FEDERAL REGISTER

VOLUME 3 NUMBER 154

Washington, Tuesday, August 9, 1938

The President

EXECUTIVE ORDER

INSPECTION OF INCOME, EXCESS-PROFITS, AND CAPITAL STOCK TAX RETURNS BY THE SPECIAL COMMITTEE ON UN-AMERICAN ACTIVITIES, HOUSE OF REPRESENTATIVES

By virtue of the authority vested in me by section 257 (a) of the Revenue Act of 1926 (44 Stat. 9, 51); section 55 of the Revenue Act of 1932 (47 Stat. 169, 189) as amended by section 218 (h) of the National Industrial Recovery Act (48 Stat. 195, 209); sections 215 (e) and 216 (b) of the National Industrial Recovery Act (48 Stat. 195, 208); sections 55 (a), 701 (e), and 702 (b) of the Revenue Act of 1934 (48 Stat. 680, 698, 770); sections 105 (e) and 106 (c) of the Revenue Act of 1935 (49 Stat. 1014, 1018, 1019); and sections 55 (a), 351 (c), and 503 (a) of the Revenue Act of 1936 (49 Stat. 1648, 1671, 1733, 1738), it is hereby ordered that income, excess-profits, and capital stock tax returns made under the Revenue Act of 1932, the Revenue Act of 1932, as amended by the National Industrial Recovery Act, the National Industrial Recovery Act, the Revenue Act of 1934, the Revenue Act of 1935, as amended by the Revenue Act of 1936, the Revenue Act of 1936, and the Revenue Act of 1936, as amended by the Revenue Act of 1937, for the calendar year 1932 and all subsequent taxable years to and including the fiscal year ending November 30, 1938, shall be open to inspection by the Special Committee on Un-American Activities, House of Representatives, or any duly authorized subcommittee thereof, for the purpose of carrying out the provisions of House Resolution 282, passed May 26, 1938 (Seventy-fifth Congress, third session); such inspection to be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in the Treasury Decision relating to the inspection of returns by that committee, approved by me this date.[1]

This order shall be published in the FEDERAL REGISTER.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
July 14, 1938.

[No. 7933–A]

[F. R. Doc. 38–2799; Filed, August 8, 1938; 10:05 a. m.]

EXECUTIVE ORDER

ESTABLISHING WEST SISTER ISLAND MIGRATORY BIRD REFUGE

OHIO

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all that part of West Sister Island, in Lake Erie, Lucas County, Ohio, lying east of a line bearing north and south through a point which is east 200 feet distant from the center of the West Sister Island Lighthouse tower (the geographic position of which lighthouse is latitude 40°44′ 13″ N., and longitude 88°06′38″ W. from (Greenwich), and containing 82.00 acres, more or less, be, and it is hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, That nothing herein contained shall restrict the Bureau of Lighthouses from the right of ingress and egress over all parts of the island, together with the right to use any landing wharf for the purpose of tending and maintaining aids to navigation.

The Executive order of February 16, 1938, reserving West Sister Island for lighthouse purposes, is hereby revoked in so far as it effects the lands reserved by this order.

[1] See Page 1953.

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THE PRESIDENT

RULES, REGULATIONS, ORDERS

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FEDERAL REGISTER

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NOTICES

This reservation shall be known as the West Sister Island Migratory Bird Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 2, 1938.

[No. 7937]

[F. R. Doc. 38-2293; Filed, August 8, 1938; 10:03 a. m.]

EXECUTIVE ORDER

CORRECTING DESCRIPTION OF LAND RESERVED BY EXECUTIVE ORDER NO. 3406 OF FEBRUARY 13, 1921, FOR LIGHTHOUSE PURPOSES

ALASKA

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, it is ordered that, subject to valid existing rights, the description contained in paragraph numbered 72 of Executive Order No. 3406 of February 13, 1921, withdrawing public land for the Warm Springs Bay Lighthouse Reserve, be, and it is hereby, corrected to conform to Alaska Survey No. 1649, as shown on the plat approved March 8, 1937.

The land involved consists of 9.97 acres and is situated in latitude 57°04'45" N., longitude 134°46'57" W.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 2, 1938.

[No. 7938]

[F. R. Doc. 38-2294; Filed, August 8, 1938; 10:03 a. m.]

EXECUTIVE ORDER

PARTIAL REVOCATION OF EXECUTIVE ORDER NO. 5886 OF JULY 12, 1932, WITHDRAWING PUBLIC LANDS

WYOMING

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, Executive Order No. 5886 of July 12, 1932, withdrawing public lands in Wyoming, pending a resurvey, is hereby revoked as to the following-described townships:

SIXTH PRINCIPAL MERIDIAN

Tps. 26, 27, and 28 N., R. 117 W.
Tps. 27 and 28 N., R. 118 W.

This order shall become effective upon the date of the official filing of the plats of the resurvey of the above-described townships.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 2, 1938.

[No. 7939]

[F. R. Doc. 38-2295; Filed, August 8, 1938; 10:03 a. m.]

EXECUTIVE ORDER

TRANSFERRING CERTAIN LANDS WITHIN THE CORONADO NATIONAL FOREST TO THE CONTROL AND JURISDICTION OF THE TREASURY DEPARTMENT

ARIZONA

By virtue of and pursuant to the authority vested in me by the act of June 4, 1897, 30 Stat. 11, 34, 36, and as President of the United States, it is ordered that, subject to valid existing rights, the following-described lands comprising a part of the Coronado (formerly Huachuca) National Forest, created by proclamation of the President of November 6, 1906, 34 Stat. 3255, be, and they are hereby, transferred to the control and jurisdiction of the Secretary of the Treasury for use as a site for a customs-immigration inspection station:

GILA AND SALT RIVER MERIDIAN

T. 24 S., R. 17 E., sec. 20, NW¼NE¼, lots 1 and 2, 85.41 acres.

Upon cessation of the use of the above-described lands for the purpose herein specified they shall revert to their previous status as a part of the Coronado National Forest.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 2, 1938.

[No. 7940]

[F. R. Doc. 38-2296; Filed, August 8, 1938; 10:04 a. m.]

EXECUTIVE ORDER

ESTABLISHING THE FORT TYLER MIGRATORY BIRD REFUGE
NEW YORK

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the following-described area, on Gardiners Island, Suffolk County, New York, be, and it is hereby, reserved and set apart for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

The property known as the Fort Tyler Military reservation bounding on Gardiners Bay, and more definitely described as follows:

All that part of the north point of Gardiners Island lying northwest of a line described and running as follows: Starting from a stake on a sand ridge and running thence north 56 degrees east, and south 56 degrees west, to the waters on each side of said point, or beach, respectively, and bounded north, east, and west by the waters of Gardiners Bay, and southeasterly by the beach at the aforesaid line, containing about 14 acres, more or less.

The above-described property has been declared by the War Department to be surplus to its needs, and the reservation made by this order is subject to the right of the Director of Procurement to dispose of such property in accordance with the provisions of the act of August 27, 1935, c. 774, 49 Stat. 885.

This reservation shall be known as the Fort Tyler Migratory Bird Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 2, 1938.

[No. 7941]

[F. R. Doc. 38-2297; Filed, August 8, 1938; 10:04 a. m.]

EXECUTIVE ORDER

AUTHORIZING THE EMPLOYMENT OF CERTAIN EXAMINERS AND OTHER EXPERTS PAID FROM FUNDS AUTHORIZED BY PUBLIC RESOLUTION NO. 113, 75TH CONGRESS, WITHOUT COMPLIANCE WITH THE CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by the provisions of paragraph Eighth of subdivision SECOND of section 2 of the Civil Service Act of January 16, 1883 (22 Stat. 403, 404), it is hereby ordered that the positions of such examiners and other experts in the Department of Justice, the Department of the Treasury, the Department of Labor, the Department of Commerce, the Securities and Exchange Commission, and the Federal Trade Commission, as are necessary to enable the said Departments and Commissions to carry out their functions under Public Resolution No. 113, 75th Congress, approved June 16, 1938, establishing the temporary National Economic Committee, and the compensation of which is paid from funds allocated to the said Departments and Commissions by the President from the appropriation made by the Second Deficiency Appropriation Act, fiscal year 1938, Public No. 723, 75th Congress, approved June 25, 1938, for carrying out the provisions of the said Public Resolution No. 113, may be filled by the said Departments and Commissions without compliance with the requirements of the Civil Service Rules.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 2, 1938.

[No. 7942]

[F. R. Doc. 38-2298; Filed, August 8, 1938; 10:04 a. m.]

EXECUTIVE ORDER

AMENDMENT OF THE EXECUTIVE ORDER OF JANUARY 17, 1873, RELATING TO THE HOLDING OF STATE OR LOCAL OFFICES BY FEDERAL OFFICERS AND EMPLOYEES

By virtue of and pursuant to the authority vested in me by section 1753 of the Revised Statutes of the United States (5 U. S. C., sec. 631), and as President of the United States, the Executive Order of January 17, 1873, as amended, prohibiting, with certain exceptions, Federal officers and employees from holding State, municipal, or other local offices, is hereby further amended so as to permit employees of the Division of Grazing, Department of the Interior, with the approval of the Secretary of the Interior, to accept appointments as deputy fire wardens and deputy fish and game wardens under the laws of the States in which such employees may be on duty: *Provided*, that their services as such deputy fire wardens and deputy fish and game wardens shall be without compensation and shall not in any manner interfere or conflict with the performance of their duties as employees of the Division of Grazing.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 4, 1938.

[No. 7944]

[F. R. Doc. 38-2292; Filed, August 8, 1938; 10:02 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Order No. 27]

ORDER REGULATING SUCH HANDLING OF MILK IN THE NEW YORK METROPOLITAN MARKETING AREA AS IS IN INTERSTATE COMMERCE, AND AS DIRECTLY BURDENS, OBSTRUCTS OR AFFECTS INTERSTATE COMMERCE

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, 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, producers, 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 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 of Agriculture, 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 New York metropolitan marketing area, would tend to effectuate the declared policy of said act, gave, on the 29th day of April 1938, notice of public hearings [1] to be held on a proposed marketing agreement and a proposed order, said hearings being held jointly with the Commission of Agriculture and Markets of the State of New York at Albany, New York, May 16, 1938; Malone, New York, May 17, 1938; Syracuse, New York, May 18, 1938; Elmira, New York, May 19, 1938; New York City, May 20, 24, 25, and 26, 1938; and Albany, New York, June 3, 4, and 7, 1938, and at said times and places all interested parties were afforded an opportunity to be heard on the proposed marketing agreement and the proposed order; and

Whereas, the Secretary of Agriculture has found and proclaimed [2] the period

[1] 3 F. R. 1000 DI.
[2] See Page 1957.

August 1921–July 1929 to be the base period to be used in connection with ascertaining the purchasing power of milk produced for sale in the New York metropolitan marketing area; and

Whereas, the Secretary of Agriculture finds that a pro rata assessment on handlers at a rate not to exceed 2 cents per hundredweight of Class I, II–A, and II–B milk handled will provide funds necessary for the proper administration of this order; and

Whereas, the Secretary of Agriculture finds, upon the evidence introduced at the said public hearings;

1. That approximately one-third of the milk produced for sale in the marketing area is produced in States other than the State of New York; that approximately one-third of the milk produced in the State of New York for sale in the marketing area passes through other States on its way to be sold in the marketing area; and that milk produced in the State of New York for sale in the marketing area which does not pass through other States on its way to be sold in the marketing area is physically and inextricably intermingled with that milk which is produced outside the State of New York for sale in the marketing area or which is produced in the State of New York for sale in the marketing area but which passes through other States on its way to be sold in the marketing area; and that all milk which is 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 and its products, except as such milk is regulated by an order of the Commissioner of Agriculture and Markets of the State of New York, to which this order is complementary;

2. That the prices calculated to give milk handled in the marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8e of the act are not reasonable in view of the available supplies of feeds, the price of feeds, and other economic conditions which affect the supply and demand for such milk, and that the minimum prices fixed in accordance with the method set forth in this order are such prices as will reflect such 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 marketing agreement upon which hearings have been held;

4. That orderly marketing conditions for milk flowing into the New York metropolitan marketing area are so disrupted as to result in impairment of the purchasing power of such milk, and that the issuance of this 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 authority vested in him by said act, hereby orders that such handling of milk produced for sale in the New York metropolitan marketing area as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce, shall, from the effective date hereof according to article X, be in conformity to and in compliance with the terms and conditions hereinafter set forth.

ARTICLE I.—DEFINITIONS

SECTION 1. *Definitions.*—The following terms shall have the following meanings:

1. "Act" means the Agricultural Marketing Agreement Act of 1937 which reenacts and further amends certain provisions of Public No. 10, 73rd Congress, as amended.

2. "Secretary" means the Secretary of Agriculture of the United States.

3. "New York metropolitan milk marketing area" means the city of New York, and the counties of Nassau, Suffolk, and Westchester, all in the State of New York, and is hereinafter called the "marketing area."

4. "Person" means any individual, partnership, corporation, association, or any other business unit.

5. "Producer" means any person who produces milk which is delivered to a handler at a plant which is approved by any health authority for the receiving of milk to be sold in the marketing area.

6. "Handler" means any person who engages in the handling of milk, or cream therefrom, which was received at a plant approved by any health authority for the receiving of milk to be sold in the marketing area, which handling is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce. This definition shall be deemed to include a cooperative association of producers with respect to any milk received from producers at any plant operated by such association or with respect to any milk which it causes to be delivered from producers to any other handler for the account of such association and for which such association collects payment. This definition shall not be deemed to include any person who neither receives milk from producers nor handles milk which is sold as milk or cream in the marketing area.

7. "Market administrator" means the agency, which is described in article II, for the administration of this order.

ARTICLE II.—MARKET ADMINISTRATOR

SECTION 1. *Selection, removal and bond.*—The agency for the administration of this order shall be a market administrator who shall be a person selected and subject to removal by the Secretary. 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.

SEC. 2. *Compensation.*—The market administrator shall be entitled to such reasonable compensation as shall be determined by the Secretary.

SEC. 3. *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 this order.

SEC. 4. *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 discloses 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 section 3 of article V or

(b) Made payments required by sections 1 and 8 of article VII;

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

7. Pay out of the funds received pursuant to article VIII—

(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;

8. Maintain a main office and such branch offices as may be necessary.

SEC. 5. *Announcement of Prices.*—The market administrator shall publicly announce prices as follows:

1. Not later than the 25th day of each month, the Class I and Class II–A prices to be in effect for the following month, pursuant to section 1 of article IV.

2. Not later than the 5th day of each month, the prices effective for the preceding month for Classes II–B, III–A, III–B, III–C, III–D, IV–A, and IV–B, pursuant to section 1 of article IV.

3. Not later than the 14th day of each month, the uniform price com-

puted pursuant to section 2 of article VI.

ARTICLE III.—CLASSIFICATION OF MILK

SECTION 1. *Basis of classification.*—All milk received from producers by handlers shall be classified in the classes set forth in section 2 of this article in accordance with its utilization at, or movement from, the plant where received from producers, including members of any cooperative association; *Provided*, That if milk is moved as milk from any plant outside the marketing area where received from producers to a second plant outside the marketing area, classification of such milk at the first plant may be in accordance with its utilization at such second plant; and provided further that if milk is moved as cream, plain condensed milk or homogenized mixtures from any plant outside the marketing area to any second plant classification of such milk at the first plant may be in accordance with its utilization at such second plant.

Any utilization of milk claimed by a handler shall be subject to verification by the market administrator. Any claim by a handler of utilization of milk at the plant of any other person shall be accompanied by a complete statement of such utilization and written consent by such person for the market administrator to verify such statement by an audit of such person's records.

Any milk or cream which is on hand at any plant at the end of any month shall be classified in accordance with the form in which it leaves, or is utilized at, such plant not later than the 8th day of the following month.

SEC. 2. *Classes of utilization.*—The classes of utilization of milk shall be as follows:

1. Class I milk shall be all milk which leaves a plant as milk, chocolate milk, or any whole milk drink, and all milk the utilization of which is not established for classification in some other class named in this section, except that loss or waste of milk in the plant where received from producers, not to exceed 2 percent of the total quantity of milk received from producers, may be prorated to each class in the proportion which the milk in such class is of the total quantity of milk classified.

2. Class II–A milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream, except as set forth in paragraphs 5 and 7 of this section.

3. Class II–B milk shall be all milk the butterfat from which leaves, or is on hand at, a plant in the form of plain condensed milk, except as set forth in paragraph 6 of this section, frozen desserts, or homogenized mixtures.

4. Class III–A milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of evaporated milk in hermetically-sealed cans, sweetened condensed milk, milk chocolate, milk powder, malted milk powder, or any cheese other than American Cheddar and cream cheese.

5. Class III–B milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream which is subsequently held in a licensed cold storage warehouse for more than seven days at a temperature below zero degrees Fahrenheit.

6. Class III–C milk shall be all milk the butterfat from which leaves a plant in the form of frozen desserts or homogenized mixtures which were sold outside of New York City.

7. Class III–D milk shall be all milk the butterfat from which is delivered as cream to a purchaser, not a handler, outside the State of New York and outside any county in other States in which there is a plant which is approved by any health authority for the receiving of milk to be sold in the marketing area, also milk the butterfat from which leaves or is on hand at a plant in the form of cream cheese.

8. Class IV–A milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of butter.

9. Class IV–B milk shall be all milk the butterfat from which leaves or is on hand at a plant in the from of American Cheddar cheese.

ARTICLE IV.—MINIMUM PRICES

SECTION 1. *Class prices.*—For milk containing 3.5 percent of butterfat received, during each month from producers or cooperative associations of producers at plants in the 201–210 mile zone, each handler shall pay per hundredweight net less than the prices set forth in this section. For milk containing more or less than 3.5 percent of butterfat or received from producers or cooperative associations of producers at plants in other zones, each handler shall pay per hundredweight not less than the prices set forth in this section plus or minus the differentials set forth in sections 2 and 3 of this article.

The minimum prices for Class I and Class II–A milk shall apply to all Class I and Class II–A milk which is sold in the marketing area or which passes through a plant in the marketing area. The minimum prices for milk in Classes II–B, III–A, III–B, III–C, III–D, IV–A, and IV–B shall apply to all milk of any handler in these classes unless such handler has milk in Class I to which the minimum price is not applicable, in which event the minimum III–A, III–B, III–C, III–D, IV–A, and IV–B prices shall not apply to the percent of his milk, if any, in each of the said classes which is equal to the percent of his total milk received from producers to which the Class I price is not applicable.

Payment of the minimum prices for milk received direct from producers shall be in accordance with article VII. Any handler who purchases or receives milk from a cooperative association of producers which is also a handler shall pay such cooperative association in full for such milk at not less than the minimum prices applicable pursuant to this article.

1. For Class I milk the price during each month shall be as shown in the schedule below in this paragraph for the butter-price range in which falls the average, as determined by the market administrator, of the prices reported daily during the 60 days preceding the 25th day of the preceding month, by the United States Department of Agriculture, for 92-score butter at wholesale in the New York market.

Butter-price range (cents per pound)	Class I price	
	April through July	August through March
	Dollars per cwt.	*Dollars per cwt.*
Under 20	1.80	2.05
20–24.9	2.00	2.25
25–29.9	2.20	2.45
30–34.9	2.20	2.65
35–39.9	2.40	2.65
40–44.9	2.60	2.85
45–49.9	2.80	3.05
Over 49.9	3.00	3.25

2. For Class II–A milk the price during each month shall be as shown in the schedule below in this paragraph for the butter-price range in which falls the average, as determined by the market administrator, of the prices reported daily during the 30 days preceding the 25th day of the preceding month, by the United States Department of Agriculture for 92-score butter at wholesale in the New York market.

Butter-price range (cents per pound)	Class II–A price		
	March through July	August through October	November through February
	Dollars per cwt.	*Dollars per cwt.*	*Dollars per cwt.*
Under 20	1.30	1.35	1.50
20–24.9	1.50	1.55	1.70
25–29.9	1.70	1.75	1.90
30–34.9	1.85	1.90	2.05
35–39.9	2.00	2.05	2.20
40–44.9	2.15	2.20	2.35
45–49.9	2.30	2.35	2.50
Over 49.9	2.45	2.50	2.65

3. For Class II–B milk the price during each month shall be 10 cents higher than the Class III–A price.

4. For Class III–A milk the price during each month shall be 10 cents higher than the average, computed by the market administrator, of prices, as reported to the United States Department of Agriculture, paid during such month to farmers by each of the evaporated milk plants which are located at places listed in this paragraph and for which prices are reported; *Provided*, That in no event shall the Class III–A price be less than a price computed by the market administrator as follows: To the average price of 92-score butter at wholesale in the Chicago market for such month, as reported by the United States Department

of Agriculture, add 30 percent, multiply by 3.5, and add 7 cents.

LOCATIONS OF EVAPORATED MILK PLANTS

Mt. Pleasant, Mich.
Sparta, Mich.
Hudson, Mich.
Wayland, Mich.
Coopersville, Mich.
Greenville, Wis.
Black Creek, Wis.
Orfordville, Wis.
Chilton, Wis.
Berlin, Wis.
Richland Center, Wis.
Oconomowoc, Wis.
Jefferson, Wis.
New Clarus, Wis.
Belleville, Wis.
New London, Wis.
Coldwater, Ohio
Delta, Ohio.

5. For Class III–B milk the price during each month shall be 20 cents higher than the Class IV–A price.

6. For Class III–C milk the price during each month shall be 10 cents higher than the Class IV–A price.

7. For Class III–D milk the price during each month shall be 7½ cents higher than the Class IV–A price.

8. For Class IV–A milk the price during each month shall be a price computed by the market administrator as follows: From the average of the highest prices reported daily during such month by the United States Department of Agriculture for 92-score butter at wholesale in the New York market, deduct 4 cents, add 20 percent, and multiply by 3.5.

9. For Class IV–B milk the price during each month shall be a price computed by the market administrator as follows: Take the average of the weekly quotations, with differentials as indicated, from such of these markets as may issue quotations during such month: Single Daisies at Wisconsin Cheese Exchange, Plymouth, Wisconsin, plus one cent per pound; Twins at Gouverneur Cheese Board, Gouverneur, New York; Flats at Cuba Board of Trade, Cuba, New York; deduct 3 cents, and multiply by 9.45. In the absence of any such quotation the price for the preceding month shall be effective.

SEC. 2. *Butterfat differentials.*—The minimum prices for Classes I, II–A, II–B, III–B, III–C, and III–D milk set forth in section 1 of this article shall be subject to payment of butterfat differentials pursuant to section 3 of article VII. The minimum prices for Classes III–A and IV–A milk containing more or less than 3.5 percent butterfat shall be plus or minus, for each one-tenth of one percent butterfat, an amount equal to the respective prices set forth in paragraphs 4 and 8 of section 1 of this article, divided by 35. The minimum prices for Class IV–B milk containing more or less than 3.5 percent butterfat shall be plus or minus, for each one-tenth of one percent butterfat, an amount equal to the price set forth in paragraph 9 of section 1 of this article divided by 9.45 and multiplied by 0.23.

SEC. 3. *Transportation differentials.*—The market administrator shall from time to time publicly announce for each plant operated by each handler the freight zone set forth in the schedule below in this section according to the railway mileage distance from New York City of its nearest railway shipping point, or its highway mileage distance from New York City, if the latter is less than the former by more than 15 miles. Any such mileage distance shall be that recognized for rate-making purposes by the Interstate Commerce Commission. The minimum prices set forth in section 1 of this article shall be plus or minus the amounts as set forth in the following schedule:

A Freight (zone-miles)	B Class I	C Classes II–A, II–B, III–B, and III–C	D Class III–A
	Cents per cwt.	*Cents per cwt.*	*Cents per cwt.*
1–10	+15	+8	+4
11–20	+14	+8	+4
21–25	+13	+8	+4
26–30	+13	+7	+4
31–40	+13	+7	+4
41–50	+10.5	+7	+4
51–60	+10.5	+6	+3
61–70	+9.5	+6	+3
71–75	+8	+6	+3
76–80	+8	+5	+3
81–90	+8	+5	+3
91–100	+7	+5	+3
101–110	+7	+4	+2
111–120	+6	+4	+2
121–125	+5	+4	+2
126–130	+5	+3	+2
131–140	+5	+3	+2
141–150	+3.5	+3	+2
151–160	+2.5	+2	+1
161–170	+2.5	+2	+1
171–175	+1.5	+2	+1
176–180	+1.5	+1	+1
181–190	+1.5	+1	+1
191–200	0.0	+1	+1
201–210	0.0	0	0
211–220	−1	0	0
221–225	−1	0	0
226–230	−1	−1	0
231–240	−2	−1	0
241–250	−2	−1	0
251–260	−3.5	−2	−1
261–270	−3.5	−2	−1
271–275	−3.5	−2	−1
276–280	−3.5	−3	−1
281–290	−4.5	−3	−1
291–300	−5.5	−3	−1
301–310	−5.5	−4	−2
311–320	−5.5	−4	−2
321–325	−7	−4	−2
326–330	−7	−5	−2
331–340	−7	−5	−2
341–350	−8	−5	−2
351–360	−8	−6	−3
361–370	−8	−6	−3
371–375	−9	−6	−3
376–380	−9	−7	−3
381–390	−9	−7	−3
391–400	−9	−7	−3
401–410	−10.5	−8	−4
411–420	−10.5	−8	−4
421–425	−10.5	−8	−4
426–430	−10.5	−9	−4
431–440	−11.5	−9	−4
441–450	−11.5	−9	−4
451–460	−11.5	−10	−5
461–470	−12.5	−10	−5
471–475	−12.5	−10	−5
476–480	−12.5	−11	−5
481–490	−14	−11	−5
491–500	−14	−11	−5

ARTICLE V.—REPORTS OF HANDLERS

SECTION 1. *Preliminary monthly reports.*—On or before the 23rd day of each month each handler shall, when requested by the market administrator, report to the market administrator in the manner and form prescribed by him: (a) The total quantity of milk received during the first twenty days of such month from producers, and (b) the utilization of such milk in the several classes set forth in article III.

SEC. 2. *Reports of deliveries per day per producer.*—Each handler shall, upon request of the market administrator given not less than two weeks in advance, report the average deliveries of milk per day per producer during a specified period of time.

SEC. 3. *Final monthly reports.*—On or before the 10th day of each month each handler shall report to the market administrator, in the manner and on forms prescribed by the market administrator, with respect to milk received at each plant during the preceding month:

1. The total quantity of milk, with the average butterfat content thereof, received from producers, from other plants, from such handler's own farm, and from other handlers;

2. The total quantity of milk and of each product of milk moved out of such plant during such month or on hand at such plant at the end of such month, the butterfat content of each product; and the destination of any milk which moved out of such plant;

3. If classification of any milk is claimed by such handler on the basis of utilization at some other plant, the utilization of such milk, together with written consent for verification by audit thereof signed by the operator, if not a handler, of the other plant, and

4. The computation, pursuant to section 1 of article VI of such handler's net pool obligation.

SEC. 4. *Verification of reports and payments.*—The market administrator shall promptly verify all reports and payments of each handler by audit of such handler's records. Each handler shall, during the usual hours of business, make available to the market administrator or his representative such of his records and facilities as will enable the market administrator to:

1. Verify the receipts and utilization of all milk required to be reported pursuant to this article, and, in case of errors or omissions, ascertain the correct figures;

2. Weigh, sample, and test for butterfat content the milk received from producers and any product of milk upon which classification depends; and

3. Verify the payments to producers prescribed in article VII.

ARTICLE VI.—DETERMINATION OF UNIFORM PRICE

SECTION 1. *Net pool obligation of handlers.*—The net pool obligation of any handler for milk received from producers during each month shall be a sum of

money computed for such month as follows:

1. Determine the total quantity of milk in each class at each plant;

2. Subtract from the quantity of milk in each class the quantity of such milk received from other plants or from other handlers;

3. Subtract pro rata out of each class the quantity of milk received from the handler's own farm;

4. Subtract from the remaining quantity of milk in each class, the quantity of each to which the prices in section 1 of article IV do not apply, which result shall be known as the "net pooled milk" in each class;

5. Multiply the total quantity of net pooled milk in each class, at all plants of the handler combined, by the respective class prices set forth in section 1 of article IV and add together the resulting sums;

6. Deduct, in the case of each plant where the average butterfat content of all milk received from producers is in excess of 3.5 percent and add in the case of each plant where the average butterfat content of all milk received from producers is less than 3.5 percent, an amount equal to the difference between the total value of the butterfat differentials on net pooled milk in Classes III–A, IV–A, and IV–B at the rates set forth in section 2 of article IV for such milk and the total value of the butterfat differentials on such milk as set forth in section 3 of article VII;

7. Deduct, in the case of each plant nearer New York City than the 201–210 mile zone, and add, in the case of each plant farther from New York City than the 201–210 mile zone, an amount equal to the difference between the sum of the respective transportation differentials, as set forth in section 3 of article IV, on all net pooled milk in Classes II–A, II–B, III–A, III–B, and III–C and the sum obtained by applying the appropriate zone differential set forth in column B of the schedule in section 3 of article IV to the total net pooled milk at each plant in Classes II–A, II–B, III–A, III–B, III–C, III–D, IV–A, and IV–B.

8. Deduct 20 cents per hundredweight for all net pooled milk received from producers at plants in the counties or portions of counties listed below in this section. The result thus obtained shall be known as the "handler's net pool obligation."

Counties:
- New Jersey:
  - Hunterdon.
  - Somerset.
  - Essex.
  - Union.
  - Morris.
  - Warren.
  - Sussex.
  - Passaic.
- New York:
  - Columbia.
  - Dutchess.
  - Nassau.
  - Orange.
- New York—Continued.
  - Putnam.
  - Suffolk.
  - Westchester.
- Connecticut:
  - Litchfield.
- Massachusetts:
  - Berkshire.

Towns in Ulster County, New York:
- Marbletown.
- Hurley.
- Kingston.
- Ulster.
- Rosendale.
- Esopus.
- New Paltz.
- Lloyd.
- Gardiner.
- Plattekill.
- Marlborough.
- Shawangunk.

SEC. 2. *Computation of the uniform price.*—The market administrator shall, on or before the 14th day of each month, audit for mathematical correctness and obvious errors the final report submitted for the preceding month by each handler and, on the 14th day of such month, compute from all of such corrected reports the uniform price in the following manner:

1. Combine into one total the net pool obligations of all handlers;

2. Subtract the total of payments required to be made for such month by section 5 of article VII and the total of payments claimed pursuant to section 6 of article VII;

3. Add the amount of cash in the producer settlement fund;

4. Divide the result by the total quantity of milk represented in the sum obtained pursuant to paragraph 1 of this section; and

5. Subtract not less than 4 cents nor more than 5 cents to provide against the contingency of errors in reports and payments or of delinquencies in payments by handlers. This result shall be known as the uniform price for such month for milk containing 3.5 percent butterfat received from producers at plants in the 201–210-mile zone.

ARTICLE VII.—PAYMENTS TO PRODUCERS

SECTION 1. *Time of payment.*—On or before the 25th day of each month each handler which is not a cooperative association of producers shall make payment to each producer for all milk delivered by such producer at any plant during the preceding month at not less than the uniform price, subject to differentials set forth in sections 2 and 3 of this article. If, however, the net pooled milk in all classes at all plants of such handler is less than the total milk he received from producers and he does not pay the uniform price for all milk received from producers, such handler shall pay each producer the uniform price on such producer's pro rate share of the net pooled milk at all of his plants. Each handler shall give each producer a clear statement of the percentage of such producer's milk which was paid for at the uniform price and furnish a copy of such statement to the market administrator at the time payment is made.

SEC. 2. *Transportation and location differentials.*—The uniform price shall be plus or minus the differential shown in column B of the schedule contained in section 3 of article IV for the zone of the plant as established for the purposes of section 3 of article IV, plus 25 cents in the case of plants located in the counties listed in paragraph 8 of section 1 of article VI.

SEC. 3. *Butterfat differential.*—The uniform price shall be plus or minus, as the case may be, 4 cents per hundredweight for each one-tenth of one percent above or below 3.5 percent of average butterfat content of milk delivered by any producer during any month.

SEC. 4. *Grade A premiums.*—In addition to the uniform price and all other payments required pursuant to this article, each handler shall pay for milk which is qualified under the New York City Department of Health requirements for sale as Grade A milk and which is delivered to a plant similarly qualified, an amount per hundredweight equivalent to the following differentials on that Class I milk which such handler sold in the marketing area as Grade A milk;

Butterfat content (percent)	Bacteria colonies per c. c.		
	10,000 or less	10,000 to 25,000	Over 25,000
	Cents per cwt.	*Cents per cwt.*	*Cents per cwt.*
3.7	60	42	5
3.8	66	48	7.5
3.9	72	54	10
4.0 and above	78	60	12

SEC. 5. *Payments to cooperative associations.*—Any cooperative association of producers may apply to the Secretary for a determination of its qualifications to receive payments pursuant to this section by reason of its having and exercising full authority in the sale of the milk of its members, using its best efforts to supply, in times of short supply, Class I milk to the marketing area and to secure utilization of milk, in times of long supply, in a manner to assure the greatest possible returns to all producers, and having its entire activities under the control of its members. After such determination, the cooperative association of producers shall be entitled to continue to receive such payment until it has been disqualified by the Secretary, after hearing, for failure to exercise the authority and to perform the functions upon which such determination was based.

The market administrator shall make the payments authorized by this section, or issue credit therefor, out of the producer settlement fund on or before the 25th day of each month, subject to verification of the reports upon which such payment is based. Such payments

shall be made to each cooperative association of producers under the following conditions and at the following rates:

1. One cent per hundredweight of net pooled milk at any handler's plant which was caused to be delivered from its members by such association and on which such handler has made the reports and payments required by this order.

2. Except as set forth in paragraph 3 of this section, 2½ cents per hundredweight of net pooled milk at plants of other handlers which was reported and collected for by such association.

3. Five cents per hundredweight of net pooled milk at plants operated by such association and, if, in addition to the other qualifications, such association has been determined by the Secretary to have sufficient plant capacity to receive all the milk of producers who are members and to be willing and able to receive milk from producers not members, 5 cents per hundredweight of any net pooled milk which was caused by it to be delivered to any other handler and which is reported and collected for by such association.

SEC. 6. *Market service payment.*—The market administrator shall pay out of the producer settlement fund to any handler immediately after audit of claim for such payment made on forms supplied by the market administrator;

1. With respect to milk received from producers at a plant operated by such handler equipped only for the receiving and shipping of milk to the marketing area, which was, during any month except November or December, moved to a plant where it was utilized in Classes II–A, II–B, III–A, III–B, III–C, III–D, or, during the month of October, IV–A, and from which, if operated by such handler, no Class I milk was shipped to the marketing area during such month, 23 cents per hundredweight of milk so moved, plus 4 cents per hundredweight for the first five miles or fraction thereof, plus ¼ cent per hundredweight per mile for the next 20 miles, and plus $\frac{1}{10}$th of 1 cent per hundredweight per additional mile, of the shortest highway distance between the two plants; and

2. Thirty cents per hundredweight of Class I milk sold during the months of November and December in the marketing area which was received from producers at a plant which is equipped for condensing or drying milk and from which, during the months of May and June preceding, in terms of equivalent of milk received at such plant, no milk in excess of 10 percent and no cream in excess of 50 percent was shipped to the marketing area.

SEC. 7. *Producer settlement fund.*—The market administrator shall establish and maintain a separate fund known as "the producer settlement fund" into which he shall deposit all payments made by handlers pursuant to sections 8 and 10 of this article and out of which he shall make all payments to handlers pursuant to sections 6, 9, and 10 of this article, and to cooperative association of producers pursuant to section 5 of this article.

SEC. 8. *Payments to the producer settlement fund.*—Each handler shall on or before the 18th day of each month pay to the market administrator for payment to producers through the producer settlement fund the amount by which his net pool obligation for the preceding month is greater than the amount obtained by multiplying the net pooled milk of such handler by the uniform price.

SEC. 9. *Payments out of producer settlement fund.*—On or before the 20th day of each month the market administrator shall remit to each handler for payment to producers the amount, if any, by which such handler's net pool obligation is less than the amount obtained by multiplying the net pooled milk of such handler by the uniform price. If at such time the balance in the producer settlement fund is insufficient to make all payments due to such handler, the market administrator shall reduce uniformly the payments made to each handler and shall complete such payments as soon as the necessary funds are available. No handler who, on the 25th day of the month, has not received the balance of such reduced payment from the market administrator shall be deemed to be in violation of section 1 of this article if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer settlement fund.

SEC 10. *Adjustments of errors in payments.*—Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to or from the producer settlement fund, the market administrator shall promptly bill such handler for any unpaid amount, and such handler shall, within five 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 five 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 less than is required by this article, the handler shall make up such payment to the producer not later than the time of making payment next following such disclosure.

ARTICLE VIII.—EXPENSE OF ADMINISTRATION

SECTION 1. *Payment by handlers.*—As his pro rata share of the expense of administration hereof, each handler shall, on or before the 20th day of each month, pay to the market administrator a sum not exceeding 2 cents per hundredweight on the total quantity of milk which was received from producers at plants operated by such handler, directly or at the instance of a cooperative association of producers, and which was utilized in Classes I, II–A, and II–B, the exact amount to be determined by the market administrator subject to review by the Secretary. This section shall not be deemed to duplicate any similar payment by any handler under any order issued by the Commissioner of Agriculture and Markets of the State of New York to which this order is complementary.

ARTICLE IX.—SUSPENSION, TERMINATION AND LIQUIDATION

SECTION 1. *Continuing obligation of handlers.*—Unless otherwise provided by the Secretary in any notice of amendment, termination or suspension of any or all of the provisions hereof, such amendment, termination or suspension 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 provision of this order; (b) release or waive any violation of this order occurring prior to the effective date of such amendment, termination or suspension; or (c) affect or impair any right or remedies of the Secretary or of any other person with respect to any such violations.

SEC. 2. *Continuing power and duty.*—If, upon the termination or suspension of this order, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, or by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such termination or suspension.

The market administrator shall (a) continue in such capacity until discharged by the Secretary; (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, 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 pursuant to this order.

SEC. 3. *Liquidation.*—Upon the termination or suspension of this order, the market administrator 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 termination or suspension.

Any funds collected for expenses, pursuant to the provisions of this order, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator in liquidating the business of the market administrator's office shall be distributed by the market administrator to handlers in an equitable manner.

ARTICLE X.—EFFECTIVE TIME

SECTION 1. *Effective time.*—This order shall become effective after the issuance by the Commissioner of Agriculture and Markets of the State of New York of an order containing provisions similar to the provisions of this order and to which this order shall be complementary and on the first day of the month following, by more than three days, publication in the Federal Register by the Secretary of (a) his finding that the order is approved by more than two-thirds of the producers voting in a referendum, (b) a marketing agreement containing provisions similar to this order approved by him and signed by handlers of more than 50 percent of the milk sold in the marketing area, or, his determination approved by the President that the failure or refusal of handlers to sign tends to prevent the effectuation of the declared policy of the act and that the issuance of the order is the only practical means of advancing the interests of producers pursuant to such declared policy of the act.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture of the United States, have executed in duplicate and issued this order to become effective in accordance with article X hereof, and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 5th day of August 1938.

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

[F. R. Doc. 38-2280; Filed, August 5, 1938; 3:29 p. m.]

TITLE 8—ALIENS AND CITIZENSHIP

IMMIGRATION AND NATURALIZATION SERVICE

[Second Supplement to General Order No. C-2[1]]

PORTS OF ENTRY FOR ALIENS ARRIVING BY AIRCRAFT

INTERNATIONAL AIRPORT, TAMPA, FLA.

AUGUST 5, 1938.

Pursuant to the authority contained in Subsection (d) of Section 7 of the Air Commerce Act of 1926 (Act of May 20, 1926, 44 Stat. 572; 49 U. S. C. 177 (d)), the designation of International Airport, Tampa, Florida as a temporary port for the entry into the United States of aliens arriving by aircraft is hereby discontinued.

Sec. 11.33, Title 8, Code of Federal Regulations (Rule 3, Subdivision A, Paragraph 3 (b) of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936), is amended by striking Tampa, Florida, International Airport, in the list of temporary ports of entry for aliens arriving by aircraft.

[SEAL] FRANCES PERKINS,
Secretary.

Approval Recommended:

JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

[F. R. Doc. 38-2282; Filed, August 6, 1938; 10:54 a. m.]

[General Order No. C-4]

ISSUANCE AND DESCRIPTION OF BORDER CROSSING CARDS

AUGUST 5, 1938.

Pursuant to the authority contained in Section 23 of the Immigration Act of 1917 (Act of February 5, 1917, 39 Stat. 892; 8 U. S. C. 102), Sec. 11.83, Title 8, Code of Federal Regulations (Rule 3, Subdivision Q, Paragraph 1 of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936), is amended to read as follows:

SEC. 11.83. *Border crossing card; issuance and description of.*—An alien or citizen residing upon either side of an international boundary line who has occasion frequently to cross and recross such boundary line for limited visits, upon application, may be issued an identification card which shall correctly set forth his status. The application shall be accompanied by two unmounted photographs of the applicant (2 by 2 inches, the distance from the top of head to point of chin to be approximately 1½ inches) for attachment to the identification card, together with the data necessary for completion of the card. Such data shall be inserted in the appropriate blank spaces by typewriter or with ink. The applicant shall sign his name in ink except where, in the judgment of the issuing inspector, the signature may be made with an indelible pencil.*

[SEAL] JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

Approved:
FRANCES PERKINS,
Secretary.

[F. R. Doc. 38-2283; Filed, August 6, 1938; 10:54 a. m.]

TITLE 15—COMMERCE

NATIONAL BITUMINOUS COAL COMMISSION

RULING RELATING TO THIRTY DAY CONTRACT LIMITATION

The Commission having entered its ruling relating to thirty (30) day contract limitation on March 30, 1938, and having modified said ruling on April 6, 1938,[1] and this day having amended paragraph numbered (2) of the modification dated April 6, 1938 to read as follows:

"(2) To enter into a contract for the sale of coal for periods not exceeding one year in any case where a State or political subdivision thereof or any other governmental agency opens bids to purchase coal for periods in excess of thirty (30) days, but such contract must provide for a reasonable price to continue until minimum prices are made effective by the Commission and that thereafter no coal will be delivered thereunder below the minimum prices.",

Said ruling as amended is hereby published in consolidated form:

Inquiry having been made to the Commission as to whether or not a thirty (30) day limitation on contracts for the sale of coal is in effect by virtue of the provisions of the third paragraph of Section 4 (e) of the Act, or by virtue of Commission's Order No. 44,[2] and as to the power of the Commission to impose such thirty (30) day limitation under the authority vesting in the Commission to prescribe reasonable rules and regulations to carry out the provisions of the Act, in response thereto and in conformity with what it deems to be the intent of Congress, and in order to carry out the provisions of the Act:

The Commisison construes the third paragraph of Section 4 (e) of the Act, which limits contracts for the sale of coal from and after the date of the approval of the Act, *"until prices shall have been established,"* to a period not longer than thirty (30) days from the date of the contract, as meaning that the thirty (30) day limitation on contracts shall be effective *"while"* or *"as long as" prices are not established*, the word "until" referring to the entire time of the duration of a condition, rather than the mere point of inception of such condition, and;

The Commission declares that until minimum prices of coals of code members have been re-established by the National Bituminous Coal Commission, pursuant to subsections (a) and (b) of Part II, Section 4 of the Act, no code member shall sell or enter into any agreement to sell coal calling for delivery thereof for a period beyond thirty (30) days from the date of such sale or agreement of sale, provided however, that it will not be deemed a violation of the Code:

(1) To enter into a contract for the sale of coal with agencies of the Federal Government containing a provision permitting the Federal Government to renew the contract after the effective date of minimum prices, either for the remainder of the fiscal year or for such part thereof as the Government may

[1] 3 F. R. 1657, 1698 DI.

[1] 3 F. R. 807, 843 DI.
[2] 2 F. R. 1849 (2168 DI).

desire, but such contract must provide that no coal will be delivered thereunder below the minimum prices, when the same are established by the Commission, or:

(2) To enter into a contract for the sale of coal for periods not exceeding one year in any case where a State or political subdivision thereof or any other governmental agency opens bids to purchase coal for periods in excess of thirty (30) days, but such contract must provide for a reasonable price to continue until minimum prices are made effective by the Commission and that thereafter no coal will be delivered thereunder below the minimum prices.

By the Commission.

Dated this 5th day of August, 1938.

[SEAL] F. W. McCULLOUGH, *Secretary.*

[F. R. Doc. 38-2306; Filed, August 8, 1938; 11:56 a. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 2862]

IN THE MATTER OF H. R. ZIMMER

SEC. 3.6. (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that "radium emanator", or any like device, has any curative value, or is in any way beneficial in treatment of specified human ailments, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b [Cease and desist order, H. R. Zimmer, Docket 2862, July 29, 1938].

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that "radium emanator", or any like device, will improve health, prolong life, or destroy all injurious bacteria in water, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b [Cease and desist order, H. R. Zimmer, Docket 2862, July 29, 1938].

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 July, A. D. 1938.

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

[Docket No. 2862]

IN THE MATTER OF H. R. ZIMMER

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 the respondent, testimony and other evidence taken before Charles P. Vicini, John W. Addison, and Robert S. Hall, examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint (no proof having been offered by respondent in opposition to the allegations of said complaint), brief filed herein by Clark Nichols, counsel for the Commission (no brief having been filed and no request having been made by respondent for oral argument), 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, H. R. Zimmer, his representatives, agents and employees, in connection with the offering for sale, sale and distribution of his Zimmer Radium Emanator or any other like or similar device, whether sold under the name Zimmer Radium Emanator or under any other name, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Representing that said produce has any curative, remedial, or therapeutic value or is in any way beneficial in the treatment of anemia, asthma, stiff joints, hardening of arteries and high blood pressure, arthritis, apoplexy, bronchitis, inflammation of bladder, diabetes, eczema, condition of weakness after sickness, inflammation of stomach and bowels, inflammation of sinus, gout, laryngitis, lumbago, inflammation of uterus, inflammation of spinal cord, sick headaches, inflammation of heart muscles, Bright's disease, neuralgia and neuritis, nervous prostration, peritonitis, polyarthritis, pyorrhea, skin diseases, rheumatism, hay fever, sciatica, synovitis, locomar ataxia, and old age symptoms of disease, or any other disease or diseases.

(2) Representing that said product will improve health, prolong life, or destroy all injurious bacteria in water.

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. 38-2302; Filed, August 8, 1938; 11:52 a. m.]

[Docket No. 3439]

IN THE MATTER OF MADISON MILLING COMPANY

SEC. 3.99. (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., in connection with sale of flour, lottery cards or devices to enable recipients to dispose thereby of such flour, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b). [Cease and desist order, Madison Milling Company, Docket 3439, July 29, 1938.]

SEC. 3.99. (b) *Using or selling lottery devices—In merchandising.*—Selling or otherwise disposing of flour by use of lottery cards or devices, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b). [Cease and desist order, Madison Milling Company, Docket 3439, July 29, 1938.]

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 July, A. D. 1938.

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

[Docket No. 3439]

IN THE MATTER OF MADISON MILLING COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent admitting all the material allegations of fact set forth in the complaint issued herein, and waiving all intervening procedure and further hearing as to said facts, 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, Madison Milling Company, a corporation, its officers, agents, representatives and employees, in connection with the offering for sale, sale and distribution of flour in interstate commerce, do forthwith cease and desist from:

(1) Supplying to or placing in the hands of others lottery cards or other lottery devices or paraphernalia for the purpose of enabling such persons to dispose of such merchandise by the use thereof;

(2) Mailing, shipping or transporting to dealers or agents lottery cards or other lottery devices or paraphernalia so prepared or printed as to enable said persons to sell or distribute such merchandise by the use thereof;

(3) Selling or otherwise disposing of such merchandise by the use of lottery cards or any other lottery devices or paraphernalia.

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

By the Commission.

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

[F. R. Doc. 38-2303; Filed, August 8, 1938; 11:53 a. m.]

[1] 1 F. R. 1265.

TITLE 24—HOUSING CREDIT

HOME OWNERS' LOAN CORPORATION

AUTHORIZATION TO SIGN CHECKS ON REGIONAL WORKING FUND

MANUAL AMENDMENT

Be it resolved, That Section 7.15 of Part 7 of Chapter IV of Title 24 of the Code of Federal Regulations and the corresponding Section 715 of Chapter VII of the Manual are hereby amended to read as follows effective as of September 1, 1938:

SECTION 7.15. (Manual Section 715) The Regional Treasurer, and the Assistant Regional Treasurer in each Regional Office, are authorized, individually, to sign checks drawn on the Regional Working Fund maintained with the Treasurer of the United States for their respective Region. All checks in excess of $1,000.00 drawn on such accounts, shall be countersigned by the Regional Manager or an Assistant Regional Manager. All checks in an amount of $10,000.00 or more, drawn on such accounts, shall also be countersigned by the Chairman, Vice-Chairman, or any Member of the Board.

(Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1938 (48 Stat. 643–647) and particularly by subSections a and k of Section 4 of said Act as amended).

Adopted by the Federal Home Loan Bank Board on August 4, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-2301; Filed, August 8, 1938; 10:10 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4849]

REGULATIONS GOVERNING THE INSPECTION OF INCOME, EXCESS-PROFITS, AND CAPITAL STOCK TAX RETURNS BY THE SPECIAL COMMITTEE ON UN-AMERICAN ACTIVITIES, HOUSE OF REPRESENTATIVES

JULY 1, 1938.

Collectors of Internal Revenue and Others Concerned:

Pursuant to the provisions of section 257 (a) of the Revenue Act of 1926; section 55 of the Revenue Act of 1932, as amended by section 218 (h) of the National Industrial Recovery Act; sections 215 (e) and 216 (b) of the National Industrial Recovery Act; sections 55 (a), 701 (e), and 702 (b) of the Revenue Act of 1934; sections 105 (e) and 106 (c) of the Revenue Act of 1935; and sections 55 (a), 351 (c) and 503 (a) of the Revenue Act of 1936, income tax returns made under the Revenue Act of 1932, the Revenue Act of 1932, as amended by the National Industrial Recovery Act, the Revenue Act of 1934, the Revenue Act of 1936, as amended by the Revenue Act of 1937, and capital stock and excess-profits tax returns made under the National Industrial Recovery Act, the Revenue Act of 1934, the Revenue Act of 1935, as amended by the Revenue Act of 1936 and the Revenue Act of 1936, for the calendar year 1932 and all subsequent taxable years to and including the fiscal year ending November 30, 1938, shall be open to inspection by the Special Committee on Un-American Activities, House of Representatives, or any duly authorized subcommittee thereof, for the purpose of carrying out the provisions of House Resolution 282 (Seventy-fifth Congress, third session), passed May 26, 1938. The inspection of returns herein authorized may be by the committee or a duly authorized subcommittee thereof, acting directly as a committee or a subcommittee, or by or through such examiners or agents as the committee or subcommittee may designate or appoint. Upon written notice by the chairman of the committee or of the authorized subcommittee to the Secretary of the Treasury, giving the names and addresses of the taxpayers whose returns it is necessary to inspect and the taxable periods covered by the returns, the Secretary and any officer or employee of the Treasury Department shall furnish such committee or subcommittee with any data relating to or contained in any such return, or shall make such return available for inspection by the committee or subcommittee or by such examiners or agents as the committee or subcommittee may designate or appoint, in the office of the Commissioner of Internal Revenue. Any inforation thus obtained by the committee or the subcommittee thereof, which is relevant or pertinent to the purpose of the investigation, may be submitted by the committee or the subcommittee to the House.

H. MORGENTHAU, Jr.,
Secretary of the Treasury.

Approved:
FRANKLIN D ROOSEVELT,
The White House.

[F. R. Doc. 38-2300; Filed, August 8, 1938; 10:05 a. m.]

TITLE 35—PARKS AND FORESTS

FOREST SERVICE

RULES AND REGULATIONS GOVERNING EXERCISE OF WATER RIGHTS RESERVED BY THE GRANTOR OF LANDS CONVEYED TO THE UNITED STATES

In conformity with the provisions of the Act of March 1, 1911 (36 Stat. 961; 16 U. S. C., Sec. 518), I, H. A. Wallace, Secretary of Agriculture, do hereby prescribe the following rules and regulations to govern the exercise of water and related rights reserved by the grantor of lands conveyed to the United States under the provisions of said Act of March 1, 1911.

(1) All reasonable precautions shall be taken by the grantor and all persons acting for or claiming under him to prevent and suppress forest fires upon or threatening the premises or other adjacent lands of the United States, and any person failing to comply with this requirement shall be responsible for any damages sustained by the United States by reason thereof.

(2) All slash and debris resulting from the cutting and removal of timber shall be disposed of as directed by the Forest Officer in charge.

(3) Flowage and reservoir areas shall be cleared of timber and debris, in a manner satisfactory to the Forest Supervisor, or in accordance with a special agreement approved by him. Timber cut and destroyed in the exercise of the reserved rights shall be paid for at rates to be prescribed by the Forest Officer in charge, which rates shall be the usual stumpage price charged in the locality.

(4) The water surface created shall be open to the Forest Service and its permittees when such use does not interfere with the original purpose of the development.

(5) The water surface shall be open to fishing by the public in accordance with State laws when such use does not interfere with the original purpose of the development.

(6) Plans for dams and supplemental structures, impounding or controlling more than 10 acre feet of water or with a head in excess of 6 feet, shall be approved by the Regional Engineer of the Forest Service before construction shall begin.

In testimony thereof, I have hereunto set my hand and official seal at the City of Washington, this 5th day of August, 1938.

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

[F. R. Doc. 38-2288; Filed, August 6, 1938; 12:39 p. m.]

RULES AND REGULATIONS GOVERNING THE GRANTOR'S RIGHT TO OCCUPY AND USE LANDS CONVEYED TO THE UNITED STATES

In conformity with the provisions of the Act of March 1, 1911, (36 Stat. 961; 16 U. S. C. Sec. 518), I, H. A. Wallace, Secretary of Agriculture, do hereby prescribe the following rules and regulations to govern the exercise of the right reserved by the grantor to occupy and use for the purposes of residence, agriculture, industry or commerce lands conveyed to the United States for National Forest purposes under authority of said act as amended.

1. The reservation so created shall not be assigned, used or occupied by anyone other than the grantor without the consent of the United States.

2. All reasonable precautions shall be taken by the grantor and all persons acting for or claiming under him to prevent and suppress forest fires upon or threatening the premises or other adjacent lands of the United States, and any person failing to comply with this requirement shall be responsible for any damages sustained by the United States by reason thereof.

3. The premises shall not be used or permitted to be used, without the written consent of the United States, for any purpose or purposes other than those specified in the instrument creating the reservation.

4. The grantor and all persons acting for or claiming under him shall maintain the premises and all buildings and structures thereon in proper repair and sanitation and shall comply with the National Forest laws and regulations and the laws and lawful orders of the State in which the premises are located.

5. The reservation shall terminate (a) upon the expiration of the period named in the deed; (b) upon failure for a period of more than one calendar year to use and occupy the premises for the purposes named in the deed; (c) by use and occupancy for unlawful purposes or for purposes other than those specified in the deed, and (d) by voluntary written relinquishment by the owner.

6. Upon the termination of reservation the owners of personal property remaining on the premises shall remove same within a period of three months.

7. The said reservation shall be subject to rights-of-way for the use of the United States or its permittees, upon, across, or through the said land, as may hereafter be required for the erection, construction, maintenance and operation of public utility systems over all or parts thereof, or for the construction and maintenance of any improvements necessary for the good administration and protection of the national forests, and shall be subject to the right of officials or employees of the Forest Service to inspect the premises, or any part thereof, at all reasonable times and as often as deemed necessary in the performance of official duties in respect to the premises.

In testimony thereof, I have hereunto set my hand and official seal of the Department of Agriculture, in the City of Washington, this 5th day of August, 1938.

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

[F. R. Doc. 38-2289; Filed, August 6, 1938; 12:39 p. m.]

RULES AND REGULATIONS GOVERNING RIGHTS-OF-WAY RESERVED BY THE GRANTOR ON LANDS CONVEYED TO THE UNITED STATES

In conformity with the provisions of the Act of March 1, 1911 (36 Stat. 961, 16 U. S. C. Sec. 518), I, H. A. Wallace, Secretary of Agriculture, do hereby prescribe the following rules and regulations to govern the use, occupancy, and operation of rights-of-way reserved by a grantor of lands to the United States.

1. Brush and refuse resulting from the exercise of the right-of-way reservation shall be disposed of to the satisfaction of the Forest Officer in charge.

2. Timber cut and destroyed in the exercise of the right-of-way reservation shall be paid for at rates to be prescribed by the Forest Officer in charge, which rates shall be the usual stumpage prices charged in the locality in sales of national forest timber of the same kind or species; for injury to timber, second growth, and reproduction, the amount of actual damage shall be ascertained by the Forest Supervisor according to the rules applicable in such cases.

3. All improvements built or maintained upon the right-of-way shall be kept in an orderly, safe and sanitary condition. Failure to maintain such conditions shall be cause for the termination of the reservation after 30 days' notice in writing to the occupant or user that unsatisfactory conditions exist and that the Department intends to terminate all rights under the reservation unless such conditions are forthwith corrected to the satisfaction of the Regional Forester.

4. Upon the abandonment of a reserved right-of-way, either by formal release, by termination, or by non-use for a period of one calendar year, all improvements thereon not the property of the United States shall be removed therefrom within three months from the date of the abandonment, otherwise such improvements shall vest in and become the property of the United States.

5. All reasonable precautions to prevent and suppress forest fires shall be taken by the grantor and all persons acting for or claiming under him; suitable crossings shall be constructed by grantor and/or said persons where the reserved right-of-way intersects existing roads and trails; borrow pits shall not be opened outside of the immediate graded section except under a special use permit from the Forest Supervisor.

6. Officers of the Forest Service shall have free ingress and egress on and over the reserved rights-of-way for all purposes necessary and incidental to the protection and administration of the national forest.

In testimony thereof, I have hereunto set my hand and official seal at the City of Washington, this 5th day of August, 1938.

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

[F. R. Doc. 38-2290; Filed, August 6, 1938; 12:40 p. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Division of Territories and Island Possessions.

EXCURSION RATES ON THE ALASKA RAILROAD

[I. C. C. No. 244]

THE ALASKA RAILROAD

LOCAL PASSENGER TARIFF NO. 183-C[1]

Naming Round Trip Excursion Fares from Stations on the Alaska Railroad in Alaska to Fairbanks, Alaska, Account Tanana Valley Fair, August 25, 26, 27, 1938.

Issued, July 15, 1938. Effective, August 19, 1938. Authority: Act, March 12, 1914, and Executive Order No. 3861. Issued by O. F. Ohlson, General Manager, Anchorage, Alaska.

GENERAL RULES AND REGULATIONS

1. *Stations from and to which this tariff applies.*—This tariff applies from all Rail Line stations. This tariff applies only to Fairbanks, Alaska. Conductor picking up passenger at non-agency station will handle passenger to first agency station where ticket must be secured from originating station to final destination.

2. *Dates of sale.*—August 19, 20, 21, 22, 23, and 24, 1938.

3. *Final return limit.*—Return trip to be completed prior midnight of final limit. Tickets sold from stations College, Alaska to Curry, Alaska, inclusive will be limited to August 31, 1938. Tickets sold from stations Lane, Alaska to Seward, Alaska, inclusive, and Palmer, Alaska to Sutton, Alaska, inclusive will be limited to September 1, 1938.

4. *Stopovers.*—Stopovers will be permitted at all points within final return limit on both going and return trip. Stopover will be granted on application to Conductor who will endorse on reverse side of ticket "Off at _____ Station, Date _____ Train No. _____". This endorsement will be signed by Conductor and transportation returned to passenger.

5. *Tickets.*—Use Form L-14 Round Trip Excursion Tickets.

6. *Children.*—Tickets may be sold at one-half the fares named herein for children five years of age and under twelves years of age, sufficient to be added to make fare end in "0" or "5" Children under five years of age will be carried free when accompanied by parent or guardian.

7. *Baggage.*—For baggage rules including free allowance, excess charge, etc., see Local Baggage Tariff No. 2, I. C. C. No. 22 (Alaskan Engineering

[1] No supplement will be issued to this tariff except for the purpose of cancelling the tariff.

Commission Series), supplements thereto and reissues thereof. Excess baggage charges will be made on basis of the one way fares shown in Local Passenger Tariff No. 42–B, I. C. C. No. 177, supplements thereto and reissues thereof.

8. *Tickets non-transferable.*—All tickets sold at fares named herein are non-transferable and will be valid only for transportation of passenger for whom originally purchased.

9. *Fares.*—One first class fare and a third for the round trip. First class fares are shown in Local Passenger Tariff No. 42–B, I. C. C. No. 177, supplements thereto and reissues thereof. Agents in selling round trip tickets under this tarff will add sufficient to make fare end in "0" or "5" for the round trip.

The above is hereby confirmed.

RUTH HAMPTON,
Acting Director.

[F. R. Doc. 38–2291; Filed, August 8, 1938; 9:54 a. m.]

National Bituminous Coal Commission.

[Order No. 246]

AN ORDER INSTITUTING AN INVESTIGATION TO BE CONDUCTED BY THE COMMISSION FOR THE PURPOSE OF ACQUIRING SUCH INFORMATION AND DATA AS WILL ENABLE IT, AFTER HEARING, AND UPON NOTICE TO INTERESTED PARTIES, TO MAKE AND ISSUE RULES AND REGULATIONS TO MAKE SUB-SECTION 4 II (G) OF THE ACT EFFECTIVE

PROVIDING FOR THE COLLABORATION OF THE DISTRICT BOARDS WITH THE COMMISSION IN THE COLLECTING AND ASSEMBLING OF THE NECESSARY DATA AND INFORMATION, AND REQUESTING THE AID OF THE DISTRICT BOARDS BY THE SUBMISSION OF PROPOSED RULES AND REGULATIONS DESIGNED TO MAKE SAID SUB-SECTION EFFECTIVE

Whereas Sub-section (g) of Part II of Section 4 of the Bituminous Coal Act of 1937 provides:

> The price provisions of this Act shall not be evaded or violated by or through the use of docks or other storage facilities or transportation facilities, or by or through the use of subsidiaries, affiliated sales or transportation companies or through intermediaries or instrumentalities, or by or through the absorption, directly or indirectly, of any transportation or incidental charge of whatsoever kind or character or any part thereof. The Commission is hereby authorized, after investigation and hearing, and upon notice to the interested parties, to make and issue rules and regulations to make such subsection effective,

and

Whereas, it is desirable that the Commission be informed as to the practices heretofore and now employed or which are capable of being employed in the future, by producers or distributors of coal, by the use of the aforesaid instrumentalities or devices and their effect upon the actual price return to the producer or distributor for the coal sold by him, and

Whereas, the several District Boards are possessed of, or are capable of acquiring, information and data relating to such methods and uses, which will materially aid the Commission in making proper rules and regulations,

Now, Therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That there be, and there is hereby, instituted an investigation to be conducted by the Commission for the purpose of acquiring such information and data as will enable it to make and issue rules and regulations designed to prevent the evasion or violation of the provisions of the Act by or through the use of docks or other storage facilities or transportation facilities, or by or through the use of subsidiaries, affiliated sales or transportation companies or other intermediaries or instrumentalities, or by or through the absorption, directly or indirectly, of any transportation or incidental charge of whatsoever kind or character, or any part thereof.

2. That the Marketing Division of the Commission be and it is hereby directed to proceed forthwith, in the name of and in behalf of the Commission, to make such inquiries and to seek such information, from whatever source available, as will, in its judgment, appear to be necessary to properly effectuate the purposes of Section 4–II (g) of the Act.

3. And to this end, the said Marketing Division is directed to seek the collaboration of the several District Boards, and to request the said several District Boards, in the name of the Commission, to consider, and propose to the Commission such rules and regulations, as in their respective judgments, would serve to prevent the evasion or violation of the price provisions of the Act by the means set forth in Section 4–II (g) of the Act.

4. That the Marketing Division of the Commission be and it is hereby directed to report the results of said investigation, and submit to the Commission the said proposals of the District Boards, not later than the 26th day of August, 1938, at which time the Commission will, by further order, provide for a hearing, and notice thereof, at which all interested parties will be afforded an opportunity to be heard, for the purpose of receiving evidence to enable the Commission to make and issue the rules and regulations authorized by Section 4–II (g) of the Act.

5. That the Secretary of the Commission be and he is hereby directed to mail a copy of this Order to the Secretaries of each District Board, the Consumers' Counsel and to all code members, together with a request to each of said parties to submit to the Marketing Division of the Commission any information or data, or any suggestion which they consider pertinent; and the Secretary is further directed to cause a copy of this Order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–2307; Filed, August 8, 1938; 11:56 a. m.]

[Docket No. 16]

ORDER IN THE MATTER OF THE PETITION AND MOTION OF CHESTERFIELD COAL COMPANY, HI-HEAT COAL COMPANY, INDEPENDENT COAL & COKE COMPANY, LIBERTY FUEL COMPANY, MACLEAN COAL COMPANY, NATIONAL COAL COMPANY, PEERLESS SALES COMPANY, ROYAL COAL COMPANY, SPRING CANYON COAL COMPANY, STANDARD COAL COMPANY, SWEET COAL COMPANY, UTAH FUEL COMPANY, UNITED STATES FUEL COMPANY

At a special session of the National Bituminous Coal Commission held at its Offices in Washington, D. C., on the 5th day of August, 1938.

The petitioners above named, having on the 31st day of May, 1938, petitioned the Commission to vacate its Ruling dated March 30, 1938, and to revoke its construction therein of Section 10 (a) of the Bituminous Coal Act of 1937 permitting the introduction in evidence at a hearing before the Commission of data with respect to 1936 costs of production of individual producers; and

The matter having come on to be heard, pursuant to due public notice, before the Commission in its Hearing Room in the Shirley-Savoy Hotel, Denver, Colorado, on the 15th day of June, 1938, at 10:00 A. M., upon the petition aforesaid, and a "Stipulation of Evidence," constituting the entire evidence, having been filed and received, and

The cause having been submitted, and the Commission being fully advised in the premises, it is found, upon due consideration, that the issues herein involved are identical with the issues in "The Matter of the Petition of the Mallory Coal Company, et al," Docket No. 13, and in "The Matter of the Petition of the Rochester and Pittsburgh Coal Company, et al," Docket No. 14, and that the petition and motion herein should be dismissed upon the same grounds and for the same reasons as set forth in the Opinion of the Commission, entered in the aforesaid Dockets Nos. 13 and 14,[1] on the 1st day of June, 1938;

Now, Therefore, It is ordered:

1. That the aforesaid petition and motion of Chesterfield Coal Company, et al, filed herein on the 31st day of May, 1938, be and the same is hereby denied and dismissed.

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[1] 3 F. R. 1277 DI.

2. That the Secretary be and he is hereby directed to mail a copy of this order to each of the above named petitioners and to the Consumers' Counsel.

By the Commission.

Dated this 5th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2308; Filed, August 8, 1938; 11:57 a. m.]

[Docket No. 362-FD]

IN THE MATTER OF THE APPLICATION OF SOUTHERN ILLINOIS COALS, INCORPORATED, FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY

NOTICE AND ORDER FOR HEARING

The applicant above named, having on the 8th day of July, 1938, filed its application for provisional approval as a marketing agency, *Notice Is Hereby Given* that the above entitled matter is assigned for hearing before an Examiner of the Commission, on the *Twenty-ninth day of August, 1938*, at ten o'clock, A. M. at the hearing room of the Commission, 15th and Eye Streets, Northwest, Washington, D. C., at which time and place interested parties will be afforded an opportunity to be heard.

The Secretary of the Commission is forthwith directed to mail a copy of this Notice of Hearing to the applicant above named, to the Secretary of each District Board, and to the Consumers' Counsel, and shall cause a copy to be published in the FEDERAL REGISTER.

A copy of the aforesaid application is on file and available for inspection by interested parties at the office of the Secretary of the Commission.

By order of the Commission.

Dated this 5th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2309; Filed, August 8, 1938; 11:57 a. m.]

[Dockets No. 363-FD—411-FD]

ORDER IN THE MATTER OF THE PETITIONS OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 12 TO INTERVENE IN THE FOLLOWING APPLICATIONS FOR EXEMPTION FILED UNDER THE SECOND PARAGRAPH OF SECTION 4-A OF THE BITUMINOUS COAL ACT OF 1937:

O & L Coal Company, Attica, Iowa (Marion County); Beck Coal & Mining Company, 510 Crocker Building, Des Moines, Iowa (Polk County); Sumpter Coal Company, 510 Crocker Building, Des Moines, Iowa (Polk County); Stub Coal Company, Bussey, Iowa (Marion County); Cedar Bluff Coal Company, Hamilton, Iowa (Marion County); Liter Coal Company, Attica, Iowa (Marion County); Confidence High Test Coal Company, Promise City Iowa (Wayne County); Yocum & Son Coal Company, Corydon, Iowa (Wayne County); Duer & Head, Corydon, Iowa (Wayne County); Crozier Coal Company, Promise City, Iowa (Wayne County); Lauren Hegwood Coal Company, Dallas, Iowa (Marion County); H. W. Sargent Coal Company, Oskaloosa, Iowa (Mahaska County); Quality Coal Company, Givin, Iowa (Mahaska County); Agan & Gillespie Coal Company, Columbia, Iowa (Marion County); Rowley Coal Company, Knoxville, Iowa (Marion County); William Davis Coal Company, Beacon, Iowa (Mahaska County); Ault Coal Company, Eldon, Iowa (Wapello County); Villont Coal Company, Bussey, Iowa (Marion County); Erin Coal Company, Ottumwa, Iowa (Wapello County); Carbon Hill Coal Company, Oskaloosa, Iowa (Mahaska County); Diamond Block Coal Company, Pella, Iowa (Marion County); Flagler Coal Company, Knoxville, Iowa (Marion County); Mid-West Coal Company, Des Moines, Iowa (Polk County); Melcher Coal Company, Attica, Iowa (Marion County); Valley Forge Coal Company, Hamilton, Iowa (Marion County); Spavin Coal Company, Knoxville, Iowa (Marion County); Indian Hollow Coal Company, Des Moines, Iowa (Polk County); Houghton Coal Company, Attica, Iowa (Marion County); Conner & Smith Coal Company, Columbia, Iowa (Marion County); Anderson-Robinson Coal Company, Melcher, Iowa (Marion County); Big Six Coal Company, Hamilton, Iowa (Marion County); Ramsey-Dooms Coal Company, Knoxville, Iowa (Marion County); Pike Coal Company, Des Moines, Iowa (Polk County); C. A. Riggen Coal Company, Des Moines, Iowa (Polk County); Standard Coal Company, Dallas, Iowa (Marion County); Oakdale Coal Company, Indianola, Iowa (Warren County); Vancenbrock Coal Company, Knoxville, Iowa (Marion County); Hidden Hollow Coal Company, Hamilton, Iowa (Marion County); Bradley Bros. Coal Company, Knoxville, Iowa (Marion County); Walnut Valley Coal Company, Prairie City, Iowa (Jasper County); Wallace Coal Company, Marysville, Iowa (Marion County); Liberty Coal Company, Marysville, Iowa (Marion County); Hunt Coal & Mining Company, Marysville, Iowa (Marion County); Lae-Z Coal Company, Marysville, Iowa (Marion County); Levey Coal Company, Carlisle, Iowa (Warren County); Arkoal Coal Company, Marysville, Iowa (Marion County); National Coal Company, Marysville, Iowa (Marion County); Mulgrew and Sons Company, Dubuque, Iowa (Dubuque County); Ed M. Ankeny, New Market, Iowa (Taylor County).

At a special session of the National Bituminous Coal Commission held in its offices in Washington, D. C. on the 5th day of August, 1938.

The Petitions of Bituminous Coal Producers Board for District No. 12 for Permission to Intervene in the above cases having been considered and having been found not to state any facts from which the Commission may determine whether petitioner has such an interest in the proceedings as to justify its interventions:

Now, therefore, It is hereby ordered:

1. That the Petitions of Bituminous Coal Producers Board for District No. 12 for Permission to Intervene in the above cases be and hereby are dismissed without prejudice to the right of Bituminous Coal Producers Board for District No. 12 to file proper petitions in accordance with Rule VIII (b) of the Rules of Practice and Procedure before the Commission, promulgated June 23, 1937, and amended November 5, 1937, May 7, 1938, and June 6, 1938;[1]

2. That the Secretary of the Commission is directed forthwith to mail a copy of this order to the petitioners, to each of the parties above named, to the Consumers' Counsel, to the Secretary of each District Board, and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission, and shall cause a copy of the same to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2305; Filed, August 8, 1938; 11:55 a. m.]

[Docket No. 412-FD]

IN THE MATTER OF THE APPLICATION OF MAHASKA COAL COMPANY, INC. FOR EXEMPTION

OPINION AND ORDER OF THE COMMISSION

On December 16, 1937, this Commission entered an order effective January 3, 1938, in the matter entitled "Investigation of the Nature and Extent of Transactions in Intrastate Commerce in Bituminous Coal in the State of Iowa and the Effect of such Transactions on Interstate Commerce in such Coal," Docket No. 19-FD.[2] This was a hearing held pursuant to the provisions of the first paragraph of Section 4-A of the Bituminous Coal Act of 1937.

The second paragraph of Section 4-A states:

> Any producer believing that any commerce in coal is not subject to the provisions of Section 4 or to the provisions of the first paragraph of this section may file with the Commission an application * * * for exemption.

This Section further provides that:

> Within a reasonable time after the receipt of any application for exemption the Commission shall enter an order granting, or, after notice and opportunity for hear-

[1] 3 F. R. 1841 DI.

[2] 2 F. R. 2872 (3323 DI).

ting, denying or otherwise disposing of such application.

This Commission has not yet set for hearing nor issued notice thereof, the applications for exemption which have been received from Iowa.

On July 26, 1938, Bituminous Coal Producers Board for District No. 12, by its counsel, filed a petition for permission to intervene in the matter of the application for exemption filed on behalf of Mahaska Coal Company, Inc.

The petition of the District Board states that "if the application for exemption heretofore filed herein is granted, this Board will be adversely affected for the following reasons:

"(a) It will be deprived of the revenue that it would receive from the applicant, as a Code member, by way of collection of assessments.

"(b) It would be seriously hadicapped and hindered in the performances of its duties under said statute if this application is allowed.

"(c) The Code members of which this petitioner is the representative would be seriously damaged and affected in the operation of their respective coal mines."

On July 28, 1938, applicant, Mahaska Coal Company, Inc., by its Secretary, submitted a motion to strike the petition for permission to intervene, filed by Bituminous Coal Producers Board for District No. 12.

Applicant states: (1) that the allegation of the District Board that "it will be deprived of the revenue that it would receive from the applicant, as a Code member, by way of collection of assessments," is not material in the matter of application for exemption for the reason that the Bituminous Coal Act of 1937 does not apply to applicant unless it is engaged in interstate commerce, and among other reasons, applicant further states that "the right, privilege or authority of the Bituminous Coal Producers Board for District No. 12 to collect revenue from the said Mahaska Coal Company, is not in issue under the application of the Mahaska Coal Company;" (2) applicant further states that the allegation by the Producers Board that the performance of its duties under the statute would be seriously handicapped and hindered if the application is allowed, is frivolous, incompetent, irrelevant, immaterial and not an issue in this proceeding; (3) applicant states that the allegation that the code members represented by the District Board would be seriously damaged and affected if the application for exemption is granted, is not a statement of fact, and no facts from which such a conclusion can be drawn have been stated in the petition of the District Board, and the statement is merely a conclusion of the pleader; (4) finally, applicant states that the Petition for Permission to Intervene does not state any facts upon which the Commission can pass, but states only conclusions of the pleader and no facts from which conclusions may be drawn.

We do not pass upon the allegations set forth by applicant, Mahaska Coal Company, Inc., as to the materiality of District Board assessments, or upon the statement of applicant that the sole issue is whether applicant is engaged in interstate commerce, nor do we need determine at this time, whether District Board No. 12 has such an interest in the proceedings as to justify its intervention.

We grant the motion of Mahaska Coal Company, Inc., solely on the ground that the Petition for Permission to Intervene does not state any facts from which the Commission may determine whether petitioner has such an interest in the proceeding as to justify its intervention.

Now, Therefore, It is hereby ordered:

1. That in accordance with this opinion, that the Petition of District Board No. 12 for Permission to Intervene be and hereby is dismissed without prejudice to the right of District Board No. 12 to file a proper petition in accordance with Rule VIII (b) of the Rules of Practice and Procedure before the Commission, promulgated June 23, 1937, and amended November 5, 1937, May 7, 1938 and June 6, 1938.

2. That the Secretary of the Commission is directed forthwith to mail a copy of this order to the Mahaska Coal Company, Inc., to Bituminous Coal Producers Board for District No. 12, or their Attorneys of record; to the Secretary of each District Board, and shall cause a copy to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of August, 1938.

[SEAL] F. W. McCULLOUGH,
Secretary.

[F. R. Doc. 38-2304; Filed, August 8, 1938; 11:55 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

PROCLAMATION CONCERNING BASE PERIOD TO BE USED IN CONNECTION WITH EXECUTION OF MARKETING AGREEMENT AND ISSUANCE OF ORDER REGULATING HANDLING OF MILK IN NEW YORK METROPOLITAN MARKETING AREA

By virtue of the authority vested in the Secretary of Agriculture by the terms and provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and further amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture hereby finds and proclaims that in connection with the execution of a marketing agreement and the issuance of an order regulating the handling of milk in the New York Metropolitan Marketing Area, the purchasing power of such milk during the base period August 1909 to 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 1921 to July 1929; and the period August 1921 to 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 New York Metropolitan Marketing Area, for the purpose of the execution of a marketing agreement and the issuance of an order[1] regulating the handling of said milk in that area.

In testimony whereof, the Secretary of Agriculture 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 5th day of August 1938.

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

[F. R. Doc. 38-2281; Filed, August 5, 1938; 3:29 p. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

COLORADO

AUGUST 6, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Colorado State Farm Security Advisory Committee, the county listed below is hereby designated as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[2] and (2) the following additional county:

La Plata.

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

[F. R. Doc. 38-2287; Filed, August 6, 1938; 12:39 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

MONTANA

AUGUST 6, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II3 of Administration

[1] See Page 1945.
[2] 3 F. R. 599 DI.

Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Denver State Farm Security Advisory Committee, the county listed below is hereby designated as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[1] and (2) the following additional county:

Pondera.

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

[F. R. Doc. 38-2286; Filed, August 6, 1938; 12:39 p. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC-27]

CENTRAL TERRITORY CONTRACT CARRIER RATES

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 1st day of August, A. D. 1938.

Division 5 having under consideration the subject of the minimum charges of contract carriers applicable to the transportation of property in interstate or foreign commerce within the territory herein below described, and the rules, regulations, or practices affecting such charges and the value of the service thereunder:

It is ordered, That an investigation be, and it is hereby, instituted by the Division, on its own motion, into and concerning the minimum charges, and the rules, regulations, or practices affecting such charges and the value of the service thereunder, applicable to the transportation by all contract carriers by motor vehicle subject to the Motor Carrier Act, 1935, of all property, except household goods, livestock, automobiles, petroleum products in tank trucks, and articles of unusual size or value, in interstate or foreign commerce, between all points in the States of Illinois, Indiana, Michigan, Ohio, and Wisconsin, and all points in the States of Iowa, Kentucky, Missouri, New York, Pennsylvania, and West Virginia which are shown in Agent H. M. Slater's tariff MF-ICC No. 1, as amended, with a view to determining whether the said minimum charges, and the rules, regulations, or practices affecting such charges and the value of the service thereunder, of the respondent contract carriers, or any of them, applicable to such transportation, are in any respects in violation of the law, and of making such findings and entering such order or orders in the premises, and of taking such other and further action, as the facts and circumstances may appear to warrant.

It is further ordered, That all contract carriers of property by motor vehicle subject to the Motor Carrier Act, 1935, operating between the points and participating in the transportation described in the next preceding paragraph hereof be, and they are hereby, made respondents to this proceeding, that this order be served upon said respondents, and that notice to the public be given by posting a copy of this order in the office of the Secretary of the Commission in Washington, D. C.

And it is further ordered, That the said proceeding be, and it is hereby, assigned for hearing on the 4th day of October, A. D. 1938, at 10 o'clock a. m. (standard time), at the Hotel Sherman, Chicago, Ill., before Examiner A. S. Parker.

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-2310; Filed, August 8, 1938; 12:08 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 4th day of August 1938.

[File No. 1-2933]

IN THE MATTER OF FAIRCHILD ENGINE AND AIRPLANE CORPORATION $1.00 PAR COMMON STOCK

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGULATION

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 JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the $1.00 Par Common Stock of Fairchild Engine and Airplane Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Wednesday, August 31, 1938, in Room 630, Securities and Exchange Commission, Bankers Building, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2284; Filed, August 6, 1938; 12:23 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 5th day of August A. D. 1938.

IN THE MATTER OF BREEZE CORPORATIONS, INC.

STOP ORDER

This matter coming on to be heard before the Commission on the registration statement of Breeze Corporations, Inc., a New Jersey corporation, which became effective as of January 13, 1937, after confirmed telegraphic notice to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading in Items 46 and 54 and in the prospectus, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant; and

The registrant having moved orally at said hearing for a dismissal of these proceedings, and having on June 8, 1938, requested leave to argue before the Commission, the case and exceptions filed on that date, and having also filed June 8, 1938, a motion for an order dismissing these proceedings, or, in the alternative, reopening the hearing for further testimony and evidence, and fixing a date for oral argument on said motion; and

The registrant having requested leave to withdraw its proposed amendments dated September 2, 1937, January 27, 1938, and April 30, 1938, and that its proposed amendment dated June 22, 1938, be declared effective as of January 13, 1937; and

The Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading in Item 54 and the prospectus, all as more fully set forth in the Commission's Findings of Fact and Opinion this day issued; and

The Commission having duly considered the aforesaid motions and requests,

[1] 3 F. R. 611 DI.

all as more fully set forth in the aforesaid findings of fact and opinion; and

The Commission now being fully advised in the premises,

It is ordered, That the aforesaid motions to dismiss this proceeding be and the same hereby are denied;

That the aforesaid motion to reopen the hearing for further testimony and evidence be and the same hereby is denied;

That the aforesaid request and motions for oral argument be and the same hereby are denied;

That pursuant to Section 8 (d) of the Securities Act of 1933 the effectiveness of the registration statement filed by Breeze Corporations, Inc., a New Jersey Corporation, be and the same hereby is suspended;

That registrant's request to withdraw its proposed amendments dated September 2, 1937, January 27, 1938, and April 30, 1938, be and the same hereby is granted; and

That registrant's request that the amendment filed on June 22, 1938, be declared effective as of January 13, 1937, be and the same hereby is denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2285; Filed, August 6, 1938; 12:23 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 8th day of August, A. D. 1938.

[File No. 43-140]

IN THE MATTER OF SOUTHERN COLORADO POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

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

It is ordered, That a hearing on such matter be held on August 25, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

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

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 20, 1938.

The matter concerned herewith is in regard to an application pursuant to Section 7 of the Public Utility Holding Company Act of 1935, for authority to effect certain transfers in the accounts of applicant. Applicant has outstanding 42,516 shares of seven per cent cumulative preferred stock, par value $100.00 per share; 110,000 shares of Class A Common Stock, par value $25.00 per share; and 75,000 shares of Class B Common Stock without par value.

Authority is sought for the transfer of $4,590,000.00 from "Capital Reserve" to "Class B Capital Stock"; a reduction in the amount of capital represented by the Class B Stock, creating thereby a Capital Surplus in the amount of $3,840,000.00; and the disposition of said Capital Surplus.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2311; Filed, August 8, 1938; 12:55 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 8th day of August, A. D. 1938.

[File No. 43-151]

IN THE MATTER OF GULF STATES UTILITIES COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on August 25, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

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

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 20, 1938.

The matter concerned herewith is in regard to a declaration of Gulf States Utilities Company, a subsidiary company of Engineers Public Service Company, a registered holding company, regarding the issue and sale by declarant, at public sale through underwriters, of $10,000,000 principal amount of its First Mortgage and Refunding Bonds, Series D, 4%, the maturity date, price and commission to be paid the underwriters to be determined hereafter;

It is stated that the proceeds of the sale of the new bonds will be used for the following purposes:

To redeem the outstanding Baton Rouge First Mortgage Bonds—$3,101,700;

To pay notes of Louisiana Steam to Engineers—$2,680,000;

To pay short-term notes and open-account indebtedness of Baton Rouge to Engineers—$380,000;

To pay short-term notes of Company to The Chase National Bank of the City of New York—$425,000;

The balance will be used to finance the construction program of the Company and for the general corporate purposes of the Company as an operating public utility company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2312; Filed, August 8, 1938; 12:55 p. m.]