 20th day after the end of such delivery period.

(c) *Adjustments of error in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments pursuant to paragraph (b) (3) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of a less amount than is required by this section, the handler shall make up such payment to the producer not later than the time of making final payment for the period in which such error is disclosed.

(d) *Butterfat differential.* If any producer has delivered to any handler during any delivery period milk having an average butterfat content other than 3.7 percent, such handler shall, in making the payments to such producer prescribed by subparagraphs (1) and (2) of paragraph (b) of this section, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent an amount per hundredweight which shall be calculated by the market administrator as follows: Divide by 33 the weighted average price per 40-quart can of bottling quality cream in the Boston market, as reported by the United States Department of Agriculture for the period between the 16th day of the preceding month and the 15th day inclusive of delivery period during which such milk is delivered, or the last such price reported for a delivery period if no such price is reported for the period between the 16th day of the preceding month and the 15th day inclusive of the delivery period during which such milk is delivered, subtract 2 cents and divide the result by 10.

(e) *Location differentials.*—The payments to be made to producers by handlers pursuant to paragraph (b) (1) of this section, shall be subject to differentials as follows:

(1) With respect to milk delivered by a producer to a handler's plant located more than 40 miles from the State House in Boston, there shall be deducted an amount per hundredweight equal to the applicable freight rate per hundredweight (considering 85 pounds

to one 40-quart can) equal to the lowest rail tariff, for the transportation in carlots of milk in 40-quart cans, as published in the New England Joint Tariff, M2, including revisions or supplements thereof, for the distance from the railroad shipping point for such handler's plant to Boston, for Class I milk at such plant.

(2) With respect to milk delivered by a producer to a handler's plant located not more than 40 miles from the State House in Boston, there shall be added 18 cents per hundredweight.

(3) With respect to milk delivered by a producer, whose farm is located more than 40 miles but not more than 80 miles from the State House in Boston, there shall be added 23 cents per hundredweight, unless such addition gives a result greater than $3.46 prior to May 1, 1940, and thereafter $3.06, in which event there shall be added an amount which will give as a result such price.

(4) With respect to milk delivered by a producer, whose farm is located not more than 40 miles from the State House in Boston or whose farm is located in Barnstable or Plymouth Counties, Massachusetts, there shall be added 46 cents per hundredweight, unless such addition gives a result greater than $3.46 prior to May 1, 1940, and thereafter $3.06, in which event there shall be added an amount which will give as a result such price.

(f) *Other differentials.* In making the payments to producers set forth in subparagraphs (1) and (2) of paragraph (b) of this section, handlers may make deductions as follows:

(1) With respect to all milk delivered by producers to the plant of a handler which is located more than 40 miles from the State House in Boston and which is located more than 2 miles from a railroad shipping point, an amount not greater than 10 cents per hundredweight: *Provided,* That such deduction has been approved and made public by the market administrator prior to the time of payment.

(2) With respect to milk delivered by producers to a handler's plant which is located more than 14 miles but not more than 40 miles from the State House in Boston, an amount equal to 10 cents per hundredweight of Class I milk actually sold or distributed in the marketing area from such plant, such total amount to be deducted pro rata on all milk delivered by such producers.

(3) With respect to milk delivered by producers to any handler's plant from which the average daily shipment of Class I milk during any delivery period is: (a) less than 17,000 but greater than 8,500 pounds, an aggregate amount, prorated among producers delivering milk to such plant, equal to the difference between the freight to the plant in the marketing area where the milk is first received at the lowest carload rate in 40-quart cans and the freight at the rate for shipments of 100 40-quart cans on the Class I milk shipped during such delivery period and (b) less than 8,500 pounds an aggregate amount, prorated among producers delivering milk to such plant equal to the difference between the freight to the plant in the marketing area where the milk is first received at the lowest carload rate in 40-quart cans and the freight at the less-than-carload rate in 40-quart cans in milk cars on the Class I milk shipped during such delivery period.

(g) *Payments by handlers with less than 10 percent of total receipts as class I in the marketing area.* Handlers subject to Sec. 904.6 (d) shall pay to producers through the market administrator the value determined by multiplying the quantity of Class I milk disposed of in the marketing area by the difference between the prices applicable pursuant to Sec. 904.4 (b) and the prices applicable pursuant to subparagraphs (1) and (2) of Sec. 904.4 (c).

§ 904.9 *Marketing services*—(a) *Deductions for marketing services.* Except as set forth in paragraph (b), each handler shall deduct an amount not exceeding 2 cents per hundredweight (the exact amount to be determined by the market administrator, subject to review by the Secretary) from the payments made direct to producers pursuant to Sec. 904.8 with respect to all milk delivered to such handler during each delivery period by producers and shall pay such deductions to the market administrator on or before the 25th day after the end of such delivery period. Such moneys shall be expended by the market administrator for market information to, and for verification of weights, sampling, and testing of milk purchased from, said producers.

(b) *Producers' cooperative association.* In the case of producers for whom a cooperative association, which the Secretary determines to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act", is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made direct to such producers, pursuant to Sec. 904.8, as are authorized by such producers and, on or before the 25th day after the end of each delivery period, pay over such deductions to the association rendering such service.

§ 904.10 *Expense of administration*—(a) *Payments by handlers.* As his prorata share of the expense of the administration hereof, each handler, except as set forth in Sec. 904.6 (a), shall, on or before the 25th day after the end of each delivery period, pay to the market administrator a sum not exceeding 2 cents per hundredweight with respect to all milk actually delivered to him during such delivery period by producers or produced by him, the exact sum to be determined by the market administrator subject to review by the Secretary: *Provided,* That each handler, which is a cooperative association of producers, shall pay such pro-rata share of expense of administration only on that milk actually received from producers at a plant of such association and each handler referred to in Sec. 904.6 (d) shall pay such pro-rata share of expense of administration only on that quantity of milk actually sold or distributed in the marketing area as Class I.

(b) *Suits by market administrator.* The market administrator may maintain a suit in his own name against any handler for the collection of such handler's pro-rata share of expense set forth in this section.

§ 904.11 *Effective time, suspension, or termination*—(a) *Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to paragraph (b) of this section.

(b) *Suspension or termination.* Any or all provisions hereof, or any amendment hereto, shall be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary may give, and shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Effect.* Unless otherwise provided by the Secretary in the notice of amendment, suspension, or termination of any or all provisions hereof, the amendment, suspension, or termination shall not (a) affect, waive, or terminate any right, duty, obligation, or liability which shall have arisen or may thereafter arise in connection with any provisions hereof; (b) release or waive any violation hereof occurring prior to the effective date of such amendment, suspension, or termination; (c) affect or impair any rights or remedies of the Secretary, or of any other person, with respect to any such violation.

(d) *Continuing power and duty.* If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handlers, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

The market administrator, or such other person as the Secretary may designate, (a) shall continue in such capacity until discharged by the Secre-

tary, (b) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (c) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant hereto.

(e) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid and owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 904.12 *Liability*—(a) *Handlers.* The liability of the handlers hereunder is several and not joint and no handler shall be liable for the default of any other handler.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture of the United States, have executed, in duplicate, and issued this order, as amended, to become effective at such time as I may subsequently declare, and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 19th day of January 1940.

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

[F. R. Doc. 40-335; Filed, January 20, 1940; 12:49 p. m.]

[Order No. 34, Amendment No. 1]

MARKETING ORDERS

PART 934—AMENDMENT NO. 1 TO THE ORDER REGULATING THE HANDLING OF MILK IN THE LOWELL-LAWRENCE, MASSACHUSETTS, MARKETING AREA*

Sec.
934.0 Findings.
934.1 Definitions.
934.3 Classification.
934.4 Minimum prices.
934.5 Reports of handlers.
934.6 Application of provisions.
934.7 Determination of prices to producers.
934.8 Payments to producers.
934.10 Expense of administration.

Whereas, under the terms and provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), the Secretary of Agriculture of the United States is empowered, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in such handling of any agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, the Secretary, having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of milk in the Lowell-Lawrence, Massachusetts, marketing area, would tend to effectuate the declared policy of said act, gave, on the 7th day of October 1938, notice of a public hearing to be held jointly with the Milk Control Board of the Commonwealth of Massachusetts, at Dracut, Massachusetts, which hearing was held on the 14th day of October 1938, on a proposed marketing agreement and a proposed order, said hearing being reopened at Lawrence, Massachusetts, on the 12th day of December 1938 for the purpose of receiving additional evidence, and at said times and places conducted public hearings jointly with the Milk Control Board of the Commonwealth of Massachusetts, at which all interested parties were afforded an opportunity to be heard on the proposed marketing agreement and the proposed order; and

Whereas, after said hearing, the Secretary issued a tentatively approved marketing agreement on the 21st day of January 1939 and on the 6th day of February 1939 issued an order regulating the handling of milk in the Lowell-Lawrence, Massachusetts, marketing area; and

Whereas, the Secretary, having reason to believe that an amendment to said marketing agreement and to said order would tend to effectuate the declared policy of said act, gave, on the 30th day of September 1939, notice of a public hearing to be held jointly with the Milk Control Board of the Commonwealth of Massachusetts, at Lowell, Massachusetts, which hearing was held on the 7th day of October 1939, on an amendment to said marketing agreement and said order, and at the same time and place conducted a public hearing jointly with the Milk Control Board of the Commonwealth of Massachusetts, at which all interested parties were afforded an opportunity to be heard on the proposal to amend the said marketing agreement and said order; and

§ 934.0 *Findings.* Whereas, the Secretary finds, upon the evidence introduced at the last above-mentioned hearings, said findings being in addition to findings made upon the evidence introduced at the original hearings on said order and being in addition to other findings and determinations made prior to or at the time of the original issuance of said order (which findings are hereby ratified and affirmed save only as such findings are in conflict with the findings hereinafter set forth):

1. That the prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to sections 2 and 8e of said act, are not reasonable in view of the prices of feeds, the available supplies of feed, and other economic conditions which affect the market supply of and demand for such milk, and that the minimum prices set forth in this amendment to the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; that the fixing of such prices does not have for its purpose the maintenance of prices to producers above the levels which are declared in the act to be the policy of Congress to establish;

2. That the provisions relating to the transfers of milk to and from the marketing area by handlers allow for a more economical use of the available facilities for handling milk and delineate more specifically milk produced for sale in the marketing area;

3. That the period used in computing the butterfat differential allows handlers to make more economically a final settlement for additional butterfat delivered on a semi-monthly basis;

4. That the experience of administering the original terms of Order No. 34 justifies the rate of assessment that handlers shall pay to defray the cost of administration of the order;

5. That all of the remaining provisions of this amendment to the order, are necessary to effectuate the other provisions of the order;

6. That the order, as herein amended, regulates the handling of milk in the same manner as the marketing agreement upon which hearings have been held;

7. That the issuance of this amendment to the order, and all of its terms and conditions, will tend to effectuate the declared policy of the act;

Now, therefore, The Secretary of Agriculture, pursuant to the powers conferred upon him by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, hereby orders that the order regulating the handling of milk in the Lowell-Lawrence, Massachusetts, marketing area be and it is hereby amended as follows:

*Amendments to Section 934.0, Sec. 934.1, Sec. 934.3, Sec. 934.4, Sec. 934.5, Sec. 934.6, Sec. 934.7, Sec. 934.8, and Sec. 934.10 issued under the authority of 48 Stat. 31 (1933), 7 U.S.C. 608 (3); 50 Stat. 246 (1937), 7 U.S.C. 608c; 7 U.S.C. 601 et seq. (Supp. IV 1938).

1. Delete Sec. 934.1 (a) (5) and substitute therefor the following:

(5) The term "producer" means any person who produces milk which is delivered to a receiving plant from which milk is shipped to, or sold in, the marketing area during any delivery period, including any person reported by a handler who is under contract with such handler, either individually or through a qualified association of producers of which he is a member, to have his milk received and paid for as part of the handler's supply for the marketing area, but whose milk may be delivered to another plant of that handler, the handling of milk in which plant is not otherwise subject to the terms hereof: *Provided*, That persons reported pursuant to Sec. 934.5 (b) (5) whose milk is delivered to a plant for the marketing area and all persons not reported pursuant to Sec. 934.5 (b) (5) whose milk is delivered to a handler's receiving plant subject to the order regulating the handling of milk in the Greater Boston marketing area pursuant to Sec. 934.6 (c) shall not be considered as producers.

2. Delete Sec. 934.3 (a) (1) and substitute therefor the following:

(1) All milk, including all milk referred to in paragraph (c) (2) of this section, the utilization of which is not established as Class II milk shall be Class I milk.

3. Add the following as paragraph (c) of Sec. 934.3:

(c) *Transfers of milk to and from other markets.* (1) Milk received by a handler from producers at a plant of that handler the handling of milk in which plant is not otherwise subject to the terms hereof and milk transferred to such a plant from such handlers' plants for the Lowell-Lawrence marketing area shall be considered (a) as Class II milk if received at a plant of that handler, the handling of milk in which plant is subject to the order regulating the handling of milk for the Greater Boston marketing area, and (b) as Class I milk if received at a plant of that handler the handling in which plant is not subject to orders regulating either the Greater Boston or the Lowell-Lawrence marketing area.

(2) Milk received by a handler at his plant for the marketing area, (i) from persons reported by the handler as being under contract with that handler, either individually or through a qualified association of producers of which they are members, to have their milk received and paid for as part of that handler's supply for a marketing area other than the Lowell-Lawrence marketing area, or (ii) milk transferred to his plant for the marketing area from a plant not otherwise subject to the Lowell-Lawrence marketing area shall be considered (a) as Class I milk if from plants for, and from persons with contracts applying to, the Greater Boston marketing area, and (b) Class II milk if from plants for, and from persons with contracts applying to, marketing areas other than Greater Boston and Lowell-Lawrence, except that for any delivery period during which the volume of such receipts exceeds the total volume of milk from producers which was actually disposed of as Class II milk, and transferred to a plant of that handler that is subject to the order regulating the Greater Boston marketing area, part (b) of this subparagraph and Sec. 934.6 (d) shall not apply to such milk.

4. Delete Sec. 934.4 (a) and substitute therefor the following:

(a) *Price to associations of producers.* Each handler shall pay an association of producers, at the time and in the manner set forth in Sec. 934.8, for milk containing 3.7 percent butterfat delivered in bulk from such association's receiving plant to such handler's plant located within 20 miles of the City Hall in Lowell or Lawrence, the applicable price pursuant to paragraph (b) (1) of this section plus 7 cents.

5. Delete Sec. 934.4 (b) (1) and substitute therefor the following:

(1) During the delivery periods prior to May 1, 1940, $3.46 per hundredweight, and thereafter $3.06 per hundredweight for such milk delivered from producers' farms to such handler's receiving plant located within 20 miles of the City Hall in Lowell or Lawrence; except that with respect to Class I milk disposed of under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be $3.06 per hundredweight during the delivery periods prior to May 1, 1940, and thereafter the price shall be $2.66 per hundredweight.

6. Delete Sec. 934.4 (b) (2) and substitute therefor the following:

(2) For such milk delivered from producers' farms to such handler's receiving plant not located within 20 miles of the City Hall in Lowell or Lawrence, an amount per hundredweight determined in accordance with subparagraph (1) of this paragraph, less an amount equal to 20 cents, plus the average of the freight rates from the railroad shipping point for such handler's plant to Lowell and to Lawrence, calculated according to the lowest applicable rail tariffs for the transportation in carload lots of milk in 40-quart cans (considering 85 pounds of milk per 40-quart can).

7. Add the following as Sec. 934.4 (d):

(d) *Sales outside the marketing area.* The price to be paid to associations of producers or to producers for Class I milk sold outside of the marketing area shall be the Class I price set forth in this section: *Provided however*, That if the market administrator ascertains that the prevailing price for milk of equivalent use being paid by dealers in the area in which the milk is sold is lower, then the price ascertained to be the prevailing price shall be paid.

8. Add as subparagraph (5) of Sec. 934.5 (a):

(5) Milk received pursuant to Sec. 934.3 (c).

9. Add as subparagraph (5) of Sec. 934.5 (b):

(5) On or before the 8th day after the end of each delivery period, each handler shall report the names of any persons whose milk such handler is reporting pursuant to Sec. 934.3 (c) and include a certification that these persons have contracts as specified in Sec. 934.3 (c).

10. Delete Sec. 934.6 (c) and substitute therefor the following:

(c) *Plants reporting to the Greater Boston market.* The provisions hereof shall not apply, except as provided in Sec. 934.3 (c), to the handling of milk received at any handler's receiving plant which is subject to the provisions of the order regulating the handling of milk in the Greater Boston, Massachusetts, marketing area (Order No. 4), issued by the Secretary on February 7, 1936, effective February 9, 1936, as amended, or of any order superseding or amending such order, unless such handler disposes of less than 10 percent of his total receipts as Class I milk in the Greater Boston marketing area.

11. Add the following as paragraph (d) of Sec. 934.6:

(d) *Producers for other markets.* The provisions hereof will not apply, except as provided in Sec. 934.3 (c) (2), Sec. 934.5 (a) (5), and Sec. 934.7 (a), to the handling of the milk of any person who is reported by a handler as being under a contract with such handler, either individually or through a qualified association of producers of which he is a member, to have his milk received and paid for as a part of the supply of milk for another plant of such handler, the handling of milk in which plant is not subject to the terms hereof.

12. Add the following as subdivision (iii) of Sec. 934.7 (a) (1):

(iii) The quantity of milk received by such handler reported and classified pursuant to (a) of Sec. 934.3 (c) (2).

13. Renumber Sec. 934.7 (a) (3) as Sec. 934.7 (a) (4).

14. Add the following as subparagraph (3) of Sec. 934.7 (a):

(3) Subtract from the quantity of such handler's Class II milk the quantity of milk received by such handler pursuant to (b) of Sec. 934.3 (c) (2).

15. Add the following as subparagraph (3) of Sec. 934.7 (b):

(3) Subtract any amounts required to be paid under the order regulating the

handling of milk in the Greater Boston marketing area, with respect to the handling of any milk pursuant to Sec. 934.6 (c).

16. Delete subparagraphs (3) and (4) of Sec. 934.7 (b) and renumber subparagraph (5) as subparagraph (4) and delete therefrom the words "which remains after subtraction pursuant to subparagraph (4) of this paragraph."

17. Delete subdivision (ii) of Sec. 934.8 (a) (2).

18. In Sec. 934.8 (a) (2) (i) delete the phrase "subdivisions (ii) and (iii) of this subparagraph" and substitute therefor the following: "subdivision (ii) of this subparagraph."

19. Renumber Sec. 934.8 (a) (2) (iii) as Sec. 934.8 (a) (2) (ii) and delete in the same section the phrase "subdivisions (i) and (ii) of this subparagraph" and substitute therefor the following: "subdivision (i) of this subparagraph."

20. Delete Sec. 934.8 (c) and substitute therefor the following:

(c) *Butterfat differential.* If any producer has delivered to any handler during delivery period milk having an average butterfat content other than 3.7 percent, such handler shall, in making payments to such producer, prescribed by paragraph (a) of this section, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent an amount per hundredweight which shall be calculated by the market administrator as follows: divide by 33 the weighted average price per 40-quart can of bottling quality cream in the Boston market, as reported by the United States Department of Agriculture for the period between the 16th day of the preceding month and the 15th day, inclusive of the delivery period during which such milk is delivered, or the last such price reported for a delivery period if no such price is reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of the delivery period during which such milk is delivered, and divide the result by 10.

21. Delete Sec. 934.8 (d) (1) and substitute therefor the following:

(1) With respect to all milk delivered by a producer to a handler at a receiving plant not located within 20 miles of the City Hall in Lowell or Lawrence, there shall be deducted an amount per hundredweight equal to 20 cents plus the average of the lowest freight rates from the railroad shipping point for such handler's plant to Lowell and Lawrence, according to the tariff currently approved by the Interstate Commerce Commission for the transportation in carload lots of milk in 40-quart cans (considering 85 pounds of milk per 40-quart can).

22. Delete the phrase "2 cents" in Sec. 934.10 (a) and in lieu thereof insert the phrase "3 cents".

In witness whereof, I, H. A. Wallace, Secretary of Agriculture of the United States, have executed, in duplicate, and issued this amendment to the order regulating the handling of milk in the Lowell-Lawrence marketing area, to become effective at such time as I may subsequently declare, and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 19th day of January 1940.

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

[F. R. Doc. 40-336; Filed, January 20, 1940; 12:49 p. m.]

TITLE 10—ARMY: WAR DEPARTMENT

CHAPTER VII—PERSONNEL

PART 73—APPOINTMENT OF COMMISSIONED OFFICERS AND CHAPLAINS [1]

APPOINTMENT OF SECOND LIEUTENANTS, REGULAR ARMY, FROM HONOR GRADUATES OF SENIOR DIVISION RESERVE OFFICERS' TRAINING CORPS UNITS

§ 73.52 [2] *Authority.* Under the provisions of Section 24e, National Defense Act, as amended by section 7, act April 3, 1939, selection of members of Group 3 (honor graduates) for appointment as second lieutenant in the Regular Army will be made as indicated herein. (41 Stat. 774; 10 U.S.C. 484, amended by sec. 7, 53 Stat. 555) [Par. 1*b*, A.R. 605-7, Jan. 11, 1940]

§ 73.53 [2] *Apportionment of appointments.* The number of second lieutenants to be appointed in the Regular Army annually from Group 3 will be determined by the Secretary of War. These appointments will be divided among corps areas in proportion to the number of second year advanced senior division Reserve Officers' Training Corps students of institutions, other than medical, within the continental United States which offer a college degree upon satisfactory completion of not less than a four years' college course. Appointments from Group 3 will be made only in the arms other than the Air Corps. (41 Stat. 774; 10 U.S.C. 484, amended by sec. 7, 53 Stat. 555) [Par. 2, A.R. 605-7, Jan. 11, 1940]

§73.54 [2] *Eligibility for appointment.* (a) In order to be eligible for appointment from Group 3 a candidate must be at the time of appointment—

(1) A male citizen of the United States;

(2) Between the ages of 21 and 30 years;

(3) Single, and never previously married.

(b) Appointments will be confined to honor graduates of senior division Reserve Officers' Training Corps units of institutions, other than medical, within the continental United States which offer a college degree upon satisfactory completion of not less than a four years' college course except as indicated in paragraph (c) below. The term "honor graduate" will apply to graduates of the institution in the current academic year (except as indicated in paragraph (d) below) who are graduates of the Reserve Officers' Training Corps in the current year or previous years, citizens of the United States, who have been selected by the president or other head 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.

(c) Appointments from Group 3 also may be made from honor Reserve Officers' Training Corps graduates of class MI institutions (see Sec. 62.05, par. (a)), provided:

(1) That in this case the term "honor graduate" will apply to graduates of such institutions who hold either a commission or a certificate of appointment in the Officers' Reserve Corps, citizens of the United States, who have been selected by the president or other head 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.

(2) Further, that they will graduate in the current academic year (except as indicated in paragraph (d) below) from an institution which offers a college degree upon satisfactory completion of not less than a four years' college course, and that they have been selected by the president or other head of the institution as honor graduates for scholastic excellence.

(d) In order to be eligible for consideration for selection for appointment in the Regular Army, honor graduates must attain the age of 21 years on or before the dates designated by the War Department for appointments to be made in the Regular Army. Honor graduates who are ineligible for appointment in the Regular Army in the year in which they graduate in honor status because they were under the prescribed age will be permitted to compete for appointments in the Regular Army with honor graduates in the first year subsequent thereto in which they attain the prescribed age.

(e) Students who will complete their graduation from the institution by completion of an academic camp or who will graduate from the Reserve Officers' Training Corps upon completion of summer camp training prior to September 1 may be designated as honor graduates, if otherwise qualified, and if so designated will be permitted to compete for appointments in the Regular Army with other honor graduates in the year in which they graduate. (41 Stat. 774; 10 U.S.C. 484,

[1] These regulations supersede sections 73.52 to 73.56 inclusive, Chapter VII, Title 10, Code of Federal Regulations.

[2] 3 F.R. 2758 DI.

amended by sec. 7, 53 Stat. 555) [Par. 3, A.R. 605–7, Jan. 11, 1940]

§ 73.55[2] *Application.* (a) Candidates will make application on W.D., A.G.O. Form No. 62 (Application for commission in the Regular Army) not later than December 1 of each year for examinations to be held under these regulations.

(b) Candidates who are students in institutions which have senior division Reserve Officers' Training Corps units will submit their applications with a photograph not less than 3 by 5 inches in size to the professors of military science and tactics.

(c) Candidates who graduated the previous year but who were not eligible for appointment in the Regular Army in the year of graduation because they were under the prescribed age will submit their applications with a photograph not less than 3 by 5 inches in size to the professor of military science and tactics of the institution from which they graduated.

(d) Candidates who are students in institutions which do not have senior division Reserve Officers' Training Corps units will submit their application to the commander of the corps area in which their institution is located, inclosing a photograph not less than 3 by 5 inches in size and conclusive evidence that they are honor Reserve Officers' Training Corps graduates of a class MI institution, or were so designated under regulations pertinent at the time of graduation from the class MI institution, and that they have been designated as probable honor graduates of an institution which offers a college degree upon satisfactory completion of not less than a four years' college course by the president or other head thereof. The corps area commander will notify the applicant whether or not he is authorized to appear before the board and if so authorized, where and when he will report, at his own expense, for examination by the board. The corps area commander's decision in this matter will be final. (41 Stat. 774; 10 U.S.C. 484, amended by sec. 7, 53 Stat. 555) [Par. 4, A.R. 605–7, Jan. 11, 1940]

§ 73.56[2] *Method of selection.* (a) A board of Regular Army officers consisting of not less than two line officers and one medical officer will be appointed annually by each corps area commander to examine the candidates and recommend selections for appointment therefrom to fill the corps area allotment. These boards will visit annually, during the month of February, each institution which has eligible candidates in their respective corps areas for the purpose of examining all eligible applicants.

(b) The professor of military science and tactics of each institution concerned, after consultation with the president or other head of the institution, will designate annually the probable honor graduates for the current academic year, and will submit to their respective corps area commanders not later than January 1 annually, the written applications of the candidates (see sec. 73.55), photographs, and fitness reports.

(c) Members of the Reserve Officers' Training Corps who attend a summer training camp just prior to the beginning of their senior year will be given a thorough physical examination during the summer camp period. Professors of military science and tactics will obtain a copy of these reports of physical examination of honor graduates and will forward these reports to corps area commanders.

(d) Upon arrival of the board at each school, all candidates authorized to appear before the board who desire to apply for appointment in the Regular Army will be requested to report to the board for examination. The examination will consist of study of the records submitted to the board by the professors of military science and tactics of the institution and of any other records necessary to determine whether or not the applicants comply with all legal requirements for appointment as commissioned officers in the Regular Army and a physical and oral examination of each candidate. The candidates will be given an opportunity to express to the board their preference as to the arms, other than the Air Corps, in which they desire to be assigned but will be informed by the board that final assignment to arms will be determined by the War Department. They also will be informed by the board that actual appointment is subject to appropriation of the necessary funds by Congress, and to meeting the requirements of a final physical examination prior to appointment.

(e) The corps area commander will forward to The Adjutant General, not later than April 1 annually, the report and recommendations of the board and such comments and recommendations as he desires to make, together with all papers pertaining to the candidates selected as principals and alternates and will promptly notify all other candidates that they have not been recommended for appointment in the Regular Army.

(f) The War Department board will recommend a number of alternates in order of priority for each corps area similar to the number to be appointed therefrom.

(g) (1) Corps area commanders will be notified by The Adjutant General of the candidates selected for appointment and will arrange for the final physical examinations. Corps area commanders will notify the candidates concerned that they have been selected for appointment in the Regular Army, subject to passing satisfactorily a final physical examination, and the place and time to report, at their own expense, for this physical examination.

(2) Corps area commanders also will be notified by The Adjutant General of the candidates selected as alternates and will notify the candidates concerned that they have been so selected. In case any of the candidates selected for appointment decline to take the final physical examination, fail to pass it satisfactorily, or decline appointment when tendered, corps area commanders will arrange for the physical examination of these alternates in order of priority to fill the corps area allotment. When selections have been made to fill corps area allotments, alternates who have not been selected for appointment will be so notified.

(h) Candidates selected by the War Department who pass satisfactorily the final physical examination will be tendered appointments as second lieutenants, Regular Army, in the arms designated by the War Department. Date of appointment of those who graduate prior to July 1 will be on or about July 1 of each year. Date of appointment of those who graduate on or after July 1 but prior to September 1 will be on or about September 1 of each year. In case any of these decline appointment, the appointment will be tendered to the next qualified alternate in order of priority indicated in paragraph (f) above, from the corps area in which the original appointee was selected. (41 Stat. 774; 10 U.S.C., 484, amended by sec. 7, 53 Stat. 555) [Par. 5, A.R. 605–7, Jan. 11, 1940]

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

[F. R. Doc. 40–331; Filed, January 20, 1940; 10:35 a. m.]

[2] 3 F.R. 2758 DI.

TITLE 14—CIVIL AVIATION

CHAPTER I—CIVIL AERONAUTICS AUTHORITY

[Amendment 1 of § 228.3 of Economic Regulations]

GRANTING ACCESS TO AIRCRAFT TO INSPECTORS OF THE AUTHORITY OTHER THAN AIR CARRIER INSPECTORS

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C. on the 19th day of January 1940.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a) and 605 (b) of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under said Act, the Civil Aeronautics Authority hereby amends the Economic Regulations as follows:

Effective January 19, 1940, section 228.3 (a) and 228.3 (b) of the Economic Regulations are amended to read as follows:

"§ 228.3 *Access to aircraft by duly qualified inspectors of the Civil Aeronautics Authority.* (a) Every air carrier

shall, subject to the provisions of this regulation, carry on any aircraft which it operates and to which access is sought, without charge therefor, any duly qualified inspector of the Authority (including supervising officers of such inspectors) whose name is contained in an official list of such inspectors supplied to such air carrier by the Chief of the Air Carrier Inspection Section of the Authority.

(b) Upon applying for such transportation, each inspector shall exhibit to the appropriate agents of the air carrier proper credentials evidencing that he is such an inspector. He shall also sign and deliver to the carrier in duplicate a "Request for Access to Aircraft," (on forms supplied by the Civil Aeronautics Authority) stating:

(1) That he is a duly qualified inspector of the Air Carrier Inspection Section of the Authority;

(2) That he desires access to a certain aircraft of the air carrier from a named point of departure on a designated date and hour to a named destination for the purpose of performing his official duties during flight of such aircraft; and

(3) The basis ("space available" or "must ride") on which such request for access to such aircraft is submitted and, if such request is submitted on a "must ride" basis, describing briefly but definitely the nature of his business.

The air carrier shall retain one copy of each such request. On or before the tenth day of each month, each air carrier shall forward one copy of all such requests received by it during the second preceding calendar month to the Secretary of the Civil Aeronautics Authority, Washington, D. C.

By the Authority.

[SEAL] ROBERT R. REINING,
Acting Secretary.

[F. R. Doc. 40-342; Filed, January 22, 1940; 12:13 p. m.]

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 3128]

IN THE MATTER OF MERRILL CANDY COMPANY

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of candy or other merchandise, candy or any other merchandise so packed and assembled that sales of said candy or other merchandise to the general public are to be, or may be, made by means of a lottery, gaming device or gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Merrill Candy Company, Docket 3128, December 29, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of candy or other merchandise, others with packages or assortments of candy or other merchandise, together with push or pull cards, punchboards or any other lottery devices, which said push or pull cards, punchboards or other lottery devices are to be, or may be, used in selling or distributing said candy or other merchandise to the general public, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Merrill Candy Company, Docket 3128, December 29, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of candy or other merchandise, others with push or pull cards, punchboards, or any other lottery devices, either with assortments of candy or other merchandise, or separately, which said push or pull cards, punchboards, or other lottery devices, are to be, or may be, used in selling or distributing such candy or other merchandise to the general public, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Merrill Candy Company, Docket 3128, December 29, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of candy or other merchandise, any merchandise by means of a game of chance, gift enterprise or lottery scheme, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Merrill Candy Company, Docket 3128, December 29, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of December, A. D. 1939.

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

IN THE MATTER OF MERRILL CANDY COMPANY, A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before William C. Reeves, Charles F. Diggs, Miles J. Furnas, examiners of the Commission, theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, brief of counsel for the Commission, filed herein (respondent having filed no brief and oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, that the respondent, Merrill Candy Company, a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of candy or any other merchandise in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Selling or distributing candy or any other merchandise so packed and assembled that sales of said candy or other merchandise to the general public are to be made, or may be made, by means of a lottery, gaming device or gift enterprise;

(2) Supplying to, or placing in the hands of, others packages or assortments of candy or other merchandise together with push or pull cards, punchboards or any other lottery devices, which said push or pull cards, punchboards or other lottery devices are to be used, or may be used, in selling or distributing said candy or other merchandise to the general public;

(3) Supplying to or placing in the hands of others push or pull cards, punchboards, or any other lottery devices, either with assortments of candy or other merchandise, or separately, which said push or pull cards, punchboards, or other lottery devices, are to be used or may be used in selling or distributing such candy or other merchandise to the general public;

(4) Selling or otherwise distributing any merchandise by means of a game of chance, gift enterprise or lottery scheme.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-321; Filed, January 19, 1940; 1:27 p. m.]

[Docket No. 3825]

IN THE MATTER OF MILTON PRODUCTS COMPANY

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* Representing, directly or indirectly, in connection with offer, etc., in commerce, of respondent's merchandise, that by the use of respondent's books of instruction on the playing of musical instruments one can acquire the ability to play the piano, guitar or ukelele; or that, by the use of respondent's book of instructions on

[1] 3 F.R. 989 DI.

hypnotism, one can acquire the power to cure oneself of the addiction to drugs or other bad habits, enhance one's self respect, will power or personal magnetism, or influence or direct the affairs of others; or that, by the use of respondent's other books of instruction, one may be enabled to tell fortunes, foretell future events, read the minds of others or interpret or divine the meaning of dreams; or that one can acquire any ability, power or quality through or by means of any course of instruction, book or other literature of respondent, when such is not the fact; prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec 45b) [Cease and desist order, Milton Products Company, Docket 3825, December 29, 1939]

§ 3.6 (n) (2) *Advertising falsely or misleadingly — Nature — Product:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (ff10) *Advertising falsely or misleadingly—Unique nature or advantages.* Representing, directly or indirectly, in connection with offer, etc., in commerce, of respondent's merchandise, that respondent's telescopes are of 2½ power or that such telescopes or other optical goods sold by respondent are of a quality and power which, in fact, they do not possess, or that any watches or jewelry sold by respondent will not tarnish, possess exclusive features or are finished in gold, when such is not the fact, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Milton Products Company, Docket 3825, December 29, 1939]

§ 3.6 (t) *Advertising falsely or misleadingly — Qualities or properties of product:* § 3.96 (a) (6) *Using misleading name—Goods—Qualities or properties.* Representing, directly or indirectly, in connection with offer, etc., in commerce, of respondent's merchandise, that respondent's product "U-Kan-Plate" or any similar product sold by respondent will, when applied to metal, "plate", as distinguished from "coat", such metal with silver, or that skeleton keys sold by respondent will open any and all kinds of door locks, when such is not the fact, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Milton Products Company, Docket 3825, December 29, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of December, A. D. 1939.

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

IN THE MATTER OF MILTON MEYER, AN INDIVIDUAL TRADING AND DOING BUSINESS AS MILTON PRODUCTS COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent, in which answer respondent admits certain material allegations of fact set forth in said complaint and denies other allegations of fact set forth therein, and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Milton Meyer, individually, and trading as Milton Products Company, or under any other name or names, his representatives, agents and employees, directly or indirectly, or through any corporate or other device, in connection with the offering for sale, sale and distribution of his merchandise in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, that, by the use of respondent's books of instruction on the playing of musical instruments, one can acquire the ability to play the piano, guitar, or ukelele; or that, by the use of respondent's book of instructions on hypnotism, one can acquire the power to cure one's self of the addiction to drugs or other bad habits, enhance one's self respect, will power or personal magnetism, or influence or direct the affairs of others; or that, by the use of respondent's other books of instruction, one may be enabled to tell fortunes, foretell future events, read the minds of others or interpret or divine the meaning of dreams; or that one can acquire any ability, power or quality through or by means of any course of instruction, book or other literature of respondent, when such is not the fact;

2. Representing, directly or indirectly, that respondent's telescopes are of 2½ power or that such telescopes or other optical goods sold by respondent are of a quality and power which, in fact, they do not possess;

3. Representing, directly or indirectly, that any watches or jewelry sold by respondent will not tarnish, possess exclusive features or are finished in gold, when such is not the fact ;

4. Representing, directly or indirectly, that respondent's product "U-Kan-Plate" or any similar product sold by respondent will, when applied to metal, "plate", as distinguished from "coat", such metal with silver;

5. Representing, directly or indirectly, that skeleton keys sold by respondent will open any and all kinds of door locks, when such is not the fact.

It is further ordered, That said respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 40–322; Filed, January 19, 1940; 1:28 p. m.]

[Docket No. 3878]

IN THE MATTER OF STONE BROS., INC.

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying etc., in connection with offer, etc., in commerce, of candy, liquor chests, utility chests, or other merchandise, others with push or pull cards, punch boards, or other lottery devices, so as to enable such persons to dispose of or sell any merchandise by the use thereof, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Stone Bros., Inc., Docket 3878, December 29, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Mailing, etc., in connection with offer, etc., in commerce, of candy, liquor chests, utility chests, or other merchandise, to agents or to distributors or to members of the public, push or pull cards, punch boards or other lottery devices, so prepared or printed as to enable said persons to sell or distribute any merchandise by the use thereof, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Stone Bros., Inc., Docket 3878, December 29, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of candy, liquor chests, utility chests, or other merchandise, any merchandise by the use of push or pull cards, punch boards, or other lottery devices, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Stone Bros., Inc., Docket 3878, December 29, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of December, A. D. 1939.

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

IN THE MATTER OF STONE BROS., INC., A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the

complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Stone Bros., Inc., a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of candy, liquor chests, utility chests or any other merchandise in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Supplying to or placing in the hands of others push or pull cards, punch boards, or other lottery devices, so as to enable such persons to dispose of or sell any merchandise by the use thereof;

2. Mailing, shipping, or transporting to agents or to distributors or to members of the public, push or pull cards, punch boards or other lottery devices, so prepared or printed as to enable said persons to sell or distribute any merchandise by the use thereof;

3. Selling, or otherwise disposing of, any merchandise by the use of push or pull cards, punch boards, or other lottery devices.

It is further ordered, That the respondent shall, within sixty days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 40-323; Filed, January 19, 1940; 1:28 p. m.]

[Docket No. 3902]

IN THE MATTER OF ESQUIRE PRODUCTS

§ 3.6 (r) (2.5) *Advertising falsely or misleadingly — Prices — Exaggerated as regular and customary:* § 3.6 (gg) *Advertising falsely or misleadingly—Value.* Representing, in connection with offer, etc., in commerce, of radios, waffle irons, coffee tray sets, pencils or other merchandise, as the customary or regular price or value of respondent's products prices and values which are in fact fictitious and greatly in excess of the prices at which such products are customarily offered for sale and sold in the normal course of business, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Esquire Products, Docket 3902, December 29, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of radios, waffle irons, coffee tray sets, pencils or other merchandise, others with push or pull cards, punch boards or other lottery devices, so as to enable such persons to dispose of or sell any merchandise by the use thereof, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Esquire Products, Docket 3902, December 29, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Mailing, etc., in connection with offer, etc., in commerce, of radios, waffle irons, coffee tray sets, pencils or other merchandise, to agents or to distributors or to members of the public, push or pull cards, punch boards or other lottery devices so prepared or printed as to enable said persons to sell or distribute any merchandise by the use thereof, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Esquire Products, Docket 3902, December 29, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of radios, waffle irons, coffee tray sets, pencils or other merchandise, any merchandise by the use of push or pull cards, punch boards or other lottery devices, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Esquire Products, Docket 3902, December 29, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of December, A. D. 1939.

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

IN THE MATTER OF MARTIN BENJAMIN ROTHMAN, AN INDIVIDUAL TRADING AS ESQUIRE PRODUCTS

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Martin Benjamin Rothman, an individual, trading as Esquire Products or trading under any other name or names, his representatives, agents and employees, directly or through any corporate or other device in connection with the offering for sale, sale and distribution of radios, waffle irons, silverware, coffee tray sets, pencils, griddles or any other merchandise in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing as the customary or regular price or value of respondent's products prices and values which are in fact fictitious and greatly in excess of the prices at which such products are customarily offered for sale and sold in the normal course of business;

2. Supplying to or placing in the hands of others push or pull cards, punch boards or other lottery devices, so as to enable such persons to dispose of or sell any merchandise by the use thereof;

3. Mailing, shipping or transporting to agents or to distributors or to members of the public, push or pull cards, punch boards or other lottery devices so prepared or printed as to enable said persons to sell or distribute any merchandise by the use thereof;

4. Selling, or otherwise disposing of, any merchandise by the use of push or pull cards, punch boards or other lottery devices.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 40-324; Filed, January 19, 1940; 1:29 p. m.]

[1] 4 F.R. 4439 DI.

TITLE 17—COMMODITIES AND SECURITIES EXCHANGE

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT

AMENDMENT OF RULE U-9C-3

Acting pursuant to the Public Utility Holding Company Act of 1935, particularly Sections 9 (c) and 20 (a) thereof [C. 687, sec. 9, 49 Stat. 817; 15 U.S.C., Sup. III, 79i: C. 687, sec. 20, 49 Stat. 833; 15 U.S.C., Sup. III, 79t], and finding that such action is necessary and appropriate in the public interest, and for the protection of investors and consumers, the Securities and Exchange Commission hereby amends paragraph (14) of Rule U-9C-3 [Sec. 250.U-9C-3], so that it shall read as follows:

(14) Any such company may acquire, during any calendar year, from any person other than an associate company, an affiliate or an affiliate of an associate

company, not more than 1 per cent of the total amount outstanding, as of the end of the prior calendar year, of each class of

(a) evidences of indebtedness of which it is the issuer; or

(b) securities issued by any of its subsidiary companies.

Effective January 20, 1940.

By the Commission, Mathews, C., dissenting from the adoption of this amendment.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-334; Filed, January 20, 1940; 12:35 p. m.]

PUBLIC UTILITY HOLDING COMPANY ACT

ADOPTION OF RULE U-9C-5

Acting pursuant to the Public Utility Holding Company Act of 1935, particularly Sections 9 (c) and 20 (a) thereof, and finding that such action is necessary and appropriate in the public interest, and for the protection of investors and consumers, the Securities and Exchange Commission hereby adopts Rule U-9C-5 to read as follows:

§ 250.U-9C-5 (*U-9C-5*). Any exemption available under paragraph (14) of Rule U-9C-3 (Sec. 250.U-9C-3) as in effect prior to January 20, 1940, shall continue applicable as to the acquisition of any securities the issuance and sale of which to the acquiring company are the subject of an application or declaration theretofore filed with the Commission pursuant to Section 6 (b) [C. 687, sec. 6, 49 Stat. 814; 15 U.S.C., Sup. III, 79f.] or 7 [C. 687, sec. 7, 49 Stat. 815; 15 U.S.C., Sup. III, 79g] of the Act.

Effective January 20, 1940.

(C. 687, sec. 9, 49 Stat. 817; 15 U.S.C., Sup. III, 79i: C. 687, sec. 20, 49 Stat. 833; 15 U.S.C. Sup. III, 79t.) [Gen. Rules and Regs., Rule U-9C-5, effective January 20, 1940]

By the Commission, Eicher, C., and Henderson, C., dissenting from the adoption of this rule.

[SEAL] FRANCIS B. BRASSOR,
Secretary.

[F. R. Doc. 40-333; Filed, January 20, 1940; 12:35 p. m.]

TITLE 22—FOREIGN RELATIONS

CHAPTER I—DEPARTMENT OF STATE

PART 55C—TRAVEL

Pursuant to the authority contained in the President's Proclamation No. 2374 of November 4, 1939, issued pursuant to section 1 of the Neutrality Act of 1939, I, Cordell Hull, Secretary of State of the United States, hereby prescribe the following regulation, amending the regulations issued on November 6, 1939,[1] as amended by regulations issued on November 17, 1939,[2] and December 14, 1939,[3] relating to travel on belligerent vessels:

§ 55C.3 *American nationals in combat areas*—(g) *Travel on belligerent vessels in Bay of Fundy.* American nationals may travel on belligerent vessels in the Bay of Fundy and its dependent waters. (Sec. 1, Public Res. 54, 76th Cong., 2d sess., approved Nov. 4, 1939; Proc. No. 2374)

[SEAL] CORDELL HULL,
Secretary of State.

JANUARY 16, 1940.

[F. R. Doc. 40-339; Filed, January 22, 1940; 11:21 a. m.]

TITLE 26—INTERNAL REVENUE

CHAPTER I—BUREAU OF INTERNAL REVENUE

[T.D. 4963]

LABELING AND SALE OF RUBBING ALCOHOL COMPOUND

AMENDMENT OF REGULATIONS NO. 3

To District Supervisors, and Others Concerned:

In order further to protect the revenue, and pursuant to the authority contained in Sections 3105 (a), 3124 (a) (6), and 3111, Internal Revenue Code, the second paragraph of Article 146 of Regulations No. 3, as amended, is hereby amended to read as follows:

Rubbing alcohol compound, as referred to in these regulations, shall mean any product manufactured with specially denatured alcohol and represented to be a rubbing alcohol compound. The sale of this product by the manufacturer, or wholesale druggist, must be made directly, or through his employees, only to wholesale or retail druggists, and to purchasers who acquire the product for legitimate external use and not for resale, such as hospitals, sanatoriums, clinics, turkish baths, athletic associations, physicians, dentists, veterinarians, et cetera. This product may also be sold by retail druggists to any of the foregoing or in retail quantities only to other persons for external use. Sales to such other persons by retail druggists must be made through a registered pharmacist who will, at the time of sale, write or stamp across the brand label in contrasting colors the words "Sold by" followed by his (the pharmacist) name and the address of the retail drug store where the sale is made.

A manufacturer, wholesale druggist, retail druggist, or any other person shall not sell rubbing alcohol compound for use, or for sale for use, for beverage purposes, nor shall he sell such product under circumstances from which it might reasonably appear that it is the intention of the purchaser to procure the product for use, or for sale for use, for beverage purposes. Any person who shall sell rubbing alcohol compound in violation of these regulations shall be subject to all provisions of law pertaining to alcohol that is not denatured, including those requiring the payment of tax thereon, and the person so selling the rubbing alcohol compound shall be required to pay such tax and special tax as a dealer in liquors.

The manufacturer shall package rubbing alcohol compound in the bottles in which it is to be sold to the ultimate consumer. Such bottles shall not exceed one pint in capacity and shall bear a brand label and a caution notice placed thereon by the manufacturer. No other person shall place a label or notice thereon. The brand label must contain the following information:

1. The brand or trade name of the product, if any.

2. The legend "Rubbing Alcohol Compound" which shall be in letters of the same color and size as the brand or trade name.

3. The name and address of the manufacturer. (Where rubbing alcohol compound is manufactured and bottled under the name of a dealer for resale, the manufacturer may place his symbol and permit number on the label in lieu of his name and address, provided the name and address of the person for whom manufactured is shown.)

4. The legend "Contains 70 per cent absolute alcohol by volume."

5. The legend "*For external use only.* If taken internally serious gastric disturbances will result."

The caution notice, which shall appear on the back of the bottle, shall be printed in plain and legible type of not less than six-point, and must read as follows:

"Caution Notice:

"The sale of this product by the manufacturer, or wholesale druggist, must be made directly, or through his employees, only to wholesale or retail druggists, and to purchasers who acquire the product for legitimate external use and not for resale, such as hospitals, sanitoriums, clinics, turkish baths, athletic associations, physicians, dentists, veterinarians, et cetera. This product may also be sold by retail druggists to any of the foregoing, or in retail quantities only to other persons for external use. Sales to such other persons must be made by a retail druggist through a registered pharmacist, who will write or stamp across the brand label in contrasting colors the words "Sold by" followed by his (the pharmacist) name and the address of the retail drug store where the sale is made. Sales for other than external use will subject the dealer to special tax as a dealer in liquors and to the internal revenue tax on the alcohol contained in this compound."

[1] 22 CFR 55C.1-2. (4 F.R. 4509 DI.)
[2] 22 CFR 55C.2-3 (b)-(f) (1)-(4). (4 F.R. 4640 DI.)
[3] 22 CFR 55C.3 (f) (5). (4 F.R. 4871 DI.)

The manufacturer may incorporate in the brand label, or in a separate label appearing in conjunction with the brand label, any other desired statement, but such statement shall not obscure or contradict the labeling required hereby. No labeling, other than the caution notice, shall be placed on the back of the bottle.

These regulations shall be effective as to transactions occurring subsequent to the date hereof, except that:

(a) The requirements as to pharmacists shall not take effect until thirty days after the effective date of these regulations.

(b) Each District Supervisor will notify all permittees in his district that they may use present supply of approved labels until exhausted, provided that within thirty days after the effective date of these regulations such labels are supplemented by the caution notice prescribed in these regulations.

(c) The District Supervisor will also notify all permittees that, prior to the exhaustion of their present supply of approved labels, they must file with him Form 1479–A, in quadruplicate, showing formulae, brand labels, and caution notices, or facsimiles thereof, for their rubbing alcohol compounds. The District Supervisor will (1) examine the formulae to ascertain that they are identical with approved formulae now used and (2) examine the brand labels and caution notices, or facsimiles thereof, to determine that they conform with these regulations. If all requirements have been complied with, the District Supervisor will note his approval on each copy of Form 1479–A, return one copy to the permittee, forward one copy to the Commissioner, furnish one copy to the Chemist in Charge, and retain the remaining copy for his files. If the formulae on Form 1479–A are not identical with approved formulae now used, the forms will be forwarded to the Commissioner for consideration. If the brand labels and caution notices, or facsimiles thereof, are disapproved, all copies of Form 1479–A, with attachments, will be returned to the permittee with a statement of the reason for disapproval.

(d) Stocks of rubbing alcohol compound now bottled and labeled need not be relabeled in accordance with these regulations; and

(e) Stocks of rubbing alcohol compound now in the possession of persons other than those entitled to sell the same under the foregoing regulations may be sold for external uses only.

Nothing in the foregoing regulations shall in any manner alter or affect the provisions of Article 146–A of Regulations No. 3, as amended.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, January 18, 1940.

H. MORGENTHAU, JR.
Secretary of the Treasury.

[F. R. Doc. 40–330; Filed, January 20, 1940; 10:18 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

CHAPTER III—PUBLIC DEBT SERVICE

REGULATIONS GOVERNING UNITED STATES SAVINGS BONDS

[1940–Amendment 2, Department Circular 530, 2d Rev.,[1] 12–1–38]

To Owners of United States Savings Bonds, and Others Concerned:

1. Effective January 23, 1940, Sections I, II and III of Department Circular 530, Second Revision, dated December 15, 1938 (Sections 315.1, 315.2 and 315.3 of sub-title B of Title 31, Code of Federal Regulations, Supp. I), are hereby amended to read as follows:

I. REGISTRATION

1. *General.* A United States Savings Bond will be issued only in registered form in substantially one of the forms of registration authorized herein. The name and complete post-office address of the owner or owners and designated beneficiary, if any, and the date as of which the bond is issued will be inscribed thereon at the time of issue by an authorized issuing agent.[2] The form of registration used should express the actual ownership of and interest in the bond and, except as otherwise specifically provided in these regulations, the Treasury Department reserves the right to treat as conclusive the ownership of and interest in the bond expressed in the registration. No designation of an attorney, agent, or other representative to request or receive payment on behalf of the owner may be made in the registration; for example, registration in the form "John G. Brown, payable to David R. Green, attorney in fact" will not be permitted. Registration will not be permitted in a form which purports to restrict the right of the owner or other person named in the registration to receive payment of the bond in accordance with these regulations; for example, registration in the form "John S. Smith, under article 10 of the will of Henry A. Jones," or "John S. Smith, legal guardian of Miss Mary B. Jones, subject to the order of the probate court of Washington County," will not be permitted.

2. *Forms of registration.* The following forms of registration are authorized:

(a) *Natural persons (individuals).* In the names of natural persons (individuals), whether adults or minors, in their own right, as follows:

(1) In the name of one person, as, for example, "John A. Jones."

(2) In the names of two (but not more than two) persons in the alternative, as, for example, "John A. Jones or Mrs. Ella S. Jones." No other form of registration establishing coownership as between natural persons (individuals) in their own right is authorized.

(3) In the name of one person, payable on death to a single designated beneficiary in his own right, as, for example, "John A. Jones, payable on death to Miss Mary E. Jones." Only a natural person (an individual) may be designated as a beneficiary.

The full name of the owner, and that of the coowner or beneficiary, if any, should be given; except that if there are two given names an initial may be substituted for one. The name should be preceded by "Mrs." or "Miss" when appropriate and may be preceded by any applicable title such as "Dr.", "Capt." etc. A married woman's own given name should be used, not that of her husband, for example, "Mrs. Mary A. Jones," not "Mrs. Frank B. Jones." The name of a minor for whose estate a guardian or other legal representative has been appointed by a court of competent jurisdiction should be followed by the words "a minor under legal guardianship." The name of an incompetent should be followed by the words "an incompetent under legal guardianship" or words of similar import.

(b) *Executors, administrators, guardians, trustees, etc.* In the names of fiduciaries, as follows:

In the name of one or more executors, administrators, guardians, or other legal representatives of a single estate, appointed by a court of competent jurisdiction or otherwise legally qualified, all of whose names must be included in the registration, followed by appropriate identifying reference to the estate, as, for example, "John A. Smith, executor of the will (or administrator of the estate) of Henry J. Smith, deceased," or "William C. Jones, guardian (or conservator, curator, committee, etc.) of the estate of James B. Brown, a minor (or an incompetent)." If a guardian or other legal representative holds a common fund for the account of two or more estates, bonds should be registered in the name of the representative for each such estate separately, even though the representative was appointed in a single proceeding. *Registration in the names of natural or voluntary guardians is not authorized.*

(2) In the name of one or more trustees, or other fiduciaries of a single duly constituted trust estate, which will be considered as an entity. The names of all trustees or other fiduciaries must be included in the registration except as hereinafter provided, followed by appropriate identifying reference to the trust instrument or other authority governing the trust, as, for example, "John C. Brown and the First National Bank of Boston, trustees under paragraph 3 of the will of Henry C. Brown, deceased, or "The Second National Bank of Salem, trustee under an agreement with George E. White, dated February 1, 1935." In the case of unincorporated lodges, churches, societies, or similar organiza-

[1] 3 F.R. 3128 DI.

[2] The date of maturity also will be inscribed on savings bonds of Series D.

tions title to whose property is held by trustees, or in the case of public officers acting as trustees under a statute, registration may be in their titles, omitting their names, as, for example, "Trustees of the First Baptist Church, Akron, Ohio, an unincorporated association." In cases where the instrument or other authority governing the trust establishes a board of trustees acting as a board and not individually, registration may be in the name of the board as such, as, for example, "Board of Trustees of the Employees' Retirement System under agreement between the World Corporation and its employees, dated January 1, 1939", or "Board of Trustees of the Police Pension Fund of the City of Burlington, Iowa, under Sections 6310–11, Iowa Code." In any case the Treasury Department may require a copy of the trust instrument. Registration may not be made in the names of trustees under an agreement or other governing authority which purports to create a trust, where the funds used represent security for the proper performance of an obligation, except under a statute the terms of which expressly create an actual trust.

(c) *Private corporations and associations.* In the name of any private organization, whether incorporated or unincorporated, as follows:

(1) A private corporation, followed by the words "a corporation", as, for example, "Smith Manufacturing Company, a corporation."

(2) An unincorporated association, such as a lodge, church, or society, or similar body, followed by the words "an unincorporated association", as, for example, "The Lotus Club, an unincorporated association". The term "an unincorporated association" should not be used to designate a trust fund, a partnership, or a business conducted under a trade name but wholly owned by one person.

(3) A partnership, followed by the words "a partnership," as, for example, "Smith and Brown, a partnership."

The full legal name of the corporation, unincorporated association, or partnership, as the case may be, should be given in the registration. No officer or member of the organization may be named in the registration. Reference may be made, if desired, to a particular bookkeeping fund or account (not a trust), as, for example, "Lafayette Post No. 1, The American Legion, an unincorporated association (Building Fund)."

(d) *States and public corporations.* In the name of the owner or custodian of public funds, other than trust funds, as follows:

(1) Any sovereignty, as a State, or any public corporation, as a county, city, town, village, or school district, as, for example, "County of Middlesex, Massachusetts," or "Town of Takoma Park, Maryland;"

(2) Any duly constituted public board or commission, as, for example, "Maryland State Highway Commission;"

(3) Any public officer, designated by title only, as, for example, "Treasurer, City of Boston."

The registration should include the full name of the sovereignty or public corporation, and may include reference to a particular account, if desired, as, for example, "Treasurer, School District No. 2 of Morris County, Kansas (Cafeteria Fund)."

II. LIMITATION ON TRANSFER

1. *Not transferable.* A United States Savings Bond is not transferable and is payable only to the owner named thereon except in the case of disability or death of the owner or as otherwise specifically provided herein, but in any event only in accordance with the provisions hereof. Accordingly, a savings bond is not suitable for use as collateral for a loan or to secure the performance of an obligation (see Section XVI).

III. LIMITATION ON HOLDINGS

1. *Amount which may be held.* Section 22 of the Second Liberty Bond Act, as amended, provides that it shall not be lawful for any one person at any one time to hold savings bonds issued during any one calendar year in an aggregate amount exceeding $10,000 (maturity value). This provision applies separately to the bonds issued during each calendar year and for the purpose of the limitation a person will be considered to mean an individual, a corporation, an unincorporated association, a partnership, or a trust estate.

In determining whether this limitation is exceeded at any time by any person, there must be taken into account the aggregate maturity value of all savings bonds issued during any one calendar year, as shown by the issue dates thereon, including

(a) The entire maturity value of (1) bonds registered in the name of that person and (2) in the case of individuals those registered in his name with another named as coowner, and

(b) Those in which such person has acquired a present interest because of the death of another or on the happening of any other event.

Bonds of which the person is merely the designated beneficiary in case of the death of the owner, or bonds which are held by him in a fiduciary capacity only, need not be included.

2. *Disposition of excess holdings.* If any person at any time acquires an aggregate present interest in savings bonds issued during any one calendar year in an amount exceeding $10,000 (maturity value), he should immediately surrender the excess, which will be redeemed at the redemption value current on the date the excess arose, but at no higher value.

2. These amendments shall be effective January 23, 1940. The Secretary of the Treasury may at any time, or from time to time, withdraw or amend any or all of the provisions thereof.

[SEAL] H. MORGENTHAU, JR.,
Secretary of the Treasury.

[F. R. Doc. 40–338; Filed, January 22, 1940; 10:58 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

CHAPTER II—CORPS OF ENGINEERS, WAR DEPARTMENT

PART 203—BRIDGE REGULATIONS[1]

§ 203.216 *Oceanport Creek at Oceanport, N. J.; New York and Long Branch Railroad bridge.* (a) During the hours between 5:00 p. m. and 9:00 a. m. from December 1 to April 15, the owner of or agency controlling the bridge will not be required to keep a draw tender in constant attendance at the bridge.

(b) Whenever a vessel unable to pass under the closed bridge desires to pass through the draw during the time specified in paragraph (a), at least four (4) hours' advance notice of the time the opening is required shall be given, by telephone or otherwise, to the authorized representative of the owner of or agency controlling the bridge.

(c) Upon receipt of such notice the said authorized representative shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

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

(e) These special regulations shall take effect and be in force on and after January 15, 1940, and are supplemental to the rules and regulations governing the operation of drawbridges crossing navigable streams flowing into Raritan Bay (except Raritan River and Arthur Kill), the Shrewsbury River and its tributaries, and all inlets on the Atlantic Ocean including their tributaries and canals between Sandy Hook and Bay Head, New Jersey. (Sec. 5, River and Harbor Act, Aug. 18, 1894, 28 Stat. 362; 33 U.S.C. 499) [Special regs., Jan. 9, 1940 (E.D. 6371 (N.Y.—Long Branch R.R.—Oceanport Creek, N. J.)—7/3)]

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

[F. R. Doc. 40–332; Filed, January 20, 1940; 10:35 a. m.]

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[1] These regulations are supplemantal to Part 203, Title 33, Code of Federal Regulations.

Notices

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF PUBLIC HEARING BEFORE INDUSTRY COMMITTEE NO. 9 FOR PURPOSE OF RECEIVING EVIDENCE TO BE CONSIDERED IN RECOMMENDING MINIMUM WAGE RATES FOR THE RAILROAD CARRIER INDUSTRY

In conformity with the Fair Labor Standards Act of 1938, 52 Stat. 1060, and Section 511.11 of Part 511 of the Rules and Regulations issued pursuant thereto, notice is hereby given to all interested persons that a public hearing will be held beginning at 10 A. M., February 14, 1940 in Room 208, 939 D Street, N. W., Washington, D. C., for the purpose of receiving evidence to be considered by Industry Committee No. 9 in determining the highest minimum wage rates for the Railroad Carrier Industry, which, having due regard to economic and competitive conditions, will not substantially curtail employment.

The term "Railroad Carrier Industry" is defined in Administrative Order No. 34, issued November 2, 1939, as follows:

As used in this order the term "Railroad Carrier Industry" means the industry carried on by any express company, sleeping car company or carrier by railroad, subject to Part I of the Interstate Commerce Act, and by any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and by any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such company or carrier by railroad: *Provided, however,* That the term "Railroad Carrier Industry" shall not include the industry carried on by any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power.

Industry Committee No. 9 was created by Administrative Order No. 34, referred to above. It is charged, in accordance with the provisions of the Fair Labor Standards Act of 1938 and Rules and Regulations promulgated thereunder, with the duty of investigating conditions in the Railroad Carrier Industry and recommending to the Administrator minimum wage rates for all employees thereof who within the meaning of said Act are "engaged in commerce or in the production of goods for commerce", excepting employees exempted by the provisions of Section 13 (a) and employees coming under the provisions of Section 14.

Any person who, in the opinion of the Committee or its duly authorized subcommittees, has a substantial interest in the proceeding and is prepared to present material pertinent to the question under consideration, may appear on his own behalf or on behalf of any other person. Persons desiring to appear are requested to file with Burton E. Oppenheim, Director of the Industry Committee Branch, Wages and Hour Division, U. S. Department of Labor, Washington, D. C., prior to February 7, 1940, a Notice of Intention to Appear containing the following information:

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

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

(3) A brief summary of the material intended to be presented.

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

Since the Committee may refuse to hear certain persons on the basis of information received pursuant to item (3) above, and since the length of the hearing will require that appearances be scheduled, persons who have filed Notice of Intention to Appear will be notified whether or not they will be heard and if so at what time.

All testimony will be taken under oath and subjected to reasonable cross examination by any interested person present. Testimony so received will be offered as evidence at the public hearing to be held by the Administrator on such minimum wage recommendations as Industry Committee No. 9 may make.

Written briefs of persons who can not appear personally will be considered by the Committee provided that *thirty copies* thereof are received at the address last given not later than February 9, 1940.

Signed at Washington, D. C., this 17th day of January, 1940.

FRANK P. GRAHAM, *Chairman,*
Industry Committee No. 9
for the Railroad Carrier Industry.

[F. R. Doc. 40-328; Filed, January 20, 1940; 10:10 a. m.]

[Administrative Order No. 38]

ACCEPTANCE OF RESIGNATION FROM AND APPOINTMENT TO INDUSTRY COMMITTEE NO. 9 FOR THE RAILROAD CARRIER INDUSTRY

By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938, I, Harold D. Jacobs, Administrator of the Wage and Hour Division, Department of Labor,

Do hereby accept the resignation of Mr. Oscar K. Cushing from Industry Committee No. 9 for the Railroad Carrier Industry and do appoint in his stead as representative for the public on such committee, Mr. George E. Osborne, of Palo Alto, California.

Signed at Washington, D. C., this 19th day of January, 1940.

HAROLD D. JACOBS,
Administrator.

[F. R. Doc. 40-327; Filed, January 20, 1940; 10:10 a. m.]

NOTICE OF OPPORTUNITY TO PETITION FOR REVIEW OF DETERMINATION DENYING CERTAIN APPLICATIONS FOR PARTIAL EXEMPTION OF THE QUARRYING OF DIMENSION STONE FROM SURFACE OR OPEN CUTS, AS A SEASONAL INDUSTRY

Whereas, applications have been made by the Hall Grindstone Company and sundry other parties under Section 7 (b) (3) of the Fair Labor Standards Act of 1938, and Regulations, Part 526, as amended (Regulations applicable to Industries of a Seasonal Nature), issued by the Administrator thereunder, for partial exemption of the quarrying of dimension stone from surface or open cuts from the maximum hours provisions of Section 7 (a) of said Act pursuant to Section 7 (b) (3) applicable to industries found by the Administrator to be of a seasonal nature; and

Whereas, a public hearing on said applications was held before Harold Stein, the representative of the Administrator, duly authorized to take testimony, hear argument and determine whether or not the quarrying of dimension stone from surface or open cuts or any subdivision thereof is an industry of a seasonal nature within the meaning of Section 7 (b) (3) of the Fair Labor Standards Act of 1938, and Part 526[1] of Regulations issued thereunder; and

Whereas, following such hearing, the said Harold Stein duly made his findings of fact and determined as follows:

"1. The excavating, hauling, and milling of grit grindstones from surface or open cuts in the southern Ohio field, if considered as a single industry or branch of an industry, does not cease operation during the year, and, therefore, is not an industry of a seasonal nature within the meaning of Section 7 (b) (3) of the Act and Part 526 of Regulations issued thereunder, and

"2. The excavating, or the excavating and hauling of grit grindstones from surface or open cuts in the southern Ohio field takes place during a period too long in relation to the period of exemption afforded by Section 7 (b) (3) of the Fair Labor Standards Act, to justify a finding that such operations, even if they consti-

[1] 3 F.R. 2534 DI.

tute an industry or branch thereof, are of a seasonal nature, and, therefore, do not constitute an industry of a seasonal nature within the meaning of Section 7 (b) (3) of the Act and Part 526 of the Regulations issued thereunder, and

"3. The quarrying and milling of slate in the Vermont-New York zone is admittedly not of a seasonal nature within the meaning of Regulations, Part 526, and

"4. The record is inconclusive on the existence or extent of any other branches, whether of a seasonal nature or not, of the dimension stone industry for which applications were filed.

"The applications of the Hall Grindstone Company and the Vermont-New York Slate Industry are denied.

"All other applications from employers in the dimension stone industry are denied without prejudice"; and

Whereas, said Findings and Determination were duly filed with the Administrator on January 17, 1940, and are now on file in Room 5144, Department of Labor Building, Washington, D. C., and available for examination by all interested parties:

Now, therefore, pursuant to the provisions of Section 526.7 of the aforesaid Regulations, notice is hereby given that any person aggrieved by the said determination may, within fifteen days after the date this notice appears in the FEDERAL REGISTER, file a petition with the Administrator requesting that he review the action of the said representative upon the record of hearing before the said representative.

Signed at Washington, D. C., this 19th day of January, 1940.

HAROLD D. JACOBS,
Administrator.

[F. R. Doc. 40-329; Filed, January 20, 1940; 10:11 a. m.]

AMENDED DETERMINATION AND ORDER RE EMPLOYMENT OF LEARNERS IN THE TEXTILE INDUSTRY AT WAGES LOWER THAN THE MINIMUM WAGE APPLICABLE

NOTICE OF REVIEW

Whereas, the original applications made by the Cotton Textile Institute and sundry other parties pursuant to Section 14 of the Fair Labor Standards Act of 1938 and regulations (Part 522—Regulations Applicable to Employment of Learners Pursuant to Section 14 of the Fair Labor Standards Act of 1938—Title 29, Labor, Chapter V—Wage and Hour Division) issued by the Administrator thereunder, for permission to employ learners in the Textile Industry at wages less than the minimum applicable under Section 6 of the Act were withdrawn after a public hearing was held upon said applications in Washington, D. C., on November 28, 29, and 30, 1938 before Merle D. Vincent, a representative of the Administrator duly authorized to conduct said hearing; and

Whereas, the Cotton Textile Institute and sundry other parties made application for a reconvening of the said hearing under said Act and regulations and for permission to employ learners in the Cotton Textile Industry at wages lower than the minimum wage applicable under Section 6 of the Act by virtue of the Textile Wage Order; and

Whereas, after due notice a reconvened public hearing was held on these applications in Washington, D. C., on October 12, 1939, before Merle D. Vincent, authorized representative of the Administrator, who was duly designated to preside at the hearing and to determine:

(a) What, if any, occupation or occupations in the Textile Industry require a learning period; and

(b) The factors which may have a bearing upon curtailment of opportunities for employment within the Textile Industry, or branch thereof, and

(c) Under what limitations as to wages, time, number, proportion, and length of service special certificates may be issued to employers in the Textile Industry, or branch thereof, for whatever occupation, or occupations, if any, are found to require a learning period; and

Whereas, on October 31, 1939, the said Merle D. Vincent duly made findings of fact, copies of which were filed in the office of the Acting Administrator on November 4, 1939, and are there available for inspection by interested parties, and made the following determination and order:

1. On or after October 31, 1939, special certificates shall be issued permitting employment of learners in the Textile Industry at subminimum rates in the textile occupations of machine operating, tending, fixing, and jobs immediately incidental thereto, except that no certificate shall be deemed to apply to any employees performing functions similar to those performed by the following: sweepers, scrubbers, yard employees, watchmen, clerical workers and supervisors, timekeepers, machine cleaners, janitors, and truckers. In the tufted bedspread branch of the industry, certificates shall be issued for the occupations of punchwork operation and chenille operation, and only such occupations. In the curtain branch of the industry, certificates shall be issued for the operation of sewing machines, but for no other occupations.

All such special certificates shall be issued, upon the following terms, to all plants in the industry making application therefor representing that experienced workers are not available to the plant, unless experienced workers are found to be available:

(a) Learners employed under the certificate shall be paid at a rate of not less than 25 cents an hour: *Provided*, That in all plants where experienced operators are paid on a piece-work rate, learners in the same occupations shall be paid at least the same piece-work rate and shall receive earnings paid on this rate, if in excess of the above-stated minimum.

(b) No learner shall be employed under the certificate longer than 6 weeks: *Provided*, That in the tufted bedspread branch of the industry no learner shall be employed longer than 8 weeks as a chenille operator, and not longer than 16 weeks as a punchwork operator, and not longer than one 8-week retraining period for chenille operators learning punchwork: *Provided, further*, That in the curtain branch of the industry no learner shall be employed under the certificate longer than 8 weeks.

(c) Learners employed under the certificate shall not exceed 3 percent of the total number of persons in the learner occupations; *Provided*, That in the tufted bedspread branch of the industry learners shall not exceed 5 percent of the total number of chenille and punchwork operators; *Provided further* That, in the curtain branch of the industry, learners shall not exceed 5 percent of the total number of sewing-machine operators; *And provided finally*, That the employment of as many as 3 learners may be authorized by any certificate except that in the tufted bedspread and curtain branches of the industry as many as 5 learners may be authorized by any certificate. In cases of plant expansion or new plants, certificates may be issued under Part 522 of the Regulations for a larger number of learners if need therefor is found.

(d) Only learners shall be employed at a subminimum wage under the certificate, and no learner shall be employed under the certificate unless hired when an experienced worker was not available.

(e) No learner shall be employed at a subminimum wage under the certificate until and unless a copy of this certificate is posted and kept posted in a conspicuous place in the plant in which learners are employed.

2. Any special certificate issued pursuant to this order may be cancelled as of the date of issue if it is found that such certificate was issued when experienced workers were available and may be cancelled prospectively or as of the date of violation if it is found that any of its terms have been violated or that skilled workers have become available. No certificate issued pursuant to this order shall be valid after October 24, 1940, subject to modification or extension on or before that time following an appropriate reconsideration of this Order.

3. In this Order the term "learner" shall mean a person who has had less than 6 weeks' experience in the aggregate in any of the learner occupations in any branch of the Textile Industry except tufted bedspreads and curtains. In the tufted bedspread branch of the industry the term "learner" shall mean a person who has had less than 8 weeks' experience as a chenille operator, or 16 weeks' experience as a punchwork op-

erator, or less than 8 weeks' experience as a chenille operator plus 8 weeks retraining as a punchwork operator. In the curtain branch of the industry, the term "learner" shall mean a person who has had less than 8 weeks' experience as a sewing-machine operator. If any worker has partially completed the applicable learning period, as prescribed above, the time thus served shall be deducted from the learning period authorized by special certificate upon any subsequent employment.

4. In this Order the term "Textile Industry" is defined as under the Textile Wage Order as follows:

(a) The manufacturing or processing of yarn or thread and all processes preparatory thereto, and the manufacturing, bleaching, dyeing, printing and other finishing of woven fabrics (other than carpets and rugs) from cotton, silk, flax, jute or any synthetic fiber, or from mixtures of these fibers; or from such mixtures of these fibers with wool or animal fiber (other than silk) as are specified in clauses (g) and (h); except the chemical manufacturing of synthetic fiber and such related processing of yarn as is conducted in the establishments manufacturing synthetic fiber;

(b) The manufacturing of batting, wadding or filling and the processing of waste from the fibers enumerated in clause (a);

(c) The manufacturing, bleaching, dyeing, or other finishing of pile fabrics (except carpets and rugs) from any fiber or yarn;

(d) The processing of any textile fabric, included in this definition of this industry, into any of the following products: bags; bandages and surgical gauze, bath mats and related articles; bedspreads; blankets, diapers; dishcloths, scrubbing cloths and washcloths; sheets and pillow cases; tablecloths, luncheloths and napkins; towels; and windowcurtains;

(e) The manufacturing or finishing of braid, net or lace from any fiber or yarn;

(f) The manufacturing of cordage, rope or twine from any fiber or yarn;

(g) The manufacturing or processing of yarn or thread by systems other than the woolen system from mixtures of wool or animal fiber (other than silk) with any of the fibers designated in clause (a), containing not more than 45 percent by weight of wool or animal fiber (other than silk);

(h) The manufacturing, bleaching, dyeing, printing or other finishing of woven fabrics (other than carpets and rugs) from mixtures of wool or animal fiber (other than silk) containing not more than 25 percent by weight of wool or animal fiber (other than silk), with any of the fibers designated in clause (a), with a margin of tolerance of 2 percent to meet the exigencies of manufacture.

This definition shall not be deemed to include the Wool Industry, and the operations of said industry are excluded from this Determination and Order; and,

Whereas, on November 8, 1939, the Acting Administrator caused to be published in the Federal Register (4 F.R. 4531 DI) a notice which set forth in full the determination and order of the Presiding Officer and stated that pursuant to the provisions of Section 522.13 of the aforesaid regulations, as amended, persons aggrieved by the said determination and order might, within 15 days after November 8, 1939, file petitions for review of the action of the said representative, and,

Whereas, petitions for review, copies of which are on file in Room 5144, Department of Labor Building, Washington, D. C., and there available for examination by all interested parties, have been duly filed by the Throwsters Research Institute and the Southern Cotton Manufacturer's Association; and

Whereas, on November 28, 1939, the Acting Administrator caused to be published in the FEDERAL REGISTER (4 F.R. 4704 DI) a notice which stated that the aforementioned hearing would be reopened on December 13, 1939, to permit the introduction of further testimony relevant to the curtain branch of the textile industry, and

Whereas, on January 22, 1940, the aforementioned Presiding Officer duly made findings of fact on the basis of the reopened hearing, copies of which were filed in the office of the Administrator on that date and are there available for inspection, and made the following determination and order:

Upon the whole record of evidence, I determine and order:

1. The sewing-machine operation in the (novelty) curtain branch of the textile industry is a simple semi-skilled occupation that does not require any learning period at subminimum wages.

2. No certificates authorizing the employment of learners at subminimum wages shall be issued to employers in the (novelty) curtain branch of the textile industry.

3. All matters set forth in the Undersigned's Determination and Order on the employment of learners in the Textile Industry, dated October 31, 1939, inconsistent with the foregoing are hereby rescinded.

Now, therefore, the petitions for review are hereby granted and notice is hereby given that the Administrator for the purpose of reviewing the aforementioned Presiding Officer's Determination and Order, as amended, and to make a final determination of the questions set forth in the third paragraph of this notice, will receive briefs from interested parties either in support of or in opposition to the aforementioned Determination and Order, as amended, provided that original briefs are filed with the Administrator, Wage and Hour Division, prior to the close of business February 23, 1940, and provided that rebuttal briefs are filed with the Administrator prior to the close of business March 8, 1940. All briefs will be available for inspection by interested parties in Room 5144, U. S. Department of Labor Building, Washington, D. C.

Signed at Washington, D. C., this 22nd day of January, 1940.

HAROLD D. JACOBS,
Administrator.

[F. R. Doc. 40-343; Filed, January 22, 1940; 12:43 p. m.]

ABBOT WORSTED COMPANY

NOTICE OF CANCELATION OF A SPECIAL CERTIFICATE FOR THE EMPLOYMENT OF LEARNERS

Notice is hereby given that a Special Certificate for the employment of learners previously issued to the Abbot Worsted Company, Forge Valley, Massachusetts on November 27, 1939, has been canceled effective January 23, 1940, pursuant to action taken under Section 14 of the Fair Labor Standards Act of 1938 and Section 522.5 (b) of the Regulations Part 522, as amended, issued thereunder.

This action is taken inasmuch as the above-mentioned Certificate was issued in error.

Signed at Washington, D. C., this 22nd day of January 1940.

GUSTAV PECK,
Authorized Representative of the Administrator.

[F. R. Doc. 40-344; Filed, January 22, 1940; 12:46 p. m.]

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

Notice is hereby given that Special Certificates for the employment of learners in the Apparel Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued ex parte under Section 14 of the said Act, Section 522.5 (d) of Regulations Part 522, as amended, to the employers listed below effective January 23, 1940, until October 24, 1940, subject to the following terms:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

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

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

(2) The employment of learners under these Certificates is limited to the operation of stitching machines and for eight (8) weeks for any one learner. During this period, learners shall be paid at

least 22½¢ per hour. If experienced workers are paid on a piece rate basis, the same piece rates shall be paid to the learners employed on similar work and they shall receive earnings on such piece rates if in excess of 22½¢ per hour, but in no case less than 22½¢ per hour.

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

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

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

NUMBER OF LEARNERS

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

NAME AND ADDRESS OF FIRM AND PRODUCT

Elder Manufacturing Co., Ste. Genevieve, Missouri, shirts, waists and pajamas.

Grass-Grossinger Company, 323 Penn Avenue, Scranton, Pennsylvania (2 learners), caps.

National Pants Company, Newcastle, Pennsylvania, skirts and slacks.

National Sportswear Co., Reedsburg, Wisconsin (5 learners), work pants.

The Shirtcraft Co., Inc., Shippensburg, Pennsylvania, men's shirts.

Signed at Washington, D. C., this 22nd day of January 1940.

GUSTAV PECK,
Authorized Representative of the Administrator.

[F. R. Doc. 40-346; Filed, January 22, 1940; 12:46 p. m.]

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

Notice is hereby given that Special Certificates for the employment of learners in the Apparel Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued to the employers listed below effective January 23, 1940, until May 21, 1940, unless otherwise indicated, subject to the following terms and limited to the number of learners indicated opposite the employer's name:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

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

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

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

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

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

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

Name and address of firm	Product	Number of learners
F. Jacobson & Sons, Inc., Troy, New York.	Shirts and pajamas.	15
National Sportswear Co., Reedsburg, Wisconsin.	Work pants...	15

Signed at Washington, D. C., this 22nd day of January 1940.

GUSTAV PECK,
Authorized Representative of the Administrator.

[F. R. Doc. 40-347; Filed, January 22, 1940; 12:47 p. m.]

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

Notice is hereby given that Special Certificates for the employment of learners in the Hosiery Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 (Hosiery Wage Order) are issued to the employers listed below effective January 23, 1940, until September 18, 1940, subject to the following terms:

OCCUPATIONS AND WAGE RATES

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

[*Here follows, in the original document, a table identical with that appearing on Page 3827 of the "Federal Register" for Thursday, September 7, 1939.*]

NUMBER OF LEARNERS

Not in excess of 5% of the total number of factory workers employed in the plant may be employed under any of these certificates, unless otherwise indicated hereinbelow.

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

NAME AND ADDRESS OF FIRM

Browne Hosiery Mills, Inc., Holt Street, Burlington, North Carolina. (5 learners).

Signed at Washington, D. C., this 22nd day of January 1940.

GUSTAV PECK,
Authorized Representative of the Administrator.

[F. R. Doc. 40-345; Filed, January 22, 1940; 12:46 p. m.]

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

Notice is hereby given that Special Certificates for the employment of learners in the Textile Industry at hourly

wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued ex parte under Section 14 of the said Act and Section 522.5 (d) of Regulations Part 522, as amended, to the employers listed below effective January 23, 1940, until October 24, 1940, subject to the following terms:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

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

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

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

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

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

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

NUMBER OF LEARNERS

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

NAME AND ADDRESS OF FIRM AND PRODUCT

Burlington Mills, Plant No. 3, Burlington, North Carolina (3 learners), rayon and cotton bedspread material.

National Fabrics Corp., Buena Vista, Virginia (3 learners), thrown and broad rayon.

S. Slater & Sons, Inc., Slater, South Carolina, weaving rayon fabrocs.

Samuel J. Aronsohn, Inc., Newport Pike, Christiana, Pennsylvania, tie and dress fabrics.

Winnsboro Mills, Winnsboro, South Carolina, tire cord.

Signed at Washington, D. C., this 22nd day of January 1940.

GUSTAV PECK,
Authorized Representative of the Administrator.

[F. R. Doc. 40-348; Filed, January 22, 1940; 12:47 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of January, A. D. 1940.

[File Nos. 46-194, 56-54]

IN THE MATTERS OF THE UNITED LIGHT AND POWER COMPANY AND THE UNITED LIGHT AND RAILWAYS COMPANY AND FEDERAL WATER SERVICE CORPORATION

ORDER GRANTING AMENDED APPLICATION, ETC.

The United Light and Power Company and The United Light and Railways Company having jointly filed an application (File No. 56-54) pursuant to Rules U-12D-1 and U-12F-1 for approval of (a) the sale by The United Light and Power Company of all of the outstanding stock and debt of Chattanooga Gas Company to Federal Water Service Corporation, (b) the sale by The United Light and Power Company of all of the outstanding stock and debt of Fayetteville Natural Gas Company to A. J. Goss, an individual, and (c) the sale by The United Light and Railways Company of all of the outstanding stock of Cleveland Gas Company to the said A. J. Goss;

Federal Water Service Corporation having filed an application (File No. 46-194) for approval, pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935, of the acquisition by it of all of the outstanding stock and debt of Chattanooga Gas Company from The United Light and Power Company, and, for approval, pursuant to Section 12 (d) of said Act, of the surrender by Federal Water Service Corporation of the debt and preferred stock of Chattanooga Gas Company for retirement upon acquisition thereof by Federal Water Service Corporation;

A hearing with respect to these matters having been duly had after appropriate notice, and, the Commission having examined the record and made and filed its findings and opinion herein;

It is ordered, that the before mentioned application as amended having the file number 56-54 and filed jointly by The United Light and Power Company and The United Light and Railways Company be, and it hereby is, granted, subject, however, to the following condition:

(1) That within 10 days after consummation of each sale contemplated by the application the seller file with this Commission a certificate of notification stating that such sale has been effected as set forth in and for the purposes represented by said application as amended.

It is further ordered, That in so far as the application having file number 46-194, filed by Federal Water Service Corporation, asks approval, pursuant to Section 10 (a) (1) of said Act, of the acquisition by Federal Water Service Corporation of all of the outstanding stock and debt of Chatanooga Gas Company from The United Light and Power Company, such application as amended be, and it hereby is, granted upon the following condition:

(A) That within 10 days after consummation of such acquisition Federal Water Service Corporation file with this Commission a certificate of notification stating that such acquisition has been effected as set forth in and for the purposes represented by such aplication as amended.

It is further ordered, That jurisdiction over said application as amended having the file number 46-194 in so far as it asks approval, pursuant to Section 12 (d) of said Act, of the surrender of the debt and preferred stock of Chatanooga Gas Company for retirement be, and it hereby is, reserved.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-341; Filed, January 22, 1940; 11:48 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its

office in the City of Washington, D. C., on the 18th day of January, A. D. 1940.

[File Nos. 1–627 and 1–627–2]

IN THE MATTER OF PROCEEDING UNDER SECTION 19 (A) (2) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, TO DETERMINE WHETHER THE REGISTRATION OF A. HOLLANDER & SON, INC. CAPITAL STOCK $5 PAR VALUE SHOULD BE SUSPENDED OR WITHDRAWN

ORDER AMENDING ORDER FOR PROCEEDINGS AND CHANGING DATE OF HEARING

The Commission on November 22, 1939, having ordered that a hearing be held to determine whether the registration of A. Hollander & Son, Inc. $5 Par Value Capital Stock on the New York Stock Exchange should be suspended or withdrawn, pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, and having set December 18, 1939, as the date of such hearing; and

On December 14, 1939, the Commission having postponed the date for the commencement of the hearing to January 22, 1940; and

Counsel for the Commission and counsel for the respondent having again joined in a request for a further postponement of said hearing until March 4, 1940, for the reason that it is desired to have further time in which to stipulate certain of the facts involved; and

The Commission having duly considered the matter and being fully advised in the premises;

It is ordered, That the order for said hearing adopted on November 22, 1939, as amended by the order of December 14, 1939, be and the same is hereby further amended to change the date of commencement of said hearing from 10:00 A. M. on January 22, 1940, to 10:00 A. M. on March 4, 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–340; Filed, January 22, 1940; 11:48 a. m.]