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FEDERAL REGISTER

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

VOLUME 29 NUMBER 135

Washington, Saturday, July 11, 1964

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FEDERAL REGISTER

Area Code 202 Phone 963-3261

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration (mail address National Archives Building, Washington, D.C. 20408), pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

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Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER C—SPECIAL PROGRAMS

[Amendment 3]

PART 775—FEED GRAINS

Subpart—1964 and 1965 Feed Grain Program Regulations

MISCELLANEOUS AMENDMENTS

The regulations governing the 1964 and 1965 Feed Grain Programs, 29 F.R. 590, as amended, are hereby further amended as follows:

1. In § 775.302:

a. Paragraph (b)(2)(iii) is amended;

b. Paragraph (c)(2)(vi) is amended;

c. Paragraph (d)(2)(v) is amended;

d. Paragraph (q)(2) is amended by changing certain corn and grain sorghum disposal dates for Texas and Wisconsin;

e. Paragraph (r) is added at the end of the section.

The amended and added portions of § 775.302 read as follows:

§ 775.302 **Definitions.**

* * * * *

(b) * * *

(2) * * *

(iii) Except when certification of acreage is required under Part 718 of this chapter, as amended, barley in excess of the permitted acreage, destroyed by mechanical means or by natural causes to the extent that such barley cannot be harvested as grain, green chop or silage, or consumed by livestock, not later than 15 days after date of notice of excess acreage,

* * * * *

(c) * * *

(2) * * *

(vi) Corn in excess of the permitted acreage destroyed to the extent that such corn cannot be harvested as grain, green chop or silage, or consumed by livestock, not later than the applicable disposal date in paragraph (q) of this section or, except when certification of acreage is required under Part 718 of this chapter, as amended, 15 days after date of notice of excess acreage, whichever is later,

* * * * *

(d) * * *

(2) * * *

(v) Grain sorghums in excess of the permitted acreage destroyed to the extent that such grain sorghums cannot be harvested as grain, green chop or silage, or consumed by livestock, not later than the applicable disposal date in paragraph (q) of this section or, except when certification of acreage is required under Part 718 of this chapter, as amended, 15 days after date of notice of excess acreage, whichever is later.

* * * * *

(q) * * *

(2) * * *

TEXAS

August 15: Zone VI—Bailey, Cochran, Crosby, Floyd, Garza, Hale, Hockley, Lamb, Lubbock, Lynn, Terry, and Yoakum.

September 1: Zone VI—Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler.

* * * * *

WISCONSIN

August 15: All counties.

* * * * *

(r) "Wheat Diversion Program" means the program authorized by § 339 of the Agricultural Act of 1938, as amended, under which producers divert acreage from the production of wheat.

§ 775.304 **[Amended]**

2. Section 775.304 is amended as follows:

a. Paragraph (b)(4) is amended by inserting immediately after the word "paragraph" a comma and the following: "the acreage diverted under the wheat diversion program".

b. Paragraph (c)(2) is amended by adding at the end thereof the following sentence: "A producer who violates the requirement of this subparagraph (2) shall be ineligible for diversion and price support payments under the program, except that if the total feed grain base for each farm is exceeded by no more than the larger of 2 acres or 5 percent of the total feed grain base (but not to exceed 15 acres), the producer shall be eligible for diversion and price support payments but the diversion payment otherwise earned by the producer under the program shall be reduced in an amount determined by multiplying the number of acres the total feed grain base is exceeded on each farm by the smallest average per acre diversion payment earned on any farm in which he shares in a diversion payment, but not to exceed the sum of the diversion payments otherwise earned by the producer under the program.".

§ 775.305 **[Amended]**

3. Section 775.305 is amended by inserting immediately after the words "the program" in the proviso the following: "and the wheat diversion program".

4. Section 775.306 is amended as follows:

a. By changing paragraph (a)(4) to read as follows:

§ 775.306 **Designation, use, and care of diverted acreage.**

(a) * * *

(4) which was designated and approved as diverted acreage under a prior feed grain, wheat stabilization, or wheat diversion program, except acreage devoted to trees or to a water storage facility.

* * * * *

b. Paragraph (a) is further amended by changing the third sentence to read as follows: "Land from which a crop is harvested in the current year prior to designation as diverted acreage other than as authorized in paragraph (c)(1) of this section, land classified as feed grain or wheat acreage, any acreage which is considered as planted to cotton for purposes of payment authorized by § 103(b) of the Agricultural Act of 1949, as amended, land devoted in the current year to asparagus, strawberries or bush fruits (including new planting of such crop), and land which, at the time the diverted acreage is designated, is expected to be utilized in the current year for industrial development, housing, highway construction or other nonfarm use, shall not be eligible for designation as diverted acreage.".

c. Paragraph (c) is amended by changing the third sentence thereof to read as follows: "If there is unauthorized harvesting of a crop from the designated diverted acreage and it is determined that such harvesting was not intentional and was not the result of gross negligence, payments shall be forfeited or refunded in an amount determined by multiplying the number of acres from which a crop is harvested without authorization by the smaller of (i) the additional wheat payment rate per acre if the farm is participating in the wheat diversion program or (ii) the lowest additional feed grain payment rate per acre established for the farm: *Provided*, That such forfeiture or refund shall apply first to the extent possible to payments for producers who caused, aided in or benefited from the harvesting of the crop, in the proportion in which they share in the payment to such producers under the program.".

d. 11. Section 775.306 is further amended by correctly identifying as paragraph (e) the paragraph immediately preceding paragraph (f).

e. Paragraph (f) is amended by inserting the word "out" immediately preceding the words "on the diverted acreage".

§ 775.307 **[Amended]**

5. Section 775.307(a)(14) is amended by inserting the word "will" immediately preceding the word "qualify".

§ 775.310 **[Amended]**

6. Section 775.310 is amended by inserting immediately after the words "the program" in the two places where the words appear in the second sentence the following: "and the wheat diversion program".

7. Section 775.312(h) is amended to read as follows:

§ 775.312 County average yields, productivity indexed, farm average yields and diversion and price support payment rates.

* * * * *

(h) *Diversion payment rates for land devoted to substitute crops.* Notwithstanding any other provision of this section, when the stated intention is less than 40 percent of the total feed grain base, the applicable diversion payment rate shall be 50 percent of the lowest minimum acre diversion payment rate for the farm in the case of diverted acreage devoted to guar, castor beans, and sesame, and 30 percent of the lowest minimum acre diversion payment rate for the farm in the case of diverted acreage devoted to mustard seed and sunflower. When the stated intention is 40 percent or more of the total feed grain base, the applicable diversion payment rate shall be 50 percent of the lowest additional acre diversion payment rate for the farm in the case of diverted acreage devoted to guar, castor beans, and sesame, and 30 percent of the lowest additional acre diversion payment rate for the farm in the case of diverted acreage devoted to mustard seed and sunflower. No diversion payment shall be made with respect to diverted acreage devoted to safflower.

* * * * *

§ 775.315 [Amended]

8. Section 775.315(e) is amended by changing the period at the end thereof to a comma and adding the following: "and (2) a producer on a farm for which certification of acreage is required under Part 718 of this chapter, as amended, may, within 15 days after notice of certification requirement is mailed, revise the intended diverted acreage."

9. Section 775.317(a) is amended to read as follows:

§ 775.317 Determinations of compliance.

(a) Determination of the acreage devoted to feed grains and of the acreage designated as diverted acreage shall be made in accordance with Part 718 of this chapter, as amended.

* * * * *

§ 775.318 [Amended]

10. Section 775.318 is amended as follows:

a. Paragraph (b) is amended by changing the semicolons at the end of subparagraphs (1) and (2) to commas and adding at the end of each of such paragraphs the following: "not to exceed 15 acres;".

b. Paragraph (b)(3) is amended to read as follows:

(3) the total conserving acreage on the farm (including diverted acreage devoted to crops planted in lieu of conservation uses) is less than the sum of the conserving base and the intended diverted acres under the program and the wheat diversion program by more than (i) in case the sum of the conserving base and the stated intention is 20 acres or less, the largest of 1 acre, the sum of the tolerance applicable to the stated intention under subparagraph (1) of this paragraph (b) and § 728.64(b)(2) of the regulations governing the wheat diversion program, or 10 percent of the sum of the conserving base and the stated intention, and (ii) in case the sum of the conserving base and the stated intention is over 20 acres, the largest of 2 acres, the sum of the tolerance applicable to the stated intention under subparagraph (1) of this paragraph (b) and § 728.64(b)(2) of the regulations governing the wheat diversion program, or 5 percent of the sum of the conserving base and the stated intention: *Provided,* That for farms other than those farms for which certification of acreage is required under Part 718 of this chapter, as amended, the county committee, with the approval of a representative of the State committee, may make payment to the extent of the acreage eligible for payment under paragraph (c) of this section with respect to a farm not meeting the requirements of subparagraphs (1) and (3) of this paragraph (b) if the farm operator establishes that, because of the small size of the deficiency and the unavailability of recent measurements of field acreages on the farm, he had no reason to believe that the designated acreage was less than the acreage intended to be diverted or that the total conserving acreage was less than the conserving base plus the stated intention, and all additional acreage on the farm (including any feed grain and other unharvested crops) eligible for such purposes at the time the operator receives a Form ASCS–590 (Notice of Acreage) is designated as diverted acreage or is counted toward meeting the conserving base requirement, and there is still insufficient acreage to comply with the requirements of subparagraphs (1) and (3) of this paragraph.

c. Paragraph (c) (3) and (4) is amended to read as follows:

(3) The increased acreage devoted to approved conservation uses and substitute crops, excluding substitute crops which are in excess of the stated intention under the program and the wheat diversion program and acreage credited for payment under the wheat diversion program.

(4) The designated diverted acreage, excluding acreage credited for payment under the wheat diversion program.

d. Paragraph (c)(5) is amended by changing the period at the end of the sentence to a comma and by adding immediately thereafter the following: "and minus the acreage diverted under the wheat diversion program.".

e. Paragraph (f) is amended by changing the first sentence to read as follows: "The farm shall be ineligible for the price support payment if the farm is ineligible for a diversion payment for any reason other than (1) the devotion of diverted acres to a substitute crop in lieu of payment, (2) the payment otherwise earned has been reduced to zero under § 775.304(c)(2) because the feed grain base on another farm has been exceeded but is within the tolerance prescribed in that section, or (3) the acres eligible for payment are zero because of the application of § 775.318(c)(3) but the total conserving acreage is within the tolerance prescribed in § 775.318(b)(3)."

§ 775.319 [Amended]

11. Section 775.319(c) is amended by changing the period at the end of the sentence to a comma and by adding immediately thereafter the following: "except as provided in § 775.321(d).".

12. Section 775.321(d) is amended to read as follows:

§ 775.321 Successors-in-interest.

* * * * *

(d) The price support payment to the predecessor and successor shall be divided on such bases as they agree is fair and equitable. If such persons are unable to agree to a division of the price support payment, the price support payment shall be issued to the producer who has the interest in the crop at the time of harvest, and if the crop is completely destroyed prior to harvest, the price support payment shall be issued to the producer who had the interest at the time of destruction of the crop.

* * * * *

§ 775.324 [Amended]

13. Section 775.324 is amended by inserting immediately after the words "accepted by the Deputy Administrator" the following: "or, under authority contained in instructions issued by the Deputy Administrator, by the State committee".

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 7, 1964.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 64–6933; Filed, July 10, 1964; 8:49 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Tree Nuts), Department of Agriculture

[Valencia Orange Reg. 91, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Finding. 1. Pursuant to the marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said marketing agreement and order, as amended, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges as hereinafter provided will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b)(1)(ii) of § 908.391 (Valencia Orange Regulation 91, 29 F.R. 8395) are hereby amended to read as follows:

§ 908.391 Valencia Orange Regulation 91.

* * * * *

(b) * * *
(1) * * *
(ii) District 2: 500,000 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 10, 1964.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 64–7010; Filed, July 10, 1964; 11:31 a.m.]

[Valencia Orange Reg. 92]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.392 Valencia Orange Regulation 92.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908; 27 F.R. 10089), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on July 9, 1964.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., July 12, 1964, and ending at 12:01 a.m., P.s.t., July 19, 1964, are hereby fixed as follows:

(i) District 1: Unlimited movement;
(ii) District 2: 400,000 cartons;
(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "handler," "District 1," "District 2," and "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 10, 1964.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 64–7011; Filed, July 10, 1964; 11:31 a.m.]

[Lemon Reg. 119]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.419 Lemon Regulation 119.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 27 F.R. 8346), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on July 7, 1964.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., July 12, 1964, and ending at 12:01 a.m., P.s.t., July 19, 1964, are hereby fixed as follows:

(i) District 1: Unlimited movement;
(ii) District 2: 372,000 cartons;
(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 9, 1964.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 64–6954; Filed, July 10, 1964; 8:50 a.m.]

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Expenses and Fixing of Rate of Assessment

Notice was published in the June 23, 1964, issue of the FEDERAL REGISTER (29 F.R. 7938) that consideration was being given to proposals regarding the expenses and the fixing of the rate of assessment for the fiscal period ending March 31, 1965, under the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), hereinafter referred to collectively as the marketing agreement and order, regulating the handling of apricots grown in designated counties in Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Washington Apricot Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 922.203 Expenses and rate of assessment for the 1964–65 fiscal period.

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Washington Apricot Marketing Committee, established pursuant to the provisions of the aforesaid marketing agreement and order, to enable such committee to perform its function, in accordance with the provisions thereof, during the fiscal period beginning April 1, 1964, and ending March 31, 1965, will amount to $5,469.

(b) *Rate of assessment.* The rate of assessment, which each handler who first handles apricots shall pay as his pro rata share of the aforementioned expenses in accordance with the applicable provisions of said marketing agreement and order, is hereby fixed at seventy cents ($0.70) per ton of apricots so handled by such handler during such fiscal period.

It is hereby found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that (1) the relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable apricots from the beginning of such period; and (2) the current fiscal period began on April 1, 1964, and the rate of assessment herein fixed will automatically apply to all assessable apricots beginning with such date.

Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 8, 1964.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 64-6934; Filed, July 10, 1964; 8:49 a.m.]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Miscellaneous Amendments

It is hereby ordered that on and after the effective date hereof all handling of raisins produced from grapes grown in California shall be in conformity to, and in compliance with, the Order Regulating the Handling of Raisins Produced from Grapes Grown in California, as amended (Order No. 989, as amended; 7 CFR Part 989), and as further amended by the "Order Amending the Order, as Amended, Regulating the Handling of Raisins Produced from Grapes Grown in California" which was annexed to and made a part of the decision of the Secretary of Agriculture, issued June 15, 1964 (F.R. Doc. 64-6050; 29 F.R. 7771), with respect to proposed amendment of the marketing agreement, as amended, and order, as amended, regulating the handling of such raisins. All of the findings, determinations, terms, and conditions of the aforesaid amendatory order shall be, and the same hereby are, the findings, determinations, terms, and conditions of this order as if set forth in full herein. It is hereby further ordered that, for convenient reference, there be set forth hereinafter in amended form, as applicable, the various texts of the codified portion of said Order No. 989, as amended (7 CFR Part 989) and as further amended by the aforesaid amendatory order, together with the aforesaid findings and determinations as herein supplemented.

§ 989.0 Findings and determinations.

(a) *Previous findings and determinations.* The findings and determinations hereinafter set forth are supplementary, and in addition, to the findings and determinations made in connection with the issuance of the order and each previously issued amendment thereof; and all of said prior findings and determinations are hereby ratified and affirmed except the finding as to the base period for the parity computation and insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein. (For prior findings and determinations, see 14 F.R. 5136; 20 F.R. 6435; 21 F.R. 8182; 25 F.R. 12814.)

(b) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held in Fresno, California, on March 11 and 12, 1964, on a proposed amendment of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. On the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended and as hereby further amended, regulates the handling of raisins produced from grapes grown in California in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) There are no differences in the production and marketing of raisins in the production area covered by the order, as amended and as hereby further amended, which require different terms applicable to different parts of such area;

(4) The said order, as amended and as hereby further amended, is limited in application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act; and

(5) All handling of raisins produced from grapes grown in California is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(c) *Additional findings.* It is hereby further found, for the reasons hereinafter set forth, that good cause exists for making the provisions of this amendatory order other than the provisions relating to the revision of § 989.80 effective upon publication in the FEDERAL REGISTER rather than postponing the effective date thereof until 30 days after such publication (5 U.S.C. 1003(c)). The amendatory order, in defining "non-normal outlets" to mean outlets other than those customarily used for commercial disposition of raisins meeting the then applicable minimum standards for natural condition or packed raisins, permits use of off-grade raisins and raisin residual material in a greater number of outlets than now permitted. Under the present program, disposition of off-grade raisins and raisin residual material is limited to use in distillation, animal feed, or uses other than human consumption. Under the amendment, such raisins and material also may be disposed of in human consumption outlets so long as the use does not include or interfere with customary uses of standard quality raisins. Producers and handlers still have in their

possession larger than usual quantities of off-grade raisins or raisin residual material, or both, resulting mainly from rain damage to the 1963 raisin production; and such raisins and material cannot be disposed of in the normal outlets for standard quality raisins. The availability of the new outlets should, therefore, be made effective immediately to facilitate disposition of such raisins and material as promptly as possible. Such disposition would tend to prevent further deterioration with consequent loss of value, reduce off-grade carryover into the 1964–65 crop year, and at the same time be in the interest of sanitation. Also, the amendment enables producers to perform certain cleaning operations on their raisins without becoming handlers by reason of such cleaning. Immediately extending this benefit to producers would permit them to maximize recovery of sound raisins from the 1963 crop off-grade raisins still held by them. In addition, the amendatory order provides other improvements in program operations and procedures, and maximum benefits would derive therefrom if such improvements should become effective immediately. Moreover, a revision of certain current administrative rules and procedures will be required by, and be dependent upon, the amendatory order after it becomes effective. An early effective date will provide early opportunity for completing such action in time to permit the benefits derivable from the amendatory order to be available during as great a part of the remainder of the current crop year as possible.

(d) *Determinations.* It is hereby determined that:

(1) The "Marketing Agreement, as Amended, Regulating the Handling of Raisins Produced from Grapes Grown in California," upon which the aforesaid public hearing was held, has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping raisins covered by the said order, as amended and as hereby further amended) who, during the period July 1, 1963, through May 30, 1964, handled not less than 50 percent of the volume of such raisins covered by the said order, as amended and as hereby further amended; and

(2) The issuance of this amendatory order, amending the aforesaid order, as amended, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the period July 1, 1963, through May 30, 1964 (which has been determined to be a representative period), have been engaged, within the State of California, in the production for market of grapes which were sun-dried or dehydrated by artificial means until they became raisins, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of raisins produced from grapes grown in California, shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended, and as hereby further amended as follows:

1. Section 989.13 *Processor*, is revised to read:

§ 989.13 Processor.

"Processor" means any person who receives or acquires raisins and uses them within the area, with or without other ingredients, in the production of a produce other than raisins, for market or distribution.

2. Section 989.14 *Packer*. is revised to read:

§ 989.14 Packer.

"Packer" means any person who, within the area, stems, sorts, cleans, or seeds raisins, grades stemmed raisins, or packages raisins for market as raisins: *Provided*, That no producer with respect to the raisins produced by him, and no group of producers with respect to raisins produced by the producer comprising the group, and not otherwise a packer shall be deemed a packer if he or it sorts or cleans (with or without water) such raisins in their unstemmed form: *Provided further*, That any dehydrator shall be deemed to be a packer, with respect to raisins dehydrated by him, only if he stems, cleans with water subsequent to such dehydration, seeds or packages them for market as raisins: *And provided further*, That the committee may, with the approval of the Secretary, restrict the exception as to permitted cleaning if necessary to cause delivery of sound raisins.

3. Section 989.15 *Handler*, is revised to read:

§ 989.15 Handler.

"Handler" means: (a) Any processor or packer; (b) any person who places, ships, or continues natural condition raisins in the current of commerce from within the area to any point outside thereof; (c) any person who delivers off-grade raisins or raisin residual material to other than a packer or other than into any eligible non-normal outlet; or (d) any person who blends raisins: *Provided*, That blending shall not cause a person not otherwise a handler to be a handler on account of such blending if he is either: (1) A producer who, in his capacity as a producer, blends raisins entirely of his own production in the course of his usual and customary practices of preparing raisins for delivery to processors, packers, or dehydrators; (2) a person who blends raisins after they have been placed in trade channels by a packer with other such raisins in trade channels; or (3) a dehydrator who, in his capacity as a dehydrator, blends raisins entirely of his own manufacture.

4. Immediately after § 989.24, the following new § 989.24a *Non-normal outlets*, is added:

§ 989.24a Non-normal outlets.

"Non-normal outlets" means outlets other than those customarily used for commercial disposition of raisins meeting the then applicable minimum standards for natural condition raisins or packed raisins.

§ 989.52 [Amended]

5. Paragraph (c) of § 989.52 is deleted.

6. Paragraphs (a) (d) (1), and (e) (1) of § 989.58 is revised to read as follows. The last sentence in paragraph (e) (4) of § 989.58 is deleted.

§ 989.58 Natural condition raisins.

(a) *Regulation.* No handler shall acquire or receive natural condition raisins which fail to meet the minimum grade and condition standards as set forth in § 989.97 (Exhibit B) or as later changed and then in effect: *Provided*, That a handler may receive raisins for inspection, may receive off-grade raisins for reconditioning, and may receive or acquire off-grade raisins for use in eligible non-normal outlets: *And provided further*, That nothing contained in this paragraph shall apply to the acquisition or receipt of natural condition raisins of a particular varietal type for which minimum grade and condition standards are not applicable or then in effect pursuant to this part.

* * * * *

(d) *Inspection and certification.* (1) Each handler shall cause an inspection and certification to be made of all natural condition raisins acquired or received by him, except with respect to: (i) An inter-plant or inter-handler transfer of off-grade raisins as described in paragraph (e) (2) of this section, unless such inspection and certification are required by rules and procedures made effective pursuant to this amended subpart; (ii) an inter-plant or inter-handler transfer of free tonnage raisins as described in § 989.59(e); (iii) raisins received from a dehydrator which have previously been inspected pursuant to subparagraph (2) of this paragraph; (iv) any raisins for which minimum grade and condition standards are not then in effect; and (v) any raisins, if permitted in accordance with such rules and procedures as the committee may establish with the approval of the Secretary, acquired or received for disposition in eligible non-normal outlets. The handler shall be reimbursed by the committee for inspection costs incurred by him and applicable to pool tonnage held for the account of the committee. Except as otherwise provided in this section, prior to blending raisins, acquiring raisins, storing raisins, reconditioning raisins, or acquiring raisins which have been reconditioned, each handler shall obtain an inspection certification showing whether or not the raisins meet the applicable grade and condition standards: *Provided*, That these requirements shall not preclude fumigation by the handler prior to completion of inspection and certification in accordance with such rules and procedures as the committee shall establish with the approval of the Secretary. The handler shall submit or cause to be submitted to the committee a copy of such certification, together with such other documents or records as the committee may require. Such certification shall be issued by inspectors of the Processed Products Standardization and Inspection Branch of the United States Department of Agriculture, unless the committee determines, and the Secretary

concurs in such determination, that inspection by another agency would improve the administration of this amended subpart. The committee may require that raisins held on memorandum receipt be reinspected and certified as a condition for their acquisition by a handler.

* * * * *

(e) *Off-grade raisins.* (1) Any natural condition raisins tendered to a handler which fail to meet the applicable minimum grade and condition standards may: (i) Be received or acquired by the handler for disposition, without further inspection, in eligible non-normal outlets; (ii) be returned unstemmed to the person tendering the raisins; or (iii) be received by the handler for reconditioning. Off-grade raisins received by a handler under any one of the three described categories may be changed to any other of the categories under such rules and procedures as the committee, with the approval of the Secretary, shall establish. No handler shall ship or otherwise dispose of off-grade raisins which he does not return to the tenderer, transfer to another handler as provided in subparagraph (2) of this paragraph, or recondition so that they at least meet the minimum standards prescribed in or pursuant to this amended subpart, except into eligible non-normal outlets.

* * * * *

7. Paragraph (f) of § 989.59 is revised to read:

§ 989.59 Regulation of the handling of raisins subsequent to their acquisition by handlers.

* * * * *

(f) *Disposition of off-grade raisins and raisin residual material in eligible non-normal outlets.* Any off-grade raisins, except those returned unstemmed to the tenderer or successfully reconditioned, and any raisin residual material (including defective raisins, stemmer waste, sweepings, and other residue) which may be received or acquired by a handler or accumulated by a handler from reconditioning raisins or from processing standard raisins, and any raisins acquired by a handler as standard raisins which subsequently fail to meet the applicable grade and condition standards for shipment or final disposition as raisins, shall be disposed of or marketed by the handler, without further inspection, in eligible non-normal outlets: *Provided,* That no packer shall be precluded from recovering raisins from such accumulations or acquisitions: *Provided further,* That whenever the Secretary concludes, on the basis of a recommendation of the committee, that to specify one or more non-normal outlets as ineligible for any class of such receipts, acquisitions, or accumulations will tend to effectuate the declared policy of the act, he shall specify such ineligible outlets and prohibit the shipment thereto or final disposition therein of such class by handlers as well as the receipt and use thereof by processors: *And provided further,* That no processor who is a distiller shall be precluded from receiving or using for distillation (i) the standard raisins which subsequently fail to meet the said applicable standards, (ii) the raisin residual material accumulated from processing standard raisins, or (iii) the raisin residual material referable to the standard raisin equivalent recovered in reconditioning; and any handler may ship such raisins and raisin residual material to such processor. The committee shall establish, with the approval of the Secretary, such rules and procedures as may be necessary to insure adequate control over the off-grade raisins and raisin residual material subject to this paragraph. Such rules may include a requirement that the disposition and use of all or any class of off-grade raisins or raisin residual material be confined to the area. The provisions of this paragraph are not intended to excuse any failure to comply with all applicable food and sanitary rules and regulations of city, county, state, federal or other agencies having jurisdiction.

* * * * *

11. Section 989.60 *Exemption* is revised to read:

§ 989.60 Exemption.

Notwithstanding any other provisions of this amended subpart, the committee may establish, with the approval of the Secretary, such rules and procedures as may be necessary to permit the acquisition and disposition of any off-grade or surplus pool raisins, free from any or all regulations, for uses in non-normal outlets.

12. Section 989.79 *Expenses.* is revised to read:

§ 989.79 Expenses.

The committee is authorized to incur such expenses (other than those specified in § 989.82) as the Secretary finds are reasonable and likely to be incurred by it during each crop year, for the maintenance and functioning of the committee and the board and for such purposes as he may, pursuant to this subpart, determine to be appropriate. The funds to cover such expenses shall be obtained by levying assessments as provided in § 989.80. The committee shall file with the Secretary for each crop year a proposed budget of these expenses and a proposal as to the assessment rate to be fixed pursuant to § 989.80, together with a report thereon. Such filing shall be not later than October 5 of the crop year, but this date may be extended by the committee not more than five days if warranted by a late crop. Also, it shall file at the same time a proposed budget of the expenses likely to be incurred during the crop year in connection with reserve or surplus raisins held for the account of the committee, exclusive of the receiving, storing, and handling expenses which are covered by a schedule of payments to handlers effective pursuant to § 989.66(f) or any rules and procedures established by the committee, and exclusive of any expenses it may incur in connection with the disposition of such raisins and which are unknown at the time. The said report shall also cover this proposed budget.

13. Section 989.80 *Assessments.* is revised to read:

§ 989.80 Assessments.

(a) Each handler shall, with respect to free tonnage acquired by him, and reserve tonnage sold to him pursuant to § 989.67, pay to the committee, upon demand, his pro rata share of the expenses (exclusive of expenses for receiving, handling, holding or disposing of any quantity of reserve and surplus tonnage) which the Secretary finds will be incurred, as aforesaid, by the committee during each crop year. Such handler's pro rata share of such expenses shall be equal to the ratio between the total free tonnage acquired by such handler, plus all reserve tonnage sold to him for use as free tonnage, during the applicable crop year and the total free tonnage acquired by all handlers, plus all reserve tonnage sold to all handlers for use as free tonnage, during the same crop year: *Provided,* That (1) in computing the total free tonnage acquired by a particular handler, there shall be excluded all standard raisins (recovered by the reconditioning of off-grade raisins) acquired by the handler and which comprise the assessable portion of another handler pursuant to paragraph (b) of this section, and (2) the computation of the total free tonnage acquired by all handlers shall not be similarly reduced.

(b) Each handler who reconditions off-grade raisins but does not acquire the standard raisins recovered therefrom shall, with respect to his assessable portion of all such standard raisins, pay to the committee, upon demand, his pro rata share of the expenses which the Secretary finds will be incurred by the committee each crop year. Such handler's pro rata share of such expenses shall be equal to the ratio between the handler's assessable portion (which shall be a quantity equal to the free tonnage portions of such handler's standard raisins which are acquired by some other handler or handlers) during the applicable crop year and the total free tonnage acquired by all handlers, plus all reserve tonnage sold to all handlers for use as free tonnage, during the same crop year.

(c) During any crop year or any portion of a crop year for which volume percentages are not effective for a varietal type, all standard raisins of that varietal type acquired by handlers during such period shall be free tonnage for purposes of levying assessments pursuant to this section. The Secretary shall fix the rate of assessment to be paid by all handlers on the basis of a specified rate per ton. At any time during or after a crop year, the Secretary may increase the rate of assessment to obtain sufficient funds to cover any later finding by the Secretary relative to the expenses of the committee. Each handler shall pay such additional assessment to the committee upon demand. In order to provide funds to carry out the functions of the committee and the board, the committee may accept advance payments from any handler to be credited toward such assessments as may be levied pursuant to this section against such handler during the crop year. The

payment of assessments for the maintenance and functioning of the committee, and for such purposes as the Secretary may pursuant to this subpart determine to be appropriate, may be required under this part throughout the period it is in effect, irrespective of whether particular provisions thereof are suspended or become inoperative.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated July 7, 1964, to become effective upon publication in the FEDERAL REGISTER, except that the revision of § 989.80 is to become effective September 1, 1964.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 64–6902; Filed, July 10, 1964; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Airspace Docket No. 64–WE–25]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

Alteration of Control Zone

The purpose of this amendment to Part 71 [New] of the Federal Aviation Regulations is to alter the Twin Falls, Idaho, control zone. The effective time of the present designation of the Twin Falls control zone is from 0700 to 0100 hours, local time, daily. Because of a recent airlines schedule adjustment, the weather reporting service, which is provided by personnel of the airline concerned, can be furnished only from 0400 to 2000 hours, local time, daily.

Since this amendment imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective immediately.

In consideration of the foregoing, Part 71 [New] of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (29 F.R. 1101), the Twin Falls, Idaho control zone is amended by deleting "from 0700 to 0100 hours, local time, daily." and substituting "from 0400 to 2000 hours, local time, daily." therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on July 6, 1964.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64–6892; Filed, July 10, 1964; 8:45 a.m.]

[Airspace Docket No. 64–LAX–12]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

Controlled Airspace

The purpose of this amendment to Part 71 [New] of the Federal Aviation Regulations is to amend the Santa Maria, Calif., control zone. Weather reporting has been reduced from 24 hours to 16 hours per day, effective June 15, 1964. The Santa Maria control zone is redescribed, accordingly, in order to reflect the change in effective time.

Since this amendment imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective immediately.

In consideration of the foregoing, Part 71 [New] of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (29 F.R. 1101), the Santa Maria, Calif., control zone is amended to read:

Within a 5-mile radius of Santa Maria Airport (latitude 34°53'55" N., longitude 120°27'20" W.), excluding the portion within R–2516, from 0600 to 2200 hours, local time, daily.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on July 6, 1964.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64–6893; Filed, July 10, 1964; 8:45 a.m.]

[Airspace Docket No. 64–CE–16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

Controlled Airspace

The purpose of this amendment to Part 71 [New] of the Federal Aviation Regulations is to revoke the Winner, S. Dak., transition area. The instrument approach procedure at Winner has been cancelled and the associated transition area is no longer required.

Since this amendment imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective immediately.

In consideration of the foregoing, Part 71 [New] of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (29 F.R. 1160), the Winner, S. Dak., transition area is revoked.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on July 6, 1964.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64–6894; Filed, July 10, 1964; 8:45 a.m.]

[Amdt. 99–2; Docket No. 4001]

PART 99—SECURITY CONTROL OF AIR TRAFFIC [NEW]

Alteration of Alaskan DEWIZ

The purpose of this amendment is to alter the southern and western boundaries of the Alaskan Distant Early Warning Identification Zone.

In Notice 64–8, the FAA proposed a partial realignment of the Alaskan DEWIZ in order to reduce the frequency of flight progress reports. Since overwater pilots are required to report each five degrees, latitude or longitude, ending in either zero or five, it was proposed to adjust portions of the southern and western boundaries of the DEWIZ to coordinates compatible with these overwater reporting points.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. Due consideration was given to all relevant matter presented.

Only two comments were received on the proposed rule. The Air Line Pilots Association recommended adoption of the proposal. The Air Transport Association of America (ATA) had no basic objection to the proposal, but felt that further changes to the DEWIZ boundary would be appropriate. The ATA pointed out that procedures for the Anchorage Oceanic Control Area call for pilots operating aircraft on a track predominantly east or west to report each ten degrees of longitude, rather than each five degrees, if the speed of the aircraft is such that ten degrees will be traversed in one hour and twenty minutes or less. Accordingly, they suggested alignment of the western boundary of the DEWIZ to coincide with 170° or 180° W. longitude, instead of with 175° W. longitude as was proposed in the notice.

The FAA recognizes that alteration of the western boundary of the DEWIZ as suggested by the ATA would further reduce jet aircraft position reporting. However, relocation of the boundary to either 170° or 180° W. longitude would not be practicable. Use of 170° W. longitude would compromise the capability to correlate the identification, location, and control of civil aircraft because of the proximity of the boundary to the mainland. On the other hand, use of 180° W. longitude would create a severe problem in correlating position reports because of the inadequacy of navigational aids in that area. Therefore, action is taken herein to alter the DEWIZ as proposed in Notice 64–8.

Since this action involves airspace outside the United States, the Agency has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

In consideration of the foregoing, § 99.47 [New] of Chapter I of Title 14 of the Code of Federal Regulations is amended, effective August 20, 1964, to read as follows:

§ 99.47 Alaskan DEWIZ.

The area bounded by a line connecting 73°-00′ N., 141°00′ W.; 69°50′ N., 141°00′ W.; 71°-18′ N., 156°44′ W.; 68°53′ N., 166°16′ W.; 63°17′ N., 168°42′ W.; 58°39′ N., 162°03′ W.; 54°00′ N., 169°00′ W.; 52°00′ N., 169°00′ W.; 56°34′ N., 154°10′ W.; 59°28′ N., 146°18′ W.; 59°30′ N., 139°30′ W.; 57°00′ N., 139°30′ W.; 50°00′ N., 157°00′ W.; 50°00′ N., 175°00′ W.; 60°00′ N., 175°00′ W.; 61°45′ N., 177°00′ W.; 65°00′ N., 169°00′ W.; 73°00′ N., 169°00′ W.; 73°00′ N., 141°00′ W. (point of beginning).

(Secs. 307, 1110, 1202, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510, and 1522; E.O. 10854, 24 F.R. 9565)

Issued in Washington, D.C., on July 7, 1964.

N. E. HALABY,
Administrator.

[F.R. Doc. 64-6895; Filed, July 10, 1964; 8:46 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 8190 o.]

PART 13—PROHIBITED TRADE PRACTICES

Korber Hats, Inc. and Sidney Korber

Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation.* Subpart—Using misleading name—Goods: § 13.2280 *Composition.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45; Cease and desist order, Korber Hats, Inc., et al., Fall River, Mass., Docket 8190, June 12, 1964)

In the Matter of Korber Hats, Inc., a Corporation, and Sidney Korber, Individually and as an Officer of Said Corporation

Order modifying original desist order of March 28, 1962, 27 F.R. 7490, in accordance with the direction of the First Circuit dated Dec. 31, 1962, 311 F. 2d 358, to recognize that the word "Milan" has acquired a secondary meaning indicative of a type of weave or braid, in addition to its original use as descriptive of men's hats manufactured in Italy of wheat straw.

The modified order to cease and desist, including order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Korber Hats, Inc., a corporation, and its officers and Sidney Korber, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of hats or any other articles of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Using the terms "Milan", "Genuine Milan", "Imported Milan", "Genuine Imported Milan" or any other substantially similar representation as descriptive of the material of men's straw hats not manufactured in Italy of wheat straw.

(2) Using the terms "Milan", "Genuine Milan", "Imported Milan", "Genuine Imported Milan" or any other substantially similar representation as descriptive of men's straw hats not of the same construction, design and workmanship as that traditionally characteristic of men's straw hats manufactured in Italy and designated as "Milan", or using said terms to designate hats of such construction, design and workmanship without clearly and conspicuously disclosing in immediate conjunction therewith either the material from which such hats are made or that the word "Milan" is intended to describe the weave, braid or construction of such hats.

(3) Furnishing or otherwise placing in the hands of retailers or dealers in said products the means and instrumentalities by and through which they may mislead or deceive the public in the manner or as to the things hereinabove inhibited.

It is further ordered, That the hearing examiner's initial decision, as modified, be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: June 12, 1964.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 64-6896; Filed, July 10, 1964; 8:46 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release 33-4704, etc.]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Delegation of Authority to Director of Office of Opinions and Review

The Securities and Exchange Commission has amended § 200.30-6 to provide for delegation by the Commission to the Director of the Office of Opinions and Review of the function of issuing orders pursuant to initial decisions of hearing officers as to any person who has not filed a timely petition for review where the Commission does not order review of the initial decision on its own initiative.

Under the rules promulgated this day (Release No. 33-4705, etc.) delegating authority to hearing officers to make initial decisions in proceedings (§§ 200.30-7) and providing appropriate procedures for seeking Commission review of such decisions (Sec. 201), an order normally is to be entered 30 days after an initial decision is served on all the parties, unless a petition for review has been filed or the Commission has ordered review (§ 201.17(f)). The Commission had determined that delegation of the function of issuing such orders is appropriate because such activity will normally be routine in nature.

The text of the Commission's action is as follows:

Paragraph (a)(1) of § 200.30-6 is amended by the addition at the end thereof a new subdivision (iii) which reads:

§ 200.30-6 Delegation of authority to Director of Office of Opinions and Review.

* * * * *

(a)(1) * * *

(iii) To issue any order pursuant to an initial decision as to any person who has not filed a petition for review within the time provided, where the Commission has not on its own motion ordered that the initial decision be reviewed.

* * * * *

The Commission finds that the foregoing amendment involves matters of agency organization or procedure and that notice and subsequent procedure pursuant to subsections 4 (a) and (b) of the Administrative Procedure Act are not required. The Commission also finds that the provisions of subsection 4(c) of the Administrative Procedure Act regarding postponement of the effective date are inapplicable inasmuch as this is not a substantive rule.

Accordingly, the foregoing action, which was taken pursuant to Public Law No. 87-592, 76 Stat. 394, becomes effective August 1, 1964.

(76 Stat. 394-5)

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

JUNE 30, 1964.

[F.R. Doc. 64-6908; Filed, July 10, 1964; 8:47 a.m.]

[Release 33-4705, etc.]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

PART 201—RULES OF PRACTICE

Miscellaneous Amendments

On May 14, 1964, the Securities and Exchange Commission published notice in the FEDERAL REGISTER (29 F.R. 6352, et seq.) that it had under consideration (1) the adoption of a delegation rule and various amendments to the rules of practice (17 CFR Part 201) that would authorize hearing officers to make initial decisions in proceedings and (2) the adoption of amendments to the rules of practice (17 CFR Part 201) governing default procedures.

All interested persons were invited to comment on the proposals. The Commission has decided to make certain minor additions, deletions and corrections and to adopt the proposed rule and amendments as revised.

The text of § 201.13 (Rule 13 of the rules of practice, 17 CFR Part 201) has been revised to authorize hearing officers, for cause shown, to extend or shorten the time limits prescribed in Sec. 201 for the filing of any papers. This authority may be exercised at any time prior to the filing of an initial decision or, if no initial decision is to be filed, at any time prior to

the closing of the record. The text of § 201.13 has also been revised to authorize hearing examiners to postpone the commencement of a hearing for a period up to 30 days rather than 7 days and to change the hearing from the place designated in the order for proceedings.

Paragraph (f) of § 201.16 has been revised to provide that the Secretary shall promptly publish in the Securities and Exchange Commission News Digest notice of the filing by hearing officers of initial decisions.

Accordingly the proposed rule and amendments as so published are adopted, subject to the changes set forth below:

I. To the delegation of authority to hearing officers, § 200.30–7, 17 CFR Part 200, are added the words "who appear at the hearing,".

II. The text of § 201.13, Rule 13 of the rules of practice, 17 CFR Part 201, has been amended.

III. Paragraph (b) of § 201.16 is changed by the addition of the words "who appear at the hearing".

IV. Paragraph (e) of § 201.16 is changed by the deletion of the last sentence thereof which provided, "The hearing officer may extend any time for filing hereunder on a showing of good cause therefor, but in no event shall such time extension exceed 30 days."

V. The title and text of paragraph (f) of § 201.16 is changed by the addition to the title of the word "notice", by the deletion from the second sentence of the text of the words "and it shall promptly be served upon the parties" and by the addition at the end of the paragraph the sentence, "The Secretary shall promptly serve the initial decision upon the parties and shall promptly publish notice of the filing thereof in the Securities and Exchange Commission News Digest."

VI. Paragraph (e) of § 201.17 is revised.

The Commission finds that the provisions of subsection 4(c) of the Administrative Procedure Act regarding postponement of the effective date are inapplicable inasmuch as these are not substantive rules.

Accordingly, the foregoing action, which was taken pursuant to Public Law No. 87–592, 76 Stat. 394, becomes effective as to all proceedings instituted on or after August 1, 1964. As to all proceedings instituted before that date, the applicable rules shall be those in effect immediately prior to the foregoing action.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

JUNE 30, 1964.

§ 200.30–7 Delegation of authority to hearing officers.

Pursuant to the provisions of Public Law No. 87–592, 76 Stat. 394, the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, to each hearing officer the authority to make an initial decision in any proceeding at which he presides in which a hearing is required to be conducted in conformity with section 7 of the Administrative Procedure Act unless such initial decision is waived by all parties who appear at the hearing and the Commission does not subsequently order that an initial decision nevertheless be made by the hearing officer, and in any other proceeding in which the Commission directs him to make such a decision.

II. Part 201 of Title 17 is amended as follows:

§ 201.6 Notice of proceedings and hearings.

* * * * *

(e) *Effect of failure to appear.* If any person who is named in an order for proceeding as a person against whom findings may be made or sanctions imposed in the proceeding does not file a notice of appearance in the proceeding within 15 days after service upon him of the order for proceeding (unless a different period is specified in the order), or if he fails to appear at a hearing of which he has been duly notified, such person shall be deemed in default and the proceeding may be determined against him upon consideration of the order for proceeding, the allegations of which may be deemed to be true. For the purpose of this paragraph an answer shall constitute a notice of appearance.

§ 201.7 Answers.

* * * * *

(e) *Effect of failure to file answer.* If a party fails to file an answer required by this rule within the time provided, such person shall be deemed in default and the proceeding may be determined against him by the Commission upon consideration of the order for proceeding, the allegations of which may be deemed to be true.

* * * * *

§ 201.8 Settlements, pre-trial conferences and procedural agreements.

* * * * *

(b) *Specification of procedures.* In any proceeding the moving party shall, in the moving papers or the notice of hearing if that is practicable, or, if not, as early as practicable in the course of the hearing, specify the procedures considered necessary or appropriate in the proceeding with particular reference to (1) whether there should be an initial decision by a hearing officer, (2) whether the interested division of the Commission may assist in the preparation of the Commission's decision, and (3) whether there should be a 30-day waiting period between the issuance of the Commission's order and the date it is to become effective. Any other party may object promptly or within such time as shall be designated by the hearing officer, having due regard to the circumstances of the case and to the procedure so specified, and such party may specify such additional procedure as he considers necessary or appropriate; in the absence of such objection or specification of additional procedure, such party may be deemed to have waived objection to the specified procedure and to the omission of any procedure not specified, unless the Commission, for good cause shown and upon taking into account any resulting prejudice to other parties, determines the contrary.

(c) *Conferences on procedure; stipulations.* The hearing officer on his own motion may, or at the request of any party shall, call a conference of the parties at the opening of the hearing or at any subsequent time for the purpose of specifying and agreeing on the procedural steps to be followed or omitted in the proceeding. Any proposal as to the procedural matters enumerated in paragraph (b) of this section, or, subject to the approval of the hearing officer, any other procedural matter which is agreed upon by all parties present and which is not contrary to any specific provision of this part, shall be embodied in an appropriate stipulation, which shall become part of the record, and shall determine the procedure in that respect, except that the Commission may order that the hearing officer prepare an initial decision notwithstanding any waiver by the parties and may, upon taking into account any prejudice to the parties resulting from any other such procedure, vary any other such procedure at the request of any party or on its own motion.

* * * * *

§ 201.9 Parties and limited participation.

* * * * *

(d) *Rights of participant.* Leave to be heard pursuant to paragraph (c) of this section may include such rights of a party as the hearing officer may deem appropriate, except that oral argument before the Commission may be permitted only by the Commission upon written request therefor. Persons granted leave to be heard shall be bound, except as may be otherwise determined by the hearing officer, by any stipulation between the parties to the proceeding with respect to procedure, including submission of evidence, substitution of exhibits, corrections of the record, the time within which briefs or exceptions may be filed or proposed findings and conclusions may be submitted, the filing of initial decisions, the procedure to be followed in the preparation of decisions, and the effective date of the Commission's order in the case. Where the filing of briefs or exceptions or the submission of proposed findings and conclusions are waived by the parties to the proceedings, a person granted leave to be heard pursuant to paragraph (c) of this section shall not be permitted to file a brief or exceptions or submit proposed findings and conclusions except by leave of the Commission or of the hearing officer, if the hearing is pending before the hearing officer. Except as may otherwise be specifically directed by the hearing officer at the request of any person granted leave to be heard, such person shall be expected to inform himself by attendance at public hearings and by examination of the public files of the Commission as to the various steps taken in the proceeding including continuances, the filing of amendments, answers, motions, or briefs by parties to the proceeding, or the fixing of time for any such action, and such person shall not be entitled as of right

to other notice thereof, or to service of copies of documents.

* * * * *

§ 201.11 Hearings for the purpose of taking evidence; motions and applications to hearing officer.

* * * * *

(d) *Functions of hearing officer.* The hearing officer shall regulate the course of the hearing and shall perform the functions specified in paragraph (e) of this section. Upon notice to all parties, the hearing officer may reopen any hearing prior to the filing of an initial decision therein, or, if no initial decision is to be filed, prior to the time fixed for the filing of final briefs with the Commission.

(e) *Rulings by hearing officer; exceptions.* Except as otherwise directed by the Commission, or where these rules specifically provide otherwise, all applications, motions and objections made during a proceeding prior to the filing of an initial decision therein, or, if no initial decision is to be filed, prior to the time fixed for the filing of final briefs with the Commission, shall be made to or referred to and decided by the hearing officer, except that where his ruling would dispose of the proceeding in whole or in part, it shall be made only in an initial decision submitted after the conclusion of the hearing. Except where the hearing officer prescribes or permits a different procedure, any application or motion shall be in writing and shall be accompanied by a written brief of the points and authorities relied upon in support of the same and any party may file an answer within five days after service upon him of such motion or application as provided in § 201.23. Objections to the admission or exclusion of evidence must be made on the record and shall be in short form, stating the grounds of objections relied upon, and the transcript shall not include argument or debate thereon except as ordered by the hearing officer. Rulings by the hearing officer on all applications, motions and objections shall be part of the record. Exceptions to any ruling thereon by the hearing officer need not be noted at the time of the ruling in order to be urged before the Commission. Such exceptions will be deemed waived however, unless raised (1) in accordance with § 201.12(a), (2) in the manner of a proposed finding in accordance with § 201.16(d), or (3) in a petition for Commission review of an initial decision in accordance with § 201.17.

* * * * *

§ 201.12 Motions and applications.

* * * * *

(d) *Motions to set aside defaults.* In order to prevent injustice and on such conditions as may be appropriate, the hearing officer at any time prior to the filing of his initial decision or the Commission at any time, may for good cause, set aside a default under § 201.6(e) or § 201.7(e). Any motion to set aside a default shall be made within a reasonable time, and shall state the reasons for the failure to file or appear and specify the nature of the proposed defense in the proceedings.

§ 201.13 Extension of time and adjournments.

(a) *Commission or hearing officer may extend, postpone or adjourn.* Except as otherwise provided by law, the commission at any time, or the hearing officer at any time prior to the filing of his initial decision or, if no initial decision is to be filed, at any time prior to the closing of the record, for cause shown, may extend or shorten any time limits prescribed by these rules for filing any papers and may postpone or adjourn any hearing.

(b) *Limitation on extensions.* In no event shall any extensions of time for filing papers granted by a hearing officer pursuant to this section exceed a total of 30 days.

(c) *Limitations on postponements and adjournments.* A hearing before a hearing officer shall begin at the time and place ordered by the Commission, provided that, within the limits provided by statute, the hearing officer may for good cause postpone the commencement of the hearing for not more than 30 days or change the place of hearing. Any convened hearing may be adjourned to such time and place as may be ordered by the Commission or by the hearing officer. It is the policy of the Commission that such adjournments shall be for not more than 30 days and in no event shall a hearing officer order an adjournment for a period in excess of 45 days.

§ 201.14 Evidence.

* * * * *

(d) *Official notice.* In any proceeding official notice may be taken of any material fact which might be judicially noticed by a district court of the United States, any matter in the public official records of the Commission, or any matter which is peculiarly within the knowledge of the Commission as an expert body. If official notice is requested or taken of a material fact not appearing in the evidence in the record, the parties, upon timely request, shall be afforded an opportunity to establish the contrary.

§ 201.16 Proposed findings and conclusions; initial decision.

(a) [Rescinded]

(b) *When initial decision required.* The hearing officer shall make an initial decision in any proceeding in which a hearing is required to be conducted in conformity with section 7 of the Administrative Procedure Act, unless an initial decision is waived by all parties who appear at the hearing and the Commission does not subsequently order that an initial decision nevertheless be made by the hearing officer, and in any other proceeding in which the Commission directs him to make such a decision.

(c) [Rescinded]

* * * * *

(e) *Time for filing proposed findings and briefs prescribed by hearing officer.* At the end of every hearing, the hearing officer shall, after consultation with the parties, prescribe the period within which such proposed finding and conclusions and supporting briefs are to be filed and shall direct such filing to be either simultaneous or successive: *Provided, however,* That the period within which the first filing is to be made normally should be no more than 30 days, and shall not exceed 60 days, after the close of the hearing. If successive filings are directed the proposed findings and conclusions of the moving party shall be set forth in serially numbered paragraphs and any counter statement of proposed findings and conclusions must, in addition to any other matter, indicate as to which paragraphs of the moving party's proposals there is no dispute. Reply briefs may be filed by the moving party or, where simultaneous filings are directed, reply briefs may be filed by all parties, within the period prescribed therefor by the hearing officer.

(f) *Service of record; preparation, filing and notice of initial decision.* In proceedings in which an initial decision by a hearing officer is to be made, the record in the proceeding shall, promptly after the time for the last filing of briefs in reply to proposed findings, be served by the Records Officer upon the hearing officer. The hearing officer shall file his initial decision with the Secretary within 30 days after such service. The Secretary shall promptly serve the initial decision upon the parties and shall promptly publish notice of the filing thereof in the Securities and Exchange Commission News Digest.

(g) *Oral argument.* At his discretion the hearing officer may hear oral argument by the parties any time before he files his initial decision with the Secretary.

§ 201.17 Review by the Commission of initial decisions by hearing officers.

(a) *Petition for review; when available.* In any proceeding in which an initial decision is made by a hearing officer, any party to the proceeding, and any person who would have been entitled to judicial review of the final order entered in the proceeding if the Commission itself had made the initial decision, may file a petition for Commission review of the initial decision.

(b) *Petition for review; procedure.* Any person who seeks Commission review of an initial decision by a hearing officer shall, within 15 days after service of such initial decision on him or, if the person seeking review is not served, within 15 days after notice of the filing of the initial decision is published in the Securities and Exchange Commission News Digest, serve and file a petition for Commission review containing exceptions thereto indicating specifically the findings and conclusions as to which exceptions are taken together with supporting reasons for such exceptions. These reasons may be stated in summary form. Any objections to an initial decision not saved by written exception filed pursuant to this rule will be deemed to have been abandoned and may be disregarded.

(c) *Review by the Commission on its own initiative.* The Commission may on its own initiative order review of any initial decision by a hearing officer within 30 days after the initial decision has been served on all parties. When parties who do not intend to file a petition for review desire this determination to be made

in a shorter time, they may so advise the Commission in writing; stating that they waive their right to file a petition for review. Notice of any order of the Commission directing review on its own initiative shall be served on all parties by the Secretary.

(d) *Review by the Commission pursuant to petition for review.* After a petition for review has been filed the Commission may decline to review the initial decision except that it will order review where

(1) The initial decision:

(i) Suspends, denies or revokes a broker-dealer registration pursuant to section 15(b) of the Securities Exchange Act of 1934; or

(ii) Suspends, denies or withdraws any registration or suspends or expels a member of a national securities exchange pursuant to section 19(a) of the Securities Exchange Act of 1934; or

(iii) Suspends trading on an exchange pursuant to section 19(a) of the Securities Exchange Act of 1934; or

(2) The petition for review makes reasonable showing that

(i) A prejudicial procedural error was committed in the conduct of the proceeding; or

(ii) The initial decision embodies

(a) A finding or conclusion of material fact which is clearly erroneous; or

(b) A legal conclusion which is erroneous; or

(c) An exercise of discretion or decision of law or policy which is important and which the Commission should review.

After ordering review the Commission may summarily affirm the initial decision except where the petition for review presents a matter within subparagraph (2) of this paragraph.

(e) *Time for filing briefs.* (1) Unless the Commission has summarily affirmed the initial decision, the petitioner and any other person entitled to Commission review may serve and file briefs in support of the petition within 30 days after the Commission has ordered review pursuant to a petition for review. Other persons entitled to Commission review in the proceeding may serve and file reply briefs within 30 days of service of a brief in support of the petition.

(2) When the Commission orders review on its own initiative pursuant to paragraph (c) of this section, within 30 days after the Commission has ordered review, any persons entitled to Commission review may serve and file cross briefs in support of their positions and reply briefs within 30 days of service of the original briefs.

(3) The time periods specified in this paragraph shall not be applicable where the order for review specifies other time periods.

(f) *Order pursuant to initial decision.* Except where a petition for review of an initial decision has been timely filed or the Commission on its own initiative has ordered that the initial decision be reviewed, an order pursuant to an initial decision shall be entered by the Commission upon the expiration of 30 days after such decision has been served on all the parties or at such earlier date as the Commission may have determined not to review the decision on its own initiative. The Commission may at any time enter an order pursuant to an initial decision as to any person who has not filed a timely petition for review thereof.

(g) *Scope of review.* (1) Review by the Commission of an initial decision by a hearing officer shall be limited to the matters specified in the order for review. On notice to all parties, however, the Commission on review may raise and determine any other matters which it deems material, with opportunity for oral or written argument thereon by the parties.

(2) On review the Commission may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the initial decision by the hearing officer and make any findings or conclusions which in its judgment are proper on the record.

(h) *Petition for review a prerequisite to judicial review.* Pursuant to the provisions of section 10(c) of the Administrative Procedure Act, a petition to the Commission for review of an initial decision in any proceeding is a prerequisite to the seeking of judicial review of a final order entered pursuant to the initial decision.

§ 201.19 Special provisions relating to proceedings for suspension of broker-dealer registrations pending final determination.

In any proceeding pursuant to section 15(b) of the Securities Exchange Act of 1934 on the question of suspension of registration of a broker or dealer pending final determination whether such registration shall be revoked, the following time limits shall be applicable, unless otherwise ordered by the Commission, in lieu of the time limits prescribed by other provisions of this part:

* * * * *

(b) *Service of record; filing of decision.* In proceedings in which an initial decision by a hearing officer is to be prepared, the record in the proceedings shall, promptly after the time for filing proposed findings and conclusions and briefs in support thereof, be served by the Records Officer upon the hearing officer. The initial decision shall be filed with the Secretary within 5 days after such service.

(c) *Petition for review.* Any petition for review must be filed within 3 days after receipt of the initial decision.

(d) *Briefs.* Briefs in support of a petition for review, or in support of or in opposition to any portion of an initial decision, may be served and filed within 5 days after receipt of notice that the Commission has ordered review of the initial decision. Reply briefs may be served and filed within 5 days of receipt of an original brief.

(e) *No review by the Commission on its own initiative.* The provisions of § 201.17(c) shall not be applicable to the proceedings to which this rule applies.

§ 201.20 Contents and certification of record.

(a) *Contents of record.* (1) The record in every proceeding before the Commission for final decision shall include:

* * * * *

(xiii) Any initial decision and any petition for review.

* * * * *

(4) Promptly after the close of the hearing, the hearing officer shall transmit to the Records Officer of the Commission or his designated deputy a list of documents or portions thereon constituting part of the public official records of the Commission which during the course of the hearing have been admitted as exhibits pursuant to subparagraph (1)(x) of this paragraph, or excluded pursuant to subparagraph (1)(iv) of this paragraph, and a copy of any written communication accepted pursuant to § 201.9(f), application, motion, objection, ruling or stipulation made in writing during the proceeding which has not theretofore been filed with the Secretary or other duly designated officer of the Commission or included in the transcript. Promptly after the last date for filing briefs where the Commission has ordered review of the initial decision, or at such earlier time as the Commission may direct after receipt of a petition for review, and prior to any oral arguments before the Commission, the Records Officer of the Commission or his duly designated deputy shall certify the entire record to the Commission, provided that documents or portions thereof constituting part of the official records of the Commission may be incorporated by reference and need not be physically transferred to the record.

* * * * *

§ 201.21 Hearing before the Commission.

(a) *Oral argument.* Except as to motions and applications dealt with in § 201.12 and determinations whether to order review of an initial decision by a hearing officer, upon written request of any party a matter to be decided by the Commission will be set down for oral argument before the Commission unless exceptional circumstances make oral argument impractical or inadvisable. Such request must be made within the time provided for filing the original briefs.

* * * * *

§ 201.23 Service of pleadings, etc., other than moving papers.

(a) *Service of documents filed with Commission.* All amendments to moving papers, all answers, all motions or applications made in the course of a proceeding (unless made orally during a hearing), all proposed findings and conclusions, all petitions for review of any initial decision, and all briefs shall be filed with the Commission and shall, at the time of personal delivery or dispatch to the Commission, be served by the filing person upon all parties to the proceeding (including the interested division of the Commission), provided that such papers

relating to proceedings concerning confidential treatment pursuant to provisions of Clause 30 of Schedule A of the Securities Act of 1933, section 24(b) of the Securities Exchange Act of 1934, section 22(b) of the Public Utility Holding Company Act of 1935, section 45(a) of the Investment Company Act of 1940, or section 210(a) of the Investment Advisers Act of 1940, and the rules and regulations promulgated under such sections, shall be served only by filing the appropriate number of copies thereof upon the Commission.

* * * * *

(d) *Service of decisions and orders.* Copies of all rulings by the Commission on any written application and decisions and orders of the Commission (including those pursuant to delegated authority) shall be served by the Secretary or other duly designated officer of the Commission on the applicant and, if made in connection with a pending proceeding, on all parties thereto.

§ 201.25 Availability of information to public.

(a) *Information in documents filed with Commission generally public.* Unless otherwise provided by statute or rule or otherwise directed by the Commission, all information contained in any notification, statement, application, declaration, initial decision, or other document filed with the Commission pursuant to requirement of a statute or a rule or order of this Commission shall be available to the public.

* * * * *

(c) *Publication of final opinions, orders and rules.* All final opinions and orders entered in the adjudication of cases, and all rules of the Commission shall be released for general publication, except where confidential treatment has for good cause been directed by the Commission. Copies of such published material shall be available for public inspection at the office of the Commission or may be obtained by mail on request. Bound volumes of past Decisions and Reports are obtainable from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., at a prescribed charge.

* * * * *

§ 201.26 Confidential treatment of certain matters.

* * * * *

(b) *Procedure in confidential treatment cases.* (1) All papers containing data as to which confidential treatment is sought, together with any application making objection to the disclosure thereof, or other papers relating in any way to such application, shall be made available to the public only in accordance with orders of the Commission and/or the applicable provisions of §§ 230.485, 240.24b–2, 250.104 of this chapter (Rule 485 issued under the Securities Act of 1933, Rule 24b–2 issued under the Securities Exchange Act of 1934, Rule 104 issued under the Public Utility Holding Company Act of 1935), section 45 of the Investment Company Act of 1940 and § 270.45a–1 of this chapter (Rule 45a–1 issued under that Act), or section 210(a) of the Investment Advisers Act of 1940.

(2) Proposed findings and conclusions and briefs in support of such proposed findings and conclusions, an initial decision, any petition for Commission review thereof, and any briefs pursuant to Commission order for review which are filed in connection with any proceeding concerning confidential treatment shall, unless otherwise ordered by the Commission, be for the confidential use only of the hearing officer, the Commission, the parties and counsel. The initial page of copies of such an initial decision will contain a statement that such decision is nonpublic. The order of the Commission sustaining or denying the application for confidential treatment shall be made available to the public. Any findings or opinion issued by a hearing officer or by the Commission in any proceeding relating to confidential treatment shall be made public at such time as the material filed confidentially is made available to the public.

* * * * *

(70 Stat. 394–5)

[F.R. Doc. 64–6909; Filed, July 10, 1964; 8:47 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

FILTERS, RESIN-BONDED

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition (FAP 745) filed by Nopco Chemical Company, 60 Park Place, Newark 1, New Jersey, and other relevant material, has concluded that the food additive regulations should be amended as hereinafter provided to permit the use of additional substances employed in the finishing of fibers used in the production of resin-bonded filters intended for use in contact with food. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.90; 29 F.R. 471), paragraph (d)(2) of § 121.2536 *Filters, resin-bonded* is amended by inserting alphabetically in the "Substances employed in fiber finishing" two new items, as follows:

§ 121.2536 Filters, resin-bonded.

* * * * *

(d) * * *

(2) *Substances employed in fiber finishing:*

* * * * *

2,5-Di-*tert*-butyl hydroquinone for use only in lubricant formulations for rayon fiber finishing and at a usage level not to exceed 0.1 percent by weight of the lubricant formulations.

* * * * *

Polyoxyethylene (4 mols) ethlyenediamine monolauramide for use only in lubricant formulations for rayon fiber finishing and at a usage level not to exceed 10 percent by weight of the lubricant formulations.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: July 7, 1964.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 64–6915; Filed, July 10, 1964; 8:47 a.m.]

Title 32—NATIONAL DEFENSE

Chapter XIV—The Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1451—SCOPE OF RENEGOTIATION BOARD REGULATIONS UNDER THE RENEGOTIATION ACT OF 1951, AND DEFINITIONS APPLICABLE THERETO

PART 1452—PRIME CONTRACTS AND SUBCONTRACTS WITHIN THE SCOPE OF THE ACT

PART 1466—TERMINATION OF RENEGOTIATION

Miscellaneous Amendments

Subchapter B of this chapter is amended in the following respects:

Part 1451—Scope of Renegotiation Board Regulations under the Renegotiation Act of 1951, and definitions applicable thereto, is amended in the following respects:

1. Section 1451.14 *Department* is amended by inserting a new paragraph (d) to read as follows:

§ 1451.14 Department.

* * * * *

(d) The term "Department" also includes the Federal Aviation Agency, with respect to contracts entered into by such Agency, and related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor after June 30, 1964.

2. Section 1451.15 *Secretary* is amended by inserting a new paragraph (d) to read as follows:

§ 1451.15 Secretary.

* * * * *

(d) The term "Secretary" also includes the Administrator of the Federal Aviation Agency, with respect to contracts entered into by such Agency, and related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor after June 30, 1964.

Part 1452—Prime Contracts and Subcontracts Within the Scope of the Act is amended in the following respects:

1. Paragraph (b) *Coverage after December 31, 1956,* of § 1452.1 is amended as follows:

a. Subparagraph (1)(ii) is deleted in its entirety and the following is inserted in lieu thereof:

§ 1452.1 General coverage of the act.

* * * * *

(b) * * *

(1) * * *

(ii) Section 103(a) of the Act, as amended, provides as follows:

Department—The term "Department" means the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Maritime Administration, the Federal Maritime Board, the General Services Administration, the National Aeronautics and Space Administration, the Federal Aviation Agency, and the Atomic Energy Commission. Such term also includes any other agency of the Government exercising functions having a direct and immediate connection with the national defense which is designated by the President during a national emergency proclaimed by the President, or declared by the Congress, after the date of the enactment of the Renegotiation Amendments Act of 1956; but such designation shall cease to be in effect on the last day of the month during which such national emergency is terminated.

* * * * *

b. In subparagraph (1)(iii), delete "June 30, 1964" from the last sentence of the statutory provision (c)(1) set forth therein and insert in lieu thereof "June 30, 1966".

§ 1452.2 [Amended]

2. Section 1452.2 *Application of the act to prime contracts* is amended by inserting at the end of the list therein "Federal Aviation Agency [1]" and adding footnote 3 to read as follows:

[1] Added by Pub. Law 88-339, 88th Cong., approved June 30, 1964, by amendment made aplicable with respect to contracts entered into by the Federal Aviation Agency, and related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor after June 30, 1964.

Part 1466—Termination of Renegotiation, is amended in the following respects:

§ 1466.1 [Amended]

1. Section 1466.1 *Statutory provision* is amended by deleting "June 30, 1964" in the last sentence of the statutory provision (c)(1) set forth therein and inserting in lieu thereof "June 30, 1966".

§ 1466.2 [Amended]

2. Section 1466.2 *Definition of "termination date"* is amended by deleting "June 30, 1964" and inserting in lieu thereof "June 30, 1966".

(Sec. 109, 54 Stat. 22; 50 U.S.C. App. Sup. 1219)

Dated: July 8, 1964.

LAWRENCE E. HARTWIG,
Chairman.

[F.R. Doc. 64-6919; Filed, July 10, 1964; 8:50 a.m.]

PART 1464—CONSOLIDATED RENEGOTIATION OF AFFILIATED GROUPS AND RELATED GROUPS

Miscellaneous Amendments

1. Section 1464.90 *Letter form of request for renegotiation on consolidated basis (affiliated group)* is amended in the following respects:

a. By adding a new item 8 to the letter form, to read as follows:

8. The person signing this request on behalf of each of the undersigned corporations declares, under the criminal penalties provided in section 105(e)(1) of the Renegotiation Act of 1951, that such corporation has authorized him to sign this request on its behalf.

b. By deleting at the end of the form prescribed in said section, the following: "A duly certified copy of the resolution of the Board of Directors of each corporation authorizing execution and delivery of this request shall be attached to the request."

2. Section 1464.91 *Letter form of request for renegotiation on consolidated basis (related group)* is amended in the following respects:

a. By adding a new item 9 to the letter form, to read as follows:

9. The person signing this request on behalf of each of the undersigned declares, under the criminal penalties provided in section 105(e)(1) of the Renegotiation Act of 1951, that such undersigned has authorized him to sign this request on its behalf.

b. By deleting at the end of the form prescribed in said section, the following: "In the case of a corporation, a duly certified copy of the resolution of the Board of Directors of the corporation authorizing execution and delivery of this request shall be attached to the request. In the case of a partnership, all general partners shall execute the request.

(Sec. 109, 65 Stat. 22; 50 U.S.C., App. Sup. 1219)

Dated: July 8, 1964.

LAWRENCE E. HARTWIG,
Chairman.

[F.R. Doc. 64-6920; Filed, July 10, 1964; 8:50 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

Chuckatuck Creek, Va.

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.245 is hereby amended with respect to paragraph (f) to revise subparagraph (23) in its entirety to govern the operation of the Virginia Department of Highways bridge across Chuckatuck Creek at Eclipse, Virginia, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 203.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) *Waterways discharging into Chesapeake Bay.* * * *

(23) Chuckatuck Creek, Va.; Virginia Department of Highways bridge on U.S. Route 17 at Eclipse. Between 7:00 a.m. and 3:00 p.m., daily, except Sundays, the regulations contained in § 203.240 shall govern the operation of this bridge. At all other times, 4 hours' advance notice required, provided that if an emergency exists, the advance notice may be given without time limit.

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[Regs., June 26, 1964, 1507-32 (Chuckatuck Creek, Va.)—ENGCW-ON] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 64-6900; Filed, July 10, 1964; 8:46 a.m.]

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 14—MINIMUM STANDARDS OF OPERATION FOR STATE AGENCIES FOR SURPLUS PROPERTY

Correction

In F.R. Doc. 64-6493, appearing at page 8213 of the issue for Tuesday, June 30,

1964, the following section heading should be inserted immediately after paragraph (f) of § 14.7:

§ 14.8 Audits.

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 15084; FCC 64-609]

PART 1—PRACTICE AND PROCEDURE

PART 73—RADIO BROADCAST SERVICES

Miscellaneous Amendments

In the matter of amendment of Part 73 of the Commission's rules, regarding AM station assignment standards and the relationship between the AM and FM broadcast services; Docket No. 15084, FCC 64-609.

Report and Order. 1. The Commission's notice of proposed rule making in the above-entitled matter was released on May 17, 1963.[1] Although the notice marked the formal beginning of this proceeding, it was itself the outgrowth of several prior events reflecting the Commission's intent to bring about a revision of the rules governing standard broadcast station assignments. The first of these events was the so-called "AM freeze" which was put into effect on May 10, 1962, so that existing AM problems would not be further compounded by new assignments while the Commission considered proposals for changes in the rules.[2] The second major event preceding the notice of rule making was a two day public conference concerning AM growth problems held on January 7 and 8, 1963. At this conference—the transcript of which has been incorporated into the present Docket—the National Association of Broadcasters and various other interested parties appeared before the Commission to present their views regarding AM problems.

2. In the notice, we proposed new rules reflecting the preliminary results of our own study of station assignment problems in AM as well as certain suggestions brought forth in the AM conference. We also stated at that time:

> Upon considerable reflection and after review of all relevant material now at our disposal, we have found it necessary to broaden the scope of matters under consideration to include not only the question of AM station assignments but also, more basic problems concerning the future development of the aural service as a whole. Specifically, we believe it is impossible to produce meaningful proposals for rules governing AM allocations without giving substantial thought to the relationship between that service and the FM service.

[1] FCC 63-468, 25 Pike and Fischer, R.R. 1615, May 17, 1963. Sometimes referred to herein as "the notice".

[2] The "freeze" order (FCC 62-516) is reprinted at 23 Pike and Fischer, R.R. 1545. The general validity of the "freeze" was upheld in Kessler v. Federal Communications Commission, 326 F. 2d 673, Case Nos. 17,363 et al., decided December 20, 1963.

The Commission's Proposals. 3. The proposals in our notice of May 17 concerned only those matters which we regarded as basic to the questions of AM station assignment principles and the relationship between the AM and FM services. Briefly summarized, our proposals were as follows:

(a) A "go-no go" prohibited overlap system was proposed to govern future grants of new daytime AM facilities and changes in existing stations. Under the Commission's proposal, no authorization would be granted for a new AM station or a change in frequency if the proposal involved overlap of specified signal strength contours with any other station or proposal on the same channel, or on 1st, 2d, or 3d adjacent channels. An application for any other change in existing facilities would not be granted if prohibited overlap would occur with any other station in any areas not already subject to prohibited overlap from the station applying to change facilities. The standards used to define prohibited overlap were those used under the old rules to determine interference between co-channel or first adjacent channel stations, and to define station separation requirements for second and third adjacent channel stations. The existing 1:30 second adjacent channel interference ratio would not be employed in determining prohibited overlap and this ratio would, therefore, be eliminated in effect. The new standards were not to be applied to Class IV power increases. Expressed in tabular form, the signal strength contours used to define prohibited overlap for new stations in the Commission's proposal are as follows:

Frequency separation	Contour of proposed new station (Classes II-B, II-D, III, and IV)	Contour of any other station
	mv/m	
Co-channel	0.005	0.1 mv/m (Class I).
	0.025	0.5 mv/m (Classes II, III, IV).
	0.5	0.025 mv/m (all classes).
10 kc	0.5	0.5 mv/m (all classes).
20 kc	2	25 mv/m (all classes).
	25	2 mv/m (all classes).
30 kc	25	25 mv/m (all classes).

(b) It was proposed that new daytime AM assignments would be further limited by additional rules designed to insure an efficient distribution of available facilities. Proposals for new stations would have been required to comply with the engineering rules and, also, to comply with one of two alternative requirements: (a) the new station would provide a first or second primary daytime service to at least 25 percent of the area within the proposed normally protected service contour; or (b) the new station would not cause the total number of AM stations in a particular city, town, or other community to exceed the "Maximum Permissible Number of AM Assignments" given in a table to be incorporated in the rules. The permissible number of AM assignments would vary according to the population of the city involved and, to some extent, for communities over 10,000 population, according to the number of FM assignments for that community in the FM table. A further proposal would have barred a new AM station in a community under 50,000 population if the proposed operation would place a signal of 2 mv/m or greater over more than 25 percent of the area within any other community of 50,000 or more persons.

(c) Comments were requested as to the feasibility of a proposal by which measurement data would be eliminated eventually as a means of predicting ground-wave signal intensity contours, total reliance being placed, instead, on an updated version of the M-3 conductivity map (47 CFR 73.190).

(d) It was proposed that no new nighttime facilities would be granted unless the new station would not raise the RSS limitation of any existing station (predicted under the 50 percent exclusion rule) and would provide a first primary AM service to at least 25 percent of the area within the proposed interference-free service contour. No quantitative limit would be placed upon interference received by the new proposal if the foregoing requirements were met and the city signal requirements of § 73.188 of the Commission's rules were also met. Existing nighttime stations would be permitted to make major changes in their facilities upon a showing that no new interference would be caused to any existing station.

(e) It was proposed that in cities over 100,000 population, in which no vacant FM channels remain in the FM Table of Assignments,[3] FM stations be required to devote no more than 50 percent of the average broadcast week to programs duplicated from any AM station in the same local area. The rule would become effective one year following its adoption. Comments were also requested as to the possibility of applying such a rule to Standard Metropolitan Statistical Areas over 100,000, rather than to cities of that size. This proposal was derived from the Commission's tentative view that unrestricted AM-FM program duplication was no longer a factor promoting the growth of FM but represented, instead, a waste of valuable frequency space for the aural services.

(f) Although the notice stated that separate ownership of AM and FM stations in the same community was a desirable long-term goal, no rules were proposed which would affect dual ownership at the present stage of FM development. It was observed, however, that as FM frequencies become more and more scarce, some dual owners might become vulnerable to competing applications at renewal time, particularly if the dual operator regarded his obligations to the public in FM as secondary to those in AM.

(g) Finally, proposals were advanced under which two or more AM stations or FM stations in communities with many other stations could merge, with Com-

[3] At the time of the notice, the FM Table of Assignments had not yet been adopted in final form. The final table was adopted on July 25, 1963 (FCC 63-735, 23 Pike and Fischer, R.R. 1859), and is now contained in § 73.202 of the Commission's rules, 47 CFR 73.202.

mission approval, and be assured that the deleted frequency or frequencies would not be reassigned in the same locality.

4. Approximately 100 comments were filed in response to one or more of the proposals set out above. Many of these respondents also advanced other ideas and proposals regarding the aural services. In the paragraphs to follow, we set forth our conclusions based upon a thorough consideration of our proposals and the various comments. Since our conclusions regarding daytime AM engineering questions are central to this proceeding and form the underlying basis for our actions in each of the other areas, we turn first to a consideration of the changes to be adopted in the rules governing daytime AM assignments.

Engineering Rules—General Considerations and Daytime Rules. 5. The Commission's proposals for "go-no go" engineering rules received support, in whole or in part, from significant segments of the industry.[4] A greater number of respondents objected to the proposed prohibited overlap rules, however. These objections fell into three major categories and may be summarized briefly as follows:

(a) *Need for "flexibility".* Parties raising this general line of argument contend that because of the many variables involved in AM assignments, it is essential that the Commission retain maximum flexibility to grant or deny on an ad hoc basis. These parties claim that problems which may have developed under the present rules represent defects in application of the rules and not inherent defects in the ad hoc process in this area. A "go-no go" system is characterized as an abdication of administrative responsibility on the part of the Commission.

(b) *New rules are unnecessary.* Two groups of respondents question the necessity of new rules. The first group states that the present rules have worked well, have produced an excellent pattern of AM assignments, and will continue to do so in the future. The second group argues that the present pattern of AM assignments has almost completely matured, in any event, and that new rules can make little difference one way or another.

(c) *Objections to specific proposals.* Even assuming that some sort of "go-no go" rules will be adopted, a number of respondents suggest that the rules proposed by the Commission should be modified in certain specific areas. Some parties object, for example, to the Commission's proposal to drop, in effect, the 1:30 ratio for defining second adjacent channel interference. Examples of other suggested changes in the proposed rules include: the substitution of less restrictive standards than those presently contained in § 73.37 of the Commission's rules to define prohibited overlap between second and third adjacent channel facilities; modification of the proposed rules to permit some degree of received interference, either for all new facilities or for stations which would provide first local services in their communities; and, modification of the proposals so as to disregard otherwise prohibited overlap which would occur entirely in areas already receiving interference from existing sources. Finally, some parties contend that more information concerning AM engineering problems is needed before any new rules can be adopted.

6. Upon consideration of all the comments, we have concluded that our original proposals should be adopted with one significant modification, discussed in paragraph 19 infra, concerning stations which are, or will be, the only local outlet in their communities or will serve "white area." Our reasons for this conclusion are set forth in the paragraphs that follow.

7. Introduction: "Primary Service Areas" and "Interference Areas": It is essential to understand at the onset that the concepts of "service" and "interference" in the AM broadcast band are based on many variable factors, some of which are subjective in nature. Some of these factors, such as propagation considerations, especially where skywave transmissions are involved, vary from minute to minute, hour to hour, day to day, and year to year. Any results depicting "service" and "interference," therefore, are determined in part upon the basis of statistical probabilities which are useful as tools for developing and evaluating an overall station assignment plan. However, as more and more assignments have been made, increased reliance has been placed upon very detailed calculations and evaluations of "service" and "interference" in individual cases to a degree unwarranted with the methods available.

8. The normally protected contour of a typical non-directional daytime station is usually depicted as a circle or other closed curve drawn on a map. For all but Class I stations, the normally protected contour is the 0.5 mv/m signal strength contour. This pictorial representation is a useful tool for station assignment purposes. Its usefulness, however, should not be permitted to obscure the fact that the pictorial representation is at best an approximation of the extent to which a particular station may actually be providing satisfactory service. A radio signal does not stop at a specified contour, nor does its suddenly change from rendering a satisfactory signal to an unsatisfactory signal. Rather, the quality of service decreases by continuous gradations from "excellent," in areas very close to the transmitter site where the signal is strong enough to override practically all background noise and "interference" from other stations, through "good," "fair," and "poor," ultimately to "unusable." Whether or not the reception of a particular station is satisfactory out to its normally protected contour (and perhaps a considerable distance beyond) depends on numerous variables, including time, precise location, and the presence of other interfering signals. What should be clear is that the selection of a particular signal strength contour as the normally protected contour is not determined strictly on the basis of engineering considerations, but also contains policy considerations. It is not a question for which purely engineering considerations provide only one rational answer. To the contrary, engineering considerations serve to delineate an area of discretion within which a number of rational choices exist. Thus, the definition of the normally protected contour for a particular class of AM station means, in effect, that the Commission has balanced all conflicting allocation goals and has decided to "protect" a station within an area circumscribed within a specified signal value.

9. The depiction of "interference" areas on a map is a useful practice but, again, a practice based upon concepts which are useful as allocation tools, but not as an exact depiction of "interference" in a specific case. Consider, for example, the pictorial representation of interference caused by one daytime station to another daytime station on the same channel. The Commission's rules provide that "interference" exists between co-channel stations within an area where the signal of the "desired" station is less than twenty times as strong as a concurrently present signal from an "undesired" station.[5] Thus, at the 0.5 mv/m contour of a particular station, an undesired co-channel signal of greater than 0.025 mv/m will be regarded as causing objectionable interference. Closer to the transmitter site of the desired station, the desired signal will, of course, be much stronger and a proportionally stronger undesired signal is required to cause interference. While this pictorial representation of interference is useful as an allocation tool, it is not an exact tool for depicting "interference" in a specific case.

10. Even if it were to be assumed that an area of "interference" shown on the map is a precise representation of the exact area in which the undesired to desired signal ratios is exceeded at all times, it is still impossible to say with certainty that a particular listener within the area will receive "interference" when he attempts to listen to the desired station. The sensitivity or selectivity of the listener's receiver, the directivity of its antenna system, and the exact location of the listener's home are additional factors which would affect the interference picture. Finally, the concept of "objectionable" interference will vary from listener to listener and will vary with the same listener for different types of programming material.

11. Preliminary comments regarding a "go-no go" system: On the basis of the

[4] For example, two of the major networks, N.B.C. and C.B.S., favored the basic principle of a "go-no go" system. The NAB also favored such a system in principle, with certain reservations pertaining to the methods by which signal strength contour location is determined.

[5] The 20:1 co-channel interference ratio is contained in present § 73.182 of the Commission's rules. With the exception of the 1:30 ratio for determining 2d adjacent channel interference, we have not questioned the general validity of the present ratios and have based our prohibited overlap rules upon them. No respondent has questioned the general validity of the co-channel and first-adjacent channel ratios.

foregoing discussion, it is appropriate to make several preliminary comments which are relevant to objections raised in this proceeding:

(a) First, if the normally protected contour is a fairly arbitrary concept derived from policy decisions as well as from engineering factors, the question of "saturation" becomes less an objective determination of fact than a policy determination which the Commission is obligated to make. It cannot be said that the standard broadcast band is, or is not, approaching saturation unless it is first made clear to what extent the Commission expects each licensed station of a particular class to provide service. If a determination were made that the public interest would be served by making the bulk of present regional channels available for Class IV assignments, or if the normally protected contour were changed from 0.5 mv/m to 1 mv/m or 2 mv/m, it would be possible to license a very large number of new stations. The fundamental question at all times must be: Would actions of this nature produce benefits for the public which would outweigh the very serious losses such radical moves would entail? This is, in essence, the basic problem continuously posed to the Commission by section 307(b) of the Communications Act.

(b) Second, once it is decided that stations should, on the whole, provide service to some specified contour (located and depicted schematically according to best available methods), it becomes almost meaningless to weigh the effects of slight amounts of interference other stations would cause within that contour in any one case. The balancing of conflicting goals in attempting to maximize both the number of assignments possible and the protection to be afforded each station is the essence of the process by which these standards are developed. On the other hand, an attempt to count the persons affected by interference in an individual case has little real meaning.

(c) Third, if a significant number of persons within a nominal "area of interference" depicted on a map continue to receive satisfactory reception of a particular station a significant percentage of the time, and if some listeners outside the nominal interference area do experience some degree of actual interference, the addition of a second interfering signal within the existing "area of interference" becomes highly meaningful. The addition of a second interfering signal—a second undesired "signal" in the background—will increase the probability of unsatisfactory reception of a desired station on both a time and location basis, both within and outside the depicted "area of interference".

12. Taken together, the facts set out above support these general observations concerning a protected contour station assignment system: All stations, especially during nighttime hours, cause and receive some degree of interference some percentage of the time which is unrecognized by definitions in the rules. Whether this unrecognized interference can be tolerated depends primarily on its cumulative effect which, in turn, is related to the number of stations assigned on a particular channel. The number of stations assigned on a channel of a particular class is determined by the signal strength contour which is to be protected from "interference" as defined by the rules. Another way of stating this is to say that the rules for predicting "interference" and the rules defining the "protected contour" are interrelated and must be read together. The practical validity of the "interference" rules depends to a large degree upon the maintenance of the protected contour. If continued small invasions of the protected contour are permitted, the number of stations on a channel which can have a deleterious effect upon any existing station will increase to the point where the degradation attributable to cumulative "unrecognized" interference from these stations is quite serious. As pointed out in the report and order adopting the 10 percent rule in 1954, "the sum total of a large number of operations which individually cause a negligible amount of interference is not negligible." [6]

13. Conclusions concerning a "go—no go" prohibited overlap system: In our "freeze" order and in the notice of proposed rule making in this proceeding, we noted that the percentage of applications and of grants which either cause or receive "objectionable interference" had been increasing steadily prior to the "freeze." A study of a large representative sample of AM applications granted in 1952 and a similar group granted in 1962 indicated that the percentage of new stations which neither caused nor received objectionable intereference declined markedly during the decade.[7] As the AM band becomes more and more crowded, it may be expected that the requests for new stations which would cause or receive objectionable interference will continue to grow rapidly.

14. As we have observed, supra, the degradation of existing service which may result from increasingly small increments of interference may be quite large. As we have also indicated, the balancing of gains against losses in any one case is not usually a very meaningful process. Insofar as concentration on the facts of each individual case must inevitably distort our sense of perspective in viewing the AM allocation picture as a whole, the ad hoc process may (except in very extraordinary cases), work at cross-purposes to our basic station assignment goals. The real question that must be faced in this proceeding is not whether our new rules should be "flexible" enough to allow grant of a large number of sub-standard applications, but, rather whether our overall standards of protection for each class of station should be changed so as to allow the assignment of a greater total number of stations.[8]

15. In this proceeding, we have proposed to bar overlap of defined signal strength contours between existing stations and new proposals. In effect, the proposed system is similar to the mileage separation rules currently employed in FM and in television. In FM and in television, the rules provide specific minimum separations between stations of specified types in specified regions of the country. These separations are based upon a certain average level of protection for each station when all stations are assumed to operate with maximum facilities. Although the rules proposed for AM do not assume operation with maximum facilities, and do not provide fixed separations between all stations of a particular class, they are similar to the FM and television rules. The prohibited overlap rules suggested for AM propose, in essence, the following: Two AM stations on the same channel or on adjacent channels must be separated by a certain required distance. Because of the wide variation in facilities, ground conductivity, etc. in AM, it would not be practical to require the same separation between all stations of the same class. Therefore, we have proposed to take account of these variables to the greatest possible degree by providing that minimum separations between stations are determined by the location of specified signal strength contours, depicted according to the best available methods. We do not purport to say that the overlap or non-overlap of contours precisely defines the presence or absence of interference—or the extent of interference—in each individual case. We do say that the use of contours predicted according to the best methods available is a reasonable and statistically accurate basis for determining separation requirements. We believe that an assignment system developed on the basis of these fixed separation requirements will achieve results in terms of service to the public which are at least as good as the results achieved through a case by case study of service gained or lost by reason of interference.

16. It is clear that the proposed rules would not mean an end to new AM grants. Although the percentage of grants involving some degree of interference has been increasing, the majority of applications for new stations being granted, even during the past few years, did not cause or receive interference. Under the new rules, a further moderate increase in the number of daytime AM stations may be expected for some years to come, particularly in areas with relatively few facilities today. It is also

[6] In the Matter of Amendment of section I of the Standards of Good Engineering Practice Concerning Standard Broadcast Stations, 10 Pike and Fischer R.R. 1595.

[7] The number of new stations causing more than 1 percent of "objectionable interference" rose from 2 percent in 1952 to 21 percent in 1962. The percentage receiving more than 1 percent interference rose from 18 percent to 36 percent in the same period. A further study of 60 consecutive "prefreeze" applications for new stations granted from April, 1962, to April, 1963, showed that 42 percent either caused or received some degree of "objectionable interference."

[8] With regard to general considerations involved in choosing between a rule and ad hoc procedure, see the Commission's recent report and order amending the multiple ownership rules, FCC 64-443, paragraphs 7-9, 11.

clear, however, that the rate of increase in the number of stations would be lower than during the past few years and, of course, far lower than the rate during the years immediately following World War II. In order to provide for any dramatic increase in the opportunities for establishing new daytime AM stations, some other fairly radical action would be necessary, such as changing of the normally protected contour, or the changing of some Class III channels to Class IV.

17. The Commission's present standards concerning the normally protected service contour and the allocation of frequencies to the four classes of stations represent an attempt to balance out the two extreme conflicting potentialities of any station assignment system—i.e., a relatively small number of high powered stations with extensive interference-free service areas, as opposed to a very large number of lower powered stations with service areas highly restricted by interference. Given the present highly developed state of AM, it would not be practical to increase the normally protected service area for any class of station without substantial dislocations of existing facilities, and no one has suggested that such a course of action should be attempted. It is only necessary, therefore, to consider whether present standards of protection should be decreased, either by rule or through a continuous process of ad hoc erosion. It is clear that protection standards should be relaxed only if it appears that the number of stations possible under strict enforcement of present standards is insufficient to meet the immediately foreseeable needs of the country.

18. There are, today, more than 4,000 authorized AM stations in addition to some 1,300 authorized commercial FM stations, 250 non-commercial FM stations, and more than 700 authorized commercial and non-commercial television stations. Outside metropolitan statistical areas, almost all communities in excess of 10,000 population have at least one local AM station and, indeed, approximately 1,150 communities of less than 10,000 population have one or two local stations. Most counties have a choice of multiple daytime AM signals. Moreover, the rapid development of an independent FM service will provide a large additional source of aural service for many communities. In these circumstances, we do not see the necessity for any radical solutions to expand greatly the potential number of AM stations. Given the present abundance and distribution of AM facilities, we conclude that the benefits which could be obtained through a very substantial increase in the number of stations would be too slight to outweigh the serious losses of existing service which would necessarily result. Accordingly, we are adopting the prohibited overlap rules proposed in the notice, with one exception. See paragraph 3(a) supra.

19. The exception concerns: (1) Proposals to build a first local station in a particular community or to change the facilities of a sole existing station in a community; or (2) where the new or changed facilities would provide a first primary service to 25 percent or more of the area within the proposed 0.5 mv/m contour. Although, it is impossible to devise a system under which every local community, no matter how small, can have its own local station, the benefits of at least one local station in as many communities as possible are obvious. Similarly apparent are the benefits for providing a first primary service to substantial areas. Therefore, consistent with our ad hoc practice over the years, we are adopting somewhat less stringent standards concerning received co-channel overlap for proposals in these categories.[9] As to them, instead of prohibiting overlap between the 0.5 mv/m contour of the new proposal and the 0.025 mv/m contour of any other co-channel existing station or proposal, the new rules bar overlap of the new 1 mv/m contour and the existing 0.05 mv/m contour. In effect, this means that we would permit co-channel interference up to the 1 mv/m contour of first service or first local service proposals at the time the assignment is made. Thereafter, the station's normally protected service area will be considered as the area encompassed within its 0.5 mv/m contour, and all other future proposals will be required to afford protection to this degree.[10]

20. Two other matters require brief comment. Comments were sharply divided concerning our proposal to drop the 1:30 second adjacent channel interference ratio. In this connection, we have also considered the comments filed in Docket No. 14037, a separate rule making instituted in 1961 which proposed elimination of the 1:30 ratio. We conclude that the ratio should be eliminated and the new prohibited overlap rules should be based only on prohibited overlap of 2 mv/m and 25 mv/m contours for second adjacent channel stations. We note that such second adjacent channel interference as does occur is limited to an area immediately adjacent to the transmitter site of the undesired station—i.e., interference to station A falls in an area adjacent to the transmitter of station B. The population within the area of interference does not suffer a reduction in the number of services available but, rather, receives a newly substituted service. Moreover, second adjacent channel interference usually falls in an area where the signal strength of the station suffering interference is less than the minimum required to provide a primary service to communities having populations in excess of 2500 people. Taking all factors together, we do not feel that elimination of the 1:30 ratio will result in any substantial loss of service to the public.

21. Finally, some respondents contended that the 2 and 25 mv/m prohibited overlap standards for second adjacent channel facilities and the 25 and 25 mv/m standard for third adjacent channel stations be relaxed. One respondent, for example, recommended that the second adjacent channel standard be changed to prohibit 5 and 25 mv/m overlap and that the third adjacent channel standard be changed to bar 25 and 50 mv/m overlap. We do not feel that the comments received have been supported by sufficient evidence to justify a change in the second and third adjacent channel standards at this time. Although we leave the standards unchanged for the present, we do not foreclose our consideration of further rule making regarding this subject.

Use of Measurement Data; Daytime.

22. In the notice, we requested comments as to the desirability of updating and refining the M–3 ground conductivity map.[11] We also asked for comments as to the possibility of utilizing an updated map exclusively, eliminating the present permissive use of measurement data. We did not propose to abolish the permissive use of measurement data at this time. Many parties favored an effort by the Commission to revise and update the M–3 map, but almost all respondents opposed doing away with measurement data even if the map should be revised. Several parties recommended changes in the rules governing the taking of measurements, however, with a view toward imposing more rigorous requirements. Recommended changes included: the compulsory use of a test transmitter from the proposed site of a new station; required measurements along a greater number of radials; required joint measurement data to be submitted by adverse parties, with Commission engineers to act as arbiters; and, a more rigorously defined procedure setting forth the time when measurements should be taken, the conditions under which they should be taken, and the method of taking.

23. We recognize a continuing need to re-study the M–3 map, with a view toward improving it in certain areas where deficiencies presently exist. We do not feel that the parties suggesting other changes in the rules governing measurements have submitted sufficient supporting material to justify institution of the recommended changes at this time. It is our intention to continue study of this problem, however, in connection with our efforts to improve the present map. If our further study indicates that additional changes in the rules concerning measurements are desirable, we will set forth the proposed changes in a separate notice of rule making.

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[9] Our rules regarding prohibited overlap to other existing stations are the same for these proposals as for all other stations. And, although our rules for first service or first local service are less stringent with regard to received prohibited overlap, the less stringent rules will be applied in the same "go-no go" fashion as the other prohibited overlap rules. As mentioned, Class IV power increases are exempt.

[10] Any "community" outside an urbanized area (as defined by the latest U.S. Census) will qualify for the first local service exception. Only communities in excess of 25,000 population will qualify if located all or partly within urbanized areas. In our view, relaxation of the general standards is not warranted for relatively small communities largely of a suburban character, located relatively close to large communities and served by stations therein.

[11] Figure M–3 is an enlarged version of Figure R–3, contained in present § 73.190 of the Commission's rules, 47 CFR 73.190.

Engineering rules; Nighttime. 24. In the notice, we proposed to bar grant of all applications for new nighttime facilities except those which would cause no objectionable interference to other stations or proposals and which would, at the same time, provide a first or second primary AM service to at least 25 percent of the area within the proposed interference-free service contour. Changes in existing nighttime facilities without a frequency change would be permitted only upon a showing that no objectionable interference would be caused to any other station. The principal objections to these proposals were quite similar to the attacks upon our daytime proposals—i.e., that the proposed rules are arbitrary and inflexible, that they fail to recognize the need for first or multiple nighttime local services, and that the rules are "wasteful" in that they would bar some new stations which would cause no objectionable interference to any other station as computed under our rules. These objections will be discussed more fully in the paragraphs to follow. Other comments were concerned more particularly with strictly nighttime AM problems. There was general agreement, for example, that new rules are necessary to govern computation of maximum expected operating values (MEOV's) for directional antennas and several parties submitted proposals in this regard. We agree that new MEOV rules are necessary but, as stated in the Notice, prefer to deal with this subject in a separate proceeding. Other parties suggested the possibility of basic changes in our method of computing nighttime interference, such as use of a 25 percent exclusion rule rather than the present 50 percent exclusion requirement. In view of our overall conclusions concerning future nighttime AM potential, we do not feel that the recommended basic changes in methods of computation are necessary. Finally, a number of parties noted that many nighttime interference problems are caused by directional antennas allowed to operate out of adjustment, and suggested that more rigorous rules be imposed to require licensees of directional systems to file frequent measurements showing proper operation. These suggestions are currently under study by the Commission.

25. Two basic facts must underlie our consideration of nighttime AM problems. The first fact is that the establishment of a new nighttime operation which will not have its service area restricted to a very high degree by interference is now virtually impossible.[12] The second fact is similar to a key principle we have discussed previously with regard to daytime AM, but which is of considerably greater significance when applied to nighttime operations. The principle may be summarized as follows: Our tools for computing nighttime interference are based on statistical considerations. Objectionable interference is deemed to existed when an unwanted relationship between a desired and an undesired signal is found to be sufficiently high at a particular location. Each new signal added on a particular channel increases the probability of interference at a particular location to some degree, whether or not any "objectionable interference" is recognized under our rules. The net effect of the increased probabilities of interference resulting from numerous technically non-interfering grants is not negligible.

26. From the postulates above, it follows that little significant "white area" can be served by the addition of more nighttime AM stations (other than stations on clear channels), and that the addition of such new stations will cause additional degradation to existing nighttime services. The only substantial benefit resulting from a substantial increase in nighttime AM facilities would be the assignment of first, or multiple, local AM services to some communities. The basic question which must be answered, therefore, is whether this benefit is enough to justify the sacrifices to existing service that would be involved. We have concluded that the gain in number of stations would not justify the losses in service.

27. Two major factors support our conclusion that the need for new local AM outlets is not pressing enough to justify any substantial sacrifice of service in the areas between communities. First, standard broadcasting is no longer a dominant medium at night.[13] It is indisputable that the great majority of the nighttime broadcasting audience watches television. A substantial portion of the night standard broadcast audience is in automobiles. The addition of a substantial number of new stations with extremely limited service areas will not materially improve the position of these listeners but may, instead, make it more difficult to obtain any satisfactory reception as they drive away from the downtown areas in their communities.

28. The second factor supporting our conclusion is the fact that such needs for nighttime aural service as do exist may be met far more efficiently by FM stations and by the Commission's clear channel decision. As noted previously, there are now approximately 1300 authorized commercial FM stations (as well as 250 non-commercial facilities) providing nighttime service and applications for additional FM stations have been filed at a very rapid rate since the FM "freeze" was lifted in July 1963. Within the next year, it is reasonable to assume, stations will have been authorized on more than half of the commercial assignments contained in the FM Table of Assignments[14]. Use of all FM assignments would leave very little white area except in areas of extremely sparse population. The potentialities of FM for nighttime service are easily illustrated. For example, an exhibit submitted by one respondent contending for less restrictive nighttime AM rules depicts a large area in the State of Illinois in which thirty-three separate communities of over 2500 population do not receive any primary AM service (2 mv/m) at night. It is clear, however, that local AM nighttime assignments could not be made to more than a small number of these communities under any rational system and that such assignments as could be made would have extremely restricted service areas. On the other hand, twenty-three of the thirty-three communities in question have local assignments in the FM table. Full utilization of the available FM channels would result in multiple aural signals to most of the thirty-three communities.

29. These factors persuade us that there is no reason to continue licensing nighttime AM facilities which will not, at the least, serve some significant amount of "white" area. Several parties have objected to the proposed rule, however, on the ground that it may tend to promote inefficient operations in some cases. These parties argue that a deliberately restricted operation on a channel with a very high RSS limitation might be sought, keeping the total service area so small so that a very small amount of service to "white" area would amount to 25 percent of the total. We believe that in most cases this type of operation would prove uneconomic and would not be sought. Our final rule, therefore, provides that no applications will be accepted for new nighttime facilities (including the addition of nighttime facilities to an existing daytime station) unless accompanied by a showing that (a) no interference would be caused to any other station, (b) a first primary AM service would be provided to at least 25 percent of the proposed interference-free service area, and (c) all principal city coverage requirements are met. Class IV stations would not have to meet requirements (a) and (b) with respect to nighttime operations. With respect to applications for changes in facilities (other than changes in frequency), these need only meet the standard of affording protection to any existing stations.

30. We wish to emphasize that applications for unlimited time stations must meet both the criteria for daytime assignments and those for nighttime assignments. If they fail to comply with both, they will not be accepted.

31. Class II–A stations: In our 1961 decision in the Clear Channel proceeding (Docket 6741), we emphasized the importance of making new Class II–A assignments on certain I–A clear channels in the underserved West. In line with that policy determination, we are exempting applications for these assignments from the new rules—with one exception. The primary purpose of these assignments is to improve nighttime service. With respect to daytime operation, we are of the view that the traditional interference rules should apply

[12] As stated in the notice, a new nighttime station established on any channel (other than Class I–A Clear Channels) at almost any location will be limited to a very high degree by interference from other existing stations.

[13] By nighttime AM service, we refer to continued service throughout the evening and not to service during the hours immediately before sunrise. The pre-sunrise problem is the subject of a separate rule making in Docket 14419 and will not be discussed in this report and order.

[14] Section 73.202 of the Commission's rules, 47 CFR 73.202.

where it is a question of getting the needed station into operation; but that thereafter applications for changes in daytime facilities should meet the same standards applying to other classes of stations. The new rules so provide.

32. We stated in our original AM "freeze" order, (reprinted at 23 Pike and Fischer, R.R. 1545), that applications pending at the time of the "freeze" would continue to be processed under existing rules. We believe that the continued processing under the old rules of those applications still pending now will not materially impair the overall allocation structure. Since these applications were filed and processed, and in some cases have been through hearing, under the former rules, considerations of equity and the public interest indicate that the new rules should not be applied to applications now pending. Accordingly, applications accepted for filing prior to the date this report and order is published in the FEDERAL REGISTER will be processed under the old rules, (as will timely filed applications mutually exclusive with such accepted applications).[16] The current AM "freeze" will be lifted upon publication of the new rules in the FEDERAL REGISTER. Applications which are consistent with the rules adopted today will be accepted for filing thereafter. No application accepted for filing after the publication of the new rules in the FEDERAL REGISTER will be granted or designated for hearing before the effective date of the new rules, thirty days after they are published. The amendment to § 1.571 adopted herein, lifting the "freeze" and setting forth the conditions under which applications will be accepted, is procedural and therefore may be made effective as quickly as possible. It will become effective July 13.

Additional Rules To Control Assignments. 33. In addition to new rules, we proposed in the notice to place certain other limitations on grants of new AM stations. The limitations we suggested would have permitted new stations only where a first or second primary service would be provided to 25 percent of the area within the proposed normally protected service contour, or, where a grant would not have caused the number of local AM stations in a community to exceed a specified number. The specified number of AM stations to be permitted varied according to the population of the community and, in some cases, according to the number of FM assignments for the community in the FM Table.

34. A number of parties objected to these proposals on the ground that they would constitute undesirable or unlawful "economic regulation" and on the ground that the proposals were impractical in view of the great differences between communities in a single population grouping. We do not find it necessary to consider these objections, however, because we have come to the conclusion that the proposed additional assignment rules are unnecessary. As we observed in the Notice, a table of maximum permissible AM assignments would have little meaning for most very large cities, since these communities generally have about as many AM assignments as even the present engineering rules will permit. Moreover, the table would have had relatively little effect upon applications for new stations in smaller communities: a review of a representative sample of prefreeze applications for new AM stations has indicated that almost two-thirds proposed a first or a second local station for some community and that the actual percentage which would have complied with the proposed table would have been considerably higher.[16] Under these circumstances, we feel that the proposed table would introduce an unnecessary element of complexity into the rules.[17]

35. A "note" to the table proposed in the notice would have barred a new suburban station placing a 2 mv/m signal over more than 25 percent of the area of a city in excess of 50,000 population. Upon consideration of the comments regarding this "note," we have concluded that the proposal would produce undesired results in too many cases to justify its adoption. (In areas of high ground conductivity, for example, new stations assigned on low frequencies would have had to be located an unreasonably large distance from metropolitan centers.) We shall continue to examine suburban applications closely, on a case-by-case basis, to determine whether they should be regarded as proposing a new service for their nominal community or whether, instead, the proposal should be regarded as an application for the central city. See Huntington Broadcasting Company v. F.C.C., 89 U.S. App. D.C. 222, 192 F. 2d 33, and Denver Broadcasting Company, 28 FCC 1060, 19 Pike and Fischer, R.R. 1205.

AM-FM Program Duplication. 36. In paragraphs 11–22 of the notice (25 Pike and Fischer R.R. 1615, 1620 ff), we reviewed the history of the relationship between the AM and FM services at some length. We focused particularly on the practice of AM-FM program duplication, noting that duplication had never been seriously regarded as an efficient use of the FM frequency but, at best, as a temporary expedient to help establish the FM service. We tentatively concluded that AM-FM program duplication had served whatever purpose it could in most cases, and that the time had arrived to begin a gradual change in our policy regarding duplicated AM-FM programming in the same community. We expressed our particular concern over the continuation of program duplication in many large metropolitan areas where all available AM and FM channels are occupied. In these large cities, where multiple applications would certainly be received for any AM or FM frequency that should become vacant, the use of two channels to broadcast a single program appeared to us to represent a gross inefficiency. We proposed, therefore, to impose a 50 percent non-duplication requirement upon FM stations in cities over 100,000 population where no unoccupied FM assignments remain in the FM Table.

37. More generally, our proposals were based upon the view that the time had come to move significantly toward the day when AM and FM stations should be regarded as component parts of a total "aural" service for assignment purposes. We stated (25 Pike and Fischer, R.R. 1615, 1622):

> We believe that the ultimate role of FM broadcasting is to supplement the aural service provided by AM stations and that, eventually, there must be an elimination of FM stations which are no more than adjuncts to AM facilities in the same community. Owing to the differing technical characteristics of AM and FM and to the separate historical development of the two services, each is able to accomplish certain tasks better than the other. It is our hope that each of the services can be developed to its maximum potential within an integrated system, and that such an integrated system will represent the best possible utilization of the frequencies allotted for aural broadcast stations.

38. The comments regarding our non-duplication proposals disclosed a basic split within the broadcasting industry. The National Association of FM Broadcasters (NAFMB) strongly supported the principle of non-duplication and, in fact, recommended rules considerably more extensive in application than those proposed by the Commission. One counterproposal of the NAFMB was that the anti-duplication rules be applied to stations in all large metropolitan areas—whether or not any vacant FM channels remained in the area. The NAFMB's basic position was that the development of FM to a point of economic viability will be accomplished primarily by stations presenting independent programming and that duplicating stations do little to create a unique FM audience and to increase advertiser acceptance of FM.

39. Most other parties opposed any non-duplication rules. The objections were of three general types. First, it was argued that whatever merits separate AM and FM programming may have, compulsory program separation is not economically feasible at this time. Parties challenging the rule on economic grounds contend that the cost of presenting separate FM programming will be prohibitive for many dual licensees and, also, that the addition of a number of new programming sources will so fragment the large markets that the advertising revenues of all stations will suffer. Second, a number of respondents claimed that AM-FM program

[16] To be accepted on the basis of mutual exclusivity with an application accepted under the AM "freeze" (the earlier Note to § 1.571), a later application must meet the "freeze" exception criteria set forth in that Note. See 27 F.R. 4626, 4628.

[16] And, of course, the number of applications that would fail to comply with the proposed table but which would comply with the new engineering rules would be still smaller.

[17] The table would have permitted a first or a second local AM station in any community under 10,000 population. As of the end of 1962, 1096 communities under 10,000 had one AM station, and 54 had two stations. No community under 10,000 had three stations, however, indicating that natural economic checks are a substantial enough restraining factor to render the proposed table unnecessary.

duplication had many positive values. These parties noted that many AM licensees use FM to serve areas not reached by their AM signal or to continue at night after the AM station goes off the air. Parties claiming positive value for duplication also argued that program separation would make many valuable AM programs unavailable to FM audiences which have come to depend upon them. Finally, some respondents asserted that non-duplication lacks positive value of its own—that set sales would not increase as a result of programming separation, that advertiser support would remain unaffected, and that program "diversity" would not increase just because the number of different programs increases.

40. The NAFMB has attempted to answer each of these contentions. It asserts there is no evidence that per station revenues in a market will be reduced with the advent of non-duplication but that, to the contrary, the total revenues flowing to aural stations will be increased when FM is sold separately. Some of the increased revenues will be derived from new or increased advertising previously obtained by no broadcast media but the greater portion, states the NAFMB, will be drawn from present television revenues since FM listening is presently greatest in homes doing the least TV viewing. Moreover, the NAFMB contends, the economic effect of non-duplication will not be staggering since a substantial proportion of existing dual-owned stations have already begun some degree of non-duplication since the Commission first suggested the possibility of rules in this area in the overall FM rule making (Docket 14185) in 1961. The NAFMB responds to the argument concerning different coverage areas of some AM and FM stations by noting that the FM area is, in most cases, far greater than the AM area and should, therefore, be treated as the primary service. Where the FM coverage is substantially greater, it is said, the marginal AM facility should be deleted and reassigned where it will do more good. Finally, the NAFMB states that FM has the potential for providing many worthwhile types of programming not now found on AM facilities or on duplicating AM–FM stations.

41. Upon consideration of all the comments we conclude that rules should be adopted which would begin a gradual process by which AM–FM program duplication in the same community is ended. The final rules are substantially identical to those proposed with one exception: we have adopted the NAFMB counterproposal that application of the rules in cities over 100,000 population not be made to depend upon whether or not vacant FM channels are still available. On the whole, there are few vacant FM channels in the 130 cities of over 100,000 population listed in the 1960 census reports. In most cities where vacant channels do remain, applications are rapidly being received which will fill up the vacancies. Therefore, we believe that the new non-duplication rules may be administered more fairly and more efficiently if made applicable to stations in all cities of over 100,000. Our recent experience has demonstrated that the number of applicants willing to propose independent FM operation in cities of this size is greater than the number of channels available. In these circumstances—with a surfeit of potential applicants and a growing scarcity of opportunities to enter the field of broadcasting—it appears unreasonable to allow one licensee to continue to use two channels in the same community for one program.

42. We recognize that individual licensees may suffer some short term economic detriment by reason of our non-duplication rule, but we are convinced that there will be no net loss of FM service available to the public. In this connection, it is pertinent to note that the new rule—which does not become effective for one year—requires only that a dual licensee reduce his program duplication to no more than 50 percent of the average FM broadcast week. This means that duplication of most news, sports, and public affairs programs could be continued without violation of the rule. The 50 percent requirement also means that many licensees of fulltime FM stations who operate daytime-only AM stations in the same community will not be required to bring about a substantial increase in non-duplicated programming. Moreover, inasmuch as a substantial number of dual licensees have already begun a certain amount of separate programming during the past several years, the new rule will only serve to add impetus to a trend already begun.[18]

43. Finally, it is our hope that the non-duplication rules will provide new impetus to FM set sales, although the comments did not furnish sufficient evidence to permit a firm prediction in this regard.

44. The final rule requires FM licensees in cities over 100,000 to devote no more than 50 percent of the average FM broadcast week to programs duplicated from a co-owned AM station in the same local area.[19] The rule prohibits not only simultaneous duplication but also (above the 50 percent allowable), programs broadcast over any co-owned AM station in the same local area one day before or after the FM broadcast. What constitutes the "same local area" for the purposes of the rule will be developed on a case-by-case basis. The term would always encompass AM and FM stations in the same community and may also include AM-FM combinations in nearby communities.

45. In determining whether 50 percent of an FM station's average broadcast week has been devoted to non-duplicated programming, the Commission will not consider simultaneous broadcasts of special events of national or regional importance to have been duplicated programming proscribed by the rule. Thus, extended simultaneous broadcasts of events such as space launchings, presidential inaugurations, or election returns will be treated as non-duplicated programming for the purposes of the rule.

46. The rule also provides that individual licensees may request that application of the rule be postponed as to them for their current license period. Such requests must be submitted at least six months prior to the time the non-duplication requirement is to go into effect and must contain a substantial showing that the public interest—as opposed to the private interest of the licensee—would be served by allowing unlimited program duplication for an additional period of time. It would be necessary for the licensee to renew his request for continued temporary exemption from the non-duplication rule at the end of each license period.

47. In the notice, we proposed no rules which would affect the problem of AM–FM dual ownership, or duopoly, in the same community, although we did express the view that separate ownership of AM and FM stations in the same community is a desirable long-range goal. All parties commenting on this expression of views expressed strong opposition, most often on the grounds that future separation of ownership would be unfair to many FM "pioneers" and would discourage present investment in FM stations. The subject of possible general revisions of the multiple ownership rules is currently under study by the Commission. Therefore, we do not believe that further discussion of the problem is warranted at this time.

Mergers. 48. In paragraph 46 of the notice (25 Pike and Fischer, R.R. 1615, 1638), we suggested a procedure whereby two or more existing stations in cities with an abundance of facilities might merge and be guaranteed that there would be no reassignment of the deleted frequency in the same area. Few parties expressed great interest in this proposal, and those that did recommended that any mergers be handled on an ad hoc basis. We tend to agree with the commenting parties and, therefore, have not adopted our proposals in this area. The Commission will consider requests for merger on a case-by-case basis, however, should any licensees feel mergers to be advantageous to themselves and to the public. We will examine any such requests closely and will grant mergers with channel deletion only where there has been a clear and compelling showing of public benefit.

Miscellaneous Comments. 49. A number of comments were received dealing with matters either outside the scope of this proceeding or beyond the scope of the proposals advanced in the notice and

[18] In 1961, 405 FM stations operated by AM licensees in the same community reported no FM revenues and 284 reported some FM revenues. In 1962, the figures were almost reversed: 408 dual owned stations reported some FM revenues and 306 reported none. (Final AM–FM Broadcast Financial Data—1962.) Since there was no dramatic increase in SCA authorizations from 1961 to 1962, it is reasonable to assume that most of the increase is attributable to separate programming.

[19] Evidence of compliance with this requirement will be required of licensees at renewal time; the exact character of the showing to be made will be covered in a later notice.

considered here. Comments in the latter category included recommendations for higher authorized power for all existing stations so that higher background electrical interference levels present today may be overcome; a request that the "normally protected service area" be replaced with a "defined service area" of fixed size for AM stations of a particular class; requests for higher power for regional stations and for protection against daytime skywave interference for regionals; and, various other changes which would require mass dislocations of existing assignments. To the extent that these suggestions are inconsistent with the rules adopted here, they are rejected as far as the present proceeding is concerned. We should also note at this point that other proposals suggested at the January, 1963 Radio Conference—such as revisions in the showing as to financial qualifications required of applicants—are currently under active study by the Commission.

Conclusion. 50. In view of the foregoing, and pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended: *It is ordered,* That effective July 13, 1964, Part 1 of the Commission's rules is amended, and effective August 13, 1964, Part 73 of the Commission's rules is amended, as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Adopted: July 1, 1964.

Released: July 7, 1964.

FEDERAL COMMUNICATIONS COMMISSION,[20]
[SEAL] BEN F. WAPLE,
Secretary.

I. Effective July 13, 1964, Subpart D of Part I of the Commission's rules is amended by deleting the Note at the end of § 1.571 and adding the following new Note:

§ 1.571 Processing of standard broadcast applications.

* * * * *

NOTE: No application tendered for filing after July 13, 1964, will be accepted for filing unless it complies fully with the provisions of new § 73.24(b) and new § 73.37 of this chapter, contained in the Commission's report and order, FCC 64-609 in Docket 15084, adopted July 1, 1964. No application accepted for filing after July 13, 1964, will be granted prior to August 13, 1964.

II. Effective August 13, 1964, Subparts A and B of Part 73 of the Commission's rules are amended as set forth below:

1. Section 73.24(b) is revised to read:

§ 73.24 Broadcast facilities; showing required.

* * * * *

(b) (1) That a proposed new daytime station (or change in frequency of an existing daytime station) complies with the standards of station separation set forth in § 73.37.

(2) That a proposed change in daytime facilities (other than a change in frequency or a Class IV station increasing daytime power) does not involve overlap of contours prohibited by § 73.37 with any other station in any area where there is not already such overlap between the two stations.

(3) That a proposed new nighttime operation or change in frequency of any existing nighttime operation (except Class IV stations) would (i) not cause objectionable interference to any existing station (see § 73.182(o)); and (ii) provide a first primary AM service to at least 25 percent of the area within the proposed interference free nighttime service area.

(4) That a proposed change in nighttime facilities (other than a change in frequency) would not cause objectionable interference to any other station (see § 73.182(o)).

NOTE: The preceding provisions of this paragraph (b) shall not be applied to applications for new Class II–A stations or to applications accepted for filing before July 13, 1964. With respect to such applications, a showing must be made that:

(a) Objectionable interference will not be caused to existing stations or that, if interference will be caused, the need for the proposed service outweighs the need for the service which will be lost by reason of such interference. (For special provisions concerning interference from Class II–A stations to stations of other classes authorized after October 30, 1961, see Note 2 to §§ 73.21 and 73.22(d)). For determining objectionable interference, see §§ 73.182 and 73.186.)

(b) The proposed station will not suffer interference to such an extent that its service would be reduced to an unsatisfactory degree.

* * * * *

2. Section 73.28 is amended by revising paragraphs (a) and (d) to read as follows:

§ 73.28 Assignment of stations to channels.

(a) With respect to applications for new Class II–A stations, and other applications accepted for filing before July 13, 1964, the individual assignments of stations to channels which may cause interference to other United States stations only shall be made in accordance with the provisions of this part for the respective classes of stations involved. (For determining objectionable interference, see §§ 73.22, and 73.182 through 73.186.)

* * * * *

(d) With respect to applications for new Class II–A stations, and other applications accepted for filing before July 13, 1964, the following shall apply: Upon showing that a need exists, a Class II, III, or IV station may be assigned to a channel available for such class, even though interference will be received within its normally protected contour, subject to the following conditions: (1) No objectionable interference will be caused by the proposed station to existing stations or that if interference will be caused, the need for the proposed service outweighs the needs for the service which will be lost by reason of such interference; (2) Primary service will be provided to the community in which the proposed station is to be located; (3) The interference received does not affect more than 10 percent of the population in the proposed station's normally protected primary service area; however, in the event that the nighttime interference received by a proposed Class II or III station would exceed this amount, then an assignment may be made if the proposed station would provide either a standard broadcast nighttime facility to a community not having such a facility or if 25 percent or more of the nighttime primary service area of the proposed station is without primary nighttime service. This subparagraph (3) of this paragraph shall not apply to existing Class IV stations on local channels applying for an increase in power above 250 watts, nor to new Class IV stations proposing power in excess of 250 watts with respect to population in the primary service area outside the equivalent 250 watt, 0.5 mv/m contour.

3. Section 73.37 is revised to read as follows:

§ 73.37 Minimum separation between stations; prohibited overlap.

(a) Except as indicated in other paragraphs of this section, and except for Class II–A stations, no application will be accepted for a new station (or change in frequency) if the proposed operation would involve overlap of signal strength contours with any other station as set forth below in this paragraph; and no application will be accepted for a change (other than a change in frequency) of the facilities of an existing station (including the daytime facilities of an existing Class II–A station) if the proposed change would involve such overlap in any area where there is not already such overlap between the stations involved:

Frequency separation	Contour of proposed new station (Classes II–B, II–D, III, and IV)	Contour of any other station
	mv/m	
Co-channel	0.005	0.1 mv/m (Class I).
	0.025	0.5 mv/m (Other classes).
	0.5	0.025 mv/m (All classes).
10 kc/s	0.5	0.5 mv/m (All classes).
20kc/s	2	25 mv/m (All classes).
	25	2 mv/m (All classes).
30 kc/s	25	25 mv/m (All classes).

(b) An application for a new daytime station or a change in the daytime facilities of an existing station may be granted notwithstanding overlap of the proposed 0.5 mv/m contour and the 0.025 mv/m contour of another co-channel station, where the applicant station is or would be the first standard broadcast facility in a community of any size wholly outside of an urbanized area (as defined by the latest U.S. Census), or the first standard broadcast facility in a community of 25,000 or more population wholly or partly within an urbanized area, or when the facilities proposed would provide a first primary service to at least 25 percent of the interference-

[20] See dissenting statements of Commissioners Hyde and Ford and concurring statement of Commissioner Bartley filed as part of the original document.

free area within the proposed 0.5 mv/m contour: *Provided*, That:

(1) The proposal complies with paragraph (a) of this section in all other respects and is consistent with all other provisions of this part; and

(2) No overlap would occur between the 1 mv/m contour of the proposed facilities and the 0.05 mv/m contour of any co-channel station.

(c) In determining overlap received, an application for a new Class IV station with daytime power of 250 watts, or greater, shall be considered on the assumption that both the proposed operation and all existing Class IV stations operate with 250 watts and utilize non-directional antennas. With respect to applications for new Class IV facilities, the provisions of paragraph (b) of this section shall be applied using the assumption mentioned in this paragraph for determining overlap received.

(d) If otherwise consistent with the public interest and subject to section 316 of the Communications Act, an application requesting an increase in the daytime power of an existing Class IV station on a local channel from 250 watts to a maximum of one kilowatt, or from 100 watts to a maximum of 500 watts, may be granted notwithstanding overlap prohibited by paragraph (a) of this section. In the case of a 100 watt Class IV station increasing daytime power, the provisions of this paragraph shall not be construed to permit an increase in power to more than 500 watts, if prohibited overlap would be involved, even if successive applications should be tendered.

NOTE: The foregoing provisions of this section shall not be applied to applications for new Class II–A stations or to applications accepted for filing before July 1, 1964. With respect to such applications, the following shall apply: An authorization will not be granted for a station on a frequency of ±30 kc/s from that of another station if the area enclosed by the 25 mv/m groundwave contours of the two stations overlap, nor will an authorization be granted for the operation of a station on a frequency ±20 kc/s or ±10 kc/s from the frequency of another station if the area enclosed by the 25 mv/m groundwave contour of either one overlaps the area enclosed by the 2 mv/m groundwave contour of the other. (As to overlap with Class II–A stations, see § 73.21, Note 2.)

§ 73.182 [Amendment]

4. Section 73.182(w) is amended by deleting the last entry from the table therein.

5. A new section 73.242 is added as follows:

§ 73.242 Duplication of AM and FM programming.

(a) After August 1, 1965, licensees of FM stations in cities of over 100,000 population (as listed in the latest U.S. Census Reports) shall operate so as to devote no more than 50 percent of the average FM broadcast week to programs duplicated from an AM station owned by the Same licensee in the same local area. For the purposes of this paragraph, duplication is defined to mean simultaneous broadcasting of a particular program over both the AM and the FM station or the broadcast of a particular FM program within 24 hours before or after the identical program is broadcast over the AM station.

(b) Compliance with the non-duplication requirement shall be evidenced by such showing in connection with renewal applications as the Commission may require.

(c) Upon a substantial showing that continued program duplication over a particular station would better serve the public interest than immediate non-duplication, a licensee may be granted a temporary exemption from the requirements of paragraph (a) of this section. Requests for such exemption must be submitted to the Commission, accompanied by supporting data, at least 6 months prior to the time the non-duplication requirement of paragraph (a) of this section is to become effective as to a particular station. Such exemption, if granted, will ordinarily run to the end of the station's current license period, or if granted near the end of the license period, for some other reasonable period not to exceed 3 years.

[F.R. Doc. 64–6924; Filed, July 10, 1964; 8:48 a.m.]

Proposed Rule Making

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 89, 91, 93]

[Docket No. 15534; FCC 64-589]

BUSINESS RADIO SERVICE IN PUERTO RICO AND VIRGIN ISLANDS

Additional Frequencies; Notice of Proposed Rule Making

In the matter of amendment of Parts 2, 89, 91 and 93 of the Commission's rules to provide additional frequencies for the Business Radio Service in Puerto Rico and the Virgin Islands, Docket No. 15534, RM-158.

1. Notice is hereby given of proposed rule making in the above entitled matter.

2. On January 11, 1960, a Petition for Rule Making was jointly filed by Radiotelephone Communicators of Puerto Rico, Inc., and Crumley Radio Corporation (petitioners) for the allocation of additional frequencies to the business radio service for use in Puerto Rico and the Virgin Islands. This petition, designated RM-158, requested that a total of 56 frequencies from the 153.44-173.35 Mc/s band be reallocated to the business radio service. By Memorandum Opinion and Order adopted July 7, 1960, the Commission denied the petition on the basis that assignment practices and/or channel loading then existing in the 150 Mc/s land mobile band did not justify a revision in the allocation structure accommodating the business radio service in the aforementioned locations.

3. On August 8, 1960, petitioners filed a Petition for Reconsideration of the Commission's action and submitted further information in order to substantiate the alleged need for additional business radio service frequency assignments in Puerto Rico and the Virgin Islands. Action on that Petition has been delayed by outstanding rule making in Docket No. 13930, looking toward the use of 15 kc/s "splits" in the business radio service. Despite the absence of a decision in that proceeding and based upon a current study of Commission frequency assignment records and upon the information submitted in the Petition for Reconsideration, the Commission now proposes certain revisions in its rules to expand the availability of assignable frequencies to the business radio service in those locations. The Commission proposes such expansion from within the 150.8-152.0 Mc/s band in lieu of the 153.44-173.35 Mc/s band as requested by petitioners.

4. Portions of the 150.8-152.0 Mc/s band were allocated to the Public Safety (Part 89), Industrial (Part 91) and Land Transportation (Part 93) Radio Services pursuant to proceedings in Docket No. 12169, effective on April 1, 1958 (23 F.R. 103). Commission frequency assignment records for Puerto Rico reveal one licensee currently outstanding in each of the Land Transportation and Public Safety Services in their respective portions of the 150.8-151.49 Mc/s band. On the other hand, special industrial and business radio services have made appreciable use of the frequencies available to the Industrial Radio Services (Part 91), within the band 151.49-152.0 Mc/s.

5. The preponderance of growth in the 151.49-152.0 Mc/s band has been in the business radio service although the special industrial has also evidenced a continued increase. As was pointed out in the Petition for Reconsideration, this growth appears to have been engendered by the topographical, economic and social environment of Puerto Rico which has affected the local communication requirements to a marked degree since radio must be used in the absence of other modes of communication.

6. To relieve the growing congestion in the business radio service, in Puerto Rico, the need for which was set forth by the petitioners, the Commission proposes to reallocate the 150.8-150.98 Mc/s and 150.98-151.49 Mc/s bands from the Land Transportation and Public Safety Radio Services, respectively, to the Industrial Radio Services for exclusive use by the business radio service. Thus, a total of 35 assignable frequencies in the 150.8-162 Mc/s band would be made available to that service in Puerto Rico and the Virgin Islands.

7. As a related matter, it should be noted that, pursuant to proceedings in Docket No. 14990 (Report and Order adopted July 1, 1964, FCC 64-594), frequencies above 152 Mc/s which are available to the petroleum, forest products and manufacturers radio services in Puerto Rico, Hawaii, and the Virgin Islands were also made available to the special industrial radio service in those locations on a noninterference basis to the primary services. Due to the limited use being made by the petroleum, forest products and manufacturers radio services on frequencies above 152 Mc/s in those areas, it appears that adequate relief has been provided the special industrial radio service.

8. It is proposed that licensees who would become "out-of-band" upon adoption of the proposed allocation changes would be authorized to continue operation on their present assignments for a period of five years from the effective date of action taken pursuant to this proceeding. Upon expiration of that period, all licensees affected herein would be required to operate in the bands allocated to the particular service.

9. The appropriate rule changes proposed herein are set forth below. Although the allocation changes proposed herein were not specifically requested by petitioners in RM-158 or in their Petition for Reconsideration, the relief herein proposed for the business radio service constitutes appropriate consideration of those formal requests.

10. Authority for the rule changes proposed herein is contained in sections 4(i) and 303 (a), (b), (c), (f), and (r) of the Communications Act of 1934, as amended.

11. Pursuant to appropriate procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before August 20, 1964, and reply comments on or before September 1, 1964. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it in addition to the specific comments invited by this notice of proposed rule making.

12. In accordance with the provisions of § 1.419 of the Commission's rules, an original and fourteen copies of all statements, briefs or comments filed shall be furnished the Commission.

Adopted: July 1, 1964.

Released: July 6, 1964.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

1. In § 2.106, the Table of Frequency Allocations is amended in respect to the bands 150.8-150.98 and 150.98-151.49 Mc/s to read as follows in columns 7 through 11, and new footnote NG --, as set forth below, is added in proper numerical sequence:

§ 2.106 Table of frequency allocations.

Band (Mc/s) 7	Service 8	Class of station 9	Frequency (Mc/s) 10	Nature {of SERVICES / of stations} 11
• • •	• • •	• • •	• • •	• • •
150.8-150.98	LAND MOBILE----	Base----------	----------	LAND TRANSPORTATION. (NG --)
		Land mobile.		
150.98-151.49	LAND MOBILE----	Base----------	----------	PUBLIC SAFETY. (NG --)
		Land mobile.		
• • •	• • •	• • •	• • •	• • •

* * * * *

NG -- In Puerto Rico and the Virgin Islands only, the bands 150.8-150.98 Mc/s and 150.98-151.49 Mc/s are allocated exclusively to the business radio service. Stations in the Land Transportation and Public Safety Radio Services in those territories which have been authorized as of ----------, ----, to use frequencies in the bands 150.8-150.98 Mc/s and 150.98-151.49 Mc/s, respectively,

may continue to operate on these frequencies until _____, _____.

2. In § 89.409(e), the Highway Maintenance Radio Service Frequency Table is amended by the addition of a new limitation number 11 in column 3 (Limitations) opposite the frequencies 150.995, 151.010, 151.025, 151.040, 151.055, 151.070, 151.085, 151.100, 151.115, and 151.130 Mc/s, and a new paragraph (f)(11) is added as follows:

§ 89.409 Frequencies available to the Highway Maintenance Radio Service.

* * * * *

(f) * * *

(11) This frequency is not available for assignment to stations in the highway maintenance radio service located in Puerto Rico or the Virgin Islands. Stations in those territories in the highway maintenance radio service which have been authorized to operate on this frequency prior to _____ may continue to do so until _____.

* * * * *

3. In § 89.459(d), the Forestry-Conservation Radio Service Frequency Table is amended by the addition of a new limitation number 15 in column 3 (Limitations) opposite the frequencies 151.145 through 151.475 Mc/s, and a new paragraph (e)(16) is added as follows:

§ 89.459 Frequencies available to the Forestry-Conservation Radio Service.

* * * * *

(e) * * *

(16) This frequency is not available for assignment to stations in the forestry-conservation radio service located in Puerto Rico or the Virgin Islands. Stations in those territories in the forestry-conservation radio service which have been authorized to operate on this frequency prior to _____ may continue to do so until _____.

* * * * *

4. In § 91.554, the table in paragraph (a) is amended by the addition of the following entries in numerical sequence and a new paragraph (b)(21) is added as follows:

§ 91.554 Frequencies available.

* * * * *

BUSINESS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	General reference	Limitations
* * *	* * *	* * *	* * *
150.815	Base or mobile	General use	21
150.845	do	do	21
150.875	do	do	21
150.905	do	do	21
150.935	do	do	21
150.965	do	do	21
150.995	do	do	21
151.025	do	do	21
151.055	do	do	21
151.085	do	do	21
151.115	do	do	21
151.145	do	do	21
151.175	do	do	21
151.205	do	do	21
151.235	do	do	21
151.265	do	do	21
151.295	do	do	21
151.325	do	do	21
151.355	do	do	21
151.385	do	do	21
151.415	do	do	21
151.445	do	do	21
151.475	do	do	21
* * *	* * *	* * *	* * *

(b) * * *

(21) Use of this frequency is limited to stations located in Puerto Rico and the Virgin Islands.

5. In § 93.503, paragraphs (c) and (d) are amended and new paragraph (f) is added as follows:

§ 93.503 Frequencies below 952 Mc/s available for base and mobile stations.

* * * * *

(c) Except in Puerto Rico and the Virgin Islands, the following frequencies are available for assignment to base stations and to mobile stations (other than those aboard aircraft) which are operated by or on behalf of associations of owners of private automobiles; provided that the equipment to be used shall immediately meet the technical standards which become generally effective November 1, 1963:

Mc/s
150.905
150.935
150.965

(d) Except in Puerto Rico and the Virgin Islands, the following frequencies are available for assignment to base stations and to mobile stations (other than those aboard aircraft) which are operated by or on behalf of persons who provide to the general public an emergency road service for disabled vehicles: *Provided*, That only one of these frequencies shall be assigned to the stations of any licensee operating in a given area: *And provided further*, That the equipment to be used shall immediately meet the technical standards which become generally effective November 1, 1963:

Mc/s
150.815
150.845
150.875

* * * * *

(f) Stations in Puerto Rico and the Virgin Islands authorized to operate in the automobile emergency radio service on the frequencies 150.815, 150.845, 150.875, 150.905, 150.935, and 150.965 Mc/s prior to _____ may continue to operate on those frequencies until _____.

[F.R. Doc. 64-6884; Filed, July 10, 1964; 8:45 a.m.]

[47 CFR Parts 21, 91]

[Docket Nos. 14895, 15233; FCC 64-590]

MICROWAVE STATIONS USED TO RELAY TELEVISION BROADCAST SIGNALS

Extension of Time

In the matters of amendment of Subpart L, Part 11, to adopt rules and regulations to govern the grant of authorizations in the Business Radio Service for microwave stations to relay television signals to community antenna systems, Docket No. 14895; amendment of Subpart I, Part 21, to adopt rules and regulations to govern the grant of authorizations in the Domestic Public Point-to-Point Microwave Radio Service for Microwave stations used to relay television broadcast signals to community antenna television systems, Docket No. 15233.

Memorandum Opinion and Order.

1. The Commission has before it for consideration the "Motion to the Commission for Extension of Time to File Reply Comments" filed on June 17, 1964, by the National Association of Broadcasters (NAB), seeking a four month extension of the time for filing reply comments in the above captioned dockets. By order of June 17, 1964, the Commission granted an extension to July 6, 1964, in order to permit consideration of the NAB motion and to afford other parties to the proceeding an opportunity to submit responsive pleadings.

2. In support of its motion for a four month extension, the NAB states that on June 15, 1964, its Television Board of Directors authorized the expenditure of funds for a full scale factual investigation and presentation with respect to the impact of CATV systems upon television broadcasting, primarily in response to comments filed by NCTA and in order to furnish the Commission with information necessary for a decision in this proceeding. The NAB estimates that a period of four months will be required for collection of broad scale data on engineering and economic factors and analysis of this data for presentation to the Commission.

3. A number of previous substantial extensions have been granted at the request of various parties to the proceeding, including the National Community Television Association, Inc. (NCTA), and also because of negotiations for a compromise proposal for legislation in the CATV field.[1] In view of the history of the proceeding and the pending conditions on the grant of interim authorizations, we have previously stressed the desirability of resolving

[1] The notice of proposed rule making in Docket No. 14895, issued on December 14, 1962, specified February 15, 1963, and March 1, 1963, as the times for filing comments and reply comments, respectively. On March 1, 1963, upon request of Frontier Broadcasting Company, the time for filing reply comments was extended to March 15, 1963. On December 13, 1963, a notice of proposed rule making was issued in Docket No. 15233 and consolidated with a further notice of proposed rule making in Docket No. 14895. Comments were due on or before January 22, 1963, and reply comments on or before February 12, 1964. On January 8, 1964, at the request of NCTA, the time for filing comments in the consolidated proceedings was extended to February 24, 1964, and for reply comments to March 16, 1964. A further extension to March 25, 1964, for comments and April 14, 1964, for reply comments, was granted on February 19, 1964, at the request of the National Association of Microwave Common Carriers, Inc., which was supported by NCTA. On March 16, 1964, for the purpose of facilitating negotiations between NCTA and the Commission's staff regarding a compromise proposal for legislation, the time for filing comments was extended to April 20, 1964, and for reply comments, to May 11, 1964. On May 7, 1964, the time for filing reply comments was extended to June 11, 1964, at the request of Frontier Broadcasting Company and Central Coast Television. The last extension prior to the instant motion and our order of June 17, 1964 (par. 1 supra) was a one week extension granted on May 20, 1964 at the request of the NAB.

these proceedings without undue delay. However, we are concerned that our decision in this important proceeding be based on as full information as possible on the pertinent crucial factors. Data of the nature which the NAB proposes to collect and present is, we believe, particularly essential for an informed determination as to the over-all public interest. Accordingly, we conclude that the public interest would be served by the extension sought by the NAB. We have, however, reduced the requested time by one-fourth (i.e., an extension of three months, rather than the four months sought by the NAB) in continuing recognition of the above-stated desirability of early resolution of these proceedings.

4. Further, in view of the extension, we have reviewed our interim condition procedures. In our further notice of December 13, 1963, we stated that persons seeking authorizations for microwave stations to relay television signals to CATV systems located within the Grade A contour of a television station must accept the proposed conditions during the interim period. See par. 13, n. 7. We do not propose to change that procedure. However, we also stated with respect to situations involving the Grade B contour (ibid.):

> * * * if a station within whose B contour the system operates requests that the above requirements (of § 11.556(a) or 21.710) be applied, the applicant must again determine whether it wishes to accept a grant subject to the condition that it will afford the above-noted protection to such station or whether it wishes to await the outcome of the rulemaking proceedings.

We do not believe that retention of this procedure is appropriate in view of the length of time taken and still remaining before resolution of these proceedings. It would appear, at least upon our present information, that most situations concerned with the Grade B contour, or beyond, depend on the facts of the particular case. We shall therefore process such applications, and resolve any public interest questions that arise on the basis of the pleadings that may be filed and other procedures which we may find appropriate under section 309 of the Communications Act. Accordingly, the procedure specified in the above-quoted portion of n. 7, par. 13, of our further notice of December 13, 1963, is hereby superseded by the procedure specified in the foregoing sentence.

5. *It is ordered*, That, the time for filing reply comments in Docket Nos. 14895 and 15233 is extended to September 18, 1964, and that the motion of the National Association of Broadcasters for an extension to October 19, 1964 is denied.

Adopted: July 1, 1964.

Released: July 8, 1964.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-6925; Filed July 10, 1964; 8:48 a.m.]

[2] Statements of Commissioners Bartley, Ford and Loevinger in which they concur in part and dissent in part filed as part of the original document.

[47 CFR Parts 21, 91]

[Docket No. 15415]

ACQUISITION OF COMMUNITY ANTENNA TELEVISION SYSTEMS BY TELEVISION BROADCAST LICENSEES

Order Extending Time for Filing Comments

1. On July 1, 1964, the Commission granted in part a petition for extension of time filed by the National Association of Broadcasters in rule making proceedings Docket Nos. 14895 and 15233 (concerning rules to govern grants of microwave facilities to serve CATV systems); and extended until September 18, 1964 the time for filing reply comments in those proceedings.

2. It appears that some of the matters which NAB wishes to present in its reply comments in those proceedings are also relevant in the instant matter, and that therefore the time for comments herein should be extended to the same September 18 date.

3. *Accordingly, it is ordered*, On the Commission's own motion, this 6th day of July 1964, that the time for filing comments in this proceeding is extended to and including September 18, 1964; and that the time for filing reply comments herein is extended to and including October 16, 1964.

4. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Released: July 7, 1964.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-6926; Filed, July 10, 1964; 8:50 a.m.]

[47 CFR Part 73]

[Docket No. 15542; FCC 64-613]

TABLE OF ASSIGNMENTS, FM BROADCAST STATIONS

Notice of Proposed Rule Making

In the matter of amendment of § 73.202, Table of Assignments, FM Broadcast Stations (Hialeah, Fla.; Olean, N.Y.; Cadillac and Traverse City, Mich.; Ionia, St. Johns and Grand Haven, Mich.; Beaumont and Port Arthur, Tex.; Holly Springs, Miss.; Santa Rosa, N.M.; Franklin, N.C.; Fairfield and Lodi, Calif.; Brownwood, Tex.; Monticello and Jamestown, Ky.; Fort Dodge, Carroll and Charles City, Iowa; Connellsville and Uniontown, Pa.; New Martinsville, W. Va.), Docket Nos. 15542, RM-568, RM-584, RM-585, RM-588, RM-590, RM-592, RM-593, RM-598, RM-601, RM-602, RM-604, RM-608, RM-609, RM-612.

1. Notice is hereby given of proposed rule making in the above-captioned matters.

2. The Commission has before it various petitions for rule making proposing amendments in the FM Table of Assignments as discussed below:

3. *RM-568, Hialeah, Florida.* On February 7, 1964, Flamingo Broadcasting Company filed a petition requesting that either Channel 221A or Channel 298C be assigned to Hialeah. The population[1] of Hialeah is 66,972. There are no FM assignments or AM stations in the community. Petitioner states that in view of the rapid growth, the present size, and the importance of the community as well as the lack of local broadcast service, that Hialeah deserves the assignment of an FM channel. Petitioner states that it will promptly apply for a license to operate on any FM channel assigned to Hialeah.

4. The Commission is of the opinion that rule making should be instituted on petitioner's proposals and invites comments on the following:

City	Channel No.	
	Present	Proposed
Hialeah, Fla.	----------	221A or 298C

Any station operating on Channel 298C assigned to Hialeah would have to locate its transmitter approximately six miles distant from downtown Hialeah. In order to assign Channel 221A to Hialeah it would be necessary to modify the license of WTHS, an educational station at Miami, Florida, to specify operation on Channel 217 in place of its present Channel 219. The licensee of WTHS neither supports nor opposes either of the above alternatives. Petitioner is negotiating with WTHS in respect to the financial burden of WTHS's possible change of channel.

5. *RM-584, Olean, New York.* On March 20, 1964, Radio Olean, Inc., filed a petition requesting that either Channel 265A or Channel 269A be assigned to Olean, New York. The population of Olean is 21,868. The only FM Channel assigned to the community (239) is occupied. There are two standard broadcast stations licensed in Olean, WMNS a daytime only station and WHDL an unlimited time operation. Inter alia petitioner states that Channel 265A can be assigned to Olean without making any other changes in the FM Table of Assignments and that he will promptly apply for a license to operate on any new FM channel assignment. Petitioner states that the assignment of a new channel will improve the competitive climate for mass media in the area. Petitioner's alternate proposed Channel 269A is no longer a feasible assignment for Olean in light of our assignment of 269A to Jamestown, New York, in Docket No. 15256.

6. The Commission is of the opinion that rule making should be instituted on petitioner's proposal and invites comments on the following:

City	Channel No.	
	Present	Proposed
Olean, N.Y.	239	239, 265A

[1] All populations cited in this notice are taken from the 1960 U.S. Census unless otherwise stated.

7. *RM–585, Cadillac and Traverse City, Michigan.* On March 25, 1964, Midwestern Broadcasting Company filed a petition (amended) requesting that Channel 278 be reassigned from Cadillac to Traverse City and that it be replaced in Cadillac with Channel 244A. The population of Traverse City is 18,432. It is located in Grand Traverse County. That county's population is 33,490. FM Channels 221A and 270 are assigned to the community. Channel 221A is not occupied nor are there applications pending for its use. There are two applications pending for the use of Channel 270. (BPH–3982) Great Northern Broadcasting Company and (BPH–4079) Midwest Broadcasting Company (petitioner). Two AM stations serve Traverse City: WCCW (daytime only) and WTCM (unlimited time). The population of Cadillac is 10,112. It is located in Wexford County. The population of that county is 18,466. FM Channels 225 and 278 are assigned to the community. Channel 225 is occupied. Channel 278 is not occupied nor are there applications pending for its use. One unlimited time AM station WATT, is located in Cadillac. Petitioner alleges that an effective FM operation for Traverse City requires operation on a wide coverage channel because although there is a large population to be reached the concentration of that population is low. It states that it will apply for Channel 278 if it is assigned to Traverse City and drop its application for Channel 270 in that community thereby providing the community with two FM services while at the same time avoiding a costly comparative hearing which would be required if it continued its application for Channel 270.

8. The Commission is of the opinion that rule making should be instituted on petitioner's proposal and invites comments on the following:

City	Channel No.	
	Present	Proposed
Traverse City, Mich.	221A, 270	221A, 270, 278
Cadillac, Mich.	225, 278	225, 244A

9. *RM–588, Ionia, St. Johns, and Grand Haven, Michigan.* On April 1, 1964, Monroe MacPherson tr/as Ionia Broadcasting Company filed a petition requesting an FM channel assignment for Ionia. In order to obtain the result desired by petitioner he proposed a substantial revision of our FM Table of Assignments. The shifts proposed contained a number of reassignments involving 8 communities. After a thorough examination of petitioner's proposal and the counterproposal of Lansing Broadcasting Company, the Commission is of the view that a number of petitioner's proposed reassignments are superfluous and that his goal may be obtained by the possible adoption of the counterproposal which involves only three communities: Ionia, St. Johns, Grand Haven.

10. The population of Ionia is 6,754. It is located in Ionia County. The population of that county is 43,132. There are no FM channels assigned to the community, however, AM Station WION (daytime only) is licensed in it. The population of St. Johns is 5,629. It is located in Clinton County. The population of that county is 37,969. FM Channel 221A is assigned to the community. It is not occupied nor are there applications pending for its use. AM Station WJUD is licensed in the community. It is a daytime only station. The population of Grand Haven is 11,066. It is located in Ottawa County. The population of that county is 98,719. Its only FM channel is 221A. That channel is unoccupied and there are no applications pending for its use. AM Station WGHN (a daytime only station) is licensed in the community. The proposal set out below has the advantage of providing Ionia, the county seat and largest city in Ionia County, with the potential of a full time FM service while maintaining the same potential for Grand Haven. It should be noted that although St. Johns' FM assignment would be deleted, any party who may in the future become interested in providing that community with an FM service will be able to apply, under the "25 mile rule," for Channel 269A presently assigned to Lansing. Any such use of Channel 269A at St. Johns, of course, would not deprive Lansing of its local FM service since stations are in operation there on Channels 248 and 264.

11. The Commission is of the opinion that rule making should be instituted on the following proposal and invites comments on it:

City	Channel No.	
	Present	Proposed
Ionia, Mich.		221A
St. Johns, Mich.	221A	
Grand Haven, Mich.	221A	285A

12. *RM–590, Monticello and Jamestown, Kentucky.* On March 31, 1964, a joint petition was filed on behalf of Fred A. Staples (Monticello) and Russell County Broadcasters (Jamestown) requesting that Channel 269A be assigned to Monticello and that Channel 288A be assigned to Jamestown. The population of Monticello is 2,940. It is located in Wayne County. The population of that county is 14,700. There are no FM channels presently assigned to the community. However, WFLW, a daytime only station, is located there. Jamestown's population is 792. It is located in Russell County. The population of that county is 11,076. No FM channel is assigned to the community nor does it have an AM station. It is alleged that both proposed FM assignments will meet the minimum mileage separation requirements of the Commission. It appears that if the assignments requested are made, Monticello will receive its first fulltime local service and that Jamestown will receive a first local broadcast service of any kind.

13. The Commission is of the opinion that rule making should be instituted on petitioner's proposals and invites comments on the following:

City	Channel No.	
	Present	Proposed
Jamestown, Ky.		288A
Monticello, Ky.		269A

14. *RM–592, Beaumont and Port Arthur, Texas.* On April 14, 1964, Radio Beaumont, Inc., filed a petition requesting that Channel 231 presently assigned to Port Arthur and Channel 229 presently assigned to Beaumont be interchanged. The population of Beaumont is 119,175. Channels 236, 248, and 299 are assigned to Beaumont. Channels 248 and 236 are occupied while Channel 299 is not occupied and has no applications pending for its use. The population of Port Arthur is 66,676. FM Channels 227, 231, and 253 are assigned to it. Channels 227 and 253 are occupied. Channel 231 is not occupied nor are there applications pending for its use. Petitioner states that it will apply for the use of Channel 231 if it is assigned to Beaumont and that it will broadcast from the transmitter site of its AM Station KLVI. It asserts that its plans will bring FM service to both Beaumont and Port Arthur in the near future and that the Commission's minimum mileage spacing requirements are met by its proposal.

15. The Commission is of the opinion that rule making should be instituted on petitioner's proposal and invites comments on the following:

City	Channel No.	
	Present	Proposed
Beaumont, Tex.	236, 248, 299	231, 236, 248
Port Arthur, Tex.	227, 231, 253	227, 253, 299

16. *RM–593, Holly Springs, Mississippi.* On April 14, 1964, J. J. Kirk d/b as Skyline Broadcasting Company filed a petition requesting the assignment of Channel 237A to Holly Springs. The population of Holly Springs is 5,621. There are no FM channels assigned to the community nor are there any AM stations located there. Petitioner asserts that Holly Springs is the county seat of Marshall County (population 24,503) and that in view of its political significance to the county, the rapid growth of the county and the lack of present means of local expression that it is in the public interest to assign Channel 237A to Holly Springs. It maintains that such an assignment will meet all of the minimum mileage separation requirements of the Commission and that it is prepared to file an application for that Channel's use on its assignment to the community.

17. The Commission is of the opinion that rule making should be instituted on petitioner's proposal and invites comments on the following:

City	Channel No.	
	Present	Proposed
Holly Springs, Miss.		237A

18. *RM–598, Santa Rosa, New Mexico.* On April 29, 1964, Hubbard Broadcasting, Inc., filed a petition requesting the substitution of Channel 240A for Channel 228A at Santa Rosa. Santa Rosa (a community of 2,220 persons) presently has only Channel 228A assigned to it. The channel is unoccupied and there are no applications pending for its use. Petitioner has filed an application for the use of Channel 227 in Albuquerque, New Mexico (BPH–4437). Although it has specified an FM transmitter cite near Alameda Township (Bernalillo County) in order to meet the Commission's minimum mileage separation requirements it would like to locate the transmitter cite for Channel 227 at the location of its TV tower, KOB–TV, Sandia Crest. A Channel 227 located at Sandia Crest would be short-spaced to Channel 228A at Santa Rosa; hence petitioner's request for the substitution of Channel 240A for 228A at Santa Rosa. Petitioner alleges that its proposal would not deprive Santa Rosa of FM potential and that it meets all of the Commission's minimum mileage separation requirements.

19. The Commission is of the opinion that rule making should be instituted on petitioner's proposal and invites comments on the following:

City	Channel No.	
	Present	Proposed
Santa Rosa, N. Mex.	228A	240A

20. *RM–601, Franklin, North Carolina.* On May 7, 1964, Macon County Broadcasters filed a petition requesting that FM Channel 244A be assigned to Franklin. The population of Franklin is 2,173. It is located in Macon County. The population of that county is 14,935. There are no FM channels assigned to the community, however, it is served by daytime only Station WFSC. Petitioner states that its proposed assignment will meet all of the minimum mileage separation requirements of the Commission and that it intends to promptly apply for permission to broadcast on Channel 244A if it is assigned to Franklin, thereby giving the community a first fulltime broadcast service.

21. The Commission is of the opinion that rule making should be instituted on petitioner's proposal and invites comments on the following:

City	Channel No.	
	Present	Proposed
Franklin, N.C.		244A

22. *RM–602, Fairfield and Lodi, California.* On May 14, 1964, The Fairfield Publishing Company filed a petition (amended) requesting the reassignment of Channel 237A from Lodi to Fairfield. The population of Fairfield is 14,968. It is located in Solano County. The population of that county is 134,597. There are no FM channels assigned to Fairfield nor are there AM stations existing in it. There is an application for a daytime only AM station pending (BP–14336) filed by Valley Broadcasting Company. The population of Lodi is 22,229. It is located in San Joaquin County. The population of that county is 249,989. There are two FM channels assigned to the community: 237A and 249A. Channel 249A is occupied while Channel 237A is unoccupied and not applied for. Standard broadcast Station KCVR, a daytime only station, is located in Lodi. Petitioner reviewed the state of broadcast service in Fairfield and Lodi. It alleges that the only broadcast service located within Salano County is the standard broadcast Station KNBA at Vallejo while San Joaquin County has the following stations located within its border: KWG; KSTN; KJOY; KSTN–FM; KCVN–FM; KCVR; and KCVR–FM. Petitioner states "* * * the inauguration of an FM operation at Fairfield would result in the first broadcast outlet for local self-expression for that substantial community as well as the first FM outlet and the second local broadcast outlet for its county, Solano." Although a Channel 237A located in Fairfield would be slightly short spaced to KKHI, petitioner asserts that it has access to a transmitter site four miles north of Fairfield from which Fairfield could be served by a non-short-spaced Channel 237A.

23. The Commission is of the opinion that rule making should be instituted on petitioner's proposal and invites comments on the following:

City	Channel No.	
	Present	Proposed
Fairfield, Calif.		237A
Lodi, Calif.	237A, 249A	249A

24. *RM–604, Brownwood, Texas.* On May 21, 1964, KEAN Radio Corporation filed a petition requesting the assignment of either Channel 257A or 292A to Brownwood. The population of Brownwood is 16,974. Two FM channels are assigned to the community: 268 and 281. Neither is occupied and there are no applications pending for their use. An educational station broadcasts on Channel 201. Standard broadcast stations KEAN (unlimited time) and KBWD (unlimited time) are licensed in Brownwood. Petitioner (licensee of KEAN) would like to expand its operation and provide the community with a first local commercial FM service. It feels that a wide coverage FM service with its requirements of power and height is not economically feasible at this time. It alleges that either of its proposed assignments will meet the minimum mileage spacing requirements of the Commission.

25. The Commission is of the opinion that rule making should be instituted on petitioner's proposals and invites comments on the following:

ALTERNATIVE 1

City	Channel No.	
	Present	Proposed
Brownwood, Tex.	268, 281	257A, 268, 281

ALTERNATIVE 2

City	Channel No.	
	Present	Proposed
Brownwood, Tex.	268, 281	268, 281, 292A

26. *RM–608, Kewanee, Illinois.* On May 26, 1964, Kewanee Broadcasting Company filed a petition requesting the assignment of Channel 221A to Kewanee. The population of Kewanee is 16,324. No commercial FM channels are assigned to the community. AM Station WKEI is located in Kewanee and serves it as an unlimited time station. Petitioner intends to apply for Channel 221A if it is assigned and hopes thereby to bring the community its first commercial FM service. It is alleged that the assignment meets all the minimum mileage separation requirements of the Commission.[2]

27. The Commission is of the opinion that rule making should be instituted on petitioner's proposal and invites comments on the following:

City	Channel No.	
	Present	Proposed
Kewanee, Ill.		221A

28. *RM–609, Fort Dodge, Carroll and Charles City, Iowa.* On May 27, 1964, American Broadcasting Stations, Inc., filed a petition requesting a reallocation of FM stations between Fort Dodge, Charles City, and Carroll so as to assign Channel 286 to Fort Dodge as follows:

City	Channel No.	
	Present	Proposed
Fort Dodge, Iowa	232A	286
Carroll, Iowa	286	224A
Charles City, Iowa	224A	232A

Channels 286, 224A, and 232A are unoccupied in the communities to which they are presently assigned; furthermore there are no applications pending for their use. The population of Fort Dodge is 28,399. It is located in Webster County. The population of that county is 47,810. As stated above it has only unused and unapplied for Channel 232A assigned to it. AM Stations KVFD (unlimited time) and KWMT (daytime only) are licensed in the community. Carroll (population 7,682) is located in Carroll County. The population of that county

[2] On June 4, 1964, the Commission deleted WKSD (a 10 watt educational operation) on channel 220 from Kewanee at the request of the licensee.

is 23,431. The only FM channel presently assigned to the community (286) is unoccupied and not applied for. KCIM is located there and serves the community as an unlimited time AM station. Petitioner points out the facts that Fort Dodge is; an important urban area in Iowa, the county seat of Webster County, and a focal point of commercial and cultural activity as well as the limited extent of its present broadcast facilities. It maintains that the community and the surrounding area can be most effectively served by a high power FM station and states "The proposed reassignment is consistent with the policy of the Commission 'to assign Class A channels to smaller communities and Class B and C channels to larger urban centers.' * * *"

29. The Commission, in view of the above facts, on its own motion proposes to consider the assignment of Channel 296A to Fort Dodge as well as petitioner's proposed reassignments and invites comments on the following: [3]

City	Channel No.	
	Present	Proposed
Fort Dodge, Iowa	232A	286, 296A
Carroll, Iowa	286	224A

30. *RM–612, Celina, Ohio.* On June 2, 1964, WCSM Radio, Inc., filed a petition requesting that Channel 244A be assigned to Celina. The population of Celina is 7,659. Channel 232A is assigned to the community. It is occupied. WCSM, an AM station, also is licensed in the community. Petitioner alleges that the community is the largest city in Mercer County and the county seat. It submits that its proposed operation would provide a better competitive climate for mass media. It is maintained that the proposed assignment meets all the minimum mileage separation requirements of the Commission.

31. The Commission is of the opinion that rule making should be instituted on petitioner's proposal and invites comments on the following:

City	Channel No.	
	Present	Proposed
Celina, Ohio	232A	232A, 244A

33. *Connellsville and Uniontown, Pennsylvania and New Martinsville, West Virginia.* Channel 280A presently assigned to Connellsville violates the Commission's minimum mileage separation requirements in respect to Channel 280A at Ebensburg, Pennsylvania, on which WEND–FM broadcasts. To solve this problem the Commission proposes to interchange Channel 280A at Connellsville (population 12,814) with 252A at Uniontown (population 17,942). Neither channel is occupied nor are there applications pending for their use. This proposal requires the deletion of Channel 280A from New Martinsville. The channel is unoccupied at New Martinsville and there are no applications pending for its use. New Martinsville, a community of 5,607, is presently served by AM Station WETL.

34. In view of the short-spacing problem the Commission invites comments on the following:

City	Channel No.	
	Present	Proposed
Connellsville, Pa.	280A	252A
Uniontown, Pa.	252A	280A
New Martinsville, W. Va.	280A	----------

35. All of the assignments proposed herein which are within 250 miles of the United States-Canadian border require coordination with the Canadian Government under the terms of the Canadian-United States FM Agreement of 1947 and the Working Arrangement of 1963.

36. Authority for the adoption of the amendments proposed herein is contained in sections 4 (i) and (j), 303, and 307(b) of the Communications Act of 1934, as amended.

37. Pursuant to applicable procedures set out in § 1.415 of the Commission rules, interested persons may file comments on or before August 3, 1964, and reply comments on or before August 17, 1964. All submissions by parties to this proceeding or by persons acting in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

38. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Attention is directed to the provisions of paragraph (c) of § 1.419 which require that any person desiring to file identical documents in more than one docketed rule making proceeding shall furnish the Commission two additional copies of any such document for each additional docket unless the proceedings have been consolidated.

Adopted: July 1, 1964.

Released: July 8, 1964.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64–6885; Filed, July 10, 1964; 8:45 a.m.]

[3] The assignment of Channel 286 to Fort Dodge would present a problem of IF difference with Channel 232A if 232A were to remain at Fort Dodge. The petitioner's proposal in respect to reassignments to and from Charles City is not being considered in that it is not essential to accomplish petitioner's goal.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1136]

MILK IN GREAT BASIN MARKETING AREA

Proposed Suspension of a Provision of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of a provision of the order regulating the handling of milk in the Great Basin marketing area is being considered for the months of July and August 1964.

The provision proposed to be suspended is "fluid milk products equal to not less than 40 percent of the receipts during the month at such plant of producer milk and receipts at the plant of fluid milk products from plants described pursuant to paragraph (b) of this section, and there are disposed of on routes", appearing in § 1136.11(a), relating to pool plant qualifications for an approved plant which disposes of fluid milk products on routes in the marketing area.

This action was requested by the major cooperative association in the marketing area. Petitioner stated that the merging of two cooperative associations required subsequent changes in the marketing functions of the merged cooperative, thereby making it impossible for such association to achieve pool plant status during the months of July and August in view of the expected level of production during these months.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112–A, Administration Building, United States Department of Agriculture, Washington, D.C., 20250, not later than three days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in duplicate.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on July 8, 1964.

CLARENCE H. GIRARD,
Deputy Administrator,
Agricultural Marketing Service.

[F.R. Doc. 64–6935; Filed, July 10, 1964; 8:50 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 8]

[Ex Parte Nos. 54, 54 (Sub No. 1)]

BIDS OF CARRIERS

Port Authority Trans-Hudson Corporation Special Competitive Bidding Procedure

JUNE 18, 1964.

On June 9, 1964, The Port Authority Trans-Hudson Corporation, a wholly owned subsidiary of The Port of New York Authority, filed with the Commission a petition, dated June 5, 1964, for amendment of the regulations prescribed by the Commission's order dated October 6, 1919, as amended, to govern bids subject to section 10 of the Clayton Anti-trust Act (38 Stat. 734; 15 U.S.C. 20), for securities, supplies, or other articles of commerce.

The first proposal, affecting carriers operated by state agencies subject to section 10, and prospective bidders, is that Part 8—Competitive Bids, be amended by adding a provision reading substantially as follows:

Upon application, a carrier owned or operated by any state or by an agency of one or more states, or a wholly owned subsidiary corporation thereof, may be authorized by the Commission to employ a competitive bidding procedure or procedures varying from the generally applicable procedure provided by this regulation upon the following showing: (1) That the applicant carrier is owned or operated by a state or by an agency of one more states, or is a wholly owned subsidiary corporation thereof; (2) a detailed statement of the procedure for which authorization is requested and the variations therof from the generally applicable procedure provided by this regulation and the purpose or reason for such variation; and (3) that the generally applicable procedure provided by this regulation imposes on the carrier an unreasonable burden or interferes with obtaining by the carrier of the most favorable bid.

The second proposal is that the application of The Port Authority Trans-Hudson Corporation to employ the special competitive procedure set forth in the Appendix hereto[1] be approved. For procedural convenience, the application has been assigned Sub No. 1.

The Port of New York Authority is a joint agency of the states of New York and New Jersey created for the purpose of developing transportation and terminal facilities and other facilities of commerce in the Port of New York District. Its subsidiary named herein acquired the railroad operated by Hudson Rapid Tubes Corporation extending from Jersey City and Hoboken, N.J., to New York, N.Y., September 1, 1962. The Port Authority has formulated plans, through its subsidiary, for rehabilitation of the railroad, involving expenditures of at least $71,000,000, and possibly more, in rebuilding the plant and replacing deteriorated equipment. As governmental agencies, the Port Authority and its subsidiary are subject to constant and active supervision and investigation by State officials.

As reasons for the proposed amendment affecting state agencies generally, it is submitted that the detailed competitive bidding procedure applicable to privately owned carriers is unnecessary as to such agencies, and the public interest would be better served if some flexibility were allowed.

As reasons for the variations proposed by the Port Authority subsidiary, it is represented that other considerations than those prescribed by the present regulations for acceptance of bids must be recognized, such as long-range operating and maintenance costs, and commuters' convenience; that longer periods are required for evaluating bids, investigating bidders' qualifications, and complying with statutory requirements; and that emergency procedures are necessary in order that essential services may be maintained.

No oral hearing is contemplated, but anyone wishing to file representations in favor of, or against, the proposed amendment or the special competitive bidding procedure proposed may do so. An original and 4 copies of views and comments should be submitted, addressed to the Secretary, Interstate Commerce Commission, Washington, D.C., 20423, within 30 days from the date of publication of this notice in the FEDERAL REGISTER. Concurrently, a copy should be addressed to Mr. Arthur L. Winn, Jr., Investment Building, Washington, D.C., 20005, of counsel for petitioner.

Notice to the general public of the matters herein under consideration will be given by depositing a copy of this notice in the office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 64-6963; Filed, July 10, 1964; 8:50 a.m.]

[1] Appendix filed as part of original document.

FEDERAL TRADE COMMISSION

[16 CFR Part 74]

FRESH FRUIT AND VEGETABLE INDUSTRY

Proposed Trade Practice Rules; Notice of Hearing and of Opportunity to Present Views, Suggestions or Objections

Opportunity is hereby extended by the Federal Trade Commission to any and all persons, firms, corporations, organizations, and other parties affected by or having an interest in the proposed trade practice rules for the Fresh Fruit and Vegetable Industry to present to the Commission their views concerning said rules, including such pertinent information, suggestions, or objections as they may desire to submit, and to be heard in the premises.

For this purpose copies of the proposed rules may be obtained upon request to the Commission. Such views, information, suggestions, or objections may be submitted by letter, memorandum, brief, or other communication, to be filed with the Commission not later than September 1, 1964. Opportunity to be heard orally before the full Commission will be afforded at the hearing beginning at 10 a.m., e.d.t., October 1, 1964, in Room 532 of the Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW., Washington, D.C., to any such persons, firms, corporations, organizations, or other parties, who desire to appear and be heard. After due consideration of all matters presented in writing or orally, the Commission will proceed to final action on the proposed rules.

The industry is composed of persons, firms, corporations and organizations engaged in selling, marketing, or distributing in commerce fresh fruits and vegetables of any variety grown in the United States or imported from other countries.

These proceedings are directed to the elimination and prevention of such acts and practices as are deemed violative of statutes administered by the Federal Trade Commission, pursuant to sections 5 and 6 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45–46 and provisions of Part 1 Subpart F, of the Commission's procedures and rules of practice, 28 F.R. 7083 (July 11, 1963).

The proposed rules which have been released by the Commission for written comment and for discussion at the hearing are concerned with prohibited price discrimination and prohibited brokerage and commissions.

Authorized: June 30, 1964.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 64-6914; Filed, July 10, 1964; 8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM 079502, Survey Group No. 94]

MINNESOTA

Plat of Dependent Resurvey and Extension Survey

JULY 6, 1964.

The plat of Dependent Resurvey and Extension Survey, to include lands omitted from the original survey in sec. 2, approved and accepted April 30, 1964, will be officially filed in this office effective 10 a.m. on August 21, 1964.

FOURTH PRINCIPAL MERIDIAN, MINNESOTA

T. 63 N., R. 14 W.,
Sec. 2, lot 9, containing 21.81 acres, lot 10, containing 8.25 acres, lot 11, containing 25.22 acres, lot 12, containing 20.24 acres, lot 13, containing 1.40 acres.

The areas described aggregate 76.92 acres.

The survey was undertaken pursuant to the application for survey filed by the Regional Forester of the United States Forest Service, Milwaukee, Wisconsin. The plat represents a retracement and and reestablishment of the original subdivisional lines designed to restore all corners on the boundaries of section 2, in their original locations according to the best available evidence, and the survey of omitted lands which were erroneously omitted from the original survey as shown upon the plat approved Decem- 8, 1890.

The omitted land in sec. 2, T. 63 N., R. 14 W., is mostly rolling upland, with a few areas of spruce swamp. The upland ranges up to approximately 80 feet above the water level of Cummings Lake. The soil is a black loam and very stony.

The timber species consist of jack pine and spruce, with scattering white and red pine, birch, balsam, poplar and maple; the undergrowth is young timber and hazel brush on the upland, with some alder in the swamp areas. The virgin timber was cut during the period from 1910 to 1920. The standing timber ranges in size from 4 to 20 inches in diameter. There is one white pine approximately 30 inches in diameter, and one red pine, approximately 28 inches in diameter.

There are no improvements on the area, except a few skidways that were bulldozed preparatory to removing the present timber crop.

The land omitted from the original survey and included in this survey is similar in every respect to the land included in the original survey. The timber growth on the omitted area is also the same as the timber growth on the previously surveyed area. The stony formation attests to the fact that the land was in place prior to 1858, when Minnesota was admitted into the Union; in 1890, the date of the original survey, and at all subsequent dates and therefore has the status of public land.

All lots are over 50 percent upland in character within the interpretation of the swamp land grants.

The lands are within the areas shown as additions on the diagram attached to the Proclamation No. 2213 (50 Stat. 1799), dated December 28, 1936, and were made a part thereof and included in and reserved as a part of the Superior National Forest, subject to valid existing rights.

All inquiries relating to the lands should be directed to the Manager, Eastern States Office, Bureau of Land Management, Washington, D.C., 20240.

JOSEPH P. HAGAN,
Acting Manager, Land Office.

[F.R. Doc. 64-6901; Filed, July 10, 1964; 8:47 a.m.]

Bureau of Mines

LARAMIE PETROLEUM RESEARCH CENTER

Redelegation of Authority

The following redelegation is a portion of the Bureau of Mines Manual and the numbering system is that of the Manual.

[Bureau of Mines Manual Release No. 819]

PART 215—BUREAU OF MINES DELEGATIONS

SEC. 2.5.5.1 *Redelegation of Authority—Anvil Points facilities.* Of the authorities granted to the Research Director, Laramie Petroleum Research Center, by Order No. 2878, dated May 27, 1964 (see appendix 1), in accordance with the Lease Agreement, dated May 1, 1964, between the United States and the Colorado School of Mines Research Foundation, Inc., covering the Anvil Points facilities, the following authorities are redelegated to the officials named below:

(1) In making available specified houses, * * * under Article I.

Superintendent, Laramie Petroleum Research Center.

(2) In stationing observers, in receiving samples, data and technical information, in making copies and removing copies and samples, in receiving disclosure of data from locations other than Anvil Points, under section 5.01 of Article III and section 3.01 of Appendix I.

Project Coordinator, Oil-Shale Conversion Research, Laramie Petroleum Research Center.

* * * * *

(5) In being responsible for access to and maintenance of the Anvil Points facilities for sixty days following the effective date of the Lease Agreement, and for seeing to it that the sum of $200.00 is paid Research Foundation monthly, under Article VII.

Superintendent, Laramie Petroleum Research Center.

(6) * * * In approving the usage or control of the Government property, in reviewing and approving Research Foundation's property control system, * * * under Article VIII.

Superintendent, Laramie Petroleum Research Center.

These authorities may not be redelegated.

HAROLD M. THORNE,
Research Director,
Laramie Petroleum Research Center.

[F.R. Doc. 64-6899; Filed, July 10, 1964; 8:46 a.m.]

DEPARTMENT OF STATE

Agency for International Development

[Delegation of Authority No. 45]

CERTAIN AFRICAN COUNTRIES

Delegation of Authority With Respect to Administration of A.I.D. Program

Pursuant to the authority delegated to me by Delegation of Authority No. 104 from the Secretary of State, dated November 3, 1961, I hereby to the extent consistent with law and for the purpose of implementing the organizational unit known as Regional USAID for Africa, located in Washington, D.C., delegate to the Assistant Administrator for Africa, with authority to redelegate to the Director of the Regional USAID for Africa, with respect to the administration of the foreign assistance program for Senegal, Mauritania, Ivory Coast, Upper Volta, Niger, Togo, Dahomey, Chad, Central African Republic, Congo (Brazzaville), Cameroons, Malagasy, Sierra Leone, Gabon, Burundi, and Rwanda, the authorities delegated to Directors of Missions of the Agency for International Development (A.I.D.) in the following delegations, subject to the limitations applicable to the exercise of such authorities by A.I.D. Mission Directors:

(1) Unpublished Delegation of Authority of January 10, 1955;

(2) Delegation of Authority of November 26, 1954 as amended (10 F.R. 8049);

(3) Paragraph 4 and 5 of Delegation of Authority of September 28, 1960 (25 F.R. 9927).

In addition to the foregoing, there is hereby delegated to the aforesaid official, with authority to redelegate to the Director of the Regional USAID for Africa, the authorities delegated to A.I.D. Mission Directors in A.I.D. manual orders, regulations (published or otherwise), policy directives, policy determinations, memoranda and other instructions as they may be amended, supplemented, or superseded from time to time.

There is hereby rescinded, effective July 1, 1964:

(a) Delegation of Authority No. 21, insofar as it applies to the principal diplomatic officer accredited in Central African Republic, dated November 20, 1962 from the Administrator of A.I.D. (24 F.R. 11821);

(b) Delegation of Authority No. 24, insofar as it applies to the principal diplomatic officer accredited in Senegal, dated February 28, 1963, from the Administrator of A.I.D. (28 F.R. 2365);

This delegation of authority shall be effective July 1, 1964.

DAVID E. BELL,
Administrator.

JUNE 27, 1964.

[F.R. Doc. 64-6897; Filed, July 10, 1964; 8:46 a.m.]

[Delegation of Authority No. 46]

SIERRA LEONE

Delegation of Authority With Respect to Administration of A.I.D. Program

Pursuant to the authority delegated to me by Delegation of Authority No. 104 from the Secretary of State of November 3, 1961 (26 F.R. 10608), I hereby delegate to the principal diplomatic officer of the United States in Sierra Leone, with respect to the administration of the foreign assistance program within the country to which he is accredited, the authorities delegated to Directors of Missions of the Agency for International Development (A.I.D.) in the following delegations, subject to the limitations applicable to the exercise of such authorities by A.I.D. Mission Directors:

(1) Unpublished Delegation of Authority of January 10, 1955;

(2) Delegation of Authority of November 26, 1954, as amended (19 F.R. 8049);

(3) Paragraphs 4 and 5 of Delegation of Authority of September 28, 1960 (25 F.R. 9927).

In addition to the foregoing, there is hereby delegated to the aforesaid diplomatic officer the authorities delegated to A.I.D. Mission Directors in A.I.D. manual orders, regulations (published or otherwise), policy directives, policy determinations, memoranda and other instructions as they may be amended, supplemented, or superseded from time to time.

Actions within the scope of this delegation heretofore taken by the official designated herein or pursuant to his authorization are hereby ratified and confirmed.

This delegation of authority is effective immediately.

DAVID E. BELL,
Administrator.

JUNE 27, 1964.

[F.R. Doc. 64-6898; Filed, July 10, 1964; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

CERTAIN HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904) and the statement of policy thereunder in 9 CFR 181.1, the following table lists the establishments operated under Federal inspection under the Meat Inspection Act as amended (21 U.S.C. 71 et seq.), which were officially reported on June 1, 1964, as humanely slaughtering and handling on that date the species of livestock respectively designated for such establishments in the table. Additions to and deletions from this list will be made from time to time, as the facts may warrant, by notices published in the FEDERAL REGISTER. The establishment number given with the name of the establishment is branded on each carcass of livestock inspected at that establishment. The table should not be understood to indicate that all species of livestock slaughtered at a listed establishment are slaughtered and handled by humane methods unless all species are listed for that establishment in the table. Nor should the table be understood to indicate that the affiliates of any listed establishment use only humane methods:

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Armour and Co.	2AD	(*)	(*)				
Do.	2AG	(*)					
Do.	2AT	(*)		(*)		(*)	
Do.	2AU	(*)		(*)			
Do.	2B	(*)	(*)			(*)	
Do.	2C	(*)		(*)		(*)	
Do.	2H	(*)	(*)	(*)		(*)	
Do.	2EM	(*)					
Do.	2HT	(*)	(*)				
Do.	2LT	(*)					
Do.	2SI	(*)					
Do.	2SA			(*)	(*)		
Do.	2SD	(*)	(*)			(*)	
Do.	2WN	(*)	(*)				
Do.	2WP	(*)					
Swift and Co.	3A	(*)	(*)	(*)		(*)	
Do.	3AC	(*)				(*)	
Do.	3AE	(*)	(*)			(*)	
Do.	3AF	(*)	(*)				
Do.	3AN	(*)	(*)			(*)	
Do.	3AW	(*)				(*)	
Do.	3B	(*)		(*)		(*)	
Do.	3C	(*)				(*)	
Do.	3CC	(*)		(*)			
Do.	3D	(*)	(*)	(*)		(*)	
Do.	3E	(*)	(*)	(*)		(*)	
Do.	3F	(*)	(*)	(*)	(*)	(*)	
Do.	3FF	(*)		(*)		(*)	
Do.	3H	(*)	(*)	(*)		(*)	
Do.	3K	(*)	(*)				
Do.	3L	(*)				(*)	
Do.	3N	(*)	(*)	(*)		(*)	
Do.	3NN	(*)		(*)		(*)	
Do.	3R	(*)	(*)			(*)	
Do.	3S					(*)	
Do.	3T	(*)	(*)	(*)	(*)		
Do.	3UU	(*)	(*)	(*)		(*)	
Do.	3W	(*)	(*)			(*)	
Do.	3Y	(*)					
Do.	3Z	(*)	(*)				
Lykes Brothers Inc.	8	(*)				(*)	
Do.	8B	(*)					
Pauly Packing Co., Inc.	10	(*)					
Hygrade Food Products Corp.	12	(*)	(*)	(*)		(*)	
Do.	12A	(*)				(*)	
Do.	12C	(*)				(*)	
Do.	12D	(*)					
Do.	12G	(*)				(*)	
Do.	12P	(*)					
Mickelberrys Food Products Co.	16					(*)	
John Morrell and Co.	17	(*)				(*)	
Do.	17A	(*)				(*)	
Do.	17D	(*)		(*)		(*)	
Do.	17E	(*)				(*)	
The H. H. Meyer Packing Company	17U	(*)					
C. Finkbeiner, Inc.	18	(*)				(*)	
The Cudahy Packing Co.	19	(*)				(*)	
Do.	19E	(*)	(*)			(*)	
Wilson and Co., Inc.	20A	(*)				(*)	
Do.	20N	(*)	(*)	(*)		(*)	
Do.	20Q	(*)	(*)			(*)	
Do.	20U			(*)			
Do.	20Y	(*)	(*)	(*)		(*)	
Swift and Co.	23	(*)		(*)			
Brander Meat Co.	25	(*)	(*)	(*)		(*)	
The Sperry and Barnes Co.	27C					(*)	
Patrick Cudahy, Inc.	28					(*)	
Kreinberg and Krasny, Inc.	30	(*)					
Superior's Brand Meats, Inc.	31	(*)	(*)				
Roegelein Provision Co.	32	(*)	(*)			(*)	
Do.	32A	(*)	(*)				
Valleydale Packers, Inc.	34	(*)	(*)	(*)		(*)	
Kenton Packing Co.	36	(*)					
The Canton Provision Co.	37	(*)	(*)				
Pocomoke Provision Co.	39	(*)	(*)	(*)			
Armour and Co.	40	(*)				(*)	
Sunnyland Packing Co.	43	(*)				(*)	
Stark Wetzel and Co., Inc.	44	(*)					
Do.	44A					(*)	
Idaho Meat Packers	46	(*)	(*)	(*)			
Consolidated Dressed Beef Co. Inc.	47	(*)	(*)	(*)			
Lackawanna Beef and Provision Co.	49	(*)					
Midwestern Beef, Inc.	53	(*)					
Sunnyland Packing Co. of Alabama	56	(*)				(*)	
Glover Packing Co. of Amarillo	60	(*)					
Do.	60A	(*)		(*)	(*)	(*)	
Selkirk Realty Co.	65					(*)	
Somerville Packing Co.	66					(*)	
The Quaker Oats Co.	67E						(*)
Meat Quality Laboratory	68	(*)	(*)	(*)		(*)	

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Auburn University	71	(*)		(*)			
Minch's Wholesale Meats, Inc	72	(*)	(*)	(*)		(*)	
Brown Thompson and Son	73			(*)		(*)	
Eastern Packing Co	74E						(*)
Armour and Co	75	(*)	(*)	(*)	(*)		
The Eckert Packing Co	79	(*)				(*)	
City Packing Co	80	(*)	(*)			(*)	
The Cudahy Packing Co	81	(*)				(*)	
Hill Packing Co	83E						(*)
Edgar Packing Co	84		(*)				
Excel Packing Co., Inc	86	(*)					
Utica Veal Co	88	(*)					
The E. Kahns Sons Co	89	(*)	(*)	(*)		(*)	
Hygrade Food Products Corp	90	(*)					
Sugardale Provision Co	92	(*)				(*)	
Shonyo Packing Co	93	(*)	(*)	(*)	(*)		
Samuels and Co. Inc	94			(*)	(*)		
The Val Decker Packing Co	95	(*)	(*)	(*)		(*)	
Central Packing Co. Inc	96	(*)					
John Engelhorn and Sons	97					(*)	
A. Kochs Sons	98	(*)	(*)				
Armour and Co	100	(*)		(*)			
Liberty Packing Co	101	(*)	(*)				
I. Kaplan Inc	102	(*)					
H. Graver Co	103	(*)					
Swift and Co	104	(*)				(*)	
J. Lynn Cornwell Inc	107					(*)	
Contris Packing Co. Inc	110					(*)	
Wilson and Co. Inc	111	(*)	(*)	(*)		(*)	
Hoffman Packing Co. Inc	112	(*)					
Morris Packing Co	113	(*)					
The Merchants Co	116	(*)				(*)	
West Coast Meat Co. Inc	117	(*)	(*)	(*)		(*)	
Marhoefer Packing Co. Inc	121	(*)				(*)	
E. J. Archie and Sons Inc	122	(*)					
City Dressed Beef	125	(*)					
John Morrell and Co	126	(*)		(*)		(*)	
John Roth and Son Inc	130	(*)					
Tobin Packing Co. Inc	133					(*)	
Armour and Co	139	(*)	(*)	(*)			
Edward J. Kluender Inc	142	(*)	(*)				
R. B. Rice Sausage Co. Inc	144					(*)	
Silver Falls Packing Co. Inc	153	(*)	(*)				
Cornland Dressed Beef Inc	157	(*)					
Armour and Co	158	(*)					
Missouri Farmers Assn. Packing Division	159	(*)				(*)	
Do	159A	(*)					
Carr Packing Co. Inc	160	(*)					
Joel E. Harrell and Son Inc	162					(*)	
New York State College of Agriculture	165	(*)	(*)	(*)		(*)	
Swift and Co	166A	(*)	(*)	(*)	(*)	(*)	
Wahoo Packing Co	169	(*)					
DeKalb Packing Co	170			(*)		(*)	
Armour and Co	177	(*)	(*)				
Peerless Packing Co	180					(*)	
Montrose Beef Co	181	(*)					
R. L. Zeigler Inc	184	(*)				(*)	
The Rath Packing Co	186	(*)	(*)	(*)		(*)	
Do	186C	(*)	(*)				
Do	186F					(*)	
Seattle Packing Co	191	(*)	(*)	(*)		(*)	
Krey Packing Co	192	(*)				(*)	
John Morrell and Co	196					(*)	
Hynes Packing Co	197	(*)	(*)	(*)			
United Fryer and Stillman Inc	198	(*)					
George A. Hormel and Co	199	(*)				(*)	
Do	199A	(*)					
Do	199D					(*)	
Do	199H	(*)					
Do	199I					(*)	
Do	199N	(*)				(*)	
Watkins Packing Co	200	(*)				(*)	
Cudahy Packing Co	202	(*)				(*)	
Emge Packing Co. Inc	205	(*)	(*)			(*)	
National Packing Co. Inc	208	(*)					
Heinzs Riverside Abattoir Inc	210	(*)					
S. Adams Packing Co	211	(*)	(*)				
Penn Packing Co	212					(*)	
Elburn Packing Co	213	(*)					
Kneip Packing Co	213C		(*)				
Fred Dold and Sons Packing Co	214	(*)					

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Lincoln Meat Co	217	(*)					
York Packing Co. Inc	220					(*)	
Gwaltney Inc	221A					(*)	
Armour and Co	222	(*)				(*)	
De Jong Packing Co	223	(*)	(*)				
Hygrade Food Products Corp	224	(*)				(*)	
Do	224B	(*)	(*)	(*)		(*)	
Gold Merit Packing Co. Inc	232	(*)					
Walti Schilling and Co. Inc	235	(*)		(*)			
Animal Husbandry Department, Texas Technological College	236	(*)		(*)		(*)	
Raskin Packing Co	237	(*)					
Armour and Co	238					(*)	
Fletcher Brothers of Georgia Inc	239	(*)	(*)			(*)	
P D and J Meats	240	(*)	(*)				
Clougherty Packing Co	241	(*)					
Greenwood Packing Plant	242	(*)	(*)	(*)		(*)	
I Klayman and Co	243					(*)	
Iowa Beef Packers Inc	245	(*)					
Do	245A	(*)					
Iowa Pork Co	245B					(*)	
John Morrell and Co	246	(*)				(*)	
Harget Realty Corp	247	(*)				(*)	
Federal Packing Co., Inc	249	(*)	(*)				
Frosty Morn Meats	250	(*)				(*)	
Prairie Packing Co	253					(*)	
Seilers Inc	257					(*)	
Hyplains Dressed Beef Inc	262	(*)					
The Jones Dairy Farm	263					(*)	
Lubbock Packing Co	266	(*)				(*)	
Pacific Meat Co., Inc	267	(*)	(*)			(*)	
Tog Packing Co., Inc	273	(*)					
Elliott Packing Co	274	(*)	(*)	(*)		(*)	
Acme Markets Inc	279	(*)		(*)			
Rea Serum Co	280					(*)	
Agar Packing Co	282B					(*)	
Solano Meat Co	285	(*)	(*)	(*)			
Western Packing Co	288	(*)					
Arbogast and Bastian Co	289	(*)	(*)	(*)		(*)	
The H. H. Meyer Packing Co	290					(*)	
San Jose Meat Co	291	(*)	(*)	(*)			
Sioux City Dressed Pork Inc	292					(*)	
Mid Packing Co	292A	(*)					
Gus Juengling and Son Inc	298	(*)	(*)				
Waldock Packing Co	299					(*)	
Great Falls Meat Co	301	(*)				(*)	
Commercial Packing Co. Inc	302	(*)					
Union Packing Co	305	(*)					
Do	305A	(*)					
Star Packing Co	306	(*)					
Survall Packing Co	307	(*)					
Kaufman Meat Packers Inc	310	(*)	(*)				
Melton Provision Co	311	(*)	(*)	(*)	(*)	(*)	
Ideal Packing Co. Inc	312	(*)					
Rudy's Farm Co	315					(*)	
Webb Packing Co	316	(*)					
Estes Packing Co	319	(*)	(*)				
Stadler Packing Co. Inc	320	(*)				(*)	
Frisco Packing Co	327	(*)					
C & M Meat Packing Corp	329	(*)	(*)				
Royal Packing Co	331	(*)					
Sokolik Packing Co	331A	(*)					
Shapiro Packing Co. Inc	332	(*)	(*)				
Great Western Packing Co. Inc	334	(*)					
Nobles Independent Meat Co	335	(*)	(*)				
Chino Valley Meat Packing Co. Inc	336	(*)					
Sam Kane Packing Co	337	(*)	(*)				
Green and Oliver Sausage Co	338					(*)	
Des Moines Packing Co	340	(*)					
Peters Packing Co., Inc	341	(*)				(*)	
State Packing Co., Inc	344	(*)					
Anza Packing Co	345	(*)	(*)	(*)			
Dunn Meat Packers, Inc	348					(*)	
Union Packing Co	351	(*)					
Samuels E. Tex Packing Co	353	(*)					
Fresno Meat Pack Co	354	(*)	(*)				
Hernando Packing Co., Inc	355	(*)	(*)				
Heil Packing Co	357					(*)	
Marks Meat Co	362	(*)					
Meyers Packing Co	363	(*)					
Montebello Meat Packing Co	364	(*)		(*)	(*)		

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
James Allan and Sons	365	(*)		(*)	(*)	(*)	
Westport Packing Corp	369	(*)					
Bowling Provision Co., Inc	372					(*)	
Fischer Packing Co	374	(*)	(*)			(*)	
Cross Bros. Meat Packers, Inc	376	(*)	(*)	(*)			
Salinas Meat Co	378	(*)	(*)			(*)	
Emge Packing Co., Inc	380	(*)				(*)	
Smithfield Packing Co., Inc	382					(*)	
Acme Markets, Inc	384	(*)					
City Custom Packing Co. Inc	387	(*)	(*)			(*)	
Liebmann Packing Co	388	(*)	(*)				
Dugdale Packing Co	390	(*)					
Oldhams Farm Sausage Co. Inc	392					(*)	
Roth Packing Co	394	(*)					
Robert L. Runtz Inc	395	(*)	(*)				
Dubuque Packing Co	396	(*)	(*)	(*)		(*)	
Logan Packing Co	397	(*)					
Watsonville Dressed Beef Inc	398	(*)	(*)				
Superior Packing Co	399	(*)					
Los Banos Abattoir	400	(*)	(*)				
Owens Country Sausage Inc	403					(*)	
Williston Packing Co. Inc	405	(*)					
Neuhoff Bros	406	(*)	(*)	(*)		(*)	
Endlich Packing Co. Inc	410	(*)					
Alpine Packing Co	412	(*)	(*)	(*)		(*)	
The Lundy Packing Co	413					(*)	
Frosty Morn Meats	414	(*)	(*)			(*)	
Philadelphia Boneless Beef Co	418	(*)					
Murray Packing Co. Inc	421	(*)					
E. W. Kneip Inc. of Iowa	422	(*)					
The Collins Packing Co	423					(*)	
Hebron Packing Co. Inc	425	(*)					
Lone Star Packing Co	433	(*)	(*)				
Queen Packing Corp	436	(*)					
Schneider Packing Co	439	(*)	(*)				
Omaha Dressed Beef Co. Inc	441	(*)					
Del Curto Meat Co	445	(*)	(*)	(*)		(*)	
Peerless Packing Co., Inc	448	(*)					
Rosenthal Packing Co. of Paris	451	(*)					
DeWitt Packing Corp	456		(*)				
Swift and Co	459					(*)	
Morris Rifkin and Sons Inc	460	(*)					
Pioneer Boneless Beef, Inc	461	(*)					
Lancaster Packing Co	462	(*)	(*)				
Litvak Packing Co	465	(*)					
Becwar Packing Co	467	(*)	(*)			(*)	
Corn Husker Packing Co	468	(*)					
Eckert Packing Co	471	(*)	(*)			(*)	
Armour and Co	477	(*)					
Eldridge Packing Co., Inc	478	(*)					
Middletown Beef Co., Inc	483	(*)					
St. Cloud Meat Packing Co	485	(*)					
East Tennessee Packing Co	487	(*)	(*)			(*)	
Memphis Butchers Association Inc	488	(*)	(*)	(*)	(*)	(*)	
Nebraska Beef Co	489	(*)					
Goldring Packing Co. Inc	490	(*)	(*)				
Mid State Meat Packers Inc	494	(*)					
Heim Brothers Packing Co. Inc	499	(*)				(*)	
Greenlee Packing Co	501	(*)					
Swift and Co	505	(*)					
B. Rothschild and Co	506	(*)					
Gruensfelder Packing Co	508	(*)	(*)	(*)			
Armour and Co	509	(*)				(*)	
The Hull and Dillon Packing Co	510	(*)	(*)			(*)	
Shen Valley Meat Packers Inc	511	(*)				(*)	
Capitol Packing Co	513	(*)	(*)	(*)			
Fletchers Food Service Inc	515	(*)					
Charles Miller and Co	517					(*)	
Illinois Packing Co	521	(*)					
Pearl Packing Co. Inc	524	(*)	(*)	(*)	(*)	(*)	
Armour and Co	528	(*)	(*)				
Smallwood Packing Co. Inc	529	(*)					
Omaha Packing Co	532	(*)					
Rosenthal Packing Co. Inc	535	(*)	(*)	(*)	(*)		
Pepper Packing Co	536	(*)					
Oscar Mayer and Co. Inc	537A	(*)	(*)	(*)		(*)	
Do	537C					(*)	
Midwest Packing Co	538	(*)					
Wholesale Cooperative Meat Dealers Assn	541	(*)					
Greendell Packing Corp	542	(*)	(*)				
United Dressed Meat Inc	546	(*)	(*)			(*)	
Pride Packing Co. Inc	549	(*)	(*)				
Piute Packing Co	550	(*)	(*)				
Salter Packing Co	551	(*)					
Black Hills Packing Co	554	(*)				(*)	
Mid South Packers Inc	557	(*)				(*)	
The Cudahy Packing Co	559	(*)	(*)			(*)	
D. & W. Packing Co	560	(*)	(*)				
Emery Land Co	561	(*)					
Packerland Packing Co. Inc	562	(*)	(*)				
John Morrell and Co	564					(*)	
Texas Meat Packers Inc	565	(*)	(*)				
Elmer Bender and Son Inc	569		(*)	(*)			
Perretta Packing Co. Inc	571	(*)					
Frosty Morn Meats Inc	576	(*)				(*)	
Armour and Co	579	(*)					
Kingsford Packing Co. Inc	581	(*)					
Coffeyville Packing Co. Inc	583	(*)					
Stoppenbach Sausage Co	585	(*)	(*)			(*)	
Dawson-Baker Packing Co. Inc	588	(*)		(*)			
Austin Community Livestock Processors, Inc.	590	(*)	(*)				
Swift and Co	591	(*)		(*)		(*)	
Harmon Packing Co	596	(*)					
San Antonio Packing Co	602	(*)		(*)	(*)		
Wright Packing Co., Inc	603	(*)	(*)				
Swift and Co	608	(*)					
Eastern Oregon Meat Co., Inc	611	(*)	(*)	(*)		(*)	
National Tea Co	613	(*)				(*)	
Donner Packing Co	614	(*)					
Kummer Meat Co., Inc	617	(*)	(*)	(*)		(*)	
Acme Meat Co. Inc	618	(*)	(*)				
Empire Packing Co	625	(*)					
Star Provision Co	626					(*)	
Big Foot Packing Co. Inc	627	(*)					
H. H. Keim Co	630	(*)	(*)	(*)		(*)	
General Meat Co	632	(*)					
Ebner Bros. Packers	633	(*)	(*)			(*)	
Auburn Packing Co. Inc	636	(*)					
Ross Packing Co	645	(*)					
Bird Provision Co	647					(*)	
Spencer Packing Co	648	(*)					
Schluderberg Kurdle Co. Inc	649	(*)	(*)	(*)		(*)	
John Morrell and Co	650					(*)	
Nagle Packing Co	653	(*)	(*)	(*)			
Milwaukee Dressed Beef Co	654	(*)					
Wilson and Co. Inc	655	(*)		(*)			
Baums Bologna Inc	657	(*)					
St. Louis Dressed Beef Co	659	(*)					
McCook Packing Corp	660	(*)	(*)				
Quality Meat Packing Co	661	(*)	(*)				
Western Meat Packers Inc	662	(*)		(*)		(*)	
Globe Packing Co	663	(*)					
Webber Sausage Co. Inc	665					(*)	
Crown Packing Co	666					(*)	
Scottsbluff Packing Co	667			(*)			
San Joaquin Packing Co	671	(*)					
E. S. Read and Sons Inc	672	(*)	(*)	(*)		(*)	
Union Packing Co	673	(*)					
Theede Meat Packing Co	674	(*)					
Caviness Packing Co	675	(*)					
Jacob Bauers Sons Inc	678	(*)					
Colville Meats Inc	679	(*)	(*)	(*)		(*)	
Armour and Co	680	(*)	(*)	(*)		(*)	
Haas Davis Packing Co. Inc	682	(*)	(*)	(*)		(*)	
Caldwell Packing Co. Inc	683	(*)					
Nations Brothers Packing Co. Inc	684	(*)	(*)	(*)	(*)	(*)	
The William Fockes Sons Co	685	(*)	(*)	(*)		(*)	
The Sucher Packing Co	689	(*)	(*)			(*)	
Pierce Packing Co	691	(*)				(*)	
Marco Packing Co	692	(*)	(*)				
Bryan Meat Co	693	(*)					
Animal Husbandry Department, Kansas State University.	694	(*)	(*)	(*)		(*)	
Kramer Beef Co	695	(*)					
Carter Packing Co	698	(*)	(*)			(*)	
Dana Packing Co	706	(*)					
Central Nebraska Packing Co	713E						(*)
Davenport Packing Co., Inc	716	(*)					
Farmbest Inc	717					(*)	
Riverside Packing, Inc	719	(*)					
Swift and Co	726	(*)	(*)	(*)		(*)	

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Decker and Son	727					(*)	
Roode Packing Co., Inc	729	(*)					
Vogt Packing Co	730	(*)					
Frosty Morn Meats	731	(*)	(*)			(*)	
Eiler and Son, Inc	732	(*)	(*)	(*)		(*)	
Western Packers	733	(*)					
The Quaker Oats Co	734E						(*)
Ohio Packing Co	736	(*)	(*)			(*)	
The Jacob Schlachters Sons Co	739	(*)	(*)	(*)			
Mid State Meat Co	741	(*)	(*)				
Pioneer Boneless Beef Co	742	(*)		(*)		(*)	
Howard Pancero and Co	747	(*)	(*)				
Ruchti Brothers	749	(*)	(*)				
Luck Brothers Cooperative Packing Co	753	(*)					
Monroe Packing Co., Inc	755	(*)					
Seitz Packing Co., Inc	756A	(*)				(*)	
Philadelphia Dressed Beef Co	758	(*)					
The American Meat Packing Corp	760					(*)	
Schaake Packing Co., Inc	761	(*)					
Karler Packing Co	767	(*)	(*)				
Sheridan Meat Co., Inc	768	(*)	(*)	(*)		(*)	
Earl C. Gibbs Inc	770	(*)					
Cadwell Martin Meat Co	773	(*)					
Modern Meat Packing Co	774	(*)					
Atlas Packing Co	775	(*)					
The Cudahy Packing Co	779	(*)	(*)			(*)	
Bryan Brothers Packing Co	780	(*)	(*)	(*)		(*)	
Diamond Meat Co. Inc	783	(*)	(*)				
Granite State Packing Co	785	(*)	(*)				
Aubora Packing Co. Inc	788	(*)					
Baums Meat Packing	792	(*)	(*)	(*)			
Western Iowa Pork	806					(*)	
The G. Erhardt Sons Inc	810	(*)	(*)				
William H. Peters Inc	813	(*)					
Rochester Independent Packer Inc	817	(*)					
J. H. Routh Packing Co	818					(*)	
Henry Meyers Sons Inc	822	(*)	(*)				
Superior Packing Co. Inc	825			(*)			
Bristol Packing Co	828	(*)	(*)			(*)	
Berchems Meat Co	830	(*)					
White Packing Co. Inc	835	(*)	(*)	(*)		(*)	
John Morrell and Co	836	(*)					
Nat Buring Packing Co. of Arkansas	837B	(*)				(*)	
Frederick County Products Inc	838	(*)	(*)	(*)			
Herman Kemper's Sons Inc	839	(*)	(*)				
Reelfoot Packing Co	840	(*)	(*)			(*)	
G. Bartusch Packing Co	843	(*)					
Arena Dressed Beef Co	853	(*)					
Sioux City Dressed Beef Co	857	(*)					
Siouxland Dressed Beef Co	857F	(*)		(*)			
Needham Packing Corp of Montana	857G	(*)					
Jordan Meat and Livestock Co. Inc	858	(*)	(*)	(*)	(*)	(*)	
Sam McDaniel and Sons Inc	859	(*)					
Wells and Davies Inc	860	(*)	(*)			(*)	
Sierra Meat Co	862	(*)					
Tennessee Dressed Beef Co	865	(*)					
Gunsberg Beef Co	867	(*)					
Genesee Packing Co	868	(*)					
Hardy and Co., Inc	869	(*)	(*)				
Santa Ana Packing Co	874	(*)					
Samuels and Co., Inc	878			(*)			
Pahler Packing Corp	880	(*)		(*)			
Vermont Dressed Beef Co., Inc	883	(*)					
Alco Packing Co	885	(*)	(*)	(*)			
Walden Packing Co., Inc	886	(*)					
William Davies Co., Inc	888A	(*)				(*)	
O'Neill Packing Co	889	(*)					
City Packing Co	891	(*)	(*)				
Sambol Packing Co	892	(*)					
Tobin Packing Co., Inc	893					(*)	
Vernon Calhoun Packing Co	897	(*)					
Meats, Inc	899	(*)	(*)				
Sigman Meat Co., Inc	901	(*)	(*)				
Kanes Dressed Beef	907	(*)					
Hoosier Veterinary Laboratories, Inc	912					(*)	
Chiapetti Packing Co	916			(*)			
National Meat Packers Inc	917	(*)					
B. Constantino and Sons Co	918	(*)	(*)				
Valleydale Packers Inc. of Bristol	922	(*)	(*)			(*)	
South Philadelphia Willowbrook Inc	923	(*)	(*)				
Wisconsin Packing Co	924	(*)					
Peoples Packing Co	925	(*)	(*)	(*)	(*)	(*)	
Kerber Packing Co	929	(*)	(*)			(*)	
Tarpoff Packing Co	931	(*)					
McKenney Meat Co	932	(*)	(*)				
E. B. Manning and Son	934	(*)					
Volz Packing Co	938	(*)					
Cappellino Abattoir Inc	939	(*)					
Gentner Packing Co. Inc	941	(*)					
Delrich Meat Packers, Inc	944					(*)	
Whitehall Packing Co	946	(*)					
M. Brizer and Co	948	(*)					
Joe Doctorman and Son Packing Co., Inc	949	(*)	(*)	(*)			
Armour and Co	956	(*)				(*)	
Reliable Packing Co	959					(*)	
Greater Omaha Packing Co., Inc	960	(*)					
Virginia Packing Co., Inc	963	(*)	(*)	(*)			
Earl Flick Wholesale Meats Inc	965	(*)	(*)				
T. L. Lay Packing Co	967	(*)				(*)	
Monfort Packing Co	969	(*)		(*)			
Hawaii Meat Co. Ltd	970	(*)	(*)				
Perlin Packing Co. Inc	974	(*)	(*)	(*)			
National Food Stores Inc	981	(*)					
Reitz Meat Products Co	983	(*)				(*)	
Hospers Packing Company	985	(*)					
Everett C. Horlein and Son Inc	988	(*)					
Sunflower Packing Co. Inc	992	(*)					
Johnson Meat Products Co. Inc	994					(*)	
Klarer of Kentucky Inc	995	(*)	(*)				
Do	995A					(*)	
Do	995C					(*)	
Clover Packing Co. Inc	1005	(*)	(*)				
Valley Meat Co	1009	(*)	(*)	(*)			
The Home Pride Provisions Inc	1029	(*)	(*)	(*)	(*)	(*)	
Armour and Co	1085	(*)	(*)				
Landy Packing Co	1171	(*)					
The Harris Packing Co	1175					(*)	
Wayne Packing Co	1303	(*)					
The Rath Packing Co	1307	(*)	(*)				
A. F. Moyer and Sons Inc	1311	(*)	(*)	(*)			
McCabe Packing Plant	1312	(*)	(*)				
Swift and Co	1315	(*)				(*)	
Nebraska Iowa Dressed Beef Co	1318	(*)					
Stevens Meat Co. Inc	1485	(*)	(*)				

Done at Washington, D.C., this 2d day of July 1964.

C. H. PALS,
Director, Meat Inspection Division, Agricultural Research Service.

[F.R. Doc. 64-6788; Filed, July 10, 1964; 8:45 a.m.]

Office of the Secretary

DEPARTMENTAL AERIAL PHOTOGRAPHIC WORK

Delegation of Authority and Assignment of Functions

Pursuant to the authority contained in R.S. 161 (5 U.S.C. 22) and Reorganization Plan No. 2 of 1953, the Secretary's Order dated December 24, 1953 (19 F.R. 74), as amended, is further amended as follows:

Section 1100 is amended and revised by adding at the end thereof the following subparagraph:

r. Responsibility for coordinating and preventing duplication of aerial photographic work of the Department, including: (1) Clearing of aerial photography projects; (2) assigning symbols for new aerial photography, maintaining symbol records, and furnishing symbol books; (3) recording Departmental aerial photography flown and coordinating the issuance of aerial photography status maps of latest coverage; (4) promoting interchange of technical information and techniques to develop lower costs and better quality; (5) representing the Department on the Inter-Agency Committee on Sales Prices of Aerial Photographic Reproductions and serving as liaison with other governmental agencies on aerial photography and related activities including classification of departmental aerial photography but excluding mapping; and (6) serving as Chairman of the Photographic Sales Committee of the Department.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 8, 1964.

JOSEPH M. ROBERTSON,
Administrative Assistant Secretary.

[F.R. Doc. 64-6936; Filed, July 10, 1964; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CONTINENTAL BAKING CO.

Issuance of Temporary Permit To Cover Market Testing of Enriched Bread Deviating From Identity Standard

Pursuant to § 10.5(j) of Title 21, Code of Federal Regulations, concerning temporary permits to facilitate market testing of foods varying from the requirements of standards of identity promulgated pursuant to section 401 of the Federal Food, Drug, and Cosmetic Act, notice is given that a temporary permit has been issued to Continental Baking Company, Rye, New York, to cover interstate marketing tests of enriched bread deviating from the requirements of the standard of identity for such food (21 CFR 17.2). The product will deviate from the standard in that it will contain inactive dried torula yeast complying with the requirements of the food additive regulation for dried yeasts (21 CFR 121.1125) in a quantity not to exceed 2 parts for each one hundred parts by weight of flour used. Such use of inactive dried torula yeast will require label declaration.

This permit expires July 1, 1965.

Dated: July 7, 1964.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 64-6916; Filed, July 10, 1964; 8:47 a.m.]

GENERAL MILLS

Filing of Petition Regarding Food Additives Polyamide Resins

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP 1419) has been filed by General Mills, Inc., P.O. Box 191, South Kensington Road, Kankakee, Illinois, 60901, proposing that § 121.2569 *Resinous and polymeric coatings for polyolefin films* be amended to include polyamide resins derived from vegetable oil acids and ethylenediamine, as the basic resin.

Dated: July 6, 1964.

MALCOLM R. STEPHENS,
Assistant Commissioner for Regulations.

[F.R. Doc. 64-6917; Filed, July 10, 1964; 8:48 a.m.]

NORWICH PHARMACAL CO.

Filing of Petition Regarding Food Additive Furaltadone

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP 1380) has been filed by The Norwich Pharmacal Co., P.O. Box 191, Norwich, New York, proposing the amendment of § 121.249 of the food additive regulations to provide for the safe use of furaltadone for the treatment of milk producing animals with a withdrawal time of 36 hours.

Dated: July 6, 1964.

MALCOLM R. STEPHENS,
Assistant Commissioner for Regulations.

[F.R. Doc. 64-6918; Filed, July 10, 1964; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 15538, 15539; FCC 64-600]

CONTINENTAL BROADCASTING, INC., AND SUFFOLK BROADCASTING CORP.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Continental Broadcasting, Inc., Norfolk, Virginia, Docket No. 15538, File No. BPH-4096, Requests: 92.9 mc, No. 225; 50 kw; 213 feet; Suffolk Broadcasting Corporation, Suffolk, Virginia, Docket No. 15539, File No. BPH-4128, Requests: 92.9 mc, No. 225; 50 kw; 145 feet; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 1st day of July 1964;

The Commission having under consideration the above-captioned and described applications;

It appearing, that, except as indicated by the issues specified below, each of the applicants is legally, technically, financially, and otherwise qualified to construct and operate as proposed; and

It further appearing, that the above-captioned applications are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference; and

It further appearing, that the areas for which the applicants propose to provide FM broadcast service are significantly different in location and that for purposes of comparison, the areas and populations within the respective 1 mv/m contours together with the availability of other FM service (at least 1mv/m) within such areas will be considered in the hearing ordered below for the purpose of determining whether a comparative preference should accrue to either applicant; and

It further appearing, that, in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues set forth below:

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the area and population within each of the proposed 1 mv/m contours and the availability of other FM service (at least 1 mv/m) to such areas and populations.

2. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to section 307(b), which of the operations proposed in the above-captioned applications would better serve the public interest, in light of the evidence adduced pursuant to the foregoing issues and the record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each having a bearing on the applicant's ability to own and operate the FM station as proposed.

(b) The proposals of each of the applicants with respect to the management and operation of the FM broadcast station as proposed.

(c) The programming services proposed in each of the above-captioned applications.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support

thereof, by the addition of the following issue: "To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated."

Released: July 8, 1964.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-6927; Filed, July 10, 1964; 8:48 a.m.]

[Docket No. 15496; FCC 64M-649]

HI-DESERT MICROWAVE, INC.

Order Scheduling Prehearing Conference

In re applications of Hi-Desert Microwave, Inc., Docket No. 15496, File Nos. 3740/3741/3742/3743-C1-P-63, File Nos. 8/9-C1-R-63; for renewal of facilities and for construction permits to establish new facilities in the Domestic Public Point-to-Point Microwave Radio Service.

A prehearing conference having been held on July 7, 1964;

It appearing, that the applicant proposes to file in the immediate future certain pleadings which may affect the factual situation which occasioned the designation of these applications for hearing:

It is ordered, This 7th day of July 1964, that a further prehearing conference herein shall be convened on July 28, 1964, commencing at 9:00 a.m. in the offices of the Commission at Washington, D.C.

It is further ordered, That the hearing now scheduled to commence on July 27, 1964, is continued pending further order.

Released: July 8, 1964.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-6928; Filed, July 10, 1964; 8:48 a.m.]

[Docket Nos. 15540, 15541; FCC 64-601]

LAKELAND FM BROADCASTING, INC., AND SENTINEL BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Lakeland FM Broadcasting, Inc., Lakeland, Florida, Docket No. 15540, File No. BPH-4159, Requests: 94.1mc, No. 231; 27.1kw; 386 feet; Sentinel Broadcasting Company, Lakeland, Florida, Docket No. 15541, File No. BPH-4287, Requests: 94.1mc, No. 231; 31.9kw; 359 feet; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 1st day of July 1964;

The Commission having under consideration the above-captioned and described applications;

It appearing, that, except as indicated by the issues specified below, each of the applicants is legally, technically, financially, and otherwise qualified to construct and operate as proposed; and

It further appearing, that the above-captioned applications are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference; and

It further appearing, that the areas for which the applicants propose to provide FM broadcast service are significantly different in size and that for purposes of comparison, the areas and populations within the respective 1 mv/m contours together with the availability of other FM service (at least 1 mv/m) within such areas will be considered in the hearing ordered below for the purpose of determining whether a comparative preference should accrue to either applicant; and

It further appearing, that, in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues set forth below:

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the area and population within each of the proposed 1 mv/m contours and the availability of other FM services (at least 1 mv/m) to such areas and populations.

2. To determine, on a comparative basis, which of the proposals would better serve the public interest, convenience, and necessity in light of the evidence adduced pursuant to the foregoing issue and the record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each having a bearing on the applicant's ability to own and operate the FM station as proposed.

(b) Proposals of each of the applicants with respect to the management and operation of the FM broadcast station as proposed.

(c) The programming services proposed in each of the above-captioned applications.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues which of the applications should be granted.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: "To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated."

Released: July 8, 1964.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-6929; Filed, July 10, 1964; 8:48 a.m.]

[Docket No. 15544; FCC 64-604]

WHAS, INC. (WHAS-TV)

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In re application of WHAS, Inc. (WHAS-TV), Louisville, Kentucky, Docket No. 15544, File No. BPCT-3187, for construction permit.

1. The Commission has before it for consideration: (a) The above-captioned application for construction permit to change transmitter site filed by WHAS, Inc. (applicant), licensee of Station WHAS-TV, Channel 11, Louisville, Kentucky, on May 3, 1963, and amended on January 22, 1964; (b) a "Petition to Deny" filed June 13, 1963, by WLEX-TV, Inc. (petitioner), licensee of Station WLEX-TV, Channel 18, Lexington, Kentucky, directed against a grant of (a) above; (c) a "Supplement to Petition to Deny" filed by petitioner on July 12, 1963; (d) an "Opposition of WHAS, Inc., to Petitions of WLEX-TV, Inc., and Taft Broadcasting Company"[1a] filed July 22, 1963, by the applicant; (e) a "Reply to Opposition of WHAS, Inc." filed July 31,

[1] Commissioner Ford absent.

[1] Commissioner Ford absent.

[1a] The reference to Taft Broadcasting Company is a result of the filing of a "Petition for Imposition of Condition or for Alternative Relief" by Taft Broadcasting Company, licensee of Station WKYT-TV, Channel 27, Lexington, Kentucky, on June 13, 1963. However, on March 13, 1964, Taft notified the Commission that it did not object to this application as amended January 22, 1964. Accordingly, Taft's former objections are not considered in this opinion.

1963, by petitioner; (f) a "Further Supplement to Petition to Deny" filed February 20, 1964, by petitioner; and (g) an "Opposition to Further Supplement to Petition to Deny" filed March 13, 1964, by the applicant.

2. The applicant seeks a construction permit to allow it to relocate its present licensed facilities and make other changes, as follows: Relocate its transmitter from its present site in downtown Louisville to a site approximately 3.6 miles north of New Albany, Indiana; increase antenna height from 490 feet to 1,290 feet above average terrain; and reduce visual effective radiated power from 316 kw to 133.5 kw. As a result of the proposed move, the area enclosed by Station WHAS–TV's predicted Grade B contour will be increased from 8,560 square miles to 13,225 square miles, and the estimated population within the predicted Grade B contour will be increased from 1,126,103 persons to 1,356,585 persons.

3. Since a grant of the present application will result in increasing the applicant's coverage in an area already served by the petitioner (see paragraph 5 below), it is clear that the petitioner has standing as a "party in interest" within the meaning of section 309(d) of the Communications Act. Federal Communications Commission v. Sanders Brothers Radio Station, 309 U.S. 470.

4. Petitioner has proposed three issues in its "Petition to Deny", which may be summarized as follows: To determine the impact of the applicant's proposed operation upon UHF television broadcasting in Lexington, Kentucky; to determine whether a grant of the present application would result in a fair, efficient and equitable distribution of television service within the meaning of section 307(b) of the Communications Act; and to determine what steps the applicant has taken to ascertain program needs in the additional area to be served, particularly within the area served by the Lexington stations, and to determine what steps have been taken by the applicant to meet such needs. In support of its petition, petitioner relies on a statement prepared by the Station Manager of Station WLEX–TV, and on the Commission's decision in WHAS, Inc., FCC 61–937, 21 R.R. 929. In that proceeding, the applicant proposed to furnish Lexington, Fayette County, and the majority of the areas and populations within the Grade B contours of the Lexington UHF stations with a vastly improved television signal which would have permitted many persons formerly receiving no more than a marginal signal from WHAS–TV to receive a predicted Grade A or Grade B VHF signal from it. Because of the highly improved signal it would furnish to Lexington, the Commission feared a grant of WHAS–TV's application would cause immediate and permanent economic losses to the Lexington UHF stations. In turn, the Commission was concerned that these losses would almost inevitably be quickly translated into loss by the public of locally-oriented programing, and of an outlet for self-expression and local advertising. And it was on this basis that the Commission indicated the applicant had neither satisfied section 307(b) of the Act nor showed a replacement for the loss of local program service in Lexington.

5. Petitioner claims basically that the Commission is here confronted with a repetition of the earlier WHAS case. Applicant's position is that its proposal would have so much less impact on petitioner, compared with the impact involved in the earlier proceeding, that the Commission should grant its application without hearing.[2] The record, as it relates to the applicant, shows that it must quit its present transmitter site to make way for an urban renewal project in downtown Louisville; that its proposed new site will be approximately 1.5 miles from the existing site of Station WAVE–TV, Channel 3, the other Louisville VHF station; that Station WHAS–TV's predicted contour from its proposed site will be entirely within the present predicted contour of Station WAVE–TV at its existing site; that Station WHAS–TV will not, as a result of a grant of this application, provide a predicted signal of Grade B or better to any area or population not now receiving VHF service from at least one station; that Station WHAS–TV's proposed predicted Grade B contour will not include any part of Fayette County, which contains Lexington; that at present the predicted Grade B contours of Stations WLEX–TV and WHAS–TV overlap in an area of 1,152 square miles containing 61,400 people, and that with Station WHAS–TV operating as proposed the overlap of predicted Grade B contours will involve an area of 1,861 square miles containing 86,838 persons (an increase of 25,438 persons); and that there are 429,280 persons within Station WLEX–TV's predicted Grade B contour. Finally, it appears that of nineteen counties claimed by petitioner to comprise the Lexington UHF market, fifteen will be outside the predicted Grade B contour of Station WHAS–TV and none of the other four will be wholly within Station WHAS–TV's predicted Grade B contour.[3]

6. As indicated in the preceding paragraphs, the petitioner has relied in large measure on the earlier WHAS decision as the basis for its request for a hearing. However, as the Commission's earlier findings make clear, the present application clearly will not have as substantial an effect on the basically UHF area of Lexington as would the previous proposal. This fact poses a serious problem since although it appears the impact on the petitioner would be substantially lessened under the present proposal, we cannot tell, upon the basis of the pleadings before us, whether a grant of the present application would not have an adverse effect on petitioner's further operations, and, if so, to an extent inconsistent with the public interest. In view of the interest in permitting the applicant to move, and indeed, the necessity for such a move in light of the urban renewal project in Louisville, and at the same time the desirability of avoiding any action which might significantly adversely affect petitioner's UHF operation, the Commission is confronted with a difficult decision which cannot be completely satisfied by ordering the present application into evidentiary hearing. However, it appears that there is a solution. Petitioner has pointed out that by a reduction of radiated power in the direction of Lexington, the applicant could maintain approximately its present contour in that direction. Thus, by directing the applicant to suppress radiation in the direction of Lexington, it would be possible to avoid the chance of injury to the petitioner. Accordingly, in order to permit the applicant to move immediately, and yet not risk adversely affecting the UHF operation in Lexington, the Commission has determined to make a partial grant of the present application, pursuant to § 1.110 of the Commission's rules.[4] The present application will be granted subject to an appropriate limitation on WHAS–TV's effective radiated power in the direction of Lexington. At the same time, the proposal will be ordered into hearing to determine and evaluate all the considerations in the public interest judgment to be made, including of course the economic effect on the petitioner's operations in Lexington. If at the conclusion of this hearing the Commission determines that the full operation proposed by the applicant would not significantly affect petitioner's operation, it will order the condition re-

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[2] It is appropriate at this point to note both that the applicant's initial proposal filed May 3, 1963, differed from the proposal as it now stands after the amendment of January 22, 1964, and that most of the petitioner's factual allegations were made before the filing of the amendment.

[3] In its earlier decision, WHAS, Inc., supra, the Commission found that a grant of the applicant's earlier application would have resulted in WHAS–TV's predicted Grade A contour encompassing Lexington, Kentucky, and two-fifths of Fayette County, while its predicted Grade B contour would have extended to approximately 21 miles east of Lexington. 62 percent of the population within WLEX–TV's Grade B predicted contour does not receive VHF service of predicted quality of Grade B or better. Had the earlier WHAS–TV application been granted, only 13 percent of the population within WLEX–TV's predicted Grade B contour would not have received predicted VHF service of Grade B or better. On the other hand, under the present proposal, WHAS–TV's predicted Grade B contour will remain west of Lexington and will not even reach Fayette County. WHAS–TV presently serves approximately 14.3 percent of the population within WLEX–TV's predicted Grade B contour and this figure will increase to approximately 20 percent of the population within the WLEX–TV Grade B contour. However, the additional overlapping of the two services will occur entirely within an area which is already receiving at least one VHF service.

[4] Section 1.110 of the Commission's rules provides that, "Where the Commission without a hearing grants any application in part, or with any privileges, terms, or conditions other than those requested, or subject to any interference that may result to a station if designated application or applications are subsequently granted, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 30 days from the date on which such grant is made or from its effective date if a later date is specified, file with the Commission a written request rejecting the grant as made. Upon receipt of such request, the Commission will vacate its original action upon the application and set the application for hearing in the same manner as other applications are set for hearing."

moved. On the other hand, if the Commission is satisfied that the proposed operation could adversely affect petitioner's operation and that this adverse consideration is not outweighed by other factors, it will order the directionalization made a permanent part of the applicant's license. The Commission believes that this procedure will best satisfy the needs of the public in the area affected. Since the Commission is undertaking to make sure that a grant of the present application could not impair petitioner's ability to operate in the public interest, it is apparent that no section 307(b) issue is raised.

7. The final issue proposed by petitioner is directed to the efforts made by the applicant to determine the needs and interests of the additional area to be served by its station and the steps it has taken to meet such needs. The petitioner has not attempted in any way to support the specification of this issue with any allegations of fact. Consequently, were the Commission to consider this solely as a matter of formal pleading, the question raised could be dismissed without further consideration since the requirements of section 309 of the Act have not been satisfied. However, since the applicant did not respond to this contention (directing its pleadings only to the economic contention advanced by petitioner) the Commission believes it appropriate independently of the pleadings to consider the matter thus raised. We have reviewed the application and find that the applicant has proposed changes in its present programing, that it has stated a variety of steps it has taken to furnish all of its viewers with improved programing and the steps that it has taken to respond to the particular events in its service area which seem to it to warrant special attention. Similarly, the Commission has examined the applicant's pending renewal application (BRCT–72) and finds that it also reflects the applicant's continued responsiveness to the needs and interests of its service area. Upon consideration of the information available to it, the Commission concludes that the applicant has adequately demonstrated its responsiveness to changing needs and has made clear its recognition of its continued responsibility to serve the needs and interests of its viewing public. The demonstrated attitude of the applicant is, therefore, completely consistent with the Commission's concept of a broadcast licensee's role in continually striving to ascertain and serve the needs and interests of its service area. Report and Statement of Policy re: Commission En Banc Programming Inquiry, 20 R.R. 1901, 1912.

8. In view of the foregoing, we find that the petitioner has raised substantial and material questions of fact. We find further that a partial grant of the application will serve the public interest, convenience and necessity. *Accordingly, it is ordered,* That the "Petition to Deny" filed by WLEX–TV, Inc., is hereby granted to the extent indicated, and is otherwise denied. *It is further ordered,* That the above-captioned application filed by WHAS, Inc., is hereby partially granted, in accordance with specifications to be issued and subject to the following conditions:

(1) Station WHAS–TV's visual effective radiated power in the direction of Lexington, Kentucky, shall be limited so that the portion of the WHAS–TV predicted Grade B contour located within the predicted Grade B contour of WLEX–TV shall not exceed the predicted Grade B contour provided by the presently licensed operation of WHAS–TV.

(2) WHAS, Inc., shall, within 30 days, furnish to the Commission the necessary technical information required for the preparation of a construction permit which will reflect the conditions of the grant made herein. Such information shall include an antenna horizontal field radiation pattern, which will provide the required attenuation in the direction of Lexington, Kentucky, together with new exhibits portraying the predicted City, Grade A and Grade B contours.

It is further ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for a hearing at a time and place to be specified in a subsequent order upon the following issues:

1. To determine the impact upon Station WLEX–TV which would result from operation of Station WHAS–TV without directionalization.

2. To determine in view of the evidence adduced pursuant to the foregoing issue whether removal of the directionalization condition would serve the public interest, convenience and necessity.

It is further ordered, That WLEX–TV and the Chief of the Broadcast Bureau are made parties to this proceeding.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof with respect to Issue 1 are hereby placed on WLEX–TV.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and party respondent herein, pursuant to § 1.221 of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date specified for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the applicant herein shall, pursuant to § 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594(a) of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: July 1, 1964.

Released: July 8, 1964.

FEDERAL COMMUNICATIONS COMMISSION,[5]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 64–6930; Filed, July 10, 1964; 8:49 a.m.]

[5] Commissioner Ford absent.

CIVIL AERONAUTICS BOARD

[Docket 15383]

AERO LINEAS FLECHA AUSTRAL LIMITADA

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled application is assigned to be held on July 28, 1964, at 10:00 a.m., e.d.s.t., in Room 701, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Richard A. Walsh.

Dated at Washington, D.C., July 8, 1964.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F.R. Doc. 64–6922; Filed, July 10, 1964; 8:48 a.m.]

[Docket 15377]

SUDFLUG, SUDDEUTSCHE FLUGGESELLSCHAFT MBH

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled application is assigned to be held on July 21, 1964, at 10:00 a.m., e.d.s.t., in Room 701, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner James S. Keith.

Dated at Washington, D.C., July 8, 1964.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F.R. Doc. 64–6923; Filed, July 10, 1964; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI64–804 etc.]

SUNRAY DX OIL CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

JULY 6, 1964.

Sunray DX Oil Company and other Respondents listed herein, Docket Nos. RI64–804, et al.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

[1] Does not consolidate for hearing or dispose of the several matters herein.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
R164-804	Sunray DX Oil Co., Tulsa 2, Okla., Attn: Mr. Homer E. McEwen, Jr.	62	10	El Paso Natural Gas Co. (Jal Field, Lea County, N. Mex.) (Permian Basin Area).	$11	6- 8-64	[2] 8- 1-64	1- 1-65	[3] [5] 15.8563	[3] [4] [5] [6] 16.8793	RI63-482.
	Sunray DX Oil Co	81	13	El Paso Natural Gas Co. (Spraberry Trend, Midland County, Tex.) (R.R. Dist. No. 8) (Permian Basin Area).	507	6- 8-64	[2] 8- 1-64	1- 1-65	17.2295	[3] [4] 18.2430	RI60-14.
	do	101	6	El Paso Natural Gas Co. (Blinebry and Tubbs Fields, Lea County, N. Mex.) (Permian Basin Area).	3,559	6- 8-64	[2] 8- 1-64	1- 1-65	[3] [6] 15.8563	[3] [4] [5] [6] 16.8793	RI63-482.
	do	142	6	El Paso Natural Gas Co. (Blinebry, et al., Fields, Lea County N. Mex.) (Permian Basin Area).	6,505	6- 8-64	[2] 8- 1-64	1- 1-65	[3] [6] 15.8563	[3] [4] [5] [6] 16.8793	RI163-482.
	do	149	3	El Paso Natural Gas Co. (Mescalero Field, Lea County, N. Mex.) (Permian Basin Area).	65	6- 8-64	[2] 8- 1-64	1- 1-65	[7] 15.6238	[3] [4] [7] 16.6318	RI63-482.
	do	103	10	El Paso Natural Gas Co. (Jack Herbert Strawn Field, Upton County, Tex.) (R.R. Dist. No. 7-C) (Permian Basin Area).	153 257	6- 8-64	[2] 8- 1-64	1- 1-65	[8] 15.7093 [9] [10] 13.6823	[3] [4] [8] 16.7228 [3] [4] [10] 15.2025	RI60-101. RI60-101.
	do	64	9	El Paso Natural Gas Co. (Monument Field, Lea County, N. Mex.) (Permian Basin Area).	2,300	6- 8-64	[2] 8- 1-64	1- 1-65	[3] [6] 15.8563	[3] [4] [5] [6] 16.8793	RI63-482.
	do	231	1	El Paso Natural Gas Co. (West Jal Strawn Field, Lea County, N. Mex.) (Permian Basin Area).	121	6- 8-64	[2] 8- 1-64	1- 1-65	[7] 15.6238	[3] [4] [7] 16.6318	
	do	133	4	El Paso Natural Gas Co. (Jack Herbert and Amacker-Tippitt Fields, Upton County, Tex.) (R.R. Dist. No. 7-C) (Permian Basin Area).	3,801	6- 8-64	[2] 8- 1-64	1- 1-65	13.6823	[3] [4] 15.2025	RI64-102.
R164-805	F. A. Callery, Inc., et al., 400 Bank of the Southwest Building, Houston, Texas, 77002.	8	6	El Paso Natural Gas Co. (Pecos Valley Field, Pecos County, Tex.) (R.R. Dist. No. 8) (Permian Basin Area).	1,435	6-10-64	[2] 8- 1-64	1- 1-65	[11] 15.7092	[3] [4] [11] 16.7227	RI60-395.
R164-806	Sun Oil Co., 1608 Walnut Street, Philadelphia, Pa., 19103, Attn: C. E. Webber.	58	17	El Paso Natural Gxs Co. (Jalmat Field, et al., Lea County, N. Mex.) (Permian Basin Area).	5,040 182	6-11-64	[2] 8- 1-64	1- 1-65	[7] [12] 15.6238 [7] [13] 15.1735	[3] [4] [7] [12] 16.6318 [3] [4] [7] [13] 16.1815	RI64-15. RI64-15.
R164-807	R. H. Holland, First National Bank Building, Perryton, Tex.	1	1	Natural Gas Pipeline Co. of America (Southeast Boyd Area, Beaver County, Okla.) (Panhandle Area.)	77	6- 8-64	[14] 7- 9-64	12-9 -64	[15] 16.0	[3] [4] [15] 17.0	
R164-808	Panhandle Producing Co., 2202 Alamo National Building, San Antonio, Tex.	1	17	Eva N. Glass, et al. (A. P. Yake Lease, West Panhandle Field, Hutchinson County, Tex.) (R.R. Dist. No. 10).	2,160	6-15-64	[16] 7-16-64	12-16-64	[15] 8.0	[4] [17] [18] 11.0	
R164-809	The Atlantic Refining Co., P.O. Box 2819, Dallas 21, Tex.	158	9	Tennessee Gas Transmission Co. Co. (West Delta Area) (Offshore Louisiana).	30,896	6-10-64	[14] 7-11-64	12-11-64	[18] [21] [22] 19.5	[18] [19] [20] [22] 20.0	
	The Atlantic Refining Co.	185	15	Tennessee Gas Transmission Co. (East and West Cameron and Vermilion Areas) (Offshore Louisiana).	54,678	6-10-64	[14] 7-11-64	12-11-64	[15] [21] 18.5	[19] [20] 19.0	

[1] Contractually provided effective date.
[2] Periodic rate increase.
[3] Pressure base is 14.65 psia.
[4] Includes partial reimbursement for full 2.55 percent New Mexico Emergency School Tax.
[5] Subject to reduction of 0.4467 cent per Mcf for compression of low pressure gas (below 900 psig).
[6] Includes partial reimbursement for 0.55 percent increase in New Mexico Emergency School Tax.
[7] For high pressure gas delivered into 900 psig gathering system.
[8] Rate shown in the suspension order (Docket No. RI60-101) as 13.68825 cents per Mcf, which is incorrect.
[9] For low pressure gas delivered into low pressure casinghead gas gathering system.
[10] Subject to reduction of 0.5 cent per Mcf for compression of low pressure gas (below 650 psig).
[11] For gas not requiring compression.
[12] For gas requiring compression (buyer compresses and the charge is 0.4467 cent per Mcf).
[13] The stated effective date is the first day after expiration of the required statutory notice.
[14] Subject to downward Btu adjustment.
[15] The stated effective date is the effective date requested by Respondent.
[16] Renegotiated rate increase.
[17] Dry but sour gas. Agreement of May 7, 1964, providing for the increase states that the 11.0 cents per Mcf rate shall apply only to dry gas.
[18] Increase permitted by settlement offer approved by Commission order issued December 21, 1962, in Docket Nos. G-11024, et al.
[19] Pressure base is 15.025 psia.
[20] Rate is the result of settlement offer approved by Commission order issued December 21, 1962, in Docket Nos. G-11024, et al.
[21] Rate is inclusive of reimbursement for Louisiana State Taxes and for 1.0 cent per Mcf escrow payment by buyer for properties on which such taxes are not paid pending determination of the States' jurisdiction.

R. H. Holland requests an effective date of July 7, 1964, and The Atlantic Refining Company (Atlantic) requests an effective date of May 1, 1964, for their proposed rate increases. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for the aforementioned producers' rate filings and such requests are denied.

Sunray DX Oil Company's (Sunray) proposed increased rates (contained in Supplements Nos. 10, 6, 6, and 9 to Sunray's FPC Gas Rate Schedules Nos. 62, 101, 142, and 64, respectively) reflect partial reimbursement for the full 2.55 percent New Mexico Oil and Gas Emergency School Tax which was increased from 2.0 percent to 2.55 percent on April 1, 1963. The buyer, El Paso Natural Gas Company (El Paso), has protested the rate increases filed by Sunray. El Paso questions the right of Sunray under the tax reimbursement clauses to file rate increases reflecting tax reimbursement computed on the basis of an increase in tax rate by the New Mexico Legislature in excess of 0.55 percent. While El Paso concedes that the New Mexico tax legislation effected a higher tax rate of at least 0.55 percent, they claim there is controversy as to whether or not the new legislation effected an increased tax rate in excess of 0.55 percent. Under the circumstances, we shall provide that the hearing provided for herein for Sunray shall concern itself with the contractual basis for the producer's rate filings which El Paso has protested, as well as the statutory lawfulness of the increased rates contained in the proposed supplements.

Panhandle Producing Company's (Panhandle) proposed renegotiated rate increase (from 8.0 cents to 11.0 cents per Mcf at 14.65 psia) is for wellhead gas being sold to a gasoline plant owned by Eva N. Glass, et al. (Glass).[2] The residue gas, after processing, is resold at the plant outlet to Colorado Interstate Gas Company in the West Panhandle Field, Hutchinson County, Texas. We consider the area rate ceiling to be appli-

[2] Panhandle owns 22 percent of the gasoline plant and is one of the et al parties to the Colorado Interstate Gas Company sale.

cable to the sales of residue gas by Glass after processing. Accordingly, Panhandle's proposed increased rate, although not in excess of the increased ceiling for pipeline quality gas for Texas Railroad District No. 10 as set forth in the Commission's Statement of General Policy No. 61–1, as amended, should be suspended because the sales related thereto are considered to be for nonpipeline quality gas. Panhandle's proposed rate filing is also suspended because Panhandle is affiliated with the buyer.

Atlantic's proposed rate increases are submitted pursuant to Atlantic's offer of settlement approved by the Commission's order issued December 21, 1962, in Docket Nos. G–11024, et al., wherein Atlantic was granted the right to file for a 0.5 cent per Mcf increase sufficiently in advance of November 1, 1964, so that such rate change could become effective on that date, assuming the rate change would be suspended for the maximum period permitted by law. The proposed changes, however, were not filed sufficiently in advance to allow them to become effective November 1, 1964, after a full 5-month suspension period, as contemplated in the settlement. Under the circumstances, Atlantic's proposed rate increases are suspended for five months from July 11, 1964, the date of expiration of the statutory notice.

With the exception of the sale made by Panhandle, all of the proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61–1, as amended (18 CFR Ch. I, Part 2, § 2.56).

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the contractual basis for Sunray's proposed rate filings which El Paso has protested, as well as hearings as to the statutory lawfulness of the increased rates and charges contained in all of the producers' rate filings, and that the above-designated rate supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the contractual basis for Sunray's proposed rate filings which El Paso has protested, and the statutory lawfulness of the rates and charges contained in all of the producers' proposed rate supplements.

(B) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date suspended until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure [18 CFR 1.8 and 1.37(f)] on or before August 19, 1964.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 64–6856; Filed, July 10, 1964; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

VALLEY BANCORPORATION

Notice of Application for Approval of Acquisition of Shares of a Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(2)), by Valley Bancorporation, which is a bank holding company located in Appleton, Wisconsin, for the prior approval of the Board of the acquisition by Applicant of 80 percent or more of the voting shares of Sherwood State Bank, Sherwood, Wisconsin.

In determining whether to approve an application submitted pursuant to section 3(a)(2) of the Bank Holding Company Act, the Board is required by that Act to take into consideration the following factors: (1) The financial history and condition of the company and the bank concerned; (2) their prospects; (3) the character of their management; (4) the convenience, needs, and welfare of the communities and the area concerned; and (5) whether or not the effect of such acquisition would be to expand the size or extent of the bank holding company system involved beyond limits consistent with adequate and sound banking, the public interest, and the preservation of competition in the field of banking.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., 20551.

Dated at Washington, D.C., this 6th day of July 1964.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 64–6891; Filed, July 10, 1964; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 7–2382, 7–2384]

COMMONWEALTH OIL REFINING CO. INC. AND OCCIDENTAL PETROLEUM CORP.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

JULY 7, 1964.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(2) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

Commonwealth Oil Refining Company Inc. ---------- File 7–2382
Occidental Petroleum Corporation ---------- File 7–2384

Upon receipt of a request, on or before July 23, 1964, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 64–6910; Filed, July 10, 1964; 8:47 a.m.]

[File No. 7–2383]

COMMUNICATIONS SATELLITE CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JULY 7, 1964.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with

the Securities and Exchange Commission pursuant to section 12(f)(2) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company which has filed a Form 10 application to register the stock on several national securities exchanges. The order granting unlisted trading privileges will not be granted unless and until the security has become duly listed, registered and admitted to trading on a national securities exchange.

Communications Satellite Corporation	File 7-2383

Upon receipt of a request, on or before July 23, 1964 from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 64-6911; Filed, July 10, 1964; 8:47 a.m.]

[File Nos. 31-679, 31-678]

CONTINENTAL CAN COMPANY, INC., AND COX NEWSPRINT, INC.

Notice of Filing of Applications for Exemption

JULY 7, 1964.

Notice is hereby given that Continental Can Company, Inc. ("Continental"), 633 Third Avenue, New York 17, New York, and Cox Newsprint, Inc. ("Cox"), c/o Dayton Newspapers, Inc., Dayton, Ohio, a nonaffiliated company, have filed applications with this Commission pursuant to section 3(a)(3) of the Public Utility Holding Company Act of 1935 ("Act"), seeking exemption of each applicant as a holding company, and of its subsidiary company or companies as such, from the provisions of the Act. As the basis for the requested exemptions each applicant asserts that it is primarily engaged in a business other than that of a public utility company and is only incidentally a holding company.

All interested persons are referred to the applications on file at the office of the Commission, for a description of the applicants, the nature of their businesses and operations, and a statement of the facts in support of the applications, which are summarized below.

Continental, a New York corporation, is engaged directly and through subsidiary companies in the manufacture and sale of packaging products and in related operations, which businesses are carried on extensively in the United States and in foreign countries. Among the properties owned by Continental is a pulp and paper mill near Augusta, Georgia, together with adjoining facilities for the generation of electricity and steam which is substantially all used by Continental. At December 31, 1963, Continental's consolidated assets, less applicable reserves, amounted to $811,888,000; for the year then ended, its consolidated net sales and operating revenues amounted to $1,154,024,000, and its net earnings to $40,112,000.

Cox, a Georgia corporation, was recently organized for the purpose of constructing a newsprint mill, on a site adjacent to that of Continental's pulp and paper plant, at an estimated cost of $22,000,000. Upon completion of the mill, scheduled for 1966, its newsprint output will be sold to several newspaper publishing companies in the James M. Cox chain of newspaper, broadcasting and related businesses. Cox estimates that by 1968, when the newsprint mill is expected to attain full production, its annual sales will approximate $16,200,000. The voting stocks of Cox will be owned by Dayton Newspapers, Inc., Atlanta Newspapers, Inc. (both being constituents of the James M. Cox chain), and by certain members of the Cox family.

For the purpose of furnishing the electric and steam energy requirements of both the Cox mill and Continental's pulp mill, Continental and Cox have caused to be incorporated, under the laws of the State of New York, Peachtree Generating Corp. ("Peachtree"), which will be jointly controlled by them. Continental will undertake a construction program whereby it will expand substantially its presently owned electric and steam generating facilities at an estimated cash outlay of $11,300,000, for which it will be reimbursed from time to time during the construction period from the proceeds of borrowings to be made by Peachtree as set forth below. Upon completion of such construction, scheduled for 1966, Continental will transfer the generating facilities, as so expanded, to Peachtree for a cash consideration equal to the then book value of the generating facilities presently owned by Continental, estimated at $8,700,000.

To provide Peachtree with the necessary funds to acquire the expanded generating facilities of Continental, Peachtree will issue and sell, to institutional investors, $3,500,000 principal amount of 4½ percent notes due in 1970 and $16,500,000 principal amount of 4¾ percent notes due in 1988. Upon completion of the generating plant, Peachtree's capitalization will consist of such $20,000,000 long term notes plus $1,000,000 aggregate par value of common stock to be purchased for cash at par by Continental and Cox. The common stock will be divided into 5,200 shares of $100 par value Class A voting stock, to be owned 50 percent each by Continental and Cox; and 4,800 shares of non-voting $100 par value Class B stock to be owned by Continental.

Under a Power Contract to be entered into among the parties Continental and Cox, in consideration of their respective takes of Peachtree's electric and steam output, will make payments sufficient in the aggregate to cover Peachtree's fixed and variable costs, including interest expense and payments of principal on Peachtree's long term debt, and to provide a reasonable return on Peachtree's capital investment. Such payments by Continental and Cox will constitute all of Peachtree's revenues, and are estimated at $4,550,000 annually through 1970 and $4,175,000 annually thereafter through 1988. For the years prior to 1970, it is estimated that the payments in respect of Peachtree's fixed and variable costs (which are required to be made regardless of whether or not electricity or steam is actually received) will be in the proportion of about 62 percent by Continental and 38 percent by Cox.

Notice is further given that any interested person may, on or before August 3, 1964, request in writing that a hearing be held in respect of either application, or both, stating the nature of his interest, the reasons for the request, and the issues of fact or law which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon either or both of the applicants at the above-noted addresses, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed contemporaneously with the request. At any time after said date the applications, or either of them, as filed or as they may be amended, may be granted or the Commission may take such other action as it may deem appropriate.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 64-6912; Filed, July 10, 1964; 8:47 a.m.]

[File No. 24SF-3174]

GUARDIAN CONSULTANTS AND MANAGEMENT, INC.

Notice and Order for Hearing

JULY 7, 1964.

I. Guardian Consultants and Management, Inc., 223 Fremont Street, Las Vegas, Nevada (issuer), a Nevada corporation, filed with the Commission on October 3, 1963, a notification on Form 1-A and an offering circular, relating to an offering of 210,000 shares of its Class A par value $1.00 common stock at $1.00 per share and 42,000 shares of its Class B par value $0.20 common stock at $0.20 per share, for an aggregate public offer-

ing price of $218,400, for the purpose of obtaining an examption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder. The offering commenced on or about December 2, 1963, with an offering circular of the same date, and has not been completed.

II. The Commission, on June 4, 1964, issued an order pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, temporarily suspending the issuer's exemption under Regulation A, and affording to any person having any interest therein an opportunity to request a hearing. A written request for a hearing has been received by the Commission.

The Commission deems it necessary and appropriate that a hearing be held for the purpose of determining whether it should vacate the temporary suspension order or enter an order of permanent suspension in this matter.

It is hereby ordered, Pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, that a hearing be held at 10:00 a.m., August 7, 1964, at the Civil Service Examination Room, Room 5, U.S. Courthouse, Las Vegas, Nevada, with respect to the matters set forth in section II of the Commission's order dated June 4, 1964, which temporarily suspended the Regulation A exemption of Guardian Consultants and Management, Inc., without prejudice, however, to the specification of additional issues which may be presented in these proceedings.

III. *It is further ordered,* That Warren E. Blair, or any other officer or officers of the Commission designated by it for that purpose, shall preside at the hearing; that any officer or officers so designated to preside at any such hearing are hereby authorized to exercise all the powers granted to the Commission under sections 19(b), 21 and 22(c) of the Securties Act of 1933, as amended, and to hearing officers under the Commission's rules of practice.

It is further ordered, that the Secretary of the Commission shall serve a copy of this order by registered mail on Guardian Consultants and Management, Inc., and that notice of the entering of this order shall be given to all persons by general release of the Commission and by publication in the FEDERAL REGISTER. Any person who desires to be heard or otherwise wishes to participate in the hearing shall file with the Commission on or before August 5, 1964, a request relative thereto as provided in Rule 9(c) of the Commission's rules of practice.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 64-6913; Filed, July 10, 1964; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR FOR RELIEF

JULY 8, 1964.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 39120: *Soybean cake or meal to points in southern territory.* Filed by Southwestern Freight Bureau, agent (No. B-8564), for interested rail carriers. Rates on soybean cake or meal, in carloads, from points in Arkansas and Missouri, to points in southern territory.

Grounds for relief: Carrier competition.

Tariffs: Supplements 17 and 219 to Southwestern Freight Bureau, agent, tariffs I.C.C. 4381 and 4000, respectively.

FSA No. 39121: *Anhydrous ammonia from Don and Pocatello, Idaho.* Filed by Western Trunk Line Committee, agent (No. A-2365), for interested rail carriers. Rates on anhydrous ammonia, in tank carloads, from Don and Pocatello, Idaho, to points in western trunkline territory.

Grounds for relief: Market competition.

Tariff: Supplement 95 to Western Trunk Line Committee, agent, tariff I.C.C. A-4411.

FSA No. 39122: *Liquid caustic soda from Geismar, La., to Enka, N.C.* Filed by O. W. South, Jr., agent (No. A-4534), for interested rail carriers. Rates on liquid caustic soda, in tank carloads, from Geismar, La., to Enka, N.C.

Grounds for relief: Market competition.

Tariff: Supplement 22 to Southern Freight Association, agent, tariff I.C.C. S-397.

FSA No. 39123: *Window glass to points in Florida.* Filed by Southwestern Freight Bureau, agent (No. B-8565), for interested rail carriers. Rates on window glass, other than plate, as described in the application, in carloads, from Laredo, Tex. (imported from Mexico), to points in Florida.

Grounds for relief: Carrier competition.

Tariff: Supplement 65 to Southwestern Freight Bureau, agent, tariff I.C.C. 4414.

FSA No. 39124: *Liquefied chlorine gas to Franklin, Va.* Filed by Traffic Executive Association—Eastern Railroads, agent (E. R. No. 2727), for interested rail carriers. Rates on liquefied chlorine gas, in tank carloads, from Edgewood, Md., also Grasselli and Newark, N.J., to Franklin, Va.

Grounds for relief: Market competition.

Tariff: Supplement 58 to Traffic Executive Association—Eastern Railroads, agent, tariff I.C.C. C-334.

FSA No. 39125: *Liquid caustic soda to Westover, Ga.* Filed by Traffic Executive Association—Eastern Railroads, agent (E. R. No. 2729), for interested rail carriers. Rates on liquid caustic soda, in tank carloads, from specified points in Michigan, New York, Ohio, and West Virginia, to Westover, Ga.

Grounds for relief: Market competition.

Tariffs: Supplements 135 and 58 to Traffic Executive Association—Eastern Railroads, agent, tariffs I.C.C. C-102 and C-334, respectively.

FSA No. 39126: *Sand from Dickason Pit, Ind.* Filed by Illinois Freight Association, agent (No. 256), for and on behalf of Chicago & Eastern Illinois Railroad Company. Rates on sand (bank, river, or torpedo), in carloads from Dickason Pit, Ind., to Bonnie and Ina, Ill.

Grounds for relief: Motortruck competition.

Tariff: Supplement 40 to Chicago & Eastern Illinois Railroad Company tariff I.C.C. 330.

FSA No. 39127: *Gravel from Dickason Pit, Ind.* Filed by Illinois Freight Association, agent (No. 257), for and on behalf of Chicago & Eastern Illinois Railroad Company. Rates on gravel, in carloads, from Dickason Pit, Ind., to Bonnie and Ina, Ill.

Grounds for relief: Motortruck competition.

Tariff: Supplement 40 to Chicago & Eastern Illinois Railroad Company tariff I.C.C. 330.

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 64-6903; Filed, July 10, 1964; 8:47 a.m.]

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