

FEB 1 1940



# FEDERAL REGISTER

VOLUME 5

NUMBER 21

Washington, Wednesday, January 31, 1940

## Rules, Regulations, Orders

### TITLE 6—AGRICULTURAL CREDIT CHAPTER III—FARM SECURITY ADMINISTRATION [Memorandum No. 850]

AMENDMENT OF THE RULES AND REGULATIONS PRESCRIBING FOR THE ADMINISTRATION OF LOANS, GRANTS AND FARM DEBT ADJUSTMENT ACTIVITIES FOR NEEDY PERSONS, UNDER THE RURAL REHABILITATION PROGRAM

JANUARY 29, 1940.

Paragraph 2 of Memorandum No. 796,<sup>1</sup> dated November 16, 1938, is hereby amended to read as follows:

"The Farm Security Administration may make direct grants to farmers, farm tenants, croppers, and farm laborers for the following purposes: (1) subsistence needs, including food, clothing, and shelter; (2) medical care and participation in approved medical or health associations; (3) construction and repair of sanitary facilities and other improvements essential to family health; (4) subsistence livestock, garden seed, fertilizer, and implements and materials for farm, garden and kitchen, to be used for subsistence purposes only; (5) essential household furnishings; and (6) such other purposes as the Administrator may specifically decide to be necessary from time to time to meet emergency situations (such as, among other things, flood, drought, crop failure, insect infestation, cyclones, hailstorms, unseasonable freezes and sharp drops in farm prices). Grants may be made on such terms as will encourage recipients to help themselves and cooperate with the Administration by performing constructive work on the farms they occupy."

[SEAL]

H. A. WALLACE,  
Secretary.

[F. R. Doc. 40-454; Filed, January 29, 1940; 2:03 p. m.]

<sup>1</sup>3 F.R. 2733 DL.

### TITLE 7—AGRICULTURE CHAPTER IX—DIVISION OF MARKETING AND MARKETING AGREEMENTS

[Order No. 45]

#### PART 945—MARKETING ORDERS

##### ORDER REGULATING THE HANDLING OF MILK IN THE WASHINGTON MARKETING AREA\*

- Sec. 945.0 Findings.
- 945.1 Definitions.
- 945.2 Market administrator.
- 945.3 Reports of handlers.
- 945.4 Classification of milk.
- 945.5 Minimum prices.
- 945.6 Application of provisions.
- 945.7 Determination of prices to producers.
- 948.8 Payments to producers.
- 945.9 Expense of administration.
- 945.10 Effective time, suspension, or termination.
- 945.11 Liability.

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, the Secretary of Agriculture of the United States is empowered, after due notice and opportunity for hearing,<sup>1</sup> 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, under the terms and provisions of said act, the Secretary of Agriculture is empowered to issue orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of section 8c, such orders to regulate only such handling of such agricultural commodity or product

\*Section 945.0 to and including Section 945.11 issued under the authority contained in 48 Stat. 31 (1933), 7 U.S.C. 601 et seq. (1934); 49 Stat. 750 (1935); 50 Stat. 246 (1937); 7 U.S.C. 601 et seq. (Sup. IV, 1938).  
<sup>1</sup>4 F.R. 4465 DL.

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Published daily, except Sundays, Mondays, and days following legal holidays by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500), under regulations prescribed by the Administrative Committee, approved by the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1.25 per month or \$12.50 per year; single copies 10 cents each; payable in advance. Remit money order payable to the Superintendent of Documents directly to the Government Printing Office, Washington, D. C.

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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 Washington marketing area would tend to effectuate the declared policy of the act, gave, on November 2, 1939, notice of a hearing held at Warrenton, Virginia, on November 20, 1939, at Frederick, Maryland, on November 21, 1939, and at Washington, D. C., on November 22 and 24, 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 marketing agreement and proposed order; and

Whereas, after said hearings and after the tentative approval of a marketing agreement by the Secretary on January 18, 1940, handlers of more than 50 percent of the volume of milk covered by this order, which is marketed within the Washington marketing area, refused or failed to sign such tentatively approved marketing agreement; and

Whereas, the Secretary determined, on the 26th day of January 1940, said determination<sup>2</sup> being approved by the

<sup>2</sup> See page 343.

President of the United States on the 26th day of January 1940, that said refusal or failure to sign said tentatively approved marketing agreement tends to prevent the effectuation of the declared policy of the act and that the issuance of this order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area and is approved or favored by more than two-thirds of the producers who participated in a referendum conducted by the Secretary and who, during the month of November 1939 (said month having been determined by the Secretary to be a representative period), were engaged in the production of milk for sale in said marketing area; and

Whereas, the provision of the order providing for the payment to all producers delivering milk to the same handler of uniform prices for all milk delivered by them is approved or favored by at least three-fourths of the producers who participated in a referendum conducted by the Secretary and who, during the month of November 1939 (said month having been determined by the Secretary to be a representative period), were engaged in the production for market of milk covered in such order, said approval being separate and apart from the approval of producers as set forth above; and

Whereas, the Secretary has found and proclaimed<sup>3</sup> the period August 1924–July 1929 to be the base period to be used in connection with the ascertainment of the purchasing power of milk handled in the Washington marketing area; and

Whereas, the Secretary finds that the expenses which the market administrator will necessarily incur during any 12-month period of time for the maintenance and functioning of such agency for the administration of this order will be approximately \$40,000 and that the payment by each handler of 2 cents per hundredweight on all milk received from producers which is disposed of as Class I or Class II is a proper maximum pro-rata share of such expenses; and

§ 945.0 *Findings.* Whereas, the Secretary finds, upon the evidence introduced at said hearings:

1. That all milk which was produced for sale in the marketing area is handled in the current of interstate commerce, or so as directly to burden, obstruct, or affect interstate commerce in milk or its products;

2. That the prices calculated to give milk handled in said marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to section 2 and section 8e of said act, are not reasonable in view of the price of feeds, the available supplies of feed, and other economic conditions which affect the supply of, and demand for, such milk, and that the minimum prices set forth in this order

<sup>3</sup> See page 343.

are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest.

3. That this order regulates the handling of milk in the same manner as and is applicable only to handlers defined in a tentatively approved marketing agreement upon which hearings have been held; and

4. That orderly marketing conditions for milk flowing into the Washington marketing area are threatened with disruption which will result in an impairment of the purchasing power of milk handled in said marketing area, and that the issuance of this order and all its terms and conditions will tend to effectuate the declared policy of said 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 Washington 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:

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

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

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

(3) The term "Washington marketing area," hereinafter referred to as the "marketing area," means the territory included within the boundary lines of the District of Columbia and that territory in the State of Maryland included between the District of Columbia Line and the following boundaries: Beginning at the junction of the southeastern boundary of the District of Columbia Line and Route 224, thence south on Route 224 to Oxon Hill, thence east on St. Barnaby Road to Gordon's Corner, thence northeast on Suitland-Silver Hill Road continuing through Suitland to the junction of Route 4, thence northwest on Route 4 to Hillside, thence north on Crystal Spring Road continuing through Capitol Heights to 61st Street, thence north on 61st Street to the District of Columbia Line, thence northeasterly and thence northwesterly along said District Line to Kenilworth Avenue, thence north on Kenilworth Avenue to Defense Highway, thence east on Defense Highway, thence north on Edmonston Road to Greenbelt, and around the outside limits of Greenbelt, thence returning on Edmonston Road to Branchville Road, thence west on Branchville Road to the Baltimore-Washington Boulevard, thence south on the Baltimore-Washington Boulevard to Metzert Road, thence west on Metzert Road to Riggs Valley Road, thence to County Road, thence

west to Blair Road, thence north to Piney Branch Road, continuing north on Piney Branch Road to White Oak at intersection of Colesville Road, thence continuing north on Colesville Road to Colesville, thence west on Glenmont Road to Brookville Road, thence south on Brookville Road to Wheaton, thence on Lincoln Avenue to Kensington, thence west on Knowles Avenue and continuing west on Strathmore Avenue to Rockville Pike, thence south on Rockville Pike to Grosvenor Lane, thence west on Grosvenor Lane to Old Georgetown Road, thence north on Old Georgetown Road to Bellsmill Road, thence west on Bellsmill Road to the Seven Locks Road, thence south on Seven Locks Road to Bradley Road, thence west on Bradley Road continuing to Conduit Road, thence southeasterly on Conduit Road to the District of Columbia Line.

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

(5) The term "producer" means any person, irrespective of whether such person is also a handler, who produces milk which is purchased or received by a handler at a plant approved or licensed for the sale of milk for fluid consumption in the marketing area, and from which milk or cream for bottling purposes is disposed of in the marketing area: *Provided*, That if such producer has not distributed milk in the marketing area or has not sold milk to a handler prior to the effective date hereof, but begins the regular delivery of milk to a handler, he shall be known as a "new producer" for a period beginning with the date of his first regular delivery of milk and including the first 2 full calendar months following the date of such first delivery to a handler, after which he shall be known as a "producer."

(6) The term "handler" means any person, irrespective of whether such person is also a producer or a cooperative association of producers, who engages in such handling of milk or cream for bottling purposes disposed of in the marketing area as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products: *Provided*, That this definition shall not be deemed to include any person engaged in the handling of milk whose plant is located in the State of Virginia and who is subject to such regulations of the Virginia Milk Commission as provides for payment to producers of class prices identical with, or in excess of, the prices set forth in Sec. 945.5 hereof; *Provided, further*, That this definition shall not include producers or cooperative associations of producers which do not handle milk or cream through their own receiving or bottling plant.

(7) The term "market administrator" means the person designated pursuant to Sec. 945.2 as the agency for the administration hereof.

(8) The term "cooperative association" means any cooperative association of producers which the Secretary determines (a) to have its entire activities under the control of its members, and (b) to have and exercise full authority in the sale of milk of its members.

(9) The term "delivery period" means the current marketing period from the first to the last day of each month, both inclusive.

§ 945.2 *Marketing administrator*—(a) *Designation*. The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers*. The market administrator shall:

(1) Administer the terms and provisions hereof; and

(2) Report to the Secretary complaints of violations of the provisions hereof.

(c) *Duties*. The market administrator shall:

(1) 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;

(2) Pay, out of the funds provided by Sec. 945.9, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(3) Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate;

(4) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 2 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to Sec. 945.3 or (b) made payments pursuant to Sec. 945.8; and

(5) Promptly verify the information contained in the reports submitted by handlers.

§ 945.3 *Reports of handlers*—(a) *Submission of reports*. Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(1) On or before the 8th day after the end of each delivery period (a) the receipts of milk at each plant from producers, and the weighted average butterfat test thereof, (b) the receipts of milk at each plant from handlers and cooperative associations, and the average butterfat test thereof, (c) the receipts of cream at each plant from handlers and cooperative associations, and the

average butterfat test thereof, (d) the receipts at each plant of the milk, if any, produced by him, and the average test thereof, (e) the receipts of milk at each plant from new producers, and the average test thereof, (f) the name and address of each new producer, (g) the utilization of all milk and cream received, computed pursuant to Sec. 945.4 (d), and (h) the names of handlers from whom or to whom milk or cream was received or delivered.

(2) 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 and address, (b) the total pounds of milk delivered, (c) the average butterfat test of milk delivered, (d) the farm scores and cattle scores recorded by the respective health departments requiring permits to sell milk to handlers in the marketing area, and (e) the number of days upon which deliveries were made.

(3) On or before the 16th day after the end of each delivery period, at the request of the market administrator, his producer pay roll, which shall show (a) the total delivery of milk for each producer with the average butterfat test thereof, (b) the premium rate paid each producer, (c) the net amount of payment to each producer made pursuant to Sec. 945.8, and (d) any deductions and charges made by the handler, and authorizations therefor.

(b) *Verification of reports*. Each handler shall provide the market administrator or his agent with reasonable access to:

(1) Those records and facilities which are necessary for the verification of the information contained in the reports submitted in accordance with this section, and for the verification of the payments required by Sec. 945.5 and Sec. 945.8;

(2) Those facilities necessary for the checking of the weighing and sampling of milk and for determining the utilization of milk by the handler; and

(3) The plants and storage facilities under his control.

§ 945.4 *Classification of milk*—(a) *Basis of classification*. All milk purchased or received by a handler from producers, new producers, cooperative associations, and other handlers, including milk produced by him, if any, shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.

(b) *Classes of utilization*. Except as provided in paragraph (c) of this section, the classes of utilization of milk shall be as follows:

(1) Class I milk—all milk disposed of in the form of fluid milk;

(2) Class II milk—all milk disposed of in the form of chocolate milk and

whole milk drinks, cream for consumption as cream, cream buttermilk, cottage cheese, and all milk the utilization of which is not classified in Class I or Class III; and

(3) Class III milk—(a) all milk the cream therefrom which is disposed of to a manufacturer of ice cream or ice cream mix and which is used by such manufacturer to produce ice cream or ice cream mix in a plant not approved by the District of Columbia Health Department to sell milk or cream for fluid consumption within the District of Columbia: *Provided*, That a statement of such use by the purchaser is filed with the market administrator and subject to his verification; and (b) milk or cream used by a handler to produce ice cream or ice cream mix in his plant, which is not approved by the District of Columbia Health Department to sell milk or cream for fluid consumption within the District of Columbia.

(c) *Interhandler or cooperative association sales.* Milk or skim milk delivered by a handler to another handler shall be classified as Class I milk, and cream so delivered shall be classified as Class II milk: *Provided*, That if a different classification is agreed upon in writing between the receiving handler and the selling cooperative association or handler then the milk, skim milk, and cream shall be classified according to such written agreement: *Provided*, That, in no event, the amount so reported in any class be greater than the amount used in that class by the receiving handler.

(d) *Computation of the volume of milk to be accounted for by the handler in each class.* For each delivery period, the market administrator shall compute for each handler the volume of milk that he is to account for in each class as follows:

(1) *Total receipts.*—Add together the total pounds of milk received from producers and new producers and to this sum add the pounds of butterfat in cream received from producers and new producers divided by the average test of milk received from producers and new producers multiplied by 100;

(2) *Class I milk.*—Multiply the weight of the various units disposed of by such handler which are classified as Class I milk by the number of units irrespective of the butterfat test thereof, add thereto the pounds of Class I milk delivered to other handlers, not including such milk disposed of for the account of the association, and classified pursuant to paragraph (c) of this section, and subtract the pounds of Class I milk received from other handlers and associations of producers;

(3) *Class III milk.*—Subtract from the pounds of butterfat in the milk classified as Class III milk, including the pounds of butterfat in the milk or cream delivered to other handlers, not including the butterfat in such milk or cream disposed of for the account of the association, and

classified as Class III milk pursuant to paragraph (c) of this section, the pounds of butterfat in milk or cream received from other handlers and associations of producers and classified as Class III milk pursuant to paragraph (c) of this section, divide by the average test of milk received from producers and new producers and multiply by 100; and

(4) *Class II milk.*—Subtract the pounds of Class I and Class III milk combined plus the total pounds of all butterfat disposed of for the account of an association of producers, divided by the average test of milk received from producers and new producers times 100, from the total pounds of milk received, as determined under subparagraph (1) of this paragraph.

§ 945.5 *Minimum prices.*—(a) *Class prices.* Except as set forth in paragraph (b) of this section, each handler shall pay not less than the following prices, at the time and in the manner set forth in Sec. 945.8, and subject to paragraphs (b), (c), and (d) of Sec. 945.8 for milk purchased or received from producers and new producers and associations of producers:

(1) *Class I milk.*—\$3.17 per hundredweight: *Provided*, That the price of Class I milk disposed of by a handler from a plant not having a health department permit to sell fluid milk or fluid cream in the District of Columbia, shall be \$2.71 per hundredweight; and *Provided further*, 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 groups, including persons who are on relief, the price shall be not less than \$1.995 per hundredweight.

(2) *Class II milk.*—\$1.90 per hundredweight: *Provided*, That the price of Class II milk disposed of by a handler from a plant not having a health department permit to sell fluid milk or fluid cream in the District of Columbia, the price shall be not less than \$1.67 per hundredweight.

(3) *Class III milk.*—Average of weekly market quotations (using the midpoint of any weekly range as one quotation) of approved sweet cream for Pennsylvania, Newark, and Lower Merion Township, as reported by the United States Department of Agriculture, Agricultural Marketing Service, for the delivery period, minus 50 cents, divided by 33, multiplied by 4.

(b) *Sales outside the marketing area.* In lieu of prices set forth in paragraph (a) of this section, the prices to be paid by handlers for Class I milk and Class II milk disposed of from those wagons or trucks which do not travel within the marketing area at any time while containing any milk or cream shall be such prices as were paid to farmers in the market where such milk was disposed of for milk of equivalent use, as ascertained by the market administrator.

§ 945.6 *Application of provisions.*—(a) *Handlers who are also producers.*

No provision hereof shall apply to a handler who is also a producer and who purchases or receives no milk from producers or an association of producers, except that such handler shall make reports to the market administrator at such time and in such manner as the market administrator may request.

(1) In the case of a handler who is also a producer and who purchases or receives milk or cream from producers, new producers, or an association of producers, the market administrator, before making the computations set forth in Sec. 945.7, shall (a) exclude the milk purchased or received by him in each class from other handlers, (b) exclude on a pro-rata basis from his remaining Class I milk and Class II milk up to but not exceeding 95 percent of the quantity of milk produced and disposed of by him, and (c) exclude from his remaining Class III milk the balance of the milk produced and disposed of by him.

(2) The market administrator, in computing the value of milk for any handler pursuant to Sec. 945.7, shall consider as Class III milk any milk or cream received in bulk by such handler from a handler who distributes part of his own production and handles no other milk but his own production. If the receiving handler disposes of such milk or cream for other than Class III, the market administrator shall add to the total value, computed pursuant to Sec. 945.7, the difference between (a) the value of such milk or cream at the Class III price and (b) the value according to its actual usage.

§ 945.7 *Determination of prices to producers.*—(a) *Computation of the value of milk for each handler.* For each delivery period the market administrator shall compute, subject to the provisions of Sec. 945.6, the value of milk disposed of by each handler, and to be accounted for under this paragraph as follows:

(1) Subtract the pounds of milk of own production in each class computed pursuant to Sec. 945.6 from the pounds of milk in each class computed pursuant to Sec. 945.4 (d).

(2) Multiply the quantities of milk in each class as computed in subparagraph (1) of this paragraph by the prices applicable pursuant to Sec. 945.5 and add the resulting values together.

(b) *Computation of composite prices to be paid to producers.* The market administrator shall compute for each handler the composite price per hundredweight, f. o. b. handler's bottling plant, for each delivery period as follows:

(1) From the total value of all milk disposed of by such handler, computed pursuant to subparagraph (2) of paragraph (a) of this section, subtract the quantity of milk received from new producers and producer-handlers who

handle only milk of their own production, times the Class III price.

(2) From the quantity of milk in all classes computed pursuant to subparagraph (1) and paragraph (a) of this section subtract the quantity of milk received from new producers.

(3) Divide the value determined under subparagraph (1) of this paragraph by the quantity determined under subparagraph (2) of this paragraph.

(c) *Announcement of prices to be paid producers and of other market information.* The market administrator shall mail to all handlers and shall publicly announce:

(1) For handlers who receive milk from producers who are not members of a cooperative association on or before the 11th day after the end of each delivery period with respect to each such handler who made the report pursuant to Sec. 945.3 and as soon after the 11th day after the end of each delivery period as such information becomes available for any other such handler:

(i) The composite price for milk containing 4 percent butterfat, for each such handler for such delivery period as determined in accordance with paragraph (b) of this section;

(ii) The percentage of producer's deliveries for which premium rates apply pursuant to Sec. 945.8; and

(iii) The Class III price for such delivery period.

(2) As soon after the 11th day after the end of each delivery period as such information becomes available the following data compiled and listed separately for (a) handlers not disposing of any milk or cream for fluid consumption in the District of Columbia, and (b) handlers disposing of any milk or cream for fluid consumption in the District of Columbia:

(i) The total pounds of milk received from producers and new producers by all handlers, the total and average butterfat content thereof, pounds of milk in each class, and the total value of such milk at the minimum prices per hundredweight specified herein;

(ii) The average minimum price per hundredweight of milk, containing 4 percent butterfat, f. o. b. handler's bottling plant, received by all handlers from producers and new producers together with the average premiums per hundredweight paid producers by them and the percentage of producers' deliveries for which the premium rates apply pursuant to Sec. 945.8;

(iii) The total pounds of butterfat received by all handlers who bottle milk or cream for fluid consumption within the marketing area;

(iv) The names and addresses of all handlers for the delivery period.

§ 945.8 *Payments to producers—(a) Time and method of payment.* On or before the 15th day after the end of each

delivery period each handler shall make payment, subject to paragraphs (b), (c), (d), and (e) of this section, for the total value of milk received from producers, new producers, and associations of producers during the delivery period computed pursuant to Sec. 945.7, except as provided for in paragraph (f) of this section, as follows:

(1) To each producer except as provided in subparagraph (3) of this paragraph at not less than the composite price for milk containing 4 percent butterfat, computed pursuant to Sec. 945.7.

(2) To each new producer except as provided in subparagraph (3) of this paragraph at the Class III price for the quantity of milk received from such new producer.

(3) To a cooperative association for (a) milk which is caused to be delivered to a handler from producers and new producers by a cooperative association, and for which such cooperative association collects payment, a total amount equal to not less than the sum of the individual payments otherwise payable to such producers under subparagraphs (1) and (2) of this paragraph minus an amount equal to the hundredweight of milk or milk equivalent of the cream disposed of for the account of the association times the respective class prices, subject also to paragraphs (b), (c), (d), and (e) of this section, weighted by the amount of milk in each class calculated pursuant to Sec. 945.4 (d), and (b) other milk or cream, in each use classification determined pursuant to Sec. 945.4 (c), received by such handler for the account of an association of producers at not less than the class prices for milk containing 4 percent butterfat and the milk equivalent of cream obtained by dividing the butterfat content of such cream by the average test of milk received from producers and new producers by such handler, plus the weighted average premium per hundredweight payable to producers and new producers by such handler.

(b) *Errors in payment.* Errors in making the payment prescribed in this section shall be corrected not later than the date for making payments next following the determination of such errors.

(c) *Butterfat differential.* If any handler has purchased or received from any producer or new producer or association of producers during the delivery period milk having an average butterfat content other than 4.0 percent, such handler in making the payments pursuant to paragraph (a) of this section to such producer or new producer shall add to the uniform price for such producer, new producer, or association of producers for each one-tenth of 1 percent of average butterfat content above 4.0 percent not less than, or shall deduct for each one-tenth of 1 percent of average butterfat content below 4.0 percent not more than, 5 cents per hundredweight. The handler shall determine the butterfat content by taking the

average of not less than three separate butterfat tests made from fresh samples during each delivery period. These tests may be conducted by an independent laboratory agreed upon by the handlers and the producers, in which case the expense of such butterfat testing shall be borne jointly and equally by each handler and each producer delivering to him and the producers' share may be deducted from the amount paid them by handlers, provided the handler shall be responsible for any errors in these tests.

(d) *Location adjustments to producers.* In making payments pursuant to paragraph (a) of this section the handlers may deduct 18 cents per hundredweight with respect to milk received from producers who have been delivering their entire supply of milk for the preceding 4 full delivery periods at a plant in which no milk is bottled or finally processed for distribution to consumers and which is located more than 35 miles from the District of Columbia.

(e) *Premiums to be paid by handlers.* In making the payments pursuant to paragraph (a) (1) and (a) (2) of this section, handlers shall pay premium differentials determined by applying the premium rates set forth in this paragraph for each producer and new producer on the same percentage of each producer's total deliveries as that percentage which the combined total of Class I milk and Class II milk, as computed pursuant to Sec. 945.4 (d), is to the total receipts from producers and new producers. The premium rates referred to in this paragraph shall be determined from the following schedule with respect to the cattle scores and farm scores recorded for each producer by the respective health departments requiring permits to sell milk to handlers in the marketing area:

Farm score	With cattle score under 95	With cattle score 95 or over but under 98	With cattle score 98 or over
	Per cent.	Per cent.	Per cent.
Under 80.....	\$0.00	\$0.00	\$0.00
80.0-84.9.....	.00	.03	.09
85.0-89.9.....	.02	.08	.14
90.0-94.9.....	.08	.14	.20
95.0-97.9.....	.20	.26	.32
Over 97.9.....	.31	.37	.43

If more than one score has been recorded during any month, the simple average of the scores so recorded shall be used. Producers whose health department does not provide for cattle scores in their scoring system shall be considered as having a cattle score of 98 or over and the score given them by the health department shall be considered the farm score for the purpose of applying premiums under the above schedule.

(f) Handlers may distribute the payments they are required to make to producers, not including new producers, for

milk received by them on any uniform basis other than that specified above in this section that is approved by the market administrator.

§ 945.9 *Expense of administration—*  
(a) *Payments by handlers.* As his pro-rata share of the expense of the administration hereof, each handler, except those handlers exempted pursuant to Sec. 945.6 (a), shall pay to the market administrator on or before the 15th day after the end of each delivery period an amount equal to 2 cents per hundred-weight with respect to all milk received by him from producers, new producers, associations of producers, or produced by him during such delivery period, which was classified as Class I and Class II milk or such lesser amount, the exact amount to be determined by the market administrator, subject to review by the Secretary: *Provided,* That each handler which is a cooperative association shall pay such pro-rata share of expense of administration only on such Class I milk and Class II milk actually received from producers at a plant operated by such cooperative association from which milk is disposed of in the marketing area.

(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.

§ 945.10 *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 of order.* The Secretary may suspend or terminate this order or any provision hereof whenever he finds that this order or any provision hereof obstructs or does not tend to effectuate the declared policy of the act. This order shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator.* 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 handler, 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.

(1) The market administrator, or such other person as the Secretary may designate, shall (a) continue in such capacity until removed by the Secretary, (b) from time to time account for all receipts and disbursements, and when

so directed by the Secretary deliver all funds 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 thereto.

(d) *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 or 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.

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

Now, therefore, H. A. Wallace, Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, hereby executes and issues in duplicate this order, under his hand and the official seal of the Department of Agriculture, in the city of Washington, District of Columbia, on this 29th day of January 1940, and declares this order to be effective on and after the 1st day of February 1940.

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

[F. R. Doc. 40-457; Filed, January 29, 1940;  
2:04 p. m.]

## TITLE 14—CIVIL AVIATION

### CHAPTER I—CIVIL AERONAUTICS AUTHORITY

[Amendment 1 of § 228.3 of Economic  
Regulations]

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

#### Correction

JANUARY 27, 1940.

Amendment 1 of § 228.3 of Economic  
Regulations, appearing on Page 257 of  
the FEDERAL REGISTER for Tuesday, Janu-

ary 23, 1940 (F. R. Doc. 40-342; filed January 22, 1940; 12:13 p. m.), the title of which was corrected on Page 316 of the FEDERAL REGISTER for Saturday, January 27, 1940 (F. R. Doc. 40-430; filed January 26, 1940; 12:52 p. m.), should be entitled Amendment 1 of § 228.3 of Economic Regulations as originally published.

By the Authority.

[SEAL] PAUL J. FRIZZELL,  
Secretary.

[F. R. Doc. 40-468; Filed, January 30, 1940;  
12:40 p. m.]

## TITLE 17—COMMODITY AND SECURITIES EXCHANGES

### CHAPTER II—SECURITIES AND EX- CHANGE COMMISSION

GENERAL RULES AND REGULATIONS UNDER  
THE TRUST INDENTURE ACT OF 1939

#### Correction

In F. R. Doc. 40-376 (filed, January 23, 1940, at 2:21 p. m.), appearing in the issue of the FEDERAL REGISTER for Thursday, January 25, 1940, the italic center head in the third column on Page 294 should read "*Rules Under Section 307.*"

## TITLE 49—TRANSPORTATION AND RAILROADS

### CHAPTER I—INTERSTATE COM- MERCE COMMISSION

ORDER MODIFYING INTERPRETATIONS OF  
ACCOUNTING CLASSIFICATIONS

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D. C., on the 17th day of January, A. D. 1940.

The matter of modifying Accounting Bulletin No. 15, Interpretations of Accounting Classifications, effective January 1, 1918, being under consideration, pursuant to the authority contained in Section 20 of the Interstate Commerce Act, and being fully advised in the premises, the Commission orders:

1. That section (b) of the answer to Case 186, Accounting Bulletin No. 15 be and is hereby modified to read as follows:

(b) To account 2, "Land for transportation purposes."

2. That this order shall become effective on the first day of January 1940.

By the Commission.

[SEAL] W. P. BARTEL,  
Secretary.

[F. R. Doc. 40-461; Filed, January 30, 1940;  
11:38 a. m.]

ORDER MODIFYING THE CLASSIFICATION OF  
OPERATING REVENUES AND OPERATING  
EXPENSES FOR STEAM ROADS

At a session of the Interstate Commerce Commission, Division 1, held at its

office in Washington, D. C., on the 17th day of January, A. D. 1940.

The matter of modifying the Classification of Operating Revenues and Operating Expenses for Steam Roads being under consideration, pursuant to the authority contained in Section 20 of the Interstate Commerce Act, and, being fully advised in the premises, the Commission orders:

1. That the following additional note be and is hereby made part of account 101, "Freight":

NOTE G.—This account shall be maintained so as to show separately payments and allowances (a) to railway express agencies, (b) to motor truck companies and others, and (c) to shippers and consignees, for terminal collection and delivery services when performed in connection with line haul transportation of freight on the basis of freight tariff rates; also (d) payments for switching services when performed in connection with line haul transportation of freight on the basis of switching tariffs and allowances out of freight rates, including the switching of empty cars in connection with a revenue movement.

2. That this order shall become effective on the first day of January 1940.

By the Commission, division 1.

[SEAL] W. P. BARTEL,  
Secretary.

[F. R. Doc. 40-462; Filed, January 30, 1940; 11:38 a. m.]

### Notices

#### DEPARTMENT OF AGRICULTURE.

##### Division of Marketing and Marketing Agreements.

##### DETERMINATION OF THE SECRETARY OF AGRICULTURE, APPROVED BY THE PRESIDENT OF THE UNITED STATES, WITH RESPECT TO AN ORDER REGULATING THE HANDLING OF MILK IN THE WASHINGTON MARKETING AREA

Whereas, 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, having reason to believe that the execution of a marketing agreement and the issuance of an order, both of which regulate the handling of milk in the Washington marketing area, would tend to effectuate the declared policy of the act, gave on November 2, 1939, notice of public hearings<sup>1</sup> which were held at Warrenton, Virginia, on November 20, 1939, at Frederick, Maryland, on November 21, 1939, and at Washington, D. C., on November 22 and 24, 1939, and at said times and places afforded all interested parties an opportunity to be heard on said proposed marketing agreement and proposed order;

Whereas, after said hearings and after the tentative approval by the Secretary, on January 18, 1940, of a marketing

agreement, handlers of more than fifty percent of the volume of milk covered by such proposed order, which is marketed within the Washington marketing area, refused or failed to sign such tentatively approved marketing agreement relating to milk;

Now, therefore, the Secretary of Agriculture, pursuant to the powers conferred upon him by said act, hereby determines:

1. That the refusal or failure of said handlers to sign said tentatively approved marketing agreement tends to prevent the effectuation of the declared policy of the act;

2. That the issuance of the proposed order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk which is produced for sale in said area; and

3. That the issuance of the proposed order is approved or favored by over two-thirds of the producers who participated in a referendum conducted by the Secretary and who, during the month of November 1939, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area.

In witness whereof, H. A. Wallace, Secretary of Agriculture of the United States, has executed this determination in duplicate and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 26th day of January 1940.

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

Approved:

FRANKLIN D. ROOSEVELT  
The President of the United States.

Dated, January 26, 1940.

[F. R. Doc. 40-455; Filed, January 29, 1940; 2:04 p. m.]

##### PROCLAMATION MADE BY THE SECRETARY OF AGRICULTURE CONCERNING THE BASE PERIOD TO BE USED IN CONNECTION WITH THE ISSUANCE OF AN ORDER REGULATING THE HANDLING OF MILK IN THE WASHINGTON MARKETING AREA

Pursuant to the powers conferred upon the Secretary of Agriculture by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary hereby finds and proclaims that, in connection with the issuance of an order regulating the handling of milk in the Washington marketing area, the purchasing power of such milk during the base period August 1909-July 1914 cannot be satisfactorily determined from available statistics in the Department of Agriculture, but that the purchasing power of such milk can be satisfactorily determined from available statistics in the Department of Agriculture for the period August 1924-July 1929;

and the period August 1924-July 1929 is hereby found and proclaimed to be the base period to be used in connection with ascertaining the purchasing power of milk handled in the Washington marketing area for the purpose of the issuance of an order<sup>1</sup> regulating the handling of milk in said area.

In witness whereof, the Secretary of Agriculture has executed this proclamation in duplicate and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 29th day of January 1940.

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

[F. R. Doc. 40-456; Filed, January 29, 1940; 2:04 p. m.]

#### FEDERAL TRADE COMMISSION.

##### United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of January, A. D. 1940.

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

[Docket No. 3831]

##### IN THE MATTER OF ARDELL RAZOR BLADE CORPORATION, A CORPORATION, AND FULLER BLADE COMPANY, INC., A CORPORATION

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

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

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

It is further ordered, That the taking of testimony in this proceeding begin on Monday, February 19, 1940, at ten o'clock in the forenoon of that day (eastern standard time) in Room 1604, United States Court House, Foley Square, New York, New York.

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

By the Commission.

[SEAL] A. N. ROSS,  
Acting Secretary.

[F. R. Doc. 40-458; Filed, January 30, 1940; 9:55 a. m.]

<sup>1</sup> 4 F.R. 4465 DI.

<sup>1</sup> See page 337.

*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 27th day of January, A. D. 1940.

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

[Docket No. 3874]

IN THE MATTER OF SCIENTIFIC MANUFACTURING COMPANY, INC., A CORPORATION, AND HOWARD J. FORCE, INDIVIDUALLY, AND AS PRESIDENT OF SCIENTIFIC MANUFACTURING COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

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

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

*It is further ordered*, That the taking of testimony in this proceeding begin on Friday, February 23, 1940, at ten o'clock in the forenoon of that day (eastern standard time) in Room 415, Fourth Floor, Federal Building, Scranton, Pennsylvania.

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

By the Commission.

[SEAL]

A. N. ROSS,  
*Acting Secretary.*

[F. R. Doc. 40-459; Filed, January 30, 1940; 9:55 a. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of January, A. D. 1940.

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

[Docket No. 3896]

IN THE MATTER OF SEGAL LOCK AND HARDWARE COMPANY, INC., A CORPORATION; NORWALK LOCK COMPANY, A CORPORATION; LOUIS SEGAL, AN INDIVIDUAL, AND JACK KLEIN, INDIVIDUAL, TRADING AS TESTED APPLIANCES COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pur-

suant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41),

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

*It is further ordered*, That the taking of testimony in this proceeding begin on Friday, February 16, 1940, at ten o'clock in the forenoon of that day (eastern standard time) in Room 1604, United States Court House, Foley Square, New York, New York.

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

By the Commission.

[SEAL]

A. N. ROSS,  
*Acting Secretary.*

[F. R. Doc. 40-460; Filed, January 30, 1940; 9:55 a. m.]

**RAILROAD RETIREMENT BOARD.**

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

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

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

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

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

present evidence and argument pertinent to the matter under consideration."

Under authority of the above order a hearing as therein described will be held before the Board on Friday, March 1, 1940, at 10:00 a. m., at the offices of the Board, 10th and U Streets, Northwest, Washington, D. C. Any party interested therein may appear and may, prior thereto, on request receive from the Chairman copy of a statement on the proposed revisions.

By Authority of the Board.

MURRAY W. LATIMER,  
*Chairman.*

Dated, January 30, 1940.

[F. R. Doc. 40-463; Filed, January 30, 1940; 11:42 a. m.]

**SECURITIES AND EXCHANGE COMMISSION.**

*United States of America—Before the  
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of January, A. D. 1940.

[File Nos. 46-187, 43-255]

IN THE MATTER OF THE NORTH AMERICAN COMPANY, NORTH AMERICAN LIGHT & POWER COMPANY

ORDER DISMISSING APPLICATION, ETC.

North American Light & Power Company, a registered holding company and a subsidiary of The North American Company, a registered holding company, having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the proposed issue and sale of 2,666,667 shares of the common stock of said declarant, and said The North American Company having filed an application for an order under Section 9 (c) of said Act exempting from the provisions of Section 9 (a) thereof the proposed acquisition by it of such of said common stock so proposed to be issued and sold by North American Light & Power Company as is not subscribed for by other common stockholders, or former common stockholders of said North American Light & Power Company, in accordance with offerings of such stock to be made to such persons as more particularly set forth in said declaration, said The North American Company applying, as an alternative to such exemption of such acquisition, for approval thereof pursuant to Section 10 of said Act;

A public hearing having been held upon said declaration and application, as amended, after appropriate notice, the Commission having examined the record and having made its findings herein;

*It is ordered*, That the application of The North American Company be, and the same is hereby dismissed and that

14 F.R. 4555 DI.



the declaration of North American Light & Power Company be, and the same is hereby permitted to become effective forthwith, subject to the following terms and conditions:

(1) The notices sent to the present and former stockholders advising them of their right to subscribe for the stock proposed to be issued and sold shall contain a statement that shall embody the following data:

(a) That the offerings are made pursuant to court decree; that the prices at which such stock is offered are fixed by such decree; that The North American Company is required to purchase at the prices so fixed all stock not subscribed for by other stockholders.

(b) The closing price of such stock upon the New York Curb Exchange on the nearest practicable day to the date of the mailing of such notices, and in no event more than five days prior to the date of such mailing.

(c) Appropriate excerpts from the portion of our findings designated "conclusions."

The form of notice shall be submitted to this Commission before mailing and shall not be used if disapproved by the Commission.

(2) In the event that North American Light & Power Company receives an order from a stockholder to purchase at a price of \$3 per share, North American Light & Power Company will immediately advise such person in writing by registered mail of the most recent closing price for common stock of the company on the New York Curb Exchange, stating that it is required so to do by order of this Commission, and to afford to such person the privilege of rescinding his order for the purchase of common stock at \$3 a share within seven days from the date of the mailing of such advice by North American Light & Power Company. A copy of these findings shall be enclosed with such letter of advice.

(3) That the proposed issue and sale shall be effected (except as expressly otherwise indicated in these findings and opinion) in accordance with the terms and conditions of, and for the purposes represented by the declaration, as amended.

(4) That within ten days from the date of completion of such issue and sale, declarant shall file with this Commission a certificate of notification to the effect that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by the declaration, as amended (except as otherwise expressly indicated in these findings and opinion).

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 40-464; Filed, January 30, 1940; 12:17 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of January 1940.

[File No. 1-1485]

IN THE MATTER OF CHAMPION SHOE MACHINERY COMPANY 7% CUMULATIVE PREFERRED STOCK, \$100 PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The St. Louis Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the 7% Cumulative Preferred Stock, \$100 Par Value, of Champion Shoe Machinery Company; and

After appropriate notice,<sup>1</sup> a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

*It is ordered*, That said application be and the same is hereby granted, effective at the close of the trading session on February 8, 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 40-465; Filed, January 30, 1940; 12:17 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of January 1940.

[File No. 1-1854]

IN THE MATTER OF T. M. NORTON BREWING COMPANY 8% CUMULATIVE PARTICIPATING CONVERTIBLE CLASS "A" PREFERENCE STOCK, \$1 PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Board of Trade of the City of Chicago, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the 8% Cumulative Participating Convertible Class "A" Preference Stock, \$1 Par Value, of T. M. Norton Brewing Company; and

After appropriate notice,<sup>2</sup> a hearing having been held in this matter; and

<sup>1</sup> 4 F.R. 4814 DI.  
<sup>2</sup> 4 F.R. 4758 DI.

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

*It is ordered*, That said application be and the same is hereby granted, effective at the close of the trading session on February 8, 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 40-466; Filed, January 30, 1940; 12:17 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of January, A. D. 1940.

[File No. 46-97]

IN THE MATTER OF THE MIDDLE WEST CORPORATION

ORDER DENYING APPLICATION

The Middle West Corporation, a registered holding company, having heretofore applied pursuant to Section 9 (c) (3) of the Public Utility Holding Company Act of 1935, for an order exempting from the provisions of Section 9 (a) the applicant's acquisition of not more than 20,000 shares of the \$6 cumulative preferred stock of Central Illinois Public Service Company, one of its subsidiaries; the Commission having by its order of October 12, 1938, granted such exemption subject to certain conditions specified in such order, one of which was that such order should expire at the close of business on March 31, 1939; and

The Commission, on the 30th day of March, 1939,<sup>1</sup> having extended the effective period of said order to December 31, 1939; and

The Middle West Corporation having now filed an application in the same proceeding to extend the effective period of the said order to December 31, 1940, representing that it has purchased only 10,347 shares pursuant to said order of October 12, 1938; and

The Commission being of the opinion that the effective period of said order should no longer be extended;

*It is ordered*, That the application of The Middle West Corporation be denied, without prejudice to the right of The Middle West Corporation to file a new application regarding further acquisitions of such stock.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 40-467; Filed, January 30, 1940; 12:17 p. m.]

<sup>1</sup> 4 F.R. 1401 DI.