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Washington, Saturday, August 9, 1958

TITLE 3—THE PRESIDENT

PROCLAMATION 3253

FIRE PREVENTION WEEK, 1958

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS fire-prevention practices by the American people can avert much human suffering and save great loss of property; and

WHEREAS each citizen should contribute wholeheartedly to effective fire-prevention work urgently needed in every community of our land:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby designate the week beginning October 5, 1958, as Fire Prevention Week.

I call upon the people to promote programs for the prevention and control of fires; and I urge State and local governments, the American National Red Cross, the Chamber of Commerce of the United States, and business, labor, and farm organizations, as well as schools, civic groups, and public-information agencies, to share actively in observing Fire Prevention Week. I also direct the appropriate agencies of the Federal Government to assist in this national effort to reduce the loss of life and property resulting from fires.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this sixth day of August in the year of our Lord nineteen hundred and [SEAL] fifty-eight, and of the Independence of the United States of America the one hundred and eighty-third.

DWIGHT D. EISENHOWER

By the President:

CHRISTIAN A. HERTER,
Acting Secretary of State.

[F. R. Doc. 58-6487; Filed, Aug. 8, 1958; 12:15 p. m.]

EXECUTIVE ORDER 10777

AMENDING EXECUTIVE ORDER NO. 10758[1] TO INCREASE THE MEMBERSHIP OF THE CAREER EXECUTIVE BOARD

By virtue of the authority vested in me by the laws of the United States, including section 1753 of the Revised Statutes (5 U. S. C. 631) and the Civil Service Act of January 16, 1883 (22 Stat. 403), and as President of the United States, it is ordered as follows:

Section 2 of Executive Order No. 10758 of March 4, 1958 (23 F. R. 1589), entitled "Establishing a Career Executive Program within the Civil Service System," is hereby amended to read as follows:

"SEC. 2. *Career Executive Board.* There is hereby established the Career Executive Board, hereinafter referred to as the Board, which shall be composed of seven members. Four of the members shall be appointed by the President from private life and each of three of the members shall be a representative of an executive agency in consonance with section 214 of the Independent Offices Appropriation Act, 1946, approved May 3, 1945 (59 Stat. 134; 31 U. S. C. 691). One of the agencies so represented shall be the Commission and the other two shall be such executive agencies, other than the Commission, as the President may from time to time designate. Not more than four members of the Board shall be adherents of the same political party. The Chairman of the Board shall be designated from time to time by the President from among the members of the Board."

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
August 6, 1958.

[F. R. Doc. 58-6438; Filed, Aug. 7, 1958; 1:49 p. m.]

[1] 23 F. R. 1589.

CONTENTS

THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CONTENTS—Continued

CONTENTS—Continued

CONTENTS—Continued

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

RULES AND REGULATIONS

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter III—Foreign and Territorial Compensation

[Dept. Reg. 108.370]

PART 325—ADDITIONAL COMPENSATION IN FOREIGN AREAS

DESIGNATION OF DIFFERENTIAL POSTS

Section 325.11 *Designation of differential posts* is amended as follows, effective on the dates indicated:

1. Effective as of the beginning of the first pay period following August 9, 1958, paragraph (b) is amended by the deletion of the following:

Philippines, all posts except Angeles, Baguio City, Cavite (including Sangley Point), Manila, San Miguel (Zambales), and Subic Bay (including Cubi Point).

2. Effective as of 12 o'clock midnight, July 14, 1958, paragraph (c) is amended by the deletion of the following:

Baghdad, Iraq.

3. Effective as of the beginning of the first pay period following August 9, 1958, paragraph (c) is amended by the deletion of the following:

Angeles, Philippines.
Cavite (including Sangley Point), Philippines.
Manila, Philippines.
Okuma, Okinawa Island, Ryukyus.

4. Effective as of the beginning of the first pay period following August 9, 1958, paragraph (d) is amended by the deletion of the following:

Okinawa Island, Ryukyus, all posts except Okuma.

5. Effective as of 12:01 a. m. July 15, 1958, paragraph (a) is amended by the addition of the following:

Baghdad, Iraq.

6. Effective as of the beginning of the first pay period following August 9, 1958, paragraph (b) is amended by the addition of the following:

Philippines, all posts except Angeles, Baguio City, Cavite (including Sangley Point), Camp O'Donnell, Cebu, Manila, San Miguel (Zambales), and Subic Bay (including Cubi Point).

7. Effective as of the beginning of the first pay period following August 9, 1958, paragraph (c) is amended by the addition of the following:

Camp O'Donnell, Philippines.
Cebu, Philippines.

8. Effective as of the beginning of the first pay period following August 9, 1958, paragraph (d) is amended by the addition of the following:

Angeles, Philippines.
Cavite (including Sangley Point), Philippines.
Manila, Philippines.
Okuma, Okinawa Island, Ryukyus.

(Sec. 102, Part I, E. O. 10000, 13 F. R. 5453, 3 CFR, 1948 Supp.)

Dated: July 31, 1958.

For the Secretary of State.

W. K. SCOTT,
Assistant Secretary.

[F. R. Doc. 58-6373; Filed, Aug. 8, 1958; 8:47 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Loans, Purchases, and Other Operations

[1958 C. C. C. Grain Price Support Bulletin 1, Supp. 2, Wheat]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1958-CROP WHEAT LOAN AND PURCHASE AGREEMENT PROGRAM

Correction

In Federal Register Document 58-5761, published at page 5764 in the issue for Thursday, July 31, 1958, the following changes should be made:

1. In the tables under § 421.3043 (d) (2), the rate for St. Clair County, Michigan, should read "1.85".

2. In the 13th line of § 421.3043 (d) (4), the word "Sate" should read "State".

Subchapter C—Export Programs

[Amdt. 2]

PART 484—FEED GRAINS

SUBPART—FEED GRAIN EXPORT PROGRAM PAYMENT IN KIND (GR-368)

TERMS AND CONDITIONS

The Terms and Conditions of the Feed Grain Export Program Payment in Kind (GR-368) (23 F. R. 3226) (23 F. R. 3313) (23 F. R. 4998) are further amended as follows:

Section 484.105 (e) is amended by deleting the first sentence thereof and substituting the following: "Feed grains exported under this program must be exported within one of the three periods as specified in the offer submitted by the exporter."

Section 484.106 (b) (vii) is amended to read as follows:

(vii) The period within which the feed grain will be exported, which shall be one of the three periods described in § 484.105 (e).

Section 484.116 (a) (1) is amended by adding at the end thereof the following sentences: "If export is by water from a Canadian port, the ocean bill of lading, or loading tally sheet, or other acceptable similar document must be further supported by documentary evidence which establishes to the satisfaction of CCC that the grain so represented was grain produced in the United States and that the identity of the grain was maintained from its original shipment from continental United States through its loading aboard the vessel identified in the ocean bill of lading. Such documentary evidence will normally be, (i) a non-negotiable copy of the bill(s) of lading signed by an agent of the carrier and other document(s), including a copy of the official loading weight certificates and grain inspection certificates referred to in subparagraph (3) of this paragraph covering the grain moved from the United States to Canada, and (ii) properly signed or certified true copies of the documents, permits, or other forms that properly evidence the maintenance of the identity of the grain through customs bond, or otherwise, during the storage or loading of the grain in Canada, and on to the vessel identified in the ocean bill of lading.

Section 484.151 is amended to specifically include in the definition of "export and exportation" the shipment or transshipment of United States grain from Canadian elevators so that the complete section will read as follows:

§ 484.151 *Export and exportation.* "Export" and "exportation" means, except as hereinafter provided, a shipment of grain that originated in the continental United States and that is ultimately directed to a destination other than Alaska, Hawaii or Puerto Rico. This definition includes a shipment of grain from a point in the United States with transshipment from a Canadian port to a destination other than the Continental United States, Alaska, Hawaii, or Puerto Rico and with the handling and storage performed in such manner as to preserve the United States identity of the grain. A shipment of feed grain shall be deemed to have been exported on the date which appears on the applicable on board export vessel bill of lading, which in the case of Canadian port transshipment will be the on board ship ocean bill of lading issued at the Canadian port, or if shipment from the continental United States is by truck or rail, the date the shipment clears United States Customs. If feed grain is lost, destroyed, or damaged after loading on board an export ship, exportation shall be deemed to have been made as of the date of the on board ship ocean bill of lading or the latest date appearing on the loading tally sheet or similar documents if the loss, destruction or damage occurs subsequent to loading aboard ship but prior to issuance of on board ship ocean bill of lading: *Provided,* That if the "lost" or "damaged" grain remains in the continental United States it shall be considered as reentered grain and shall be subject to the provisions of § 481.108 (d).

(Sec. 5, 62 Stat. 1072; 15 U. S. C. 714c. Interpret or apply sec. 407, 63 Stat. 1051, as amended, sec. 201, 70 Stat. 1088; 7 U. S. C. 1427, 1851)

Issued this 6th day of August 1958.

[SEAL] CLARENCE L. MILLER,
Acting Executive Vice President, Commodity Credit Corporation.

[F. R. Doc. 58-5908; Filed, Aug. 7, 1958; 12:30 p. m.]

TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Valencia Orange Reg. 147, Amdt. 1]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

Findings. 1. Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922), 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 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendations 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 by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under 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 (60 Stat. 237; 5 U. S. C. 1001 et seq.) 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 § 922.447 (Valencia Orange Regulation 147, 23 F. R. 5863) are hereby amended to read as follows:

(ii) District 2: 577,500 cartons.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 6, 1958.

[SEAL] FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 58-6377; Filed, Aug. 8, 1958; 8:47 a. m.]

[Valencia Orange Reg. 148]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

§ 922.448 *Valencia Orange Regulation 148*—(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922), 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 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendations 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 by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under 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 (60 Stat. 237; 5 U. S. C. 1001 et seq.) 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 August 7, 1958.

(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., August 10, 1958, and ending at 12:01 a. m., P. s. t., August 17, 1958, are hereby fixed as follows:

(i) District 1: Unlimited movement;
(ii) District 2: 554,400 cartons;
(iii) District 3: Unlimited movement.

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

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 8, 1958.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 58-6432; Filed, Aug. 8, 1958; 11:59 a. m.]

[Lemon Reg. 750, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF HANDLING

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), 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 et seq.; 68 Stat. 906, 1047), 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 amendment until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) 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 Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b) (1) (ii) of § 953.857 (Lemon Regulation 750; 23 F. R. 5863) are hereby amended to read as follows:

(ii) District 2: 325,500 cartons.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 6, 1958.

[SEAL] FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 58-6376; Filed, Aug. 8, 1958; 8:47 a. m.]

[Lemon Reg. 751]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF HANDLING

§ 953.858 *Lemon Regulation 751*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), 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 et seq.; 68 Stat. 906, 1047), 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 (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based becomes available and the time when this section must become effective in order to effectuate the de-

clared 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 August 6, 1958.

(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., August 10, 1958, and ending at 12:01 a. m., P. s. t., August 17, 1958, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 325,500 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.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 7, 1958.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 58-6462; Filed, Aug. 8, 1958; 9:13 a. m.]

PART 958—IRISH POTATOES GROWN IN COLORADO

APPROVAL OF EXPENSES AND RATE OF ASSESSMENT

Notice of rule making regarding proposed expenses and rate of assessment, to be made effective under Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958), regulating the handling of Irish potatoes grown in the State of Colorado was published in the FEDERAL REGISTER, July 4, 1958 (23 F. R. 5122). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.). After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, which proposals were adopted and submitted for approval by the area committee for Area No. 2, established pursuant to said marketing agreement and order, it is hereby found and determined that:

§ 958.227 *Expenses and rate of assessment.* (a) The reasonable expenses that are likely to be incurred by the area committee for Area No. 2, established pursuant to Marketing Agreement No. 97 and this part to enable such committee to perform its functions pursuant to the provisions of aforesaid marketing agreement and order during the fiscal period ending May 31, 1959, will amount to $3,024.00.

(b) The rate of assessment to be paid by each handler, pursuant to Marketing Agreement No. 97 and this part, shall be one-tenth of one cent ($0.001) per hundredweight of potatoes handled by him as the first handler thereof during said fiscal period.

(c) The terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97 and this part.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 6, 1958, to become effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 58-6378; Filed, Aug. 8, 1958; 8:47 a. m.]

TITLE 12—BANKS AND BANKING

Chapter II—Federal Reserve System

Subchapter A—Board of Governors of the Federal Reserve System

[Reg. T, Supp.]

PART 220—CREDIT BY BROKERS, DEALERS AND MEMBERS OF NATIONAL SECURITIES EXCHANGES

MAXIMUM LOAN VALUE; MARGIN REQUIRED FOR SHORT SALES

1. Effective August 5, 1958, § 220.8 (the Supplement to Regulation T) is hereby amended to read as follows:

§ 220.8 *Supplement*—(a) *Maximum loan value for general accounts.* The maximum loan value of a registered security (other than an exempted security) in a general account, subject to § 220.3, shall be 30 percent of its current market value.

(b) *Margin required for short sales in general accounts.* The amount to be included in the adjusted debit balance of a general account, pursuant to § 220.3 (d) (3), as margin required for short sales of securities (other than exempted securities) shall be 70 percent of the current market value of each such security.

2. (a) This amendment is issued pursuant to the Securities Exchange Act of 1934, particularly section 7 thereof. Its purpose is to change loan values and margin requirements in order to carry out the purposes of the act.

(b) The notice and public procedure described in sections 4 (a) and 4 (b) of the Administrative Procedure Act, and the thirty day prior publication described in section 4 (c) of such act, are impracticable, unnecessary, and contrary to the public interest in connection with this amendment for the reasons and good cause found as stated in § 262.2 (e) of this chapter.

(Sec. 23, 48 Stat. 901, as amended; 15 U. S. C. 78w. Interprets or applies secs. 3, 7, 8, 17, 23, 48 Stat. 882, 886, 888, 897, 901, as amended; 15 U. S. C. 78c, 78g, 78h, 78q, 78w)

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] KENNETH A. KENYON,
Assistant Secretary.

[F. R. Doc. 58-6361; Filed, Aug. 8, 1958; 8:45 a. m.]

[Reg. U, Supp.]

PART 221—LOANS BY BANKS FOR PURPOSE OF PURCHASING OR CARRYING REGISTERED STOCKS

MAXIMUM LOAN VALUE OF STOCKS

1. Effective August 5, 1958, § 221.4 (the Supplement to Regulation U) is hereby amended to read as follows:

§ 221.4 *Maximum loan value of stocks.* For the purpose of § 221.1, the maximum loan value of any stock, whether or not registered on a national securities exchange, shall be 30 per cent of its current market value, as determined by any reasonable method.

2. (a) This amendment is issued pursuant to the Securities Exchange Act of 1934, particularly section 7 thereof. Its purpose is to change loan values in order to carry out the purposes of the act.

(b) The notice and public procedure described in sections 4 (a) and 4 (b) of the Administrative Procedure Act, and the thirty day prior publication described in section 4 (c) of such act, are impracticable, unnecessary, and contrary to the public interest in connection with this amendment for the reasons and good cause found as stated in § 262.2 (e) of this chapter.

(Sec. 23, 48 Stat. 901, as amended; 15 U. S. C. 78w. Interprets or applies secs. 3, 7, 17, 23, 48 Stat. 882, 886, 897, 901, as amended; 15 U. S. C. 78c, 78g, 78q, 78w)

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] KENNETH A. KENYON,
Assistant Secretary.

[F. R. Doc. 58-6362; Filed, Aug. 8, 1958; 8:46 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

PART 27—AIRCRAFT DISPATCHER CERTIFICATES

REVISION OF PART

Correction

In Federal Register Document 58-5966, published at page 5864 in the issue for Saturday, August 2, 1958, the following headnote should appear immediately preceding § 27.21: "GENERAL CERTIFICATE REQUIREMENTS".

Subchapter B—Economic Regulations

[Reg. ER-235]

PART 261—FILING OF AGREEMENTS

CONTRACTS OR AGREEMENTS BETWEEN AFFILIATED CARRIERS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 5th day of August 1958.

Section 412 (a) of the Civil Aeronautics Act of 1938, as amended, requires air carriers which are parties to certain contracts or agreements to file with the Board a copy of such contract or agreement. Part 261 of the Board's Economic Regulations contains the requirements governing the filing of the contracts or agreements fileable under section 412 (a). At the present time there is no requirement in Part 261 that air carriers submit specific information (other than that contained in the agreements themselves) either in support of or to facilitate the Board's review of such agreements. Such a requirement is necessary with respect to agreements between affiliated carriers because of the unique nature of such agreements.

A notice of proposed rule making was published in the FEDERAL REGISTER on January 4, 1958 (23 F. R. 89), and circulated to the industry as Economic Regulations Draft Release No. 89, dated December 27, 1957, which proposed to amend Part 261 to require that where an agreement between affiliated carriers is submitted for approval under section 412 of the act there shall be submitted an accompanying statement supporting the reasonableness of the financial provisions of the agreement.

The only comments on Draft Release No. 89 were submitted by Pan American World Airways, Inc. Pan American opposes the proposed regulation as an ineffective procedure and requests that any action thereon be deferred until after the completion of the investigation in Docket No. 8596 (PAA-Affiliates Investigation). After careful consideration of Pan American's comments, the Board finds that the arguments made by Pan American are unconvincing. It is the Board's position that current information submitted at the time of the filing of the agreement will permit the Board to conduct more effectively, and at an earlier date, a definite review of the financial terms of these particular agreements and to make a more timely final determination of the propriety of the agreements. Furthermore, the Board must reject the request that action on the proposed regulation be deferred inasmuch as the proposed regulation was designed, in part, to facilitate the Board's review of the various agreements on a uniform and current basis, without reserving such matters for consideration in rate-making proceedings or other proceedings which might be instituted. Conversely, the investigation in Docket No. 8596 is primarily directed toward agreements which have been entered into in the past, some of which may no longer be effective. The supposition that agreements involved in this investigation may be ultimately found to be in the public interest is no reason for the Board depriving itself of information which would permit a review of subsequent agreements of any carrier as they are filed, including those Pan-American-affiliate agreements which would otherwise not be processed until the pending proceeding has been decided.

Interested persons have been afforded the opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 261 of the Economic Regulations (14 CFR Part 261), effective September 9, 1958, as follows:

1. By adding a new § 261.8 to read as follows:

§ 261.8 *Contracts or agreements between affiliated carriers.* (a) Copies of contracts or agreements between a certificated air carrier and another air carrier, foreign air carrier or other carrier, affiliated therewith shall be accompanied by a detailed statement supporting the reasonableness of the financial provisions of the agreement. This statement shall set forth information covering the following matters:

(1) Why the contract or agreement was entered into between the affiliated carriers in lieu of the provision of the service by the receiving carrier for itself or the receipt of the service from a non-affiliated source.

(2) Whether the service could be obtained from a non-affiliated source, and, if so, at what price. (Provide appropriate data to support the answer, including any invitation or bid proposals.)

(3) The anticipated dollar volume during any fiscal year period.

(4) The basis for the particular charges contained in the contract or agreement.

(5) Supporting data showing the reasonableness of such charges, including data showing charges by other carriers for like services or by this carrier to unaffiliated carriers for like services.

(6) A description of the negotiations leading up to the contract or agreement and the determination of charges thereunder.

(7) The provision for renegotiation of the charges under the contractor agreement and, if present, the basis therefor.

(8) The persons primarily responsible for negotiating the contract or agreement on behalf of each party and the individuals who ultimately authorized it on behalf of each party.

(b) As used in this part, the word "affiliated" shall mean a relationship

(1) Within the meaning of section 5 (8) of the Interstate Commerce Act, as amended, referred to in sections 407 (e) and 408 (b) of the Civil Aeronautics Act of 1938, as amended, or

(2) Where the Board has found that one carrier, directly or indirectly, controls another carrier, or that one person, directly or indirectly, controls an air carrier and another carrier, or where proceedings have been instituted under section 408 to determine whether any such control relationship exists, no final determination having been reached in such proceedings, or

(3) Where one carrier, directly or indirectly, owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of the other carrier, or where a third person, directly or indirectly, owns, controls or holds with power to vote, 10 percent or more of the outstanding voting securities of an air carrier and another carrier.

(Sec. 205 (a), 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies secs. 407, 412, 415, 52 Stat. 1000, 1004, 49 U. S. C. 487, 492 and 495)

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR, *Acting Secretary.*

[F. R. Doc. 58-6350; Filed, Aug. 8, 1958; 8:45 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter G—Procurement

PART 590—GENERAL PROVISIONS

PART 591—PROCUREMENT BY FORMAL ADVERTISING

PART 592—PROCUREMENT BY NEGOTIATION

PART 596—CONTRACT CLAUSES

PART 598—PATENTS, COPYRIGHTS, AND TECHNICAL DATA

PART 599—BONDS AND INSURANCE

PART 600—FEDERAL, STATE AND LOCAL TAXES

PART 601—LABOR

MISCELLANEOUS AMENDMENTS

1. Revise §§ 590.609, 591.203, 591.405-2, 591.405-3 and 592.401 to read as follows:

§ 590.609 *Procurement outside the United States.* See § 1.609 of this title.

§ 591.203 *Office of Permanent Record*—(a) *Preaward transaction file.* (1) Each purchasing office or installation which initiates or effects procurement by formal advertising will maintain a master file for each procurement initiated. This file will contain the original or a certified copy of each paper related to the procurement, beginning with the procurement directive or other paper initiating the procurement. The purpose of the file is to provide a complete resume of the transaction prior to and including the award. This master file shall be

preserved in the office or installation which initiated the procurement unless responsibility for the file is transferred to another office, or retirement or destruction is authorized under the provisions of pertinent Army regulations.

(2) In the event the resulting contract or contracts are transferred to other offices or installations for administration, only those records that are necessary for the administration of the contract are required to be forwarded to the administering office or installation. The cover sheet for the contract administration file maintained by the office or installation administering the contract (paragraph (b) of this section) shall identify the master file and give the name of the installation where the contract was initiated and where all records not transferred are maintained. Original or authenticated copies of correspondence pertinent to the contract and all required determinations and findings with supporting data such as are involved in awards to other than low bidders, mistake in bid cases, preaward surveys, invitations for bids and abstracts of bids, etc., pertaining to a particular contract shall accompany such contract at all times.

(b) *Contract administration file.* Each purchasing office or installation which administers contracts awarded by formal advertising will maintain files which will provide a complete resume of the administration of each contract. These files need not be retained in a central location in the purchasing office or installation when it is administratively advantageous to maintain portions thereof on the site of performance. Unless these files are set up on an individual contract basis they must be so organized that they will provide an accurate and complete identification and cross-reference to related files.

(c) The policy and procedure for the organization and maintenance of all contract files are set forth in § 606.210 of this chapter.

(d) Contract files shall be retired or disposed of in accordance with the provisions of pertinent Army regulations.

§ 591.405–2 *Mistakes disclosed after opening and prior to award other than obvious or apparent mistakes of a clerical nature.* (a) Authority has been granted the delegates enumerated in § 2.405–2 (b) (1) of this title to make the determinations set forth in § 2.405–2 (a) of this title.

(b) Cases not encompassed by the delegation referred to in paragraph (a) of this section and those doubtful cases which the delegates elect to submit to higher authority for determination will be forwarded direct to the Deputy Chief of Staff for Logistics, Department of the Army, Attn: Chief, Contracts Branch (with copy to the Head of the Procuring Activity concerned), and shall include, in addition to the supporting data required, the contracting officer's statement of findings and recommendations as called for by § 2.405–2 (e) (5) of this title, in triplicate, as well as a clear statement that an award has not been made.

(c) Where it is known or apparent that resolution of the matter cannot be accomplished prior to expiration of the bid acceptance time, the contracting officer will seek appropriate extensions of bid acceptance periods from the bidder alleging the mistake and any other bidders whose bids are within the zone of consideration.

(d) Where circumstances require such prompt action as to preclude transmittal of the case by mail, contracting officers will use telegraphic, telephonic, or radio means of communicating with the appropriate higher authority, furnishing, so far as possible, the information called for by § 2.405–2 (e) of this title.

(e) Notice to contracting officers of determinations made by higher authority and instructions based thereon will be issued by the head of a technical service when so authorized, or by the Deputy Chief of Staff for Logistics (Chief, Contracts Branch), to the Head of the Procuring Activity, except that in the latter instance contracting officers may be notified direct in cases requiring expeditious action and the Head of the Procuring Activity notified simultaneously.

§ 591.405–3 *Disclosure of mistakes after award.* (a) Where a mistake in bid or proposal is alleged or disclosed after award, the case shall be forwarded through channels to the head of the procuring activity concerned and shall include the following information:

(1) The data listed in § 2.405–2 (e) (1) to (4) of this title;

(2) A copy of the quotation or proposal, submitted by the contractor, where the procurement was negotiated, in lieu of the invitation for bids specified in § 2.405–2 (e) (2) of this title;

(3) A copy of the contract and any change orders or supplemental agreements thereto; and

(4) A signed statement by the contracting officer (i) describing the supplies or services involved, (ii) specifying how and when the mistake was alleged or disclosed, (iii) summarizing the evidence submitted by the contractor and any additional evidence considered pertinent, (iv) stating, in cases where only one bid or proposal was received, the most recent contract price for the supplies or services involved, or in the absence of a recent contract for the item, the contracting officer's estimate of a fair price for the item, (v) setting forth his opinion whether a bona fide mistake was made and whether he was, or should have been, on constructive notice of any error in the bid or proposal prior to the award, together with the reasons for or data in support of such opinion (vi) setting forth his recommendation in the matter and the basis therefor, and (vii) disclosing the status of performance and payments under the contract including contemplated performance and payments, if applicable.

(b) Heads of procuring activities are authorized, without power of redelegation of such authority, to rescind or reform contracts provided that:

(1) In the case of a contract to be rescinded in its entirety, the original contract price does not exceed $500.

(2) In reforming a procurement contract, (i) a resultant deletion of an item from the contract does not reduce the original contract price by more than $500 or (ii) a resultant increase in price does not exceed $500, or the price of the next higher bid or proposal for the item of supplies or services concerned if such a higher bid or proposal was submitted:

(3) In reforming a sales contract, (i) a resultant deletion of an item from the contract does not reduce the original contract price by more than $500 or (ii) a resultant decrease in price does not exceed $500 or the price of the next lower bid or proposal for the item of supplies or services concerned if such a lower bid or proposal was submitted; and

(4) The Head of the Procuring Activity concerned finds that the evidence is clear and convincing that a mistake in bid or proposal was made by the contractor, that the mistake was mutual or that the contracting officer was or should have been on constructive notice of the error prior to award, and determines that the contract price should be increased in a procurement contract, or decreased in a sales contract, or that the contract or the item of supplies or services involved in the error should be rescinded.

§ 592.401 *Types of contracts.* In accordance with the basic policy set forth in § 3.401 of this title, the fixed price type contracts may be used only when the requirements of Subpart D, Part 3 of this title and this part and § 606.104 of this chapter have been satisfied. All negotiated contracts, other than firm fixed-price contracts, shall contain a provision which prohibits cost-plus-a-percentage-of-cost subcontracts. Appropriate contract clauses are set forth in §§ 7.203–8 and 7.150–7 of this title.

2. A new Subpart H is added to Part 592, as follows:

SUBPART H—PRICE NEGOTIATION POLICIES AND TECHNIQUES

Sec.

AUTHORITY: §§ 592.800 to 592.811 issued under sec. 3012, 70A Stat. 157; 10 U. S. C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314.

§ 592.800 *Scope of subpart.* See § 3.800 of this title.

§ 592.808 *Pricing techniques.* See §§ 3.808–1 to 3.808–6 of this title.

§ 592.808–50 *Recruitment costs.* Reasonableness of offeror's or contractors' costs of recruiting engineering and scientific personnel shall be determined on a case-by-case basis, taking into consideration all of the conditions bearing on the particular case, including the magnitude of the recruitment problems, the effectiveness of the control and administration exercised with respect to the formulation, direction and cost of recruitment programs and practices, and the effectiveness of the recruitment programs and practices themselves. In determining the reasonableness of recruitment costs, the following factors shall be considered:

(a) Evidence of effective budgetary control of recruitment costs;

(b) Evidence of effective administrative control and direction in the formulation and operation of recruitment programs;

(c) Evidence of other effective controls and reviews to detect and prevent indiscriminate, imprudent, and costly recruitment practices;

(d) Evidence that the size of the engineering and scientific staff recruited and maintained is in keeping with workload requirements;

(e) Evidence of effective anaylsis to determine the cause and effect of the rate of employee turnover;

(f) Evidence that payments of allowances to new and prospective employees are reasonable and governed by established policy;

(g) Evidence that salaries and fringe benefits including educational benefits, offered to new employees are reasonable and governed by established policy; and

(h) Evidence of violations of recruiting ethics in the form of proselyting.

§ 592.811 *Record of price negotiation.* The memorandum record of price negotiation shall be maintained in accordance with the procedures set forth in §§ 592.308 and 606.210 of this chapter.

3. Revise paragraph (c) (1) of § 596.103–12, revoke § 596.103–14, revise §§ 596.104–51 and 596.150–7, and revoke § 596.203–51, as follows:

§ 596.103–12 *Disputes.* * * *

(c) *Major oversea commands.* (1) the following Disputes clause shall be inserted in all contracts entered into by major oversea commands and to be performed outside the United States in lieu of the clause set forth in § 7.103–12 of this title.

DISPUTES

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreements shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. Within 30 days from the date of receipt of such copy, the Contractor may appeal by mailing or otherwise furnishing to the Contracting Officer a written appeal addressed to the Commanding General (----------[1] ----------), and the decision of the Commanding General (----------[1] ----------), or that of his duly authorized representative (other than the Contracting Officer under this contract) for the hearing of such appeals, shall unless determined by a court of competent jurisdiction to have been fraudulent, arbitrary, capricious, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence, be final and conclusive upon the parties thereto when the amount involved in the appeal is $50,000 or less: *Provided*, That if no appeal is taken, within the said 30 days, the decision of the Contracting Officer shall be final and conclusive. When the amount involved is more than $50,000 the decision of the Commanding General (----------[1] ----------) shall be subject to written appeal within 30 days after the receipt thereof by the Contractor to the Secretary of the Army and the decision of the Secretary or his duly authorized representative for the hearing of such appeals shall, unless determined by a court of competent jurisdiction to have been fraudulent, arbitrary, capricious, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence, be final and conclusive: *Provided*, That if no such further appeal is taken, within the said 30 days, the decision of the Commanding General (----------[1] ----------) or that of his duly authorized representative shall be final and conclusive. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with Contracting Officer's decision.

(b) This "Disputes" clause does not preclude consideration of questions of law in connection with decisions provided for in paragraph (a) above: *Provided*, That nothing in this contract shall be construed as making final decision of any administrative official, representative, or board on a question of law.

§ 596.103–14 *Buy American Act.* [Revoked.]

§ 596.104–51 *Marine risk.* The following clause may be used in contracts for chartering vessels for coastal, harbor, inland water or similar services.

MARINE RISKS

The owner shall assume all marine risks of whatever nature or kind, including all risks or liability for breach of law or statutes or for damage caused to other vessels, persons or property, except as otherwise provided herein. When official storm warnings have been issued or weather and water or other conditions render an operation unusually hazardous and the owner or master protests in writing to the Contracting Officer or his authorized representative against undertaking the operation but thereafter the Contracting Officer or his authorized representative orders him to perform the operation and he undertakes to do so and the vessel is damaged or lost as the proximate result of the unusual hazard protested against and not of the negligence of the owner, master or crew, the Government shall, at its discretion, repair the damage to the vessel or reimburse the owner for the cost of such repairs or for the loss of the vessel, to the extent not covered by insurance and within the limits of funds against which indemnification by the Government to the contractor for such loss or damage may lawfully be charged, but in no case in excess of the value of the vessel immediately preceding the incident causing the damage or loss; and shall, for a period not to exceed ---------- days (insert the number of days estimated to repair or replace the vessel), reimburse the owner, within the funds limitation as indicated above, for the actual expenses of stand-by-time, as determined by the Contracting Officer. The Contractor shall file a report of such damage or loss within three working days after the date of the incident or the date of the vessel's return to port, whichever is the later date. Failure to file such a report within the time specified shall constitute a waiver of liability of the Government for the damage to or loss of the vessel. Failure to agree to any findings or determinations made by the Contracting Officer hereunder shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

§ 596.150–7 *Cost-plus-a-percentage-of-cost subcontracting.* Pursuant to § 3.401 of this title and § 592.401 of this chapter, the following clause shall be included in all negotiated contracts, other than firm fixed-price contracts, unless the provisions of this clause are otherwise included in a clause prescribed by Subchapter A, Chapter I of this title:

COST-PLUS-A-PERCENTAGE-OF-COST SUBCONTRACTING

The contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

§ 596.203–51 *Cost-plus-a-percentage-of-cost contracting.* [Revoked.]

4. Sections 598.102–1, 598.102–2, 598.103–1, 598.107–2, 598.107–3, 598.107–4, and 598.107–5 are revised to read as follows:

§ 598.102–1 *Authorization and consent in contracts for supplies.* The use of the Authorization and Consent clause (§ 9.102–1 of this title) is optional in supply contracts of $5,000 and less, including purchase orders, but shall be included in supply contracts over $5,000, including construction work, except as provided in §§ 9.102 (b) and 9.102–2 of this title and § 598.102–2.

§ 598.102–2 *Authorization and consent in contracts for research or development.* The Authorization and Consent Clause (§ 9.102–2 of this title) shall be included in all contracts calling exclusively for research or development work, and may be otherwise included only in those contracts for both supplies and research or development work where the research or development work is the primary purpose of the contract. In all other contracts for both supplies and research or development work, the Authorization and Consent Clause (§ 9.102–1 of this title) shall be used in accordance with the provisions of § 598.102–1.

§ 598.103–1 *Patent indemnification in formally advertised contracts, commercial status predetermined.* (a) In supply contracts of $5,000 or more to be awarded as a result of formal advertising, the contracting officer shall make a determination prior to issuance of the invitation for bids whether the supplies to be procured (or such supplies apart from relatively minor modification to be made thereto) normally are, or have been sold or offered for sale by any supplier to the public in the commercial open market. If it is determined that the supplies are, or have been, sold or offered for sale, except as prohibited by § 9.103 of this title, the contract shall include the clause set forth in § 9.103–1 of this title.

(b) Any items to be excluded in accordance with § 9.103–1 (b) of this title shall be listed in detail rather than in general terms.

§ 598.107–2 *Contracts relating to atomic energy.* (a) Any provision to be incorporated into the Patent Rights clause which authorizes the contractor to retain license rights, or authorizes any deviation from the Patent Rights clause (§ 9.107–2 of this title) shall be forwarded through the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D. C., Attn: Chief, Contracts Branch, to the Chief, Patents Division, for referral to the U. S. Atomic Energy Commission for determination as

[1] Specify name of major oversea command concerned.

to whether the provision or deviation may be granted.

(b) Disclosures of inventions relating to atomic energy furnished by any contractor shall be forwarded to the Chief, Patents Division, for referral to the United States Atomic Energy Commission.

§ 598.107–3 *Patent license rights under product improvement programs or independent research programs.* See § 9.107–3 of this title.

§ 598.107–4 *Patent rights not to be obtained.* Procuring activities are not prohibited by § 9.107–4 of this title from accepting, on behalf of the Government any gratuitous and voluntary grant of patent license rights.

§ 598.107–5 *Contracts relating to civil defense.* The clause in § 9.107–5 of this title may be used, in lieu of paragraph (b) (1) of the clause set forth in § 9.107–1 of this title, in all contracts for experimental, developmental or research work relating primarily to supplies or services intended for the general public for Civil Defense purposes. This clause is particularly applicable for inclusion in contracts financed in whole or in part by the Federal Civil Defense Administration.

5. Revise §§ 599.450 and 599.501 to read as follows:

§ 599.450 *Work at Government installation.* A fixed-price contractor performing work at a Government installation shall be required to furnish evidence of Comprehensive General Liability and Automobile Liability insurance, in each instance for both bodily injury and property damage. Such evidence of insurance shall be furnished to the contracting officer and shall be in such limits as is deemed reasonable under the circumstances. In no event shall these limits be less than $5,000 per person, $10,000 per accident for bodily injury and $5,000 for property damage. Where the Financial Responsibility or Compulsory Insurance Law of the State in which the installation is located requires higher limits, the Automobile Liability insurance policy should provide for coverage of at least those limits.

§ 599.501 *Policy*—(a) *General.* The Government's interest in the insurance program of a cost-reimbursement type contractor relates primarily to the policies or self-insurance plans which provide coverage for Workmen's Compensation and Employees' Liability, General Liability, Automobile Liability, Aircraft Public and Passenger Liability, Fidelity Bonds, Group Insurance, Accident Insurance and Pensions.

(1) The insurance coverages required by §§ 10.501–1, 10.501–2, 10.501–3 and 10.501–4 (a) of this title and §§ 599.501–1, 599.501–2, 599.501–3, and 599.501–4 (a) are mandatory, unless the contractor is relieved by statute from liability or has a self-insurance program which meets the requirements of § 599.502.

(2) Additional types of insurance may be required by heads of procuring activities.

(3) Insurance coverages other than the types required in subparagraphs (1) and (2) of this paragraph, for which reimbursement of premium charges is sought, must be reasonable in cost and necessary in the performance of the contract.

(4) Where the cost of insurance coverage is included in the overhead rate, the contract schedule shall specifically provide that the insurance cost included therein shall not be an item for separate reimbursement under the contract.

(5) The contracting officer, in establishing insurance costs for overhead rate negotiations, shall ascertain to the extent possible that such costs are net after anticipated dividends or other credits.

(b) *Review of contractor's insurance program.* (1) Prior to the approval of a contractor's insurance program under a cost-reimbursement type contract, the extent of the contractor's cost-reimbursement type contracts with other agencies of the Department of Defense at the proposed location or adjacent thereto shall be determined. This information should be readily available from the contractor and shall be used to determine whether the insurance pertaining to the contract should be combined with the insurance pertaining to the contractor's other Department of Defense contracts, in order to effect savings in reimbursable insurance premium costs.

(2) Where the contract operations are at a location at which the work is exclusively or almost exclusively for the Department of Defense, consideration should be given to establishing a special insurance arrangement for all work performed at this location.

(i) The criteria for application of the National Defense Projects Rating Plan is set forth in § 10.703 of this title. Where a location does not qualify for this Plan and the estimated annual premiums are substantial, a commercial retrospective rating plan may be appropriate. If the estimated annual premiums are small, joint insurance with the contractor's commercial operations or special guaranteed cost policies may be advisable.

(ii) Where special insurance arrangements are made, the exact coverages and limits required by §§ 10.501–1, 10.501–2, 10.501–3, and 10.501–4 (a) of this title and §§ 599.501–1, 599.501–2, 599.501–3 and 599.501–4 (a), shall be provided. The purpose of such an insurance program is not primarily to protect the Government or the contractor against financial loss but is to obtain the experienced services of the insurance industry in such technical areas as claims settlement and safety engineering; therefore, the higher limits of liability insurance normally carried by contractors in their commercial operations are not acceptable. The risk of excessive losses is normally assumed by the Government by the use of the "Insurance Liability to Third Persons" clause (§ 7.203–22 of this title) or a similar clause.

(3) Where the cost cost-reimbursement type contract operations are commingled with the contractor's commercial operations, all operations should normally be insured together.

(4) When the contract operations are jointly insured with the contractor's commercial operations, the proportion of cost-reimbursement type Department of Defense contracts and the amount of premium involved shall be the governing factors in determining the necessity for Government control. Unless both the proportion of contracts and the amount of reimbursable premium involved is substantial, review of the contractor's insurance program should be limited to assuring that the contractor complies with the requirements of §§ 10.501–1, 10.501–2, 10.501–3 and 10.501–4 (a) of this title and §§ 599.501–1, 599.501–2, 599.501–3 and 599.501–4 (a). Higher limits than those prescribed in the referenced paragraphs may be approved where joint insurance coverage exists. Interference with the contractor's established commercial insurance program should be avoided to the extent possible.

(5) Particular attention should be given to the time period and geographical limits of the policies as well as to any provision in the policies which exclude from coverage any phase of contract operations.

(6) The policy endorsements set forth in paragraph (c) of this paragraph should be attached to the policies.

(c) *Required endorsements* — (1) *Waiver of subrogation.* Unless an additional premium is required, an insurance policy covering performance under a Department of the Army contract shall be endorsed waiving the insurer's right of subrogation against the Government for losses under the policy arising out of contract performance.

(2) *Notice of cancellation or change.* Where insurance is required by the contract or approved by the Head of the Procuring Activity, the policies evidencing such insurance shall contain an endorsement to the effect that cancellation of or material change in the policies will be subject to thirty (30) days written notice of cancellation or change to the approving authority.

6. Revise paragraph (a) of § 600.401, revoke § 600.450, and revise §§ 600.452 and 600.452–1, as follows:

§ 600.401 *Fixed-price contracts.* (a) Subject to the exception in paragraph (b) of this section and to such variations as may be prescribed by the Department of Defense or other competent authority (including Standard Forms so prescribed for use):

(1) The clause appearing in § 11.401–1 of this title shall be inserted by contracting officers in all formally advertised contracts, and in negotiated fixed-price contracts when the contracting officer is satisfied that, by virtue of competition or otherwise, the contract price excludes contingencies for State and local taxes.

(2) The clause appearing in § 11.401–2 of this title shall be inserted in all other negotiated fixed-price contracts.

(3) Printed forms of the Department of the Army or any of its agencies shall be revised, if necessary to conform with the foregoing.

§ 600.450 *Contract clause relating to Indiana State gross income tax.* [Revoked.]

§ 600.452 *Maryland sales and use tax.* The Maryland statute exempts sales or uses from the taxes if the purpose of the purchaser or user of tangible personal property is to resell the property, or to use or incorporate it, as a material or part, of other tangible personal property to be produced for sale by manufacturing, assembling, processing or refining. However, by a 1957 amendment, sales of tangible personal property to be used as facilities, tools, tooling machinery or equipment (including dies, molds, and patterns) are not exempt from the sales tax, nor is the use exempt from the use tax, even though title thereto passes, or is intended to pass, to the Federal Government either before or after such person uses such facilities, tools, tooling machinery or equipment.

(a) Whenever a Department of the Army contract calls for the transfer to the Government in their original form, without use by the contractor, of facilities, tools, tooling, machinery or equipment purchased by a contractor, the resale exemption from the sales tax is considered applicable to such purchase.

(b) Whenever tangible personal property is purchased by a contractor for incorporation, as a material or part, in the completed supplies to be furnished to the Government under a Department of the Army contract, the resale exemptions from the sales and use taxes are considered applicable to such purchase and use.

(c) No sales tax or use tax exemption applies to facilities, tools, tooling machinery or equipment used by a contractor in the performance of a Department of the Army contract regardless of when title thereto passes, or is intended to pass, to the Government.

(d) Questions arising out of sales or uses which do not fall within one of the above categories should be referred to the Office of the Judge Advocate General, Department of the Army, Washington 25, D. C., Attn: Procurement Law Division, for advice.

§ 600.452–1 *Procedure to be followed pending disposition of litigation.* (a) Where the total amount of the tax applicable to the contractor is $1000 or more, the following procedure shall apply:

(1) If the tax is assessed by the Maryland taxing authorities under one of the exempt situations described in § 600.452 (a) or (b), the contractor should pay the tax and apply for a refund within 30 days of the mailing of the notice of the assessment. Refunds, after assessment, must be applied for within 30 days of assessment or recovery is foreclosed (Md. Code Ann. 1951, Art. 81, Sec. 347). Where assessment has taken place, the contractor should be instructed to retain counsel for the purpose of making application for refund within the appropriate period.

(2) The contractor should be instructed to pay, at the appropriate time, the tax considered to be due, in order to avoid an assessment by the State. When the tax is paid without assessment, the contractor should be instructed not to apply for a refund except as herein directed. Under Maryland law a claim for refund may be filed at any time within three years of payment of the tax if no assessment has been made (Md. Code Ann. 1951, Art. 81, sec. 344). To facilitate the filing of claims, contracting agencies should maintain records of the contracts and amounts of taxes involved.

(3) Whenever 30 months have elapsed from the time of initial payment, The Office of the Judge Advocate General, Department of the Army, Washington 25, D. C., Attn: Procurement Law Division, should be notified of the fact and furnished all information necessary to determine whether the tax should be contested. In this connection the provisions of § 600.050 of this part will be strictly followed.

(4) If any substantial payment of tax was made more than 35 months previous to date of this publication, the contractor is authorized to retain counsel and to file application for refund directly. The Office of the Judge Advocate General, Department of the Army, Washington 25, D. C., Attn: Procurement Law Division should be notified promptly of such action. Every claim for refund should be made in accordance with the provisions of Md. Code Ann. 1951, Art. 81, sec. 344, and should state as grounds: (i) That the sales to the taxpayer were not retail sales within the meaning of Md. Code Ann. 1951, Art. 81, sec. 320 (f) and were not subject to the tax imposed by sec. 321 of that Article; (ii) that the property bought by the taxpayer was not used, stored, or consumed by the taxpayer in Maryland within the meaning of Md. Code Ann. 1951, Art. 81, secs. 368 and 369, and that the taxpayer was not subject to the tax imposed by Sec. 369; and (iii) any additional grounds which counsel for the taxpayer deems applicable.

(b) Contracting Officers shall insure that contractors who are subject to the Maryland sales and use taxes are advised of the provisions of this section.

7. Revise §§ 601.102, 601.102–1, 601.102–2, 601.102–3, 601.102–4, 601.102–5, and 601.102–6 as follows:

§ 601.102 *Overtime, extra-pay shifts, and multi-shift work.*

§ 601.102–1 *Definitions.* See § 12.102–1 of this title.

§ 601.102–2 *Policy.* (a) Designees (§ 601.102–4) shall use the authority to approve overtime premiums and shift premiums judiciously in conformity with the intent of § 12.102 of this title and § 601.102. Designees shall insure that applications of the procedures set forth in § 12.102 of this title and § 601.102 do not delay or otherwise impede high priority or essential programs or projects. Where questions arise in connection with such programs or projects, § 12.102 of this title and § 601.102 shall be given a liberal interpretation.

(b) Approvals for use of overtime, extra-pay shifts or multi-shift operations by contractors heretofore granted shall continue in full force and effect, subject to the review required by § 601.102–3.

§ 601.102–3 *Procedures.* The periodic review required by § 12.103–3 (e) of this title shall be conducted at least once every three months.

§ 601.102–4 *Approvals.* The following individuals are appointed as designees for the purpose of making determinations and approving use of overtime premiums and shift premiums by contractors at Government expense:

(a) The Deputy Chief of Staff for Logistics; and the Director of Procurement, Office of the Deputy Chief of Staff for Logistics, Headquarters, Department of the Army;

(b) Chiefs of technical services and their deputies;

(c) The Commander-in-Chief and the Chief of Staff, U. S. Army, Europe; the Commanding General and the Chief of Staff of: (1) The U. S. Army, Alaska, (2) the U. S. Army, Caribbean; (3) the U. S. Army, Japan; (4) the U. S. Army, Hawaii/25th Infantry Division; and

(d) The Commanding General and the Deputy Commanding General of the U. S. Army Ordnance Guided Missile Command.

§ 601.102–5 *Exceptions.* See § 12.102–5 of this title.

§ 601.102–6 *Construction Contracts.* See § 12.102–6 of this title.

[C6, APP, 18 April 1958, and C7, 15 May 1958]
(Sec. 3012, 70A Stat. 157; 10 U. S. C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

[SEAL] HERBERT M. JONES,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 58-6346; Filed, Aug. 8, 1958; 8:45 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

[CGFR 58-19]

Subchapter D—Navigation Requirements for Certain Inland Waters

PART 80—PILOT RULES FOR INLAND WATERS

Subchapter F—Navigation Requirements for Western Rivers

PART 95—PILOT RULES FOR WESTERN RIVERS

LIGHTS FOR BARGES TOWED ON GULF INTRACOASTAL WATERWAY OR WESTERN RIVERS

Notices regarding proposed changes in the navigation and vessel inspection regulations were published in the FEDERAL REGISTER dated February 12, 1958 (23 F. R. 905–910), and March 1, 1958 (23 F. R. 1268–1270), as Items I through XVIII of an Agenda to be considered by the Merchant Marine Council. Pursuant to these notices a public hearing was held on March 18, 1958, by the Merchant Marine Council at Washington, D. C.

This document is the sixth of a series covering the regulations and actions considered at this public hearing and annual session of the Merchant Marine Council, and contains the final actions taken with respect to Item II of the Agenda. The first document, identified as CGFR 58–8,

contained miscellaneous amendments to inspection requirements to implement the Act of May 10, 1956, as amended (46 U. S. C. 390–390g), which were based on Item III of the Agenda. The second document, identified as CGFR 58–17, contained the requirements governing private aids to navigation on the outer Continental Shelf and waters under the jurisdiction of the United States, which were based on Item I of the Agenda. The third document, identified as CGFR 58–18, contained new requirements regarding radar observers and miscellaneous changes respecting renewal of merchant mariner's licenses, which were based on Item IV of the Agenda. The fourth document, identified as CGFR 58–9, contained miscellaneous amendments and requirements respecting dangerous cargoes, which were based on Items XIV, XV, and XVI of the Agenda. The fifth document, identified as CGFR 58–10, contained miscellaneous amendments and requirements respecting vessel inspection, which were based on Items V, VI, VII, IX, XI, and XVI of the Agenda.

The Coast Guard acknowledges the assistance given to the Merchant Marine Council by those interested parties who submitted comments, views, and data in connection with the items considered at this public hearing. On the basis of comments received, changes were made in the proposals in Item II—Lights for Barges Towed on the Gulf Intracoastal Waterway or Western Rivers. The amendments in this Item, as revised, are adopted and set forth in this document.

The purpose of these amendments to 33 CFR 80.16a, 95.29 and 95.31 is to provide additional lights for barges being towed in order to define at night the extreme width of the tow. The changes adopted reduced the number of lights while still accomplishing the same objective. Other editorial changes and revisions were made to have uniformity in language or to clarify the regulations and they do not materially alter the requirements. It should be noted these amendments do not alter the requirements for lights on rafts which are provided for in 33 CFR 80.32 and 95.37.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order No. 120, dated July 31, 1950 (15 F. R. 6521), to promulgate regulations in accordance with the statutes cited with the regulations below, the following amendments are prescribed, and the use of lights described in this document are authorized on and after the date of publication of this document in the FEDERAL REGISTER, and their use shall be mandatory on and after January 1, 1959.

1. Section 80.16a is amended to read as follows:

§ 80.16a *Lights for barges, canal boats, scows and other nondescript vessels on certain inland waters on the Gulf Coast and the Gulf Intracoastal Waterway.* (a) On the Gulf Intracoastal Waterway and on other inland waters connected therewith or with the Gulf of Mexico from the Rio Grande, Texas, to Cape Sable (East Cape), Florida, barges, canal boats, scows, and other vessels of nondescript type not otherwise provided for, when being towed by steam vessels shall carry lights as set forth in this section.

(b) When one or more barges, canal boats, scows, or other vessels of nondescript type not otherwise provided for, are being towed by pushing ahead of a steam vessel, such tow shall be lighted by an amber light at the extreme forward end of the tow, so placed as to be as nearly as practicable on the centerline of the tow, a green light on the starboard side of the tow, so placed as to mark the maximum projection of the tow to starboard, and a red light on the port side of the tow, so placed as to mark the maximum projection of the tow to port.

(c) When one or more barges, canal boats, scows, or other vessels of nondescript type not otherwise provided for, are being towed alongside a steam vessel, there shall be displayed a white light at each outboard corner of the tow. If the deck, deck house, or cargo of such barge, etc., obscures the sidelight of the towing vessel, such barge, etc., shall also carry a green light upon the starboard side when being towed on the starboard side of a steam vessel or shall carry a red light on the port side of the barge, etc., when being towed on the port side of the steam vessel. If there is more than one such barge, etc., being towed abreast, the appropriate colored sidelight shall be displayed from the outer side of the outside barge.

(d) When one barge, canal boat, scow or other vessel of nondescript type not otherwise provided for, is being towed singly behind a steam vessel, such vessel shall carry four white lights, one on each corner or outermost projection of the bow and one on each corner or outermost projection of the stern.

(e) When two or more barges, canal boats, scows, or other vessels of nondescript type not otherwise provided for, are being towed behind a steam vessel in tandem, with an intermediate hawser, such vessels shall carry white lights as follows:

(1) The first vessel in the tow shall carry three white lights, one on each corner or outermost projection of the bow and a white light at the stern amidships.

(2) Each intermediate vessel shall carry two white lights, one at each end amidships.

(3) The last vessel in the tow shall carry three white lights, one on each corner or outermost projection of the stern and a white light at the bow amidships.

(f) When two or more barges, canal boats, scows, or other vessels of nondescript type not otherwise provided for, are being towed behind a steam vessel in tandem, close-up, such vessels shall carry white lights as follows:

(1) The first vessel in the tow shall carry three white lights, one on each corner or outermost projection of the bow and a white light at the stern amidships.

(2) Each intermediate vessel shall carry a white light at the stern amidships.

(3) The last vessel in the tow shall carry two white lights, one on each corner or outermost projection of the stern.

(g) When two or more barges, canal boats, scows, or other vessels of nondescript type not otherwise provided for, are being towed behind a steam vessel two or more abreast, in one or more tiers, each of the outside vessels in each tier shall carry a white light on the outboard corner of the bow, and each of the outside vessels in the last tier shall carry, in addition, a white light on the outboard corner of the stern.

(h) When one or more barges, canal boats, scows, or other vessels of nondescript type not otherwise provided for, are moored to the bank or dock in or near a fairway, such tow shall carry two white lights not less than four feet above the surface of the water, as follows:

(1) On a single moored barge, canal boat, scow, or other vessel of nondescript type not otherwise provided for, a light at each outboard or channelward corner.

(2) On barges, canal boats, scows, or other vessels of nondescript type not otherwise provided for, when moored in a group formation, a light on the upstream outboard or channelward corner of the outer upstream boat and a light on the downstream outboard or channelward corner of the outer downstream boat; and in addition, any boat projecting toward or into the channel from such group formation shall have two white lights similarly placed on its outboard or channelward corners.

(i) The colored side lights shall be so constructed as to show a uniform and unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to show the light from right ahead to 2 points abaft the beam on their respective sides, and of such a character as to be visible at a distance of at least 2 miles, and shall be fitted with inboard screens so as to prevent either light from being seen more than half a point across the centerline of the tow.

(j) The amber light shall be so constructed as to show a uniform and unbroken light over an arc of the horizon of 20 points of the compass, so fixed as to show the light 10 points on each side of the tow, namely, from right ahead to two points abaft the beam on either side, and of such a character as to be visible at a distance of at least 2 miles.

(k) The white lights shall be so constructed and so fixed as to show a clear, uniform, and unbroken light all around the horizon, and of such a character as to be visible at a distance of at least 2 miles.

(l) All the lights shall be carried at approximately the same height above the surface of the water and, except as provided in paragraph (h) of this section, shall be so placed with respect thereto as to be clear of and above all obstructions which might tend to interfere with the prescribed arc or distance of visibility.

(Sec. 2, 30 Stat. 102, as amended, sec. 1, 30 Stat. 98, as amended; 33 U. S. C. 157, 178. Interpret or apply R. S. 4233A, as amended; 33 U. S. C. 353)

2. Section 95.29 is amended to read as follows:

§ 95.29 *Lights for barges towed ahead or alongside.* (a) When one or more barges are being towed by pushing ahead of a steam vessel, such tow shall be lighted by an amber light at the extreme forward end of the tow, so placed as to be as nearly as practicable on the centerline of the tow, a green light on the starboard side of the tow, so placed as to mark the maximum projection of the tow to starboard, and a red light on the port side of the tow, so placed as to mark the maximum protection of the tow to port.

(b) When one or more barges are being towed alongside a steam vessel, there shall be displayed a white light at each outboard corner of the tow. If the deck, deck house, or cargo of such barge obscures the sidelight of the towing steam vessel, such barge shall also carry a green light upon the starboard side when being towed on the starboard side of a steam vessel; or shall carry a red light on the port side of the barge when being towed on the port side of the steam vessel. If there is more than one such barge being towed abreast, the appropriate colored sidelight shall be displayed from the outer side of the outside barge.

(c) The colored side lights shall be so constructed as to show a uniform and unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to show the light from right ahead to 2 points abaft the beam on their respective sides and of such a character as to be visible at a distance of at least 2 miles, and shall be fitted with inboard screens so as to prevent either light from being seen more than half a point across the centerline of the tow.

(d) The amber light shall be so constructed as to show a uniform and unbroken light over an arc of the horizon of 20 points of the compass, so fixed as to show the light 10 points on each side of the tow, namely, from right ahead to 2 points abaft the beam on either side, and of such a character as to be visible at a distance of at least 2 miles.

(e) The white lights shall be so constructed and so fixed as to show a clear, uniform, and unbroken light all around the horizon, and of such a character as to be visible at a distance of at least 2 miles.

(f) All the lights shall be carried at approximately the same height above the surface of the water and shall be so placed with respect thereto as to be clear of and above all obstructions which might tend to interfere with the prescribed arc or distance of visibility.

(R. S. 4233A; 33 U. S. C. 353)

3. Section 95.31 is amended to read as follows:

§ 95.31 *Lights for barges towed astern.* (a) When one barge is being towed singly behind a steam vessel, such vessel shall carry four white lights, one on each corner or outermost projection of the bow and one on each corner or outermost projection of the stern.

(b) When two are more barges are being towed behind a steam vessel in tandem, with an intermediate hawser, such vessels shall carry white lights as follows:

(1) The first vessel in the tow shall carry three white lights, one on each corner or outermost projection of the bow and a white light at the stern amidships.

(2) Each intermediate vessel shall carry two white lights, one at each end amidships.

(3) The last vessel in the tow shall carry three white lights, one on each corner or outermost projection of the stern and a white light at the bow amidships.

(c) When two or more barges are being towed behind a steam vessel in tandem, close-up, such vessels shall carry white lights as follows:

(1) The first vessel in the tow shall carry three white lights, one on each corner or outermost projection of the bow and a white light at the stern amidships.

(2) Each intermediate vessel shall carry a white light at the stern amidships.

(3) The last vessel in the tow shall carry two white lights, one on each corner or outermost projection of the stern.

(d) When two or more barges are being towed behind a steam vessel two or more abreast, in one or more tiers, each of the outside barges in each tier shall carry a white light on the outboard corner of the bow and each of the outside barges in the last tier shall carry, in addition, a white light on the outboard corner of the stern.

(e) The white lights shall be so constructed and so fixed as to show a clear, uniform, and unbroken light all around the horizon and of such a character as to be visible at a distance of at least 2 miles. The lights shall be carried at approximately the same height above the surface of the water and shall be so placed with respect thereto as to be clear of and above all obstructions which might tend to interfere with the prescribed arc or distance of visibility.

(R. S. 4233A; 33 U. S. C. 353)

Dated: July 25, 1958.

[SEAL] A. C. RICHMOND,
Vice Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 58-6370; Filed, Aug. 8, 1958; 8:46 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 1703]

[Idaho 04790]

IDAHO

RESERVING LANDS FOR USE OF DEPARTMENT OF ARMY, CORPS OF ENGINEERS, FOR FLOOD CONTROL PURPOSES IN CONNECTION WITH THE ALBENI FALLS PROJECT

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U. S. C. 473), and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Subject to valid existing rights, and to the provisions of existing withdrawals, the following-described lands in Idaho are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral leasing laws, but not the disposal of mineral and vegetative materials under the act of July 31, 1947 (61 Stat. 681; 30 U. S. C. 601-604) as amended, nor issuance of grazing leases or permits under the act of June 28, 1934 (48 Stat. 1269; 43 U. S. C. 315b, 315m) as amended, and reserved for use of the Department of the Army, Corps of Engineers, for flood control purposes, in connection with the Albeni Falls Project, as authorized by the act of May 17, 1950 (64 Stat. 163, 178).

BOISE MERIDIAN

T. 55 N., R. 1 E.,
Sec. 1, lot 1, and the Metz Lode Mining Claim (M. S. 2995);
Sec. 7, lots 1, 2, 3, 4, and SE¼SW¼;
Sec. 8, lots 1, 2, 3, and 4;
Sec. 9, lots 1, 2, 3, and 4;
Sec. 10, lots 1, 2, 3, and 4;
Sec. 11, lots 1, 2, 3, and 4;
Sec. 12, lots 2, 3, and 4, and the Metz Lode Mining Claim (M. S. 2995) except the SW 450 feet;
Sec. 18, lot 4.

The areas described aggregate 876.55 acres.

T. 56 N., R. 1 E.,
Sec. 11, East 721.7 feet of lot 1;
Sec. 12, lot 1;
Sec. 19, lot 3, except Sulphide Mining Claim (M. S. 2117);
Sec. 19, lots 4 and 5;
Sec. 20, lot 1, except Sulphide Mining Claim (M. S. 2117);
Sec. 30, lots 1, 2, and 3.

The areas described aggregate 352.30 acres.

T. 55 N., R. 2 E.,
Sec. 6, lots 1, 2, 3, 4, and 5;
Sec. 8, lot 3.

The areas described aggregate 177.81 acres.

T. 56 N., R. 2 E.,
Sec. 29, lots 5, 6, 7, 8, 9, 10, 11, 12, and NE¼NE¼;
Sec. 32, lot 5.

The areas described aggregate 231.90 acres.

T. 53 N., R. 1 W.,
Sec. 3, lot 2;
Sec. 4, lots 1, 2, those portions lying west of the Graham Lime Placer Claim (M. S. 2553), the Wooden Lime Placer Claim (M. S. 2594), and the Blue Peter Lime Placer Claim (M. S. 2488);
Sec. 7, lot 1;
Sec. 8, lots 1, 2, 3, and 4;
Sec. 9, lot 1, that portion lying west of the Blue Peter Lime Placer Claim (M. S. 2488), lots 2, and 3.

The areas described aggregate 323.79 acres.

T. 54 N., R. 1 W.,
Sec. 3, lot 2;
Sec. 10, lots 2, 4, and 5;
Sec. 15, lot 1;
Sec. 27, lots 1 and 2;
Sec. 30, lots 1, 2, and 3;
Sec. 34, lot 4.

The areas described aggregate 335.40 acres.

T. 55 N., R. 1 W.,
Sec. 4, lot 1;
Sec. 5, lot 4;
Sec. 7, lots 1 and 2; Sec. 8, lots 1 and 2, except Crescent (M. S. 2039) and St. Reca (M. S. 2960) Lode Mining Claims, that portion of Exchange Survey No. 820 which involves lot 2 of sec. 8, and except that portion of Mexico Lode Mining Claim (M. S. 2559) lying north from Tract "A" of Exchange Survey No. 821;
Sec. 13, lots 1 and 2;
Sec. 14, lot 1;
Sec. 18, lots 1, 2, 3, and 4, except the overlapping part of the Crescent Lode Mining Claim (M. S. 2039);
Sec. 19, lot 1;
Sec. 23, lots 2, 3, and 4;
Sec. 26, lots 1, 2, 4, and 5, except Park Quartz and Protection Lode Mining Claims (M. S. 2665);
Sec. 34, lots 3 and 5;
Sec. 35, lots 1 and 7.

The areas described aggregate 773.18 acres.

T. 56 N., R. 1 W.,
Sec. 22, lot 4, except the Bay City Mining Claim (M. S. 2354);
Sec. 26, lots 1, 2, 3, and 4;
Sec. 27, lot 3;
Sec. 28, lots 1 and 2, except a portion of Homestead Entry Survey No. 514;
Sec. 33, lots 1, 2, 3, 4, and 5.

The areas described aggregate 576.79 acres.

T. 53 N., R. 2 W.,
Sec. 10, lots 3, 6, 7, and 8;
Sec. 11, (unsurveyed), all lands within ¼ mile of Pend Oreille Lake;
Sec. 12, (unsurveyed), all lands within ¼ mile of Pend Oreille Lake.

The areas described aggregate 500 acres.

T. 54 N., R. 2 W.,
Sec. 2, lots 1, 3, 4, and 5;
Sec. 14, lots 1, 2, 3, and 4;
Sec. 24, lots 1, 2, 3, and 4.

The areas described aggregate 474.35 acres.

T. 55 N., R. 2 W.,
Sec. 24, lots 1, 2, 3, 4, 5, and SW¼SW¼;
Sec. 25, lots 1 and 2;
Sec. 26, lots 1, 2, and 3;
Sec. 35, lots 1, 2, 3, and 4.

The areas described aggregate 456.38 acres.

T. 56 N., R. 4 W.,
Sec. 34, lots 3 and 4.

The areas described aggregate 60 acres.

The areas described aggregate approximately 5,140 acres, of which all except 231.90 acres is located in the Kaniksu National Forest.

2. The jurisdiction of the Department of the Army, Corps of Engineers, over the lands shall be limited to the use thereof for flowage purposes in connection with the Albeni Falls Dam. The lands shall otherwise continue to be managed by the Bureau of Land Management, Department of the Interior, and the Forest Service, Department of Agriculture, as their interests may appear.

ROGER ERNST,
Assistant Secretary of the Interior.

AUGUST 4, 1958.

[F. R. Doc. 58-6352; Filed, Aug. 8, 1958; 8:45 a. m.]

[Public Land Order 1704]

[1773280]

NORTH DAKOTA

REVOKING EXECUTIVE ORDERS NOS. 8123, 8126, 8129, AND 8163, WHICH ESTABLISHED CERTAIN MIGRATORY WATERFOWL REFUGES

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Executive Orders No. 8123 of May 10, 1939, No. 8126 of May 10, 1939, No. 8129 of May 10, 1939, and No. 8163 of June 12, 1939, which reserved all lands owned or controlled by the United States within the following-described areas in North Dakota for use of the Department of Agriculture as refuges and breeding grounds for migratory birds and other wildlife, are hereby revoked:

EXECUTIVE ORDER NO. 8123

FIFTH PRINCIPAL MERIDIAN

Lake Moraine

T. 143 N., R. 78 W.,
Sec. 13, N½.

The area described contains 320 acres.

EXECUTIVE ORDER NO. 8126

FIFTH PRINCIPAL MERIDIAN

Little Lake

T. 136 N., R. 76 W.,
Sec. 33, E½;
Sec. 34, SW¼.

The areas described aggregate 480 acres.

EXECUTIVE ORDER NO. 8129

FIFTH PRINCIPAL MERIDIAN

Minnewastena

T. 152 N., R. 65 W.,
Sec. 12, lot 7 and SW¼SE¼;
Sec. 13, lot 1 and NW¼NE¼.

The areas described aggregate 144.30 acres.

EXECUTIVE ORDER NO. 8163

FIFTH PRINCIPAL MERIDIAN

Pioneer Lake

T. 155 N., R. 58 W.,
Sec. 21.

The area described contains 640 acres. The lands are non-public lands.

ROGER ERNST,
Assistant Secretary of the Interior.

AUGUST 5, 1958.

[F. R. Doc. 58-6353; Filed, Aug. 8, 1958; 8:45 a. m.]

[Public Land Order 1705]

[78282]

CALIFORNIA

POWER SITE RESTORATION NO. 540 PARTLY REVOKING POWER SITE RESERVES NOS. 293, 696, AND 701

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U. S. C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

The Executive orders of October 18, 1912, October 15, 1918, and December 2, 1918 creating Power Site Reserves Nos. 293, 696, and 701, respectively, are hereby revoked so far as they affect the following-described lands:

MOUNT DIABLO MERIDIAN

T. 10 S., R. 33 E.,
Sec. 1, lots 3 and 4, SE¼NW¼, E½SW¼;
Sec. 12, E½NW¼, NE¼SW¼, W½SE¼;
Sec. 13, W½NE¼, S½NW¼, S½;
Secs. 24 and 25.
T. 10 S., R. 34 E.,
Sec. 18, S½ of lots 1 and 2 of SW¼;
Sec. 19, lots 1 and 2 of NW¼, N½NE¼, SW¼NE¼;
Sec. 20, N½;
Sec. 30, S½ of lots 1 and 2 of NW¼, N½ of lots 1 and 2 of SW¼, NW¼SE¼.

The areas described aggregate 3,125.30 acres.

2. In DA-934-California issued January 27, 1958, the Federal Power Commission vacated the Federal Power Project No. 134 (for transmission line purposes) so far as the project affects the lands described in this order.

3. The public lands in the areas described in this order were withdrawn by the act of April 6, 1931 (46 Stat. 1530), for protection of the water supply of the City of Los Angeles.

ROGER ERNST,
Assistant Secretary of the Interior.

AUGUST 5, 1958.

[F. R. Doc. 58-6354; Filed, Aug. 8, 1958; 8:45 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Rules Amdt. 1-5]

[Docket No. 12461; FCC 58-777]

PART 1—PRACTICE AND PROCEDURE

APPLICATIONS

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of July 1958;

The Commission having under consideration a proposal to change its policy with respect to the Revised Tentative Allocation Plan for Class B FM Broadcast Stations (to abandon the plan) and to amend §§ 1.356 (f) and 1.309 (a) of the rules;

It appearing that notice of proposed rule making (FCC 58-514) setting forth the above proposal was issued by the Commission on June 2, 1958, and was duly published in the FEDERAL REGISTER (23 F. R. 3937), which notice provided that interested parties might file statements or briefs with respect to the said proposal on or before July 7, 1958; and

It further appearing that comments were filed in this matter by the Charles River Broadcasting Company, Waltham, Massachusetts, licensee of Station WCRB-FM; Everett L. Dillard, trading as The Commercial Radio Equipment Company, Washington, D. C.; and the Interstate Broadcasting Company, Inc., New York City, licensee of Station

WQXR–FM; all of which comments were in favor of the Commission's proposal; that, in addition, The Commercial Radio Equipment Company and the Interstate Broadcasting Company, Inc. suggested the revision of §§ 3.202 and 3.204 to remove the present limitation of the coverage of Class B FM stations located in the heavy populated part of New England, the southeastern portion of New York, New Jersey, Delaware, and the eastern portions of Pennsylvania and Maryland, to not more than the equivalent of 20 kilowatts effective radiated power and antenna height of 500 feet above average terrain; but that these suggestions to amend §§ 3.202 and 3.204, more properly, should be the subject of a separate rule making proceeding; and

It further appearing that no comments in reply to the original comments were filed within the 10-day period after July 7, 1958; and

It further appearing that adoption of the proposal can be expected to expedite the processing of applications for FM facilities; and

It further appearing that authority for the adoption of the proposed amendments is contained in sections 4 (i), 301, 303 (c), (d), (f), and (r), and 307 (b) of the Communications Act of 1934, as amended;

It is ordered, That effective August 20, 1958, the Revised Tentative Allocation Plan for Class B FM Broadcast Stations is abandoned and §§ 1.356 (f) and 1.309 (a) are amended by deleting the present provisions of these two sections and substituting the following:

§ 1.356 *Processing of FM and noncommercial educational FM broadcast applications.* * * *

(f) If, upon examination, the Commission finds that the public interest, convenience and necessity will be served by the granting of an application for FM broadcast facilities (Class A, Class B or noncommercial educational), the same will be granted. If, on the other hand, the Commission is unable to make such a finding and it appears that a hearing may be required, the procedure set forth in § 1.362 will be followed.

§ 1.309 *Repetitious applications.* (a) Where the Commission has denied an application for a new station or for any modification of services or facilities, or dismissed such application with prejudice, no like application involving service of the same kind to substantially the same area by substantially the same applicant, or his successor or assignee, or on behalf or for the benefit of the original parties in interest, may be filed within 12 months from the effective date of the Commission's action: *Provided, however*, That applicants whose applications have been denied in a comparative hearing for a particular television facility allocated in the television allocation table, may immediately reapply for another available television channel.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, 1083; 47 U. S. C. 301, 303, 307)

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6382; Filed, Aug. 8, 1958; 8:47 a. m.]

[Docket No. 12404; FCC 58-750]

[Rules Amdt. 2-24, 9-20]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 9—AVIATION SERVICES

MISCELLANEOUS AMENDMENTS

1. On April 16, 1958, the Commission adopted a notice of proposed rule making in the above entitled matter which was released on April 18, 1958, and published in the FEDERAL REGISTER on April 23, 1958 (23 F. R. 2698). An errata correcting certain minor errors and omissions in the notice was released on May 1, 1958, and published in the FEDERAL REGISTER on May 6, 1958 (23 F. R. 3022).

2. The period for filing comments in this matter expired on July 16, 1958. No comments were timely received with respect to the Commission's proposal to reallocate the band 13,250–13,400 Mc for exclusive use of airborne radionavigation devices employing the doppler technique by both Government and non-Government stations.[1] This band is presently allocated for exclusive Government use and no existing non-Government station will be adversely affected by such a reallocation. The Commission has now decided to implement this portion of its proposed rule making in this matter by appropriate amendment to Part 2 of the rules, as shown in the attached Appendx, in order that the non-Government aeronautical radionavigation service may benefit therefrom as soon as possible.

3. Purely as a consequence of this action, Part 9 is also being amended to reflect in this portion of the rules the availability of these frequencies to stations in the aeronautical radionavigation service for airborne doppler radar use. Since the only purpose and effect of this amendment is to achieve consistency in the rules, the Commission finds that notice and public procedure under section 4 of the Administrative Procedure Act are unnecessary.

4. The remaining proposals in Docket 12404 will be dealt with at a later date.

5. In view of the foregoing: *It is ordered*, pursuant to the authority of section 303 (c), (f) and (r) of the Communications Act of 1934, as amended, that effective September 2, 1958, Part 2 of the Commission's rules, Frequency Allocations and Radio Treaty Matters; General Rules and Regulations, and Part 9—Aviation Services, are 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 30, 1958.

Released: July 31, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

1. In the table of frequency allocations in § 2.104 (a) (5), change the entries in the band 13250–16000 Mc in columns 5 through 11 to read as follows:

Band Mc	Allocation	Band Mc	Service	Class of station	Frequency	Nature (OF SERVICES (of stations
5	6	7	8	9	10	11
13250–13400	G,NG	13250–13400	Aeronautical radionavigation.	Radionavigation mobile.	.....	Airborne doppler radar.
13400–16000	G					

2. Amend Part 9—Aviation Services as indicated below:

Add a new paragraph (q) to § 9.312 to read as follows:

(q) 13250–13400 Mc: This band is available for airborne doppler radar use.

[F. R. Doc. 58-6383; Filed, Aug. 8, 1958; 8:47 a. m.]

[1] Subsequent to the final filing date, comments supporting the action here taken were received from Raytheon Manufacturing Co. and Ryan Aeronautical Co. Reply comments filed on July 28, 1958, by Aeronautical Radio also give qualified support to the action.

[Rules Amdt. 2-25]

[Docket No. 11959; FCC 58-799]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. On April 3, 1957, the Commission adopted a notice of proposed rule making in the above entitled matter which was released on April 9, 1957, and published in the FEDERAL REGISTER of April 16, 1957 (22 F. R. 2583). A correction to the Notice adding footnote designators to certain specified frequency bands was released on April 11, 1957, and pub-

lished in the FEDERAL REGISTER of April 26, 1957 (22 F. R. 2956). The first memorandum report and order in this docket, which applied only to the Land Transportation and Maritime Mobile Services in the 152–162 Mc band, was adopted by the Commission on April 9, 1958, and published in the FEDERAL REGISTER on April 15, 1958 (23 F. R. 2424). A corrected copy of the order was published in the FEDERAL REGISTER on April 19, 1958 (23 F. R. 2601). The second memorandum report and order in this docket, which implemented "split channel" proposals for the Public Safety Radio Service in the 150.8–162 Mc and 450–460 Mc bands and for the remaining services in the 150.8–162 Mc band, was adopted by the Commission on May 8, 1958, and published in the FEDERAL REGISTER on May 17, 1958 (23 F. R. 3351). The third memorandum report and order in this docket, which reallocated certain portions of the 460–470 Mc Citizens Radio band to the Industrial Radio Services and implemented Commission proposals relating to the unavailability of 161.85 Mc to the Maritime Mobile Service in Puerto Rico and the Virgin Islands, a slight shifting of the 160 Mc band available for assignment to remote pickup stations in Puerto Rico and the Virgin Islands on a shared basis with the Railroad Radio Service, and the availability of certain taxicab "splits" to the Industrial Radio Services outside standard metropolitan areas of 50,000 or more population, was adopted by the Commission on June 18, 1958 and published in the FEDERAL REGISTER on June 28, 1958 (23 F. R. 4782).

2. The sole purpose of this order is to implement the Commission's outstanding proposal to reallocate the 11-meter amateur band, 26.96–27.23 Mc, to the Citizens Radio Service. The remaining outstanding proposals in this docket, which involve reallocation of the bands 161.625–161.825 Mc, 455–456 Mc, 460–461 Mc, 462.525–463.225 Mc, and 465.275–466.475 Mc, will be disposed of at a later date when appropriate.

3. The time for filing comments and reply comments relative to the proposals in this matter expired on June 10 and 20, respectively, 1957. The Commission received many comments from radio amateurs, amateur clubs including the American Radio Relay League (ARRL), and model control enthusiasts with respect to the proposal to reallocate the 11-meter amateur band to the Citizens Radio Service. Most of the comments from modelers and combination amateur/modelers enthusiastically endorsed the proposal. However, most of the comments from the amateurs and amateur clubs strongly opposed such a reallocation. Inasmuch as the substance of all comments in this matter is thoroughly discussed in an appropriate companion Report and Order (Second Report and Order in Docket 11994) of the same date, duplicate or further discussion of the issues involved herein appears unnecessary. It was particularly noted that most of the reasons presented for the opposition to the reallocation of the 11-meter band were based upon potential use of this band in the future instead of on actual need or existing use of the band. Monitoring reports indicate that this band is not heavily used by the amateur service, due obviously to the interference hazard presented by the operation of ISM equipment on 27.12 Mc and also due to the proximity of the more desirable 10-meter exclusive amateur band. On the other hand, the Citizens Radio Service, with its low power and inherent short range requirements, would appear to be able to use this band effectively. Some of the comments received by the Commission suggested sharing of the 11-meter band by Citizens Radio and the Amateur services. The Commission has taken into account the fact that insofar as possible, all amateur bands have traditionally been allocated exclusively to the Amateur Service and considers that this allocation principle should be continued.

4. In view of the foregoing, the Commission finds that the public interest, convenience and necessity will be served by the amendments herein ordered and, pursuant to authority contained in sections 4 (i) and 303 of the Communications Act of 1934, as amended.

5. *It is ordered*, That effective September 11, 1958, Part 2 of the Commission's rules, Frequency Allocations and Radio Treaty Matters; General Rules and Regulations, is hereby 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 31, 1958.

Released: August 4, 1958.

NOTE: Rules changes herein will appear in Amendment 2-25.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

1. In the table of frequency allocations in § 2.104 (a) (5), change the entries in the band 26.96–27.23 Mc in columns 8 and 9 to read as follows:

Band Mc	Service	Class of station	Frequency	Nature [OF SERVICES (of stations)]
7	8	9	10	11
26.96–27.23 (NG2).	Citizens. (US1)	a. Fixed. b. Land. c. Mobile.	27.12	Industrial, scientific, and medical equipment.

[F. R. Doc. 58-6384; Filed, Aug. 8, 1958; 8:47 a. m.]

[Docket No. 12404; FCC 58-792]

[Rules Amdt. 2-26]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

MISCELLANEOUS AMENDMENTS

1. On April 16, 1958, the Commission adopted a notice of proposed rule making in the above-entitled matter which was released on April 18, 1958, and published in the FEDERAL REGISTER of April 23, 1958 (23 F. R. 2698). An errata to the notice was issued on May 1, 1958, and appeared in the FEDERAL REGISTER on May 6, 1958 (23 F. R. 3022).

2. The purpose of this second report and order is to provide for the Part 2 allocation of the frequency 121.6 Mc for the primary use of a new class of station to be known as aeronautical search and rescue mobile station.

3. The period for filing comments in this matter expired on July 16, 1958. No comment was received with respect to the particular proposal implemented by this second report and order. However, a parallel proposal in Docket 12400, which, among other things, would amend Part 9 of the Commission's rules to provide for the assignment of 121.6 Mc to aeronautical search and rescue mobile stations and which is being implemented by concurrent report and order, drew favorable comments from Aeronautical Radio, Inc. and the Civil Air Patrol.

4. The remaining proposals contained in Docket 12404 will be disposed of at a later date when appropriate.

5. In view of the foregoing, the Commission finds that the public interest would be served by adoption of the amendments herein ordered and, pursuant to authority contained in sections 4 (i) and 303 of the Communications Act of 1934, as amended.

6. *It is ordered*, That effective September 8, 1958, Part 2 of the Commission's rules, Frequency Allocations and Radio Treaty Matters; General Rules and Regulations, is hereby 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 31, 1958.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

1. In the table of frequency allocations, § 2.104 (a) (5), add entries in the band 118–132 Mc in columns 10 and 11 to read as follows:

Band Mc	Service	Class of station	Frequency	Nature of services of stations
7	8	9	10	11
118-132 (US6).	Aeronautical mobile.	a. Aeronautical. b. Aircraft.		
			121.6	Aeronautical search and rescue mobile.
			121.7	Aeronautical utility land; Aeronautical utility mobile.
			121.8	Do.
			121.9	Do.

2. Insert the following new definition in § 2.1 between the definitions of Aeronautical radionavigation service and Aeronautical station:

Aeronautical search and rescue mobile station. A mobile station used for communication with aircraft engaged in search and rescue operations.

3. Add new footnote US95 to § 2.104 (a) (5) and insert the (US95) designator in column 5 under the band 108–132 Mc and opposite 121.6 Mc in the table of frequency allocations:

US95 The frequency 121.6 Mc is for search and rescue communications. Aeronautical utility land and mobile stations may use this frequency on the condition that no harmful interference is caused to search and rescue communications during any period of search and rescue operations in the locale involved.

[F. R. Doc. 58-6385; Filed, Aug. 8, 1958; 8:47 a. m.]

[Rules Amdt. 3-120]

[Docket No. 12011; FCC 58-774]

PART 3—RADIO BROADCAST SERVICES

1. The Commission has before it for reconsideration its report and order, released in this proceeding on March 25, 1958 (FCC 58-264), amending the Table of Television Assignments in § 3.606 of the Commission's rules to assign Channel 3 to Harrisburg, Illinois, and Channel *8— to Carbondale, Illinois, for noncommercial educational use and to change the offset carrier requirement for Channel 3 at Memphis, Tennessee, from 3 even to 3 minus and the offset carrier requirement for Channel 8 in Indianapolis, Indiana, from 8 minus to 8 plus; in Charleston, West Virginia, from 8 plus to 8 minus; in Grand Rapids, Michigan, from 8 plus to 8 even; and in Cleveland, Ohio, from 8 even to 8 plus. In the same report and order, the Commission also modified the outstanding license of Turner-Farrar Association for Station WSIL–TV on Channel 22 at Harrisburg, Illinois, to provide for temporary operation on Channel 3 at Harrisburg, subject to certain conditions. On April 15, 1958, Turner-Farrar Association notified the Commission that it accepted the modification of its outstanding authorization for Station WSIL–TV to specify temporary operation on Channel 3 at Harrisburg in accordance with the terms and conditions specified in the above-mentioned report and order. At the same time, Turner-Farrar submitted technical information necessary for the preparation of a modified authorization to cover the temporary operation of Station WSIL–TV on Channel 3 and requested authority to continue operation on Channel 22 pending the construction and installation of equipment necessary for temporary operation on Channel 3. On April 23, 1958, the Commission granted special temporary authority, effective April 28, 1958, for Station WSIL–TV to continue operating on Channel 22, subject to the provisions of the Commission's March 25, 1958 report and order herein, for a period ending July 28, 1958. On July 3, 1958, the period authorized for temporary operation was extended to October 28, 1958.

2. On April 24, 1958, WREC Broadcasting Service, licensee of Station WREC–TV on Channel 3 at Memphis, Tennessee, filed a petition for reconsideration or rehearing of the Commission's decision. WREC requests therein that instead of the action taken in our decision that we (a) allocate Channel 8 instead of Channel 3 to Harrisburg; (b) allocate Channel *3 instead of *8 to Carbondale for noncommercial educational use; (c) modify the license of Station WSIL–TV at Harrisburg to provide for temporary operation on Channel 8 instead of Channel 3 with limitations on location of its antenna site; and (b) defer changing the offset carrier requirement for Channel 3 at Memphis from 3 even to 3 minus until an educational station has been constructed and made ready for operation on Channel *3 at Carbondale. If this action is not taken, WREC requests that the Commission either not assign Channel 3 to Carbondale or Harrisburg or, in the alternative, schedule an evidentiary hearing upon the proposal and afford WREC a full opportunity to participate and to oppose it and to show cause why its outstanding license for Station WREC–TV at Memphis should not be modified to specify operation on Channel 3 minus instead of Channel 3 even. On April 28, 1958, WREC also filed a petition requesting that the Commission stay the effective date of its action in the above-mentioned Report and Order for a period of not less than 30 days following the date the Commission acts on its petition for reconsideration or rehearing.[1]

On May 5, 1958, Turner-Farrar Association, licensee of Station WSIL–TV on Channel 22 at Harrisburg, filed an opposition to WREC's petitions for reconsideration or rehearing and for stay. On May 26, 1958, Southern Illinois University at Carbondale and Indiana Broadcasting Corporation, licensee of Station WISH–TV on Channel 8 at Indianapolis, Indiana, also filed oppositions to WREC's petition for reconsideration.

3. On April 24, 1958, Storer Broadcasting Company, licensee of Station WJW–TV on Channel 8 at Cleveland, Ohio, and Indiana Broadcasting Corporation, also filed petitions for reconsideration of the Commission's March 25, 1958, report and order insofar as it assigned Channel *8 minus to Carbondale and changed the offset carrier designation for Channel 8 at Indianapolis, Charleston, Grand Rapids and Cleveland. Both parties request that the Commission's decision be revised by the adoption of their alternative offset carrier proposals for accommodating the assignment of Channel *8 at Carbondale. By the method they both propose, Channel *8 even would be assigned to Carbondale and only the Channel 8 assignment at Jonesboro, Arkansas, would be changed from Channel 8 even to Channel 8 minus. On May 2, 1958, WCHS–TV, Inc., licensee of Station WCHS–TV on Channel 8 at Charleston, West Virginia, filed a statement in support of the Storer and Indiana Broadcasting petitions for partial reconsideration in which it requests that the Commission reconsider its decision and revise the offset carrier schedule so as to permit the assignment of Channel *8 at Carbondale in the manner proposed by Storer and Indiana Broadcasting.

4. By our action in the Report and Order in question, Channel 3 was assigned for commercial use at Harrisburg in order to insure the continuation of local service in that community and the establishment of a station in this southern Illinois area capable of providing satisfactory service to surrounding communities, such as Carbondale, Mount Vernon and Cartter, and of competing on an equal basis with the VHF stations in other cities providing service in the area. Channel *8 was assigned to Carbondale for educational use to make feasible the establishment of an educational station for which a need and demand was evidenced in the comments. In the rule making proceeding, WREC opposed the Commission's tentative proposal to assign Channel 3 to Carbondale for commercial use on the ground that it would materially increase interference to Station WREC–TV at Memphis, as well as to other co-channel stations at

[1] In its petition for a stay order, WREC incorporates by reference its subject petition for reconsideration and claims that a grant of its request for a stay order is warranted on the basis of the showing therein that the Commission has failed to comply with and satisfy statutory requirements and that Station WREC–TV would suffer immediate and irreparable injury by the allocation or use of Channel 3 at either Carbondale or Harrisburg. WREC has made no showing of injury to itself or the public which would result prior to our final action on its petition for reconsideration, and in view of the conclusions which we have reached herein with respect to the matters raised in its petition for reconsideration, we find no persuasive reason for granting its request for a stay order.

Louisville, Kentucky, Shreveport, Louisiana, and Champaign, Illinois, and that a Carbondale station would also receive interference from co-channel stations, and it requested that an evidentiary hearing be held to consider the equities of the areas and stations involved before finalizing the assignment. In our decision, we noted that this same objection of alleged mutual interference between Carbondale and other co-channel stations would apply to the assignment of Channel 3 at Harrisburg since the transmitter location for a Channel 3 station in either community would be limited to the same area. We did not imply by this statement, as WREC assumes in its instant petition for reconsideration, that the alleged mutual interference which it predicted in its comments as resulting from the use of Channel 3 at Carbondale from an assumed site would necessarily be the same for a Harrisburg Channel 3 operation. Our statement was intended to connote only that in the general area where Channel 3 could be employed, an argument could be made that there would be additional mutual interference to co-channel stations, albeit differing in amount and effect depending upon location of sites, facilities used, etc. We held in our decision that this argument provides no justifiable basis for rejecting the assignment of Channel 3 to Harrisburg since it fully complies with all allocation requirements, and § 3.612 of the rules expressly states that the nature and extent of the protection from interference accorded to television stations is limited solely to that resulting from the minimum station separation requirements and the rules relating to maximum powers and antenna heights. We also rejected WREC's request for an evidentiary hearing upon finding that such a hearing would serve no useful purpose.

5. In its instant petition, WREC submits engineering data to show that the assignment of Channel 3 to Harrisburg, and the change adopted in the offset requirement for its co-channel Station WREC–TV at Memphis, would also result in added interference and loss of coverage to its Memphis station and other co-channel stations at Louisville, Champaign and Shreveport. WREC states that it recognizes that the Commission's rules do not contemplate the use of interference studies or coverage comparisons in allocating a channel to a community where the minimum mileage separations are observed, and it restates the position it took in its comments that the time has come when matters of mutual interference should be determined in considering proposals for the allocation or addition of new television facilities. It submits that the engineering data which it submitted to show the overall interference conditions is as realistic a depiction as can be made; that there is authority for its contention that predictions of coverage of stations based upon the Commission's propagation curves should not be rejected as a basis for a showing of interference, and that the engineering data which it has submitted raises a substantial question whether licensee modification would result from the interference which would be imposed upon its Memphis station and other co-channel stations by the allocation of Channel 3 at Carbondale or Harrisburg. It urges that, at the very least, in view of the Court's holding in L. B. Wilson v. Federal Communications Commission, 83 App. D. C. 176, 170 F. (2d) 793, it is entitled to establish the existence of the interference at a public hearing before a decision is reached on the allocation of Channel 3.

6. WREC states, however, that it has made an extensive study in an effort to reconcile its desire to protect its established service area from increased interference and the Commission's desire to provide additional television service in southern Illinois, and it has concluded that, while WREC–TV would be injured by the use of Channel 3 at either Carbondale or Harrisburg because of the increased mutual interference on the channel and the interference resulting from the change in its carrier offset, this injury can be mitigated by allocating Channel *8 instead of Channel 3 to Harrisburg for commercial use and Channel *3 instead of Channel *8 to Carbondale for educational use. WREC argues that a Channel 8 operation at Harrisburg, with a properly selected antenna site, would have no greater impact upon UHF at Evansville than would a Channel 3 station; that since one of the requests of the Harrisburg UHF permittee, Turner-Farrar Association, was for the assignment of Channel 8 at Harrisburg, it may be assumed that a Channel 8 authorization for Station WSIL–TV would be acceptable to it; and that WREC has advised Turner-Farrar Association that it would be willing to defray a portion of the additional costs involved in the acquisition of a site for a Channel 8 Harrisburg operation which would be no closer to Evansville than would a Channel 3 operation at Harrisburg. WREC also maintains that in advancing this proposal it has assigned weight to practical considerations, such as the assumption that an educational station at Carbondale on Channel *3 would not be ready for operation for some time; that the impact of mutual interference attributable to the change in offset of its Memphis station could be postponed by permitting Station WREC–TV at Memphis to continue operating with its present offset until a Carbondale educational station has been constructed and made ready for operation; and that a Channel 3 educational station at Carbondale would not utilize technical facilities capable of radiating as strong a signal nor operate as many hours as would a commercial station.

7. No reasons have been advanced by WREC which persuade us that Channel 3 should not be assigned to Harrisburg. We have found this assignment to be in the public interest and to conform to all applicable rules, and WREC concedes that the assignment meets all allocation requirements of the rules and that the interference which it claims would result from the assignment is not protected against under the rules. In adopting the present television allocation plan, we made a basic determination that the most efficient utilization of the channels and the best service to the public can be achieved by authorizing stations whose service areas are protected from interference solely by the minimum separation and maximum height and power requirements. We have adhered to this policy in considering proposed amendments to the Table of Assignments, and, even assuming that the interference depicted by WREC–TV would result from the new assignment, we do not believe that it would be in the public interest to depart from our basic allocation policy in the present case and deprive the Harrisburg area of a needed television assignment meeting all allocation requirements on the basis of a claim of interference to existing co-channel stations which is precluded by the express provisions and purposes of the Commission's rules. Further, since the record discloses no facts which show that Station WREC–TV or any other co-channel station would be deprived of any protection from interference or any other rights to which it is entitled under the rules and their outstanding authorizations as a result of the allocation of Channel 3 to Harrisburg, we are not persuaded that, as a matter of law, any question is raised concerning the modification of the outstanding authorizations of existing co-channel stations by the assignment of Channel 3 to Harrisburg. WREC has cited no case, in our opinion, from which it may be inferred that a station has a right to protection from interference under its license greater than that prescribed by the Commission's rules and standards, and no case which holds that a licensee is entitled, as a matter of right, to a hearing, on the question of modification vel non on the sole basis of a claim of interference over and beyond that protected against under the rules. We do not believe that the Wilson case, supra, to which WREC refers, stands for this latter proposition. In any case, the subsequently decided WJR, The Goodwill Station, Inc. v. Federal Communications Commission case[1] negates any assumption that a licensee has any legal recourse from interference over and beyond that for which protection is afforded by the rules which result from a new allocation or other change in the Table of Assignments. While we, nevertheless, would not hesitate to schedule an evidentiary or other hearing if we thought it desirable or necessary in the reaching of our ultimate decision, we are still of the view that no useful purpose would be served by a further hearing to examine the effects of interference in excess of that from which co-channel stations are protected under our rules. WREC has had full opportunity both in the rule making proceeding and in its subject petition to present its position and facts and data bearing on the question, and we are convinced that the record in this proceeding—which is wholly adequate for us to reach a decision in this matter—supports our conclusion that no basis exists for rejecting an assignment found to be in

[1] 84 U. S. App. D. C. 1, 174 F. (2d) 226, 1248 (1948), rev'd 337 U. S. 265, 93 L. Ed. 1353, 69 S. Ct. 1097 (1949), mandate followed, 85 U. S. App. D. C. 392, 178 F. (2d) 720 (1949).

the public interest and satisfying all allocation requirements because of the possibility of interference for which no protection has been prescribed in the rules.

8. We have also considered WREC's arguments in support of its request that we reverse our action by allocating Channel 8 instead of Channel 3 to Harrisburg for commercial use and Channel *3 instead of Channel *8 to Carbondale for education. We are not, however, convinced that the public interest would be as well served by the allocation of Channel 8 instead of Channel 3 to Harrisburg for commercial use. In the rule making proceeding we preferred Channel 3 over Channel 8 for commercial use in this area not only because its use in the area would require a transmitter site further distant from Evansville and the Evansville UHF market but also because a Channel 3 operation would provide Grade B VHF service to a greater area which already receives two Grade B VHF services and thus would provide greater opportunities for improvement in the competitive situation among stations serving the area and of bringing an additional television service to a greater number of people. We still believe that these considerations dictate the use of Channel 3 rather than Channel 8 for commercial use in this area. In addition, we note that Southern Illinois University in its opposition to WREC's petition for reconsideration urges that Channel 8 can be more effectively used to serve the educational needs of the southernmost 31 counties of Illinois, which it has accepted as its responsibility and objective, than could Channel 3, which it claims would not permit the University to fulfill, with maximum effectiveness, its obligation to provide an educational television service to this area. As a basis for this conclusion, it states that a Channel 8 transmitter site could be located in the approximate center of this area, near Sesser, Illinois, in compliance with the rules and provide service to a major portion of this southern Illinois area whereas a Channel 3 transmitter site, located as near the center of this area as possible under the rules, would provide service to a substantially smaller portion of this area. Moreover, the practical considerations which WREC states constitute the basis for its preferring the assignment of Channel 3 to Carbondale for education rather than to Harrisburg for commercial use are based on assumptions which may not obtain if Channel 3 were reserved for education at Carbondale. Southern Illinois University states that it plans to apply for a construction permit for an educational station as soon as the educational reservation at Carbondale is finalized; that it expects to have an educational station on the air within one year from the grant of a construction permit; and that it proposes to operate an educational television station with the maximum power permitted under the rules and with a full programming schedule.

9. WREC also argues that since the Commission's action allocating Channel 3 to Harrisburg and authorizing Station WSIL–TV at Harrisburg to operate temporarily on Channel 3 does not conform to the proposal of the Commission in the notice of proposed rule making, the Commission's action was in violation of the notice and procedure requirements of section 4 of the Administrative Procedure Act and deprived WREC of the notice to which it is entitled prior to Commission action and of an opportunity to demonstrate that the action taken was not in the public interest. Storer and Indiana Broadcasting argue similarly with respect to the offset carrier changes adopted for Channel 8 at Indianapolis, Charleston, Grand Rapids, and Cleveland.

10. We believe that these petitioners take an untenable position in their allegations of inadequacy of notice and lack of opportunity to be heard in this proceeding. Our May 3, 1957, notice of proposed rule making herein, published in the FEDERAL REGISTER on May 8, 1957 (22 F. R. 3230), fully conformed with the notice requirements of the pertinent section of the Administrative Procedure Act which requires no more than "a description of the subjects and issues involved." All parties were advised in the published notice that two proposals for rule making, one seeking the assignment of either Channel 3 or Channel 8 to Harrisburg, and the other, the assignment of Channel 3 to Carbondale, had been received, and that the Commission proposed, since Channel 3 could not be assigned to both communities, that Channel 8 be assigned to Harrisburg and Channel 3 to Carbondale. We noted in the Notice that the allocation of Channel 3 to Carbondale would require a change in the offset carrier of Channel 3 at Memphis (upon which WREC operates Station WREC–TV) and that since the allocation of Channel 8 to Harrisburg might create a nonoffset carrier operation problem, parties filing comments should direct their attention to this matter. We also stated in response to Turner-Farrar's request at the outset of the rule-making proceeding for the institution of show cause proceedings looking toward the modification of its permit for Station WSIL–TV to specify operation on "the newly assigned VHF channel" instead of Channel 22 at Harrisburg that since the assignment of a VHF channel to Harrisburg would not disturb Channel 22, the station's authorization need not be disturbed. It was implicit in the notice that comments were invited not only on the Commission's tentative proposal but also on alternative proposals for the improvement in the television situation in the Carbondale-Harrisburg area by the employment of Channels 3 and 8, and we believe the notice issued was fully adequate to put all parties on notice that the Commission would consider, in addition to its tentative proposal, all other proposals submitted for allocation of Channels 3 and 8 in this area, as well as the offset carrier changes which would be required for the adoption of any proposal for the employment of Channels 3 and 8 in this area. Ample opportunity was afforded all parties to submit comments on the tentative proposal of the Commission and on all alternative proposals submitted. Since Turner-Farrar Association filed comments in response to the notice renewing its requests that Channel 3 be assigned to Harrisburg if its Channel 8 proposal was rejected and that its UHF station be authorized to operate on the VHF channel assigned, and since Southern Illinois University at Carbondale filed comments requesting that a VHF channel be reserved for education at Carbondale to meet the need and demand for educational television, we believe there is even less basis for asserting that consideration of the proposal to allocate Channel 3 to Harrisburg and Channel *8 to Carbondale was foreclosed or that our action was not wholly proper and within the scope of the rule making proceeding. There is no foundation for WREC's contention that the Commission is limited to the action tentatively proposed in a notice of proposed rule making, for it is well established that the Commission may also consider and adopt counterproposals or other proposals falling within the general purview of its published Notice which it finds to be appropriate and in the public interest.

11. WREC further contends that the change adopted in the offset carrier designation for Channel 3 at Memphis modified its license for Station WREC–TV at Memphis without benefit of the applicable statutory procedure required by section 316 of the Communications Act and prejudged the question whether its license for Station WREC–TV should be so modified without first affording WREC the hearing to which it claims it is entitled. Storer and Indiana Broadcasting also argue that the changes adopted in offset requirements for Channel 8 in several cities cannot be finally effectuated without first affording the licensees of stations operating on Channel 8 in these cities with notice and opportunity for an evidentiary hearing pursuant to section 316 of the Act.

12. Upon determining that the public interest would be served by the assignment of Channel 3 to Harrisburg and Channel *8 to Carbondale for education and that both assignments could be made in conformity with mileage separation and all other technical requirements, the Commission also changed the offset carrier requirement for Channel 3 at Memphis and the offset carrier requirement for Channel 8 at Indianapolis, Charleston, Grand Rapids, and Cleveland in order to afford all of the co-channel stations operating on Channels 3 and 8 in these cities the greatest protection and widest coverage possible in light of the new assignments at Carbondale and Harrisburg. While effectuation of the offset carrier changes adopted for Channels 3 and 8 in these cities cannot be effectuated, as Storer and Indiana Broadcasting point out, without modifying the present authorizations of the stations involved, the Commission has never found it necessary to institute show cause proceedings pursuant to section 316 of the Act simply to change the offset carrier frequency upon which a station was operating because of a lack of consent of the licensee thereof in order to facilitate a new co-channel assignment or changes in assignments found to be in the public interest and

in conformity with mileage separation and all other technical requirements of the rules. Such new assignments of changes in assignments can be made in full conformity with the rules without changing the offset carrier frequencies upon which existing co-channel stations are operating, but changes in offset frequencies are frequently desirable in order to obtain a more effective utilization of all the assignments involved.

13. In the case of the offset carrier designations adopted for Channel *8 at Carbondale (minus) and the changes in offset carrier designations ordered for Channel 8 stations at Indianapolis, Charleston, Grand Rapids and Cleveland, the licensees of the affected stations at Cleveland and Indianapolis, Storer and Indiana Broadcasting, urge that their alternative offset carrier proposal for accommodating the assignment of Channel 8 to Carbondale is preferable to that employed by the Commission from the standpoints of simplicity, efficiency, and less disruption in existing services. The method suggested by these petitioners, and also favored by WCHS-TV, licensee of the Channel 8 station at Charleston, would require only a change in the Channel 8 allocation at Jonesboro, Arkansas, from Channel 8 even to Channel 8 minus if Channel 8 even is assigned to Carbondale. No station is operating on Channel 8 at Jonesboro nor are any applications on file for the channel. Upon reconsideration, we believe the offset carrier method which these parties propose would be equally effective and a less complicated method of accommodating the assignment of Channel *8 to Carbondale than the method employed by the Commission. We are, therefore, revising our Report and Order to provide for the assignment of Channel *8 even to Carbondale and for a change only in the offset carrier designation of Channel 8 at Jonesboro from 8 even to 8 minus.

14. WREC does not suggest in its instant petition that there is any better alternative method of facilitating the assignment of Channel 3 to Harrisburg than by the assignment of Channel 3 even to Harrisburg and by changing the offset carrier requirement for operation of Station WREC-TV on Channel 3 at Memphis from Channel 3 even to Channel 3 minus, and we are convinced that the offset change ordered for Channel 3 at Memphis is necessary in the public interest to enable the most efficient use of Channel 3 in both Memphis and Harrisburg. We therefore reaffirm our action changing the offset carrier requirement for Channel 3 in Memphis. Accordingly, WREC Broadcasting Service's application for renewal of license of Station WREC-TV (File No. BRCT-243), which expires August 1, 1958, is this day being granted, but the renewed license specifies operation on Channel 3 minus. If WREC does not accept this renewed license, it may request a hearing thereon pursuant to § 1.64 of the Commission's rules.

15. Authority for the adoption of the amendments herein is contained in sections 1, 4 (i) and (j), 301, 303 (c), (d), (f) and (r) and 307 (b) of the Communications Act of 1934, as amended.

16. In view of the foregoing: *It is ordered*, That, effective September 5, 1958, the Table of Assignments contained in § 3.606 of the Commission's rules and regulations is amended insofar as the communities named are concerned, as follows:

Change the offset carrier requirements only for Channel 8 in the following cities:

Carbondale, Illinois—from *8 minus to *8 even.

Jonesboro, Arkansas—from 8 even to 8 minus.

Indianapolis, Indiana—from 8 plus to 8 minus.

Grand Rapids, Michigan—from 8 even to 8 plus.

Cleveland, Ohio—from 8 plus to 8 even.

Charleston, W. Va.—from 8 minus to 8 plus.

17. *It is further ordered*, That the above-described petitions for reconsideration of Storer Broadcasting Company and Indiana Broadcasting Corporation are granted; and that the above-described petitions of WREC Broadcasting Service for a stay order and for reconsideration or rehearing are denied.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, 1083; 47 U. S. C. 301, 303, 307)

Adopted: July 30, 1958.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6366; Filed, Aug. 8, 1958; 8:47 a. m.]

[Docket No. 12325; FCC 58-772]

[Rules Amdt. 3-119]

PART 3—RADIO BROADCAST SERVICES

MISCELLANEOUS AMENDMENTS

1. The Commission has before it for consideration its Notice of Proposed Rule Making (FCC 58-152), released on February 14, 1958, in response to: (1) A petition filed by Jefferson Standard Broadcasting Company, licensee of Station WBTW on Channel 8 at Florence, South Carolina, proposing the assignment of Channel 8 to Greensboro, North Carolina, by substituting Channel 13 for Channel 8 at Florence and Channel *8 for the Channel *13 educational reservation at Charleston, South Carolina; (2) a petition filed jointly by Winston-Salem Broadcasting Company, Inc., permittee of Station WTOB-TV on Channel 26 at Winston-Salem, North Carolina, and Sir Walter Television Company, permittee of Station WNAO-TV on Channel 28 at Raleigh, North Carolina, proposing the assignment of Channel 8 to Winston-Salem-High Point-Greensboro as a hyphenated area or, alternatively, to Winston-Salem alone by making the same channel changes proposed by Jefferson Standard for Florence and Charleston; (3) a petition filed by Paul E. Johnson of Granite City Broadcasting Company, Mount Airy, North Carolina, proposing the assignment of Channel 8 to Winston-Salem by making the same channel changes proposed by Jefferson Standard for Florence and Charleston; and (4) a petition filed by Atlantic Broadcasting Company, Inc., licensee of standard Radio Station WJMX at Florence, proposing, in lieu of the above proposals, that Channel 8 be retained at Florence and that Channel 13 be added to Florence by substituting Channel *7 for the Channel *13 educational reservation at Charleston.

2. All of the petitioners except Paul E. Johnson filed comments and reply comments in support of their conflicting proposals. Jefferson Standard suggests in its comments that Channel *7 instead of Channel *8, as it originally proposed, be substituted for Channel *13 at Charleston to permit the shift of Channel 13 to Florence as a substitute for Channel 8 and the reassignment of Channel 8 to Greensboro. High Point Television Company, High Point, North Carolina, submitted a counterproposal to assign Channel 8 to High Point in lieu of Winston-Salem, Greensboro or a tri-city hyphenated allocation by changing the assignments in Florence and Charleston in the way proposed by Jefferson Standard. The Joint Council on Educational Television opposes any change in the Channel *13 educational reservation at Charleston but prefers the substitution of Channel *7 instead of Channel *8 for Channel *13 in the event the educational reservation at Charleston is changed. American Broadcasting Company supports the proposal to allocate Channel 8 to the hyphenated communities of Greensboro-High Point-Winston-Salem by substituting Channel 8 for Channel 13 at Florence and Channel *7 for Channel *13 at Charleston and the modification of Station WTOB-TV's authorization to permit temporary operation on Channel 8 at Winston-Salem. Skywave Broadcasting Company, licensee of Station WLOS-TV on Channel 13 at Asheville, North Carolina, opposes the assignment of Channel 13 to Florence. A copy of a Concurrent Resolution adopted on April 9, 1958, by both Houses of the General Assembly of the State of South Carolina memorializing the Congress to enact legislation directing the Commission not to move or substitute another channel for Channel 8 in Florence was submitted by Congressman John L. McMillan of the 6th District of South Carolina. Telegrams opposing the substitution of Channel 13 for Channel 8 at Florence were also received from the Mayor of Florence and several business, civic and educational organizations in Florence.

3. Since the proposals for the assignment of Channel 8 to the Winston-Salem, High Point, and Greensboro area, if adopted, would require Station WBTW at Florence to operate on Channel 13 instead of 8, the licensee, Jefferson Standard Broadcasting Company, was directed in the February 14, 1958, Notice to Show Cause why its authorization for Station WBTW should not be so modified. In light of the request of Winston-Salem

Broadcasting and Sir Walter Television, Winston-Salem Broadcasting was also directed to Show Cause why its authorization for Station WTOB–TV on Channel 26 at Winston-Salem should not be modified to specify temporary operation on Channel 8 at Winston-Salem.

4. In response to the Show Cause Order, Jefferson Standard contends that the issuance of the Orders respecting its Florence Channel 8 station (WBTW) and the Winston-Salem Channel 26 station (WTOB–TV) was premature and invalid since, until the instant rule making proceeding is concluded, the Commission is not in a position to comply with the requirements of section 316 (a) of the Communications Act, that a licensee or permittee be "notified in writing of the proposed action and the grounds and reasons therefor."[1] Jefferson Standard requests that the Show Cause Orders be vacated or, in the alternative, be severed from the rule making proceeding and that action thereon be withheld until a final determination is made in the rule making proceeding. If the latter request is granted, Jefferson Standard states that in the event the Commission assigns Channel 8 to Greensboro, High Point, Winston-Salem or to Winston-Salem-High Point-Greensboro on a hyphenated basis by making the proposed changes respecting Channels 7 or 8 and 13 at Charleston and Florence, it will consent to the modification of the WBTW license to specify Channel 13 in lieu of Channel 8 at Florence, provided the Commission specifies that this need not be effectuated until a grant is made of an application for Channel 8 in the Winston-Salem-High Point-Greensboro area or for Channel *8 at Charleston (assuming Channel *8 rather than Channel *7 is substituted for Channel *13 at Charleston). Jefferson Standard further states that if the Commission fails to provide that the modification of the WBTW authorization may be delayed until the grant of an application for a facility requiring such modification, respondent requests a hearing and will appear at the hearing and present evidence on the matters specified by the Commission.

5. Winston-Salem Broadcasting Company states in response to the Show Cause Order that the temporary modification of Station WTOB–TV's construction permit to specify Channel 8 instead of Channel 26 at Winston-Salem should be in accordance with the engineering specifications submitted with its joint petition for rule making herein and should be subject to a condition that, in any comparative hearing involving applications for regular operation on Channel 8, no effect whatsoever will be given to any expenditure of funds in connection with the temporary operation, nor will any other preference redound to Station WTOB–TV, or to its successors, by virtue of the temporary operation. On this basis, Winston-Salem Broadcasting Company states that it consents to the temporary modification of its authorization for Station WTOB–TV to specify Channel 8 in lieu of Channel 26 and waives its right to request a hearing in connection therewith.

6. Adoption of two other proposals, conflicting with the above proposals and with each other, is requested in petitions filed on March 24, 1958, by Paul E. Johnson of Mount Airy, North Carolina, and on March 3, 1958, by United Broadcasting Company at Mount Airy. Mr. Johnson requests that Channel 2 be assigned to Mount Airy by substituting Channel 8 for Channel 2 at Greensboro; Channel 13 for Channel 8 at Florence; Channel *8 for the Channel *13 educational reservation at Charleston and Channel *55 for the Channel *2 educational reservation at Sneedville, Tennessee. United requests that Channel 4 be assigned to Rocky Mount, North Carolina, by substituting Channel *8 for the Channel *4 educational reservation at Chapel Hill, North Carolina; Channel 13 for Channel 8 at Florence, and Channel *8 for Channel *13 at Charleston. Greensboro News Company, licensee of Station WFMY–TV on Channel 2 at Greensboro, filed an opposition on April 22, 1958, to the Johnson request. The Consolidated University of North Carolina, licensee of Station WUNC–TV on Channel 4 at Chapel Hill, advises, by letter dated March 29, 1958, that it is opposed to United's proposal. On May 9, 1958, the Association of Maximum Service Telecasters, Inc., filed letters requesting that both the Johnson and United proposals be dismissed because neither comply with the mileage separation requirements of the rules. Neither Johnson nor United submitted any facts, reasons or data in support of their proposals nor any engineering studies to demonstrate their technical feasibility. United's proposal for Rocky Mount must be summarily rejected, since it would require Station WUNC–TV to shift from Channel *4 to *8 at Chapel Hill. Channel 8 cannot be assigned to Chapel Hill since Station WUNC–TV would be less than 150 miles from co-channel Station WXEX–TV at Petersburg, Virginia, while our rules require a 170 mile separation. Mr. Johnson's instant proposal for Mount Airy is being rejected without further consideration for the same reason.[2] If the Channel 2 station at Greensboro (WFMY–TV) were shifted to Channel 8, as proposed, in order to make the assignment of Channel 2 to Mount Airy possible, WFMY–TV would be less than the required 170 miles from co-channel Station WXEX–TV at Petersburg, Virginia. Furthermore, Channel 55 could not be substituted for Channel *2 at Sneedville in conformity with co-channel and adjacent channel separation requirements since Sneedville is less than the required 175 miles from both Mount Airy and Chattanooga, Tennessee, to both of which Channel 55 is assigned, and it is less than half the required 55 miles from Morristown, Tennessee, to which Channel 54 is assigned.

7. The proponents of the various proposals for the assignment of a third VHF channel in the Winston-Salem-High Point-Greensboro area state that they will apply for Channel 8 if it is assigned to this North Carolina area. They urge that the requirements of section 307 (b) of the Communications Act would be better met by adding a third channel in this North Carolina area so as to provide a second local VHF station in either Winston-Salem or Greensboro or a first local VHF station at High Point than by adopting the mutually exclusive proposal of Atlantic Broadcasting to add a second VHF channel at Florence. Jefferson Standard maintains that, on a statewide basis, the greater need of North Carolina for an additional VHF channel over South Carolina is evidenced by the fact that, based on the 1950 Census, the ratio of VHF television assignments to total population in North Carolina is one VHF commercial channel for every 338,494 people, as compared to one for every 302,432 people in South Carolina, and that the assignment of an additional VHF channel to North Carolina would raise the ratio to but one for every 312,456 people; and that a comparison of the populations of the cities and markets involved—Florence had a population in 1950 of 22,513; Greensboro, 74,389; Winston-Salem, 87,811 and High Point, 39,973; the population of Florence County in 1950 was 79,710; the Greensboro-High Point Standard Metropolitan Area, 191,057, and the Winston-Salem Standard Metropolitan Area, 146,135[3]—and present VHF allocations in the Florence and the tri-city area (Florence, Winston-Salem and Greensboro each have one VHF assignment upon which stations are operating; High Point has no VHF assignment and no local station) further demonstrates the greater need of the tri-city area for an additional VHF channel.

8. Winston-Salem Broadcasting and Sir Walter Television cite statistics from Sales Management (1957), "Survey of Buying Power" which show that Florence had a 1957 estimated population of 25,300, effective buying income of $33,564,000; retail sales of $47,131,000 and 422 retail outlets; while Winston-Salem-Greensboro-High Point had an estimated 1957 population of 246,600, effective buying income of $442,005,000; retail sales of $478,996,000 and 3,794 retail outlets. These parties also state that the Editor & Publisher (1958) "Market Guide" shows that Florence has 116,709 people

[1] We find no merit in this argument. The reasons for issuance of the orders are implicit in the notice of rule making; i. e., that proposals under consideration would require the modification of the WBTW and WTOB–TV authorizations.

[2] By memorandum opinion and orders, released July 27, 1956, and October 3, 1956 (FCC 56–751 and FCC 56–924); and by letters dated January 2 and 15, 1958, the Commission denied and dismissed four previous petitions filed by Mr. Johnson proposing the assignment of Channel 8 to Mount Airy by making changes in the channel assignments in other communities because they involved substandard spacings.

[3] Jefferson Standard also submitted estimates of populations for these cities based on the Sales Management "1958 Survey of Buying Power" which is to be published in May, 1958. While subject to revision, these estimates, as of January 1, 1958, show as follows: Florence, 27,500 population; Greensboro, 119,700 population; Winston-Salem, 114,600 population; High Point, 45,200; Florence County, 87,500; Greensboro-High Point Standard Metropolitan Area, 224,700 and Winston-Salem Standard Metropolitan Area, 179,400.

within its Retail Trading Zone (ABC) as compared to 317,125 at Winston-Salem; 531,703 at Greensboro and 64,926 at High Point. Jefferson Standard claims that, assuming facilities with 316 kw power and antenna height of 1,000 feet, a Channel 8 station in the Greensboro area would have 591,334 people within its city grade contour, 769,805 people within its Grade A contour and 1,428,816 people within its Grade B contour as compared to a Florence Channel 13 station having 346,031 people within its city grade contour, 489,637 people within its Grade A contour, and 812,458 people within its Grade B contour; and that a Channel 13 station at Florence would have but two cities with populations over 20,000 within its Grade B contour (Florence, 22,513; Sumter, S. C., 20,185); whereas a Greensboro Channel 8 station would have nine cities with populations over 20,000 within its Grade B contour (Burlington, N. C., 24,560; Kannapolis, N. C., 28,448; Durham, N. C., 71,311; Winston-Salem, N. C., 87,811; Greensboro, 74,389; High Point, 39,973; Danville, Va., 35,066; Salisbury, N. C., 20,102 and Raleigh, N. C., 65,679).

9. The tri-city proponents also contend that in view of the limited market potential at Florence and the experience of Station WBTW in that city, there is some question whether a second station would be established in the Florence area within the foreseeable future whereas the profitable television operations in the tri-city area and the interest displayed by the proponents of the various proposals for the assignment of a third VHF channel in the tri-city area give assurance that an additional channel would be promptly utilized there. The tri-city petitioners further urge that the Winston-Salem, High Point and Greensboro proposals should be preferred over Atlantic's proposals for Florence since the former would provide a major market with three competitive television stations and network services. ABC points out that as the third network striving to reach equality with the other two national networks, it has been adversely affected by the shortage of television outlets in the major markets of the country, such as Greensboro-High Point-Winston-Salem; and that with only two VHF stations in operation in that market ABC has been unable to obtain a primary affiliation or to clear satisfactorily its commercial network programs in the market. ABC urges that the need of this area for a third television station is clear and pressing; that a third station would improve opportunities for more effective competition among a greater number of stations in this important television market area; that providing equality of access to each of the national networks would substantially contribute toward improvement of the nationwide competitive television situation; and that a comparative evaluation of section 307 (b) considerations and related criteria—community size, competitive network needs, population served, applicant demand and market support—requires preferring the proposals for a third VHF channel in the tri-city market over the proposal to provide Florence with a second VHF channel.

10. Atlantic Broadcasting Company, Inc., the proponent of the proposal to retain Channel 8 at Florence and to add Channel 13 at Florence by substituting Channel *7 for Channel *13 as the educational reservation at Charleston, states that it will apply for Channel 13 if its proposal is adopted. It urges that the public interest and section 307 (b) of the Communications Act require the adoption of its proposal to afford Florence a second VHF outlet over any of the conflicting proposals for the assignment of a third VHF channel in the Winston-Salem-High Point-Greensboro area; that its proposal would provide Florence, the sixth largest city in South Carolina and an important retail, cultural and commercial center for the entire northeastern area of the State, with a needed second local outlet; and that it would bring an additional television service to some 803,000 persons, of whom 61,163 would receive a second service and 437,897 would receive a third service. Atlantic claims that, in contrast, an additional VHF station in the Greensboro-Winston-Salem-High Point area would provide service to virtually no areas and populations which are not already receiving service from at least three television stations and that a substantial portion of the area which would be served lies within the Grade B contour of five or more television stations. It asserts that adoption of its proposal will improve the competitive situation in Florence, and it maintains that, while the encouragement of competition by providing for several stations in the larger markets may be important, this consideration is not paramount to the needs of populations and areas for additional service. Atlantic also urges that adoption of its proposal would not require the modification of any existing television authorization, as would the conflicting proposals for the assignment of Channel 8 to the Winston-Salem-High Point-Greensboro area; and that since it is probable that there would be time-consuming hearings and other procedures before a final authorization could be issued for a station to operate on Channel 8 in the Winston-Salem area, finalization of its proposal for Florence would be more conducive to the orderly and prompt dispatch of Commission business.

12. Jefferson Standard urges that Greensboro should be preferred to Winston-Salem for the assignment of a second VHF channel, since it is a faster growing city and the center of a faster growing and larger standard metropolitan area. It states that the Greensboro-High Point Standard Metropolitan Area has exceeded the Winston-Salem Standard Metropolitan Area in size in every decennial census since 1920 and that the gap between the two has been steadily widening; that by 1950 the Greensboro-High Point Standard Metropolitan Area had a total population of 191,057 as compared to a population of 146,135 for the Winston-Salem Standard Metropolitan Area; that during the decade 1930–1940 Winston-Salem had a city growth of 6 percent compared to Greensboro's city growth of 11 percent and during the decade 1940–1950 the growth of Winston-Salem was 10 percent compared to 25 percent for Greensboro; that while the U. S. Census reported Greensboro's population in 1950 to be 74,389 and Winston-Salem's to be 87,811, the Director of Planning of the City of Greensboro, as of July 1, 1957, estimated that city's population to be 119,584, while the Winston-Salem and Forsyth City-County Planning Board, estimated Winston-Salem's population as of July 1, 1957, to be 108,500.* As between assigning Channel 8 to High Point or Greensboro, Jefferson Standard urges that the choice should be Greensboro since, because of their relative size (the 1950 population of High Point was 39,973 as compared to 74,389 for Greensboro) and close proximity (less than 15 miles apart) in the same county and standard metropolitan area, both cities are in reality one integrated urban area and any station in this area would, in fact, be a Greensboro station. Jefferson Standard also claims that Winston-Salem does not have a sufficient community of interest with Greensboro and High Point to warrant the hyphenated assignment of Channel 8 to all three cities; that Winston-Salem and Greensboro are the centers of separate and distinct standard metropolitan areas; that they are located about 30 miles apart in different counties, have entirely different city and county governments and dominant newspapers, and are each the center of commercial and social activities of extensive rural areas; and that, under these circumstances, it would be contrary to precedent for the Commission to hyphenate these three cities for allocation purposes.

13. High Point Television Company, which states that it plans to apply for Channel 8 if it is assigned to the Winston-Salem-High Point-Greensboro area, urges in support of its counterproposal for the assignment of Channel 8 to High Point that it is consistent with the objective of improving the opportunity for effective competition among a greater number of stations in the tri-city area; that a High Point Channel 8 station would provide city-grade service to Greensboro and Winston-Salem as well as to High Point, and that since Winston-Salem and Greensboro each have a VHF channel and station and High Point has none, section 307 (b) of the Communications Act and the Commission's priorities for allocations require that any new VHF assignment in this area be made to High Point. High Point also urges that the proposal to hyphenate the communi-

* Winston-Salem Broadcasting and Sir Walter Television submitted statistics from the 1958 "Editor and Market Guide," which show that local estimates for city zone 1957 populations in Winston-Salem were 140,500 people, Greensboro, 119,000; and High Point, 64,926. Jefferson Standard claims that the population figure for Winston-Salem is obviously an error in view of the Sales Management "1958 Survey of Buying Power" estimate of 114,600 population for Winston-Salem and the 1957 estimate of 108,500 population of the City-County Planning Board of Winston-Salem.

ties of Winston-Salem, High Point and Greensboro for the assignment of Channel 8 is but an attempt to establish an artificial situation whereby individual community considerations would be diluted and the merits of a High Point applicant would be obscured and should therefore be rejected.

14. In support of their proposal to hyphenate Winston-Salem, High Point and Greensboro for the allocation of Channel 8 and for all other channels now separately allocated to them, Winston-Salem Broadcasting Company and Sir Walter Television urge that the public interest requires that the entire Winston-Salem-Greensboro-High Point metropolitan complex be recognized by the Commission's allocation of Channel 8 and that the allocation be made on as broad a basis as possible so that all in this area can have an opportunity to apply for the channel. They state that the Commission in the past has hyphenated cities socially, economically and geographically closer than Winston-Salem, Greensboro, and High Point but that it has also hyphenated cities farther apart having fewer or no more community connections and that precedents, the facts of the case, and trade usage require hyphenation of these three cities for allocation purposes. They contend that Winston-Salem, High Point and Greensboro are not widely separated geographically, the airline distance from city limit to city limit between Winston-Salem and High Point being only 11.5 miles; between Winston-Salem and Greensboro, 20 miles; and between Greensboro and High Point 8.1 miles; and that the Greensboro and Winston-Salem Chambers of Commerce have requested the Bureau of the Census to consider Forsyth (Winston-Salem) and Guilford (High Point, Greensboro) Counties as one metropolitan area in the published results of the 1960 Census. They urge that hyphenation is logical and consistent with the public interest, since the two VHF stations in Winston-Salem and Greensboro now serve this entire North Carolina area and specifically advertise as Winston-Salem-Greensboro-High Point stations; that the three cities have formed a Three-City Development Committee to promote the economic, cultural, civic and spiritual well-being of all people within their combined trade areas; that station representatives and advertising agencies handle and sell all three cities as one market; that American Research Bureau, Inc., Trend, and other industry survey and reporting organizations conduct their surveys on the basis of a combined community, and that the Commission itself groups (and hyphenates) the three cities for the purpose of its annual Individual TV Market Data Reports. While on a separate city basis, they would recommend that Channel 8 be allocated to Winston-Salem because it is the largest of the three cities and is entitled to a second station before Greensboro and before High Point (less than one-half the size of Winston-Salem) receives its first, they state that while considerations under section 307 (b) of the act may ultimately prove to be a significant factor in the specific assignment of Channel 8, one community cannot be clearly preferred to another on the basis of the record in this proceeding. They urge that the Commission's reasons for hyphenating cities in other allocations cases—trade, industrial or cultural unity between cities and to postpone to an adjudicatory proceeding unresolved questions arising under section 307 (b) of the act—pertain herein with respect to Winston-Salem, High Point and Greensboro and dictate that Channel 8 be assigned to all three on a hyphenated basis.

15. American Broadcasting Company, which supports the proposal to allocate Channel 8 to Greensboro-High Point-Winston-Salem on a hyphenated basis, points out that CBS classifies this area as a single television market and that a similar classification is in use at ABC and, undoubtedly, is widespread in the industry, ABC urges that in view of the consideration and the procedure used in other proceedings of making a hyphenated allocation when faced with conflicting demands by individual communities, the same procedure should be used in assigning Channel 8 to this North Carolina area.

16. Winston-Salem Broadcasting, Sir Walter Television and ABC also urge that if Channel 8 is assigned to the Winston-Salem-High Point-Greensboro area, Station WTOB–TV at Winston-Salem should be permitted to operate temporarily on the channel pending the selection of the most qualified applicant for regular operation on Channel 8. They claim that such action will bring a third competitive television service to this market without delay; that the public should not be deprived of the benefits of Channel 8 service until the conclusion of a competitive proceeding where a satisfactory alternative is available; and that temporary modification of Station WTOB–TV's license in this instance would be consistent with the Commission's recent action in the St. Louis, Missouri (Docket No. 11747), Albany-Schenectady-Troy (Docket No. 11751) and Harrisburg, Illinois (Docket No. 12011) cases and with the suggestions of Congressional committees. Winston-Salem Broadcasting estimates that it could commence operation of Station WTOB–TV on Channel 8 within a week after its present authorization for Station WTOB–TV is modified and Station WBTW at Florence has changed over to an operation on Channel 13; that only basic transmitting equipment (antenna and transmitter) would be needed; that the total cost of the change-over from Channel 26 to Channel 8 would be in the order of $210,000; and that a substantial portion of this investment could be recouped through resale at the expiration of WTOB–TV's interim operation.

17. Jefferson Standard and High Point Television urge that there is no need or special circumstance justifying temporary modification of the permit of Station WTOB–TV; that the Albany-Schenectady-Troy case, where the Commission gave temporary operating authority to two existing, on-the-air UHF stations to operate on VHF assignments primarily to preserve existing services, provides no authority for reactivating Station WTOB–TV, which voluntarily left the air in May of 1957; that the allocation of Channel 8 to this area would not displace any existing service; that any preferential temporary operating authority to Station WTOB–TV pending a comparative hearing on the relative merits of other applicants for Channel 8 would violate the principle of administrative fair play embodied in Ashbacker Radio Corporation v. Federal Communications Commission, 326 U. S. 327, and the Commission's rules for the processing of mutually exclusive television applications; and that no temporary modification could be effectuated without affording Jefferson Standard a hearing pursuant to section 316 of the Communications Act. Jefferson Standard states that before Station WTOB–TV could operate on Channel 8 at Winston-Salem it would have to change its Channel 8 operation at Florence to Channel 13; that the change-over would cost around $75,000 and would result in loss of the benefit of three years' promotion of Channel 8 at Florence at a time when this promotion is beginning to show results; and that, while Jefferson Standard is willing to expend the funds for the change-over to Channel 13 if it need not be effected until an application for regular operation on Channel 8 in the Winston-Salem-Greensboro-High Point area is granted, it does not believe that during the period between such an allocation and a final grant—which could be a substantial period of time—it should be deprived of the fruits of its extensive investment in promoting Channel 8 in the Florence area and the opportunity to depreciate its investment in its Channel 8 equipment.

18. Winston-Salem Broadcasting and Sir Walter Television urge that, regardless of the possibility of immediate use of Channel 8 in the Winston-Salem area on an interim basis, the Commission should proceed promptly with the modification of Jefferson Standard's license for Station WBTW, even if a modification proceeding under section 316 of the Communications Act is necessary. They urge that such a hearing need be only a limited one, involving only the question of whether WBTW's license should be modified immediately or at a later date since section 307 (b) considerations give the Commission a ready-made case with which to support a finding that the modification of the WBTW license would serve the public interest. They further urge that the procedure suggested by Jefferson Standard—voluntarily to shift WBTW's operation to Channel 13 when a Channel 8 station is ready to go on the air in the Winston-Salem-High Point-Greensboro area—would set an undesirable precedent, since licensees in similar situations could delay the advent of a new service by changing their position at a later date and demanding a hearing pursuant to section 316 of the Act.

19. The channel changes proposed by the parties for the assignment of a third VHF channel in the Winston-Salem, High Point, and Greensboro area or the assignment of a second VHF channel to

Florence would meet the technical allocation requirements. Either Channel 7 or Channel 8 can be used at Charleston. Several of the parties contend that the use of Channel 7 would have certain advantages, and we concur. A transmitter for a Channel 7 operation could be located in Charleston whereas a site for a Channel 8 operation would have to be located approximately 11 miles northeast of the city to maintain the required 190 mile separation from the site proposed for a Channel 8 station at Waycross, Georgia, in the application of John H. Phipps (BPCT-2423, filed November 5, 1957). For this reason, The Joint Council on Educational Television urges that Channel 7 rather than Channel 8 should be substituted for Channel *13 if the educational reservation is to be changed. The JCET states that an antenna site outside the city would seriously handicap the establishment of an educational station in Charleston, since higher power and antenna height would be required and additional costs for equipment, operations and personnel would be necessary. Jefferson Standard and John H. Phipps, applicants for Channel 8 at Waycross, urge that the substitution of Channel 7 instead of Channel 8 for Channel *13 would provide greater latitude in the selection of transmitter sites and would simplify the problem of offset carrier designations.[5]

20. By deleting Channel 13 from Charleston, that channel can be assigned to Florence and a Channel 13 transmitter can be located in Florence, as well as at the present transmitter site of Station WBTW 5½ miles to the northeast of the city, which is 189.7 miles from the transmitter site of the Channel 13 station (WLOS-TV) at Asheville, North Carolina. Contingent upon the deletion of Channel 8 from Florence, Channel 8 can be allocated to the Winston-Salem-High Point-Greensboro area and can be assigned to any one of these cities in conformity with spacing and coverage requirements. The frequency can be used at Greensboro in an area as close as 9 miles from the center of Greensboro to the west or southwest; it can be used at High Point in the city and in areas to the north, northeast, northwest and southeast; and it can be used at Winston-Salem in the city and in an area surrounding the city, as well as at the present site of Station WTOB-TV on Channel 26, approximately a mile northeast of Winston-Salem.

21. Skyway Broadcasting Company, licensee of Station WLOS-TV on Channel 13 at Asheville, North Carolina, opposes the assignment of Channel 13 to Florence—which would be required for effectuation of all of the proposals for Florence and the Winston-Salem-High Point-Greensboro area—because of the effect of alleged mutual interference to Station WLOS-TV and a Channel 13 operation at Florence. Skyway urges that an inefficient use of facilities would result from using Channel 13 at Florence; that, as a result of co-channel interference, if Station WBTW at Florence operated on Channel 13 instead of Channel 8, the present service areas of both Stations WBTW and WLOS-TV would be reduced; that substantial areas and populations now receiving service from one or both stations would lose service; that a small area around Olanta and Yauhannah, South Carolina, now served by Station WBTW, would lose its only television service. The parties seeking the substitution of Channel 13 for Channel 8 in Florence in order to add Channel 8 in the Winston-Salem-High Point-Greensboro area contend, in reply, that since the allocation of Channel 13 to Florence meets all allocation requirements, and since the rules (§ 3.612) expressly provide that the nature and extent of the protection from interference accorded to stations is limited solely to that resulting from the minimum station separation requirements and the rules relating to maximum powers and antenna heights, the alleged mutual co-channel interference to Station WLOS-TV at Asheville and the proposed Channel 13 operation at Florence constitutes no justifiable basis for rejecting the proposed allocation.

22. Upon consideration, we are of the view that the objections of Skyway and others to the assignment of Channel 13 to Florence either as a substitute for Channel 8 or as an additional assignment based on the effect of alleged interference should not preclude the shift of the channel to Florence if otherwise found to be in the public interest. Channel 13 in Florence would meet all allocation requirements, and § 3.612 of the rules expressly provides that television stations are not protected from any interference which may be caused by the grant of a new station in accordance with the allocation standards. Further, the Commission has stated on numerous occasions that the computations of areas and populations that might receive or lose service from a particular proposal were made difficult due to the many variables and assumptions which have to be made and the fact that the propagation curves presently available and the known methods of computation do not lend themselves to precise determinations of coverage at a specific location. Upon examining the methods used by Skyway in computing interference resulting from the proposed use of Channel 13 at Florence, we have serious questions as to their accuracy and applicability. While Skyway uses the measured contours of Station WLOS-TV at Asheville, it uses predicted contours of other stations and values of interfering signals of Station WLOS-TV derived from measured median time values extended to greater distances. In deriving this latter data, various assumptions are made, some of which may not be valid or accurate. For example, the adjusted 10 percent values are extended well beyond the measured 50 percent values, with an assumed loss of 1 db for each five miles, but no justification is given for this assumption. Further, in computing the loss of Grade B service to Station WLOS-TV, no account is taken of adjacent channel interference from Station WJBF-TV at Augusta, Georgia, although considerable overlap of the Grade B contours is shown. Likewise, no interference to Station WLOS-TV is shown for a future operation on Channel *13 at Charleston in the event that assignment were to stay in Charleston and be utilized at some time.

23. All of the proposals for adding Channel 8 to the Winston-Salem-High Point-Greensboro area would provide this large and important market with a third television outlet. Atlantic's proposal for Florence would provide that city with a second local outlet, but it would preclude assigning Channel 8 in the Winston-Salem-High Point-Greensboro area since co-channel mileage separation requirements would not permit the allocation of Channel 8 to this North Carolina area if Channel 8 is retained at Florence. While we believe that both the proposal for Flornece and the proposals for the Winston-Salem-High Point-Greensboro area have merit, we are convinced that the latter are more meritorious, even though they would require Station WBTW at Florence to shift from Channel 8 to Channel 13. The use of Channel 8 in this North Carolina area would provide an important and sizeable market with a much needed third television outlet; would provide a first or second local outlet in cities much larger than Florence, which already has one local station; and would provide Grade B or better service to a significantly larger number of persons than would be served by a second VHF station at Florence. The proposals to assign Channel 8 to the Winston-Salem-High Point-Greensboro area, in our judgment, would better serve the public interest and the objectives of section 307 (b) of the act by making more effective use of the spectrum and by advancing our interim objective of improving opportunities for more effective competition among a greater number of stations than would the proposal to retain Channel 8 in Florence and add a second VHF channel in that city. While we have considered Atlantic's claim that Florence should be preferred for an additional VHF assignment since it would enable more persons to receive a second or third service than would an additional VHF channel in the Winston-Salem-High Point-Greensboro area, we believe this consideration is outweighed by those mentioned above.

24. Having concluded that Channel 8 should be assigned to this North Carolina area, we must now decide whether the channel should be assigned to Winston-Salem, High Point, and Greensboro on a hyphenated basis or to one of these cities. We believe that a hyphenated allocation is to be preferred since, from the record,

[5] By assigning Channel *7 minus to Charleston; Channel 13 plus to Florence and Channel 8 plus to Greensboro, Jefferson Standard states that only the offset carrier designation of Channel 13 at Macon, Georgia (WMAZ-TV) need be changed from 13 plus to 13 even. Its original proposal contemplated the assignment of Channel *8 minus to Charleston, Channel 13 plus to Florence, and Channel 8 plus to Greensboro and changes in the offset carrier designations for Channel 13 at Macon, Georgit, from 13 plus to 13 even and for Channel 8 at Charleston, West Virginia (WCHS-TV) from 8 plus to 8 minus and at Indianapolis, Indiana (WISH-TV), from 8 minus to 8 even.

there is little basis to conclude that the purposes of section 307 (b) of the Communications Act and the public interest warrant preferring one of these cities over the other two for employment of the channel in this area. The record evidences a demand for assignment of the frequency in each of these cities, and in view of their proximity to each other, it appears that a Channel 8 station in any one of them would provide city-grade service to the other two. By assigning the channel to all three cities in hyphenation, it is made available upon application for use in each city, and after comparative consideration of specific applications for use of the channel in these communities, we can satisfactorily resolve all questions bearing on the conflicting demands of these cities for the use of the channel. We therefore conclude that the public interest would be served by allocating Channel 8 to Winston-Salem-High Point-Greensboro. We are not, however, reallocating the present assignments in each of these communities to all three communities on a hyphenated basis, as proposed by Winston-Salem Broadcasting and Sir Walter Television, since we believe these assignments to be equitably distributed among these communities.

25. Although we have concluded that the allocation of Channel 8 to Winston-Salem-High Point-Greensboro would serve the public interest, the allocation cannot be finalized without deleting Channel 8 from Florence. Since Jefferson Standard has an outstanding license for operation of Station WBTW on Channel 8 at Florence, its authorization would have to be changed to specify another frequency. In view of the provisions of section 303 (f) and 316 of the Communications Act, the frequency upon which Station WBTW is operating could not be changed without the consent of this licensee or, absent such consent, a public hearing being first held. Jefferson Standard has notified the Commission in response to the Order to Show Cause issued, pursuant to the applicable provisions of the act, that it will consent to the modification of its license for Station WBTW to specify Channel 13 instead of Channel 8, provided it may continue to operate on Channel 8 pending final action of the Commission on any application or applications for regular operation on Channel 8. Continued operation of Station WBTW on Channel 8 at Florence until such time as an application is granted for regular operation on the channel in the Winston-Salem-High Point-Greensboro area would not prejudice any applicant for the channel nor the advent of a new station in the area by the successful applicant. We therefore believe that Station WBTW should be permitted to continue to operate on Channel 8 during this interim period, particularly since it will enable the Commission to finalize the channel changes which we have found to be necessary to promote the public interest and our television objectives at this time without the delay and expense which would result from a show cause proceeding. We recognize, of course, that continued operation of Station WBTW on Channel 8 prior to the time an application is granted for regular operation on Channel 8 in the Winston-Salem-High Point-Greensboro area would preclude a temporary operation on Channel 8 at Winston-Salem, as requested by Winston-Salem Broadcasting and Sir Walter Television. The allocation of Channel 8 to this North Carolina area requires no change in Winston-Salem Broadcasting's authorization for Station WTOB-TV on Channel 26 at Winston-Salem, and we are not convinced that the public interest would be served by permitting Station WTOB-TV to operate on Channel 8 pending the grant of an application for regular operation on the channel. Station WTOB-TV has been off the air since May 11, 1957, and a temporary operation could not be justified on the basis that it would insure a continuing television service to the public. Nor, in view of the position taken by the licensee of the Channel 8 station in Florence, do we believe that it would necessarily expedite additional service to the public in this area.

26. With respect to the offset carrier designation for Channel 8 at Greensboro-High Point-Winston-Salem, Jefferson Standard suggests that the offset carrier designation should be Channel 8 plus in light of the assignment of Channel *8 minus to Carbondale and the change in the offset carrier designation of Station WCHS-TV at Charleston, West Virginia, from Channel 8 plus to 8 minus ordered in our Report and Order released March 25, 1958, in the Carbondale-Harrisburg, Illinois, proceeding in Docket No. 12011. Upon reconsideration of our Report and Order in that proceeding, we have revised the offset carrier schedule originally adopted to provide, inter alia, for the assignment of Channel *8 even to Carbondale and the retaining of Channel 8 plus for Station WCHS-TV at Charleston, West Virginia.* We therefore believe Channel 8 minus should be assigned to Greensboro-High Point-Winston-Salem. We believe also that Channel *7 minus, as proposed by Jefferson Standard and Atlantic, should be assigned to Charleston, South Carolina. We believe that Channel 13 plus, as proposed by Jefferson Standard, Winston-Salem Broadcasting and Sir Walter Television and Atlantic, should be assigned at Florence without changing the offset designation of Station WMAZ-TV at Macon from Channel 13 plus to Channel 13 even, as also proposed by these parties, since this is not feasible in view of the fact that Channel 13 even was assigned to Panama City, Florida, by our Report and Order released February 28, 1958, in Docket No. 12251.

27. Authority for the adoption of the amendments herein is contained in sections 1, 4 (i), and (j), 301, 303 (c), (d), (f) and (r), 307 (b) and 316 of the Communications Act of 1934, as amended.

28. In view of the foregoing: *It is ordered*, That, effective September 5, 1958, the Table of Assignments, contained in § 3.606 of the Commission's rules and regulations, is amended, insofar as the communities named are concerned, as follows:

(a) Amend the entries under the State of South Carolina as follows:

City	Channel No.
Charleston	2+, 4, 5+, *7-, 17+
Florence	13+, 60

(b) Under the State of North Carolina, add as follows:

City	Channel No.
Greensboro-High Point-Winston-Salem	8-

29. *It is further ordered*, That, effective September 5, 1958, pursuant to sections 303 (f) and 316 of the Communications Act of 1934, as amended, the license of Jefferson Standard Broadcasting Company for operation of Station WBTW on Channel 8 at Florence, South Carolina, is modified to specify operation on Channel 13+ in Florence, subject to the following conditions:

(a) Jefferson-Standard may continue operation temporarily on Channel 8 in accordance with the terms and conditions of the current WBTW authorization until thirty days after final action of the Commission on any application or applications for operation on Channel 8- at Greensboro, High Point, or Winston-Salem, North Carolina;

(b) The submission to the Commission by August 15, 1958, of all information necessary to comply with applicable technical rules, executed in triplicate, for the preparation of the modified authorization to cover the operation of Station WBTW on Channel 13+ at Florence;

(c) Construction looking to a change to Channel 13+ not to commence until specifically authorized by the Commission after the information requested in (b) above is submitted;

(d) Upon completion of construction of the Channel 13+ facilities in accordance with the terms of the modified authorization, proof of performance measurement data necessary to demonstrate compliance with the applicable technical performance requirements of the Rules of the type normally required to be furnished in an application for a television license shall be submitted, in triplicate, at least ten (10) days prior to the date on which it is desired to begin program operation. Program operation on Channel 13+ shall not be commenced until specifically authorized by the Commission after its evaluation and acceptance of such data;

(e) Jefferson Standard Broadcasting Company should advise the Commission in writing by August 15, 1958, whether it accepts the modification of its license for operation of Station WBTW at Florence, South Carolina, subject to the conditions listed herein or desires a hearing pursuant to section 316 (a).

30. *It is further ordered*, That the above-described petition of Winston-Salem Broadcasting and Sir Walter Television Company is granted insofar as it requests the assignment of Channel 8 to Greensboro-High Point-Winston-Salem and is denied in all other respects; and that the above-described petitions of Atlantic Broadcasting Company, Inc., Jefferson Standard Broadcasting Company, Paul E. Johnson, United Broadcasting Company and the counterpro-

* Memorandum opinion and order, adopted July 30, 1958, in Docket No. 12011.

posal of High Point Television Company are denied, except to the extent provided hereinabove.[1]

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, 1083; and sec. 316, 66 Stat. 711; 47 U. S. C. 301, 303, 307, 153)

Adopted: July 30, 1958.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6387; Filed, Aug. 8, 1958; 8:47 a. m.]

[Rules Amdt. 3-122]

[Docket No. 12385; FCC 58-805]

PART 3—RADIO BROADCAST SERVICES

TELEVISION BROADCAST STATIONS (PITTSBURGH, PA., CLARKSBURG, W. VA. AND YOUNGSTOWN, OHIO)

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on August 1, 1958;

The Commission having under consideration a "Petition for Immediate Reconsideration" filed on July 22, 1958, by WKST, Inc., licensee of Station WKST-TV, New Castle, Pennsylvania, requesting reconsideration of the Report and Order (FCC 58-683) released in this proceeding on July 18, 1958, insofar as the Report and Order modifies the construction permit of Station WXTV, Youngstown, Ohio, to specify operation on Channel 33 instead of Channel 73;

It appearing that Sanford A. Schafitz and Guy W. Gully, d/b as Community Telecasting Company, permittee of Station WXTV, have not filed a response to said petition, and that time for filing a response has not expired;

It further appearing that the report and order (FCC 58-683) specified August 25, 1958, as the effective date for the amendments to § 3.606 of the Commission's rules and regulations (paragraph 16) and the modification of the construction permit for Station WXTV (paragraph 17);

It further appearing that it is desirable that the status quo be maintained until the Commission has the benefit of pleadings by all interested parties;

It is ordered, on the Commission's own motion, That the effective date of the report and order released in this proceeding on July 18, 1958, is stayed until further order of the Commission, but only insofar as said report and order (1) amends § 3.606 of the Commission's rules and regulations to delete Channel 73 from Youngstown, Ohio, and assigns it to Pittsburgh, Pennsylvania, and (2) modifies the construction permit for Station WXTV, Youngstown, Ohio, to specify Channel 33 instead of Channel 73.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6388; Filed, Aug. 8, 1958; 8:47 a. m.]

[1] Another conflicting proposal to assign Channel 8 to Fayetteville, North Carolina, was submitted in a petition for rule making filed on July 22, 1958, by Fayetteville Broadcasters, Inc., licensee of Station WFLB-TV at Fayetteville. This petition has been considered and denied in a memorandum opinion and order adopted today.

[Rules Amdt. 3-121]

[Docket No. 12483; FCC 58-775]

PART 3—RADIO BROADCAST SERVICES

TELEVISION BROADCAST STATIONS (MILWAUKEE, BEAVER DAM, CHILTON, WIS., AND LUDINGTON, MICH.)

1. The Commission has under consideration the proposal set forth in its notice of proposed rule making and orders to show cause (FCC 58-567) released on June 13, 1958, and published in the FEDERAL REGISTER on June 18, 1958 (23 F. R. 4384) to amend the Table of Assignments, contained in § 3.606 of the rules and regulations, as follows:

City	Channel No.	
	Present	Proposed
Ludington, Mich.	18+	33
Beaver Dam, Wis.	37	51−
Chilton, Wis.	*24+	*31+
Milwaukee, Wis.	4, *10+, 12, 19−, 25, 31−	4, *10+, 12, 18+, 24+, 30

Further, since Columbia Broadcasting Company operates Station WXIX on Channel 19, Lou Poller holds a construction permit for Station WCAN-TV on Channel 25, and Business Management, Inc., holds a construction permit for Station WFOX-TV on Channel 31, all at Milwaukee, and the proposal herein would shift these assignments to lower channels, these parties were ordered to Show Cause why their outstanding authorizations should not be modified to specify operation on Channels 18, 24 and 30, respectively.

2. In its notice the Commission pointed out that an interference situation had developed in the Milwaukee area due to the operation of both Channels 12 and 19 in that city. This results from radiation of the second harmonic of local oscillators in VHF receivers, which have the commonly used intermediate frequency of 42 Mc, when these receivers are tuned to Channel 12 (WISN-TV), falling within Channel 19, occupied by WXIX in Milwaukee. The second harmonic of these oscillators is radiated on approximately 502 Mc which is within the 500-506 Mc range of Channel 19. Surveys conducted by CBS in Milwaukee indicate that the interference effects extend several hundred feet from the offending receivers even though the total amount of radiated power is not great and that these radiations are capable of producing harmful interference, and that the cases of interference are increasing since additional new receivers with the standard 40 Mc intermediate frequency are being placed in homes. We also pointed out that the potential interference due to such combinations of assignments may be of sufficient importance to warrant taking it into account in making assignments to communities. Pending studies necessary to determine the extent of the problem and what standards should be employed in order to minimize this effect, we determined that such existing situations, as the instant case, could best be handled on a case-to-case basis. Accordingly, the aforementioned changes were proposed in the communities named in order to eliminate the problem at Milwaukee.

3. No comments were filed in opposition to the proposed changes in assignments. CBS, Lou Poller and Business Management, Inc., support the Commission's proposal and state that they do not object to a modification of their authorizations to specify the assignments proposed.

4. The Commission is of the view that the adoption of the proposed changes in assignments and in the outstanding authorizations would serve the public interest since it would remove an existing interference situation which will get worse as more new television receivers are placed in operation in the area. In view of this, and in view of the fact that a station presently in operation is involved, it is believed that good cause exists for making the rule changes effective within less than the thirty (30) day period usually allowed.

5. Authority for the adoption of the amendments herein is contained in sections 1, 4, (i), 301, 303 (c), (d), (f) and (r), section 307 (b) of the Communications Act of 1934, as amended, and section 4 (c) of the Administrative Procedure Act.

6. In view of the foregoing: *It is ordered,* That effective August 15, 1958, the Table of Assignments contained in § 3.606 of the Commission's rules and regulations, is amended, insofar as the communities named are concerned, as follows:

Amend the entries under the States of Michigan and Wisconsin as follows:

City	*Channel No.*
Ludington, Mich.	33
Beaver Dam, Wis.	51−
Chilton, Wis.	*31+
Milwaukee, Wis.	4, *10+, 12, 18+, 24+, 30

7. *It is further ordered,* That effective August 15, 1958, pursuant to sections 303 (f) and 316 of the Communications Act of 1934, as amended, the outstanding authorization held by Columbia Broadcasting System, Inc., for Station WXIX on Channel 19− at Milwaukee is modified to specify operation on Channel 18+, subject to the condition that operation of Station WXIX shall not commence on Channel 18 until specifically authorized after pertinent equipment performance measurements are submitted and approved by the Commission; That the outstanding authorization held by Lou Poller for Station WCAN-TV on Channel 25 at Milwaukee is modified to specify operation on channel 24+; and That the outstanding authorization held by Business Management, Inc., for Sta-

tion WFOX-TV on Channel 31— at Milwaukee is modified to specify operation on Channel 30.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, 1083; 47 U. S. C. 301, 303, 307)

Adopted: July 30, 1958.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6389; Filed, Aug. 8, 1958; 8:47 a. m.]

[Rules Amdt. 4-11]

[Docket No. 11164; FCC 58-781]

PART 4—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST SERVICES

TELEVISION AUXILIARY BROADCAST STATIONS

1. The instant proceeding was instituted by a Notice of Proposed Rule Making adopted by the Commission on September 16, 1954, upon consideration of a petition filed on August 5, 1954, by North Dakota Broadcasting Company, Inc., permittee of television Station KCJB-TV, Minot, North Dakota, and Station KXJB-TV, Valley City, North Dakota. The petition requested the Commission to amend §§ 4.631 (c) and 4.632 (b) of the Commission's rules governing television auxiliary broadcast stations, which provides that until such time as adequate common carrier facilities are available, television broadcast licensees may, as an interim measure, provide their own television intercity relay stations.

2. Sections 4.631 (c) and 4.632 (b) now provide as follows:

(c) Television intercity relay stations provide a means of an interim basis whereby television broadcast licensees may provide their own intercity television transmission services in connection with the operation of their television broadcast stations. The provision for this service is a purely temporary measure designed to assist the television industry until such time as adequate common carrier facilities are available, and broadcasters who venture into the business of relaying television programs by means of television intercity relay stations should plan to amortize their investments at the earliest possible date.

(b) An application for construction permit for a new television intercity relay station or for renewal of license of an existing station shall be accompanied by a verified statement containing the following:

(1) A full statement as to why the applicant requires the requested facilities including reasons why common carrier facilities cannot be utilized; and

(2) A showing that the applicant has, at the earliest time reasonably practicable, requested the appropriate common carrier or common carriers serving the general area involved to furnish the inter-city television transmission service required by the applicant, including in such showing a copy of the request or requests and of the reply or replies received from such common carriers.

3. Under § 4.602 of the rules, the broadcasters may operate inter-city relay stations on the same frequencies assigned for television pickup and studio transmitter links, but the use of such frequencies for inter-city relaying must be on secondary basis and is subject to the condition that no harmful interference be caused to stations operating in the primary services.

4. Petitioner's requested amendment is designed to give the Commission discretion to grant applications for private television inter-city relay stations notwithstanding the fact that common carrier facilities may be available to furnish the inter-city relaying of television programs, wherever it can be shown that the cost of providing relay systems, as compared with the cost of obtaining service from the common carrier, justifies the authorization of a private system.[1]

5. Petitioner, noting that the present rules do not permit the Commission to exercise discretion in acting upon applications for private inter-city television relay stations in those cases where it can be demonstrated that the cost of using common carrier facilities would be prohibitive to the broadcaster, urge that the restrictive nature of the Commission's rules in this respect may deprive large areas of the country from receiving live television network programs, and may indirectly result in large areas having no television service whatsoever, since network programs constitute an important element in the successful operation of any television station; petitioner urges further that there are sufficient frequencies allocated for television auxiliary stations (TV pickup and TV STL stations) which may be used for the proposed inter-city relay system in areas where such systems are essential, without depriving television broadcasters of necessary TV pickup and STL service; and that to require a TV station to utilize common carrier service on common carrier channels is wasteful since such channels could be employed for handling other telephone communication services.

6. In its Notice of Proposed Rule Making, the Commission stated that the petition served to focus attention on a problem that has been under study by the Commission since the lifting of the "freeze" on new television station construction in 1952: That the Commission was satisfied that its rules and policies, insofar as they contemplate utilization of common carriers in providing a nationwide television program network are sound and serve the public interest; and that it believed that the existing common carrier network, including main routes and branch lines emanating therefrom, should continue its orderly growth in order to meet the requirements of the broadcasting industry for network transmission facilities. The Commission pointed out, however, that it has become increasingly evident that a problem is presented by the application of the Commission's rules and policies to television stations located in relatively small communities at some distance from program service points on existing common carrier routes; that because of the distance of these communities from such program service points, the monthly common carrier mileage charges for the television transmission facilities which are required to connect the stations to the established networks may not be commensurate with the economic prospects of these stations for profitable operation; that this situation may deter or hinder the development of a nationwide television service; and that the construction of facilities for interconnection by the common carriers in such instances represents a substantial investment, which in some instances may be unrecoverable upon the financial failure of the stations. Accordingly, the Commission stated that it would be appropriate to review its existing rules and policies regarding the licensing of private inter-city relay stations, and that, to this end, it was inviting comments from interested parties on the matters dealt with in the Notice.

7. Interested parties were afforded until November 8, 1954, to file comments. Reply comments were originally scheduled to be filed within 10 days thereafter, but the date for filing replies was extended to December 15, 1954 at the request of American Telephone and Telegraph Company (AT&T). Pursuant to the Notice comments favoring the proposed amendment or its objective were filed by 42 parties, including permittees of television stations, manufacturers of television equipment, educational broadcast groups and the UHF Industry Coordinating Committee. Statements opposing the proposed revision of the rules were filed by AT&T and United States Independent Television Association. Replies to the original comments were filed by the petitioner herein, AT&T, the National Association of Educational Broadcasters, the UHF Industry Coordinating Committee, and Central Broadcasting Company. A complete list of the parties filing comments in the proceeding is contained in the attached appendix.

8. On April 1, 1955, the Commission issued a Further Notice of Proposed Rule Making inviting further comment on a proposal made by AT&T in its reply, and

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[1] Specifically, petitioner proposed that § 4.632 (b) be deleted and § 4.631 (c) be amended as follows:

"Television inter-city relay stations provide a means of an interim basis whereby television broadcast licensees may provide their own inter-city television transmission services in connection with the operation of their television broadcast stations. Provided, however, that the Commission may grant authority to television broadcast licensees to operate inter-city television transmission facilities where, in the opinion of the Commission, the cost of common carrier facilities compared to the cost of constructing and operating private inter-city relay facilities justifies such action.

"This proviso is designed to permit the Commission, in its discretion to authorize private inter-city relay transmission facilities, to stimulate the development of live television network service in the less densely populated areas of the country."

amplified in a letter to the Commission of February 24, 1955. AT&T stated that it was prepared to offer television stations a lower-cost means of obtaining network programs through an arrangement whereby programs of a network station would be picked up off-the-air and relayed over a common carrier channel to a remote station using lower grade facilities than those employed in the regular nationwide network. The Commission stated in its Further Notice that in the light of AT&T's new proposal, it would be desirable to obtain further comment from interested parties to determine to what extent the proposed new service would alleviate the problems of the broadcasters discussed in the original Notice; and interested parties were given until April 29, 1955, which date was subsequently extended to May 20, 1955, to file comments. Statements were filed by 43 parties, and a reply thereto was filed by AT&T on June 13, 1955.

POSITION OF RESPONDENTS

9. The principal reason advanced in support of a more liberal Commission policy in authorizing the construction and operation of private inter-city television relay facilities by television broadcasters is that many stations cannot afford to avail themselves of common carrier facilities at the rates now in effect, while such stations could build and operate private systems at substantially less cost particularly where the private link consists of an off-the-air pick up and a few microwave relay hops. The financial difficulty of the broadcasters is alleged to arise from a variety of factors, the principal one being the inability of certain stations, notably UHF stations and those which are located in smaller markets, to command advertising revenues sufficient to defray the costs of interconnection by means of common carrier facilities. This, it is stated, prevents these stations from obtaining the live network programs which they feel are essential to build up an audience and, in turn, to attract sponsors and revenues.

10. It is urged, also, that insofar as the existing rules condition the operation of private systems upon the non-availability of common carrier facilities, those broadcasters who build their own private facilities are always faced with the threat of having such facilities displaced by common carrier facilities that may subsequently be constructed in the area. This situation, it is contended, permits the common carrier, rather than the Commission, to decide whether or not a television station may build and retain its own facility, without regard to the financial status of the station and its needs for a less costly means of relaying network programs, and also introduces a large element of uncertainty on the part of the broadcaster in deciding whether or not to construct its own private relay system.

11. In addition to the arguments advanced with respect to the need for private radio links as a means of obtaining live network programs, it was maintained that privately owned and operated systems will provide an economical basis for the formation of regional broadcasting networks and will facilitate the distribution of network programs having a more restricted area of interest; that private systems will permit the interconnection of a few commercial television stations on an occasional basis when the common carrier channels are preempted by nationwide programs; and that such systems will permit the interconnection of educational television stations for the distribution of non-commercial programs.

12. Opposing any change in the existing rules or policy of the Commission, the United States Independent Telephone Association and the American Telephone and Telegraph Company urged that these rules and policies have fostered the orderly development and growth of nationwide network television service without wasteful duplication of facilities and with the utmost in efficiency of frequency usage. They argued that it is doubtful that private television relaying facilities can be provided more economically than common carrier facilities, when all elements of cost are considered. It was contended that the creation of private systems would result in division of responsibility, less quality and continuity in program service, and increases in the over-all common carrier costs of furnishing network channels. While recognizing the economic problems of broadcasters located in sparsely populated areas, AT&T pointed out that the proposed amendments are not the solution since ultimate savings from private intercity relay systems are doubtful, and are not sufficient to solve the problem with which the Commission is here concerned. The telephone company also stated that the construction of private links on lower cost routes will leave the higher cost routes to be served by the common carriers, with resulting increase in the average costs of serving stations which subscribe to common carrier service.

13. In its reply to comments filed by the parties pursuant to the original Notice of Proposed Rule Making, AT&T referred to the statements made in the comments with respect to the cost of private relay systems, principally off-the-air pickups and relays, as compared with common carrier charges for direct connection to the common carrier networks. AT&T questioned the validity of the comparisons in costs, inasmuch as any such comparison must take into account the differences in the character and quality of the service provided. Conceding that off-the-air pickup is inherently less costly than transmissions involving standard network interconnection, AT&T submits that this method involves various disadvantages such as a generally inferior picture quality resulting from an additional broadcast transmitter and receiver in the path of transmission, added interference where the distance between the pickup point and the station whose signal is picked up is too great, and the fact the station which utilizes the off-the-air method is limited to programs broadcast by the station whose program is picked up. And these disadvantages, AT&T asserted, would be compounded if additional off-the-air pickup systems are used in tandem to extend service to additional stations.

14. AT&T indicated, however, that if the off-the-air method would provide a service acceptable to the broadcaster and the public, the common carriers can provide such service at charges substantially less than for direct network connection. By a letter of February 24, 1955, AT&T amplified the details of its proposed offering of off-the-air channels. In this letter, it pointed out that inasmuch as the instances in which such channels may be found advantageous will vary widely due to differences in terrain and other characteristics which affect the physical facilities required, AT&T considered it desirable, at least for the present, to determine the charges separately for each channel and to publish and file with the Commission such charges as a tariff rate on a case-by-case basis.[3]

15. Substantially all of the responses filed pursuant to the Further Notice of Proposed Rule Making, which invited the parties to comment on AT&T's proposal, maintained that the proposed service would not resolve the broadcaster's problems which gave rise to these proceedings, and advocated that the rule proposed by North Dakota Broadcasting Company or some similar rule be adopted. The one favorable comment on the proposed service of AT&T came from a prospective operator of a community antenna system. Many of the responses urged that AT&T's proposed offering of off-the-air channels was a step in the right direction of providing a more economical means of obtaining live network programs, but submitted that the need still existed for a Commission rule under which television broadcasters might be authorized, in the Commission's discretion, to construct and operate private intercity relay stations irrespective of the availability of common carrier facilities. Specifically, it was asserted that the cost of the proposed common carrier service would substantially exceed the cost for comparable service provided by privately owned and operated systems. Certain respondents criticized the proposed service from the standpoint of the inherent operational limitations. They note that the receiving station would necessarily be limited in its choice of programs to those broadcast by the station whose signal is picked up off-the-air and that the off-the-air pickup feature of the proposed service would entail some sacrifice in the quality of the video signal, and that the resulting degradation would be compounded if additional off-the-air pickups are made by television stations beyond the initial receiving station. The Joint Committee on Educational Television commented that the proposed service would not be suitable for regional educational networks because of the need for two-way facilities over all or part of the network. Other respondents urged that because of the operational limitations involved in

[3] Effective September 29, 1957, AT&T filed revised rates and regulations to its tariff FCC No. 223 by which it makes a general offering of channels for off-the-air pickup and relay of television broadcast signals.

the use of off-the-air pickup arrangements, AT&T should offer at reduced rates television transmission channels which may be connected directly to the basic common carrier networks. Many of the respondents also objected to the terms and conditions under which AT&T proposed to provide off-the-air channels.

16. In its reply to the above comments, AT&T disputed the contentions of the broadcasters that they can provide service for themselves at lesser cost than a comparable service from AT&T. AT&T stated that it is making every reasonable effort to provide off-the-air channels at the lowest practicable charge and that its rates will compare favorably with the cost of operation of private systems giving comparable service, if all elements of costs are determined and considered on a comparable basis. The telephone company also defended the propriety of the various features of its proposed offering which were the subject of criticism. It submitted that its offering of off-the-air channels will go far towards alleviating the economic problems of the broadcast stations in the smaller places remote from the established networks; that some sacrifice in the quality of service is unavoidable if cost reductions are to be achieved and will be required whether the links are provided by the broadcasters or common carriers, but that the degree of degradation will be lessened if all intercity relay channels are provided by the common carriers. AT&T reiterated its opposition to any change in the existing rules which would permit indiscriminate construction of private relay systems and the connection of such systems as links in the basic network.

DISCUSSION

17. Sections 4.631 and 4.632 of the rules reflect the policy enunciated in the Commission's Report of February 20, 1948, in Docket No. 6651, in which the Commission concluded that frequency economy required that intercity relaying of television programs should be performed by communication common carriers; but that inasmuch as the common carriers were not yet ready to afford the service required in all areas and that adequate relaying facilities would not be ready for some appreciable interval of time, the Commission was permitting television broadcast licensees, as a temporary measure, to use frequencies in the bands allocated for television auxiliary broadcast use (remote pickups and studio to transmitter links) for intercity relaying of television programs. The Commission reaffirmed this policy in its Decision and Order in Docket No. 8963, 5 R. R. 639, issued December 23, 1949, wherein the Bell System companies were ordered to amend their tariffs to provide for the interconnection of their facilities with the privately owned relay facilities of broadcasters authorized pursuant to such policy.

18. As the Commission indicated in its notice of proposed rule making, the rapid and orderly growth of a network program distribution system has been fostered under the basic principle that the facilities for such a distribution system should be provided by common carriers. None of the respondents in the proceeding disputed the essential soundness of the Commission's policy in the above respects. Their main concern is with the application of this policy to many of the television stations established since the lifting of the "freeze" in 1952 and which serve relatively small audiences. These stations, many of which serve communities at some distance from established service connection points on the basic common carrier network, as well as a number of UHF stations, are apparently not considered by the national networks and the sponsors of network programs to justify, from an economic standpoint, the interconnection of these stations to the basic networks.

19. At the time the Commission promulgated its policy in Docket No. 6651, which favors the use of common carrier facilities for the inter-city transmission of television programs, the television industry in the United States was at a stage of development where it was impossible to anticipate or predict, with any certainty, the various problems that would be encountered as television stations increased in number and new stations became established to serve communities under a variety of conditions. Insufficient experience was available with which to predict or evaluate such factors as the extent to which successful television station operation would be dependent upon the station's access to live network programs. It could not be foreseen that because of the economics of television broadcasting and network operation, as they have thus far developed, many television stations would be unable to obtain network programs through the usual means provided by network affiliation agreements and network interconnection. Nor could it be foreseen that in order to obtain any network programming, such stations would be faced with the alternatives of ordering the interconnecting facilities directly from the common carrier and paying the charges therefor, or of establishing their own relay facilities if common carrier facilities were not available.

20. The responses filed in this proceeding, as well as from other information in the Commission's files, make it clear that television stations which are dependent upon their own resources to obtain access to live network programming regard the establishment of their own relay facilities as the most economical means of achieving such access. Further, the large majority of private relay systems which have been established are not directly connected to the common carrier network facilities; rather, these private systems, mainly for reasons of economy, are employed to pick up off the air and relay for rebroadcast, television signals transmitted by other television stations which are connected to the national networks. However, as previously noted, private relay systems, under the existing policy of the Commission, are subject to being displaced and their operation terminated in the event that the common carrier subsequently constructs facilities in the area.

21. As previously noted, AT&T is now furnishing "off-the-air pickup" channels to such broadcasters as are in a position to utilize this type of service. On the basis of the comments received from the broadcasters in response to the Commission's Further Notice of Proposed Rule Making, it appears that such broadcasters do not feel that the AT&T "off-the-air" service will meet their needs. The principal objection raised was that, although the charges of AT&T for this service are substantially less than the Company's charges for directly connected service, they are still substantially higher than the station operators' estimates of what it will cost them to construct and operate their own systems. In addition, educational broadcasters and others interested in establishing regional networks, point to the impracticability from a service standpoint of operating such multi-station regional networks on an off-the-air basis.

22. The Commission has carefully considered all of the comments filed in this proceeding and has concluded that modification of its present policy with respect to the operation of private television intercity relay facilities by television broadcast stations is necessary and desirable. At the same time we wish to avoid any action which would seriously impair the nation-wide television distribution facilities operated by communication common carriers. Therefore, we are amending § 4.632 of the Commission rules to establish the following policy with respect to the licensing of such private television relay systems:

> Television broadcast station licensees will have the option of operating their own private television intercity relay facilities or obtaining intercity television transmission service from communications common carriers in all cases except those in which a direct interconnection is desired with common carrier facilities. Such relay stations are not to be used as intermediate links in common carrier intercity television transmission facilities.

23. The Commission is of the view that the above policy will preserve the integrity of the nationwide television program distribution system operated by the common carriers and at the same time will provide access to national network programs for television broadcast stations in small markets or with marginal operations. At the same time, it will permit the establishment of modest local or regional networks of educational or commercial television stations, through the use of private intercity relay systems. Stations operating in such local or regional networks may combine their efforts and resources to produce programs of local and regional interest which no one of the stations could afford to produce and lessen the dependence of TV stations on national network program sources. We have carefully considered the arguments advanced by AT&T and USITA that a more liberal policy of licensing private systems would deter the continued orderly growth and development of nationwide television service; would produce a wasteful duplication of facilities and a lesser quality and continuity of television program service; and

could lead to an increase in the costs of servicing stations which subscribe to to common carrier service and, possibly, to increases in the rates for common carrier service. These alleged consequences might be cause for serious concern were we establishing a policy which contemplated the indiscriminate interconnection of private systems with common carrier facilities. We are of the opinion that such consequences will not follow from our policy of authorizing private relay systems which will not be directly interconnected with common carrier facilities.

24. It is also the Commission's view that liberalization of the permissible use of frequencies in the above respect will not create any problem of frequency availability or scarcity, inasmuch as the requirements for the establishment and operation of such systems will normally occur away from the populous centers and in areas where the existing frequency allocation is adequate to accommodate fully the television industry's needs for television pickup stations and studio transmitter links as well as these private intercity relay systems. Further assurance that frequency conflicts and congestion will not occur is provided by the limitation which applies equally to the existing and amended rules, that the use of frequencies for intercity relaying shall be on a secondary basis and subject to the condition that no harmful interference is caused to television pickup and television STL stations.

25. The Commission also desires to emphasize that its decision to liberalize the conditions under which television broadcasters will be authorized to construct private relay systems is not intended to have application as a precedent beyond the particular facts here present. The situation which the present action seeks to remedy is one which is peculiar to the television industry, and such action is being taken in the interest of aiding the fullest possible development of television service in the United States.

26. Authority for the adoption of the amendments herein is contained in sections 4 (i), 301, 303 (c), (f), (g) and (r) of the Communications Act of 1934, as amended.

27. In the light of the foregoing: *It is ordered*, That, effective July 31, 1958, Part 4 of the Commission's rules and regulations is amended as follows:

I. Section 4.631 (a) is amended by amending the second sentence following the proviso and deleting the last sentence. Section 4.631 (a), as amended, reads as follows:

§ 4.631 *Purpose of television auxiliary stations.* (a) The license of a television pickup station authorizes the transmission of program material, orders concerning such program material, and related communications necessary to the accomplishment of such transmissions, from the scenes of events occurring in places other than a television studio, to its associated television broadcast station,[2] to such other stations as are broadcasting the same program material, or to the network or networks with which the television broadcast station is affiliated. Television pickup stations may be operated in conjunction with other television broadcast stations not aforementioned: *Provided*, That the transmissions by the television pickup station are under the control of the licensee of the television pickup station and that such operation shall not exceed a total of 10 days in any 30 day period. Television pickup stations may be used to provide temporary studio-transmitter links or intercity relay circuits consistent with § 4.632, without further authority of the Commission: *Provided, however*, That prior Commission authority shall be obtained if the transmitting antenna to be installed will increase the height of any natural formation or manmade structure by more than 20 feet and will be in existence for a period of more than 2 consecutive days.

II. Delete the text of paragraph (c) of § 4.631 and substitute therefor the following text:

(c) The license of a television intracity relay station authorizes the transmission of program material, orders concerning such program material and related communications necessary to the accomplishment of such transmissions between television broadcast stations for the purpose of simultaneous programming or network broadcasting.

III. Delete the present text of paragraph (b) of § 4.632 and substitute therefor the following text:

(b) A license for a television intercity relay station may be issued in any case where the circuit will operate between television broadcast stations either by means of "off-the-air" pickup and relay or location of the initial relay station at the studio or transmitter of a television broadcast station.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply secs. 301, 303, 48 Stat. 1081, 1082; 47 U. S. C. 301, 303)

Adopted: July 31, 1958.

Released: August 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6390; Filed, Aug. 8, 1958; 8:48 a. m.]

[Rules Amdt. 4-12]

[Docket No. 11696; FCC 58-779]

PART 4—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST SERVICES

REMOTE BROADCAST STATIONS

1. The Commission has before it for consideration its Notice of Further Proposed Rule Making (FCC 58-206, Mimeo No. 55539) issued in this proceeding on March 6, 1958. As set forth in that Notice, the Commission proposed to add a new § 4.437 to the remote pickup rules in Part 4 of the rules and regulations which would provide for the licensing of low power broadcast auxiliary stations to be used in a studio for cueing, directing participants, and the transmission of program material by means of wireless microphones.

2. No comments in opposition to the proposed rules were filed. Comments in favor of the proposal were filed by the American Broadcasting Company, Columbia Broadcasting System, Inc., National Broadcasting Company, Inc., Sacramento Telecasters, Inc. (KBET-TV, Sacramento, Calif.) and Tribune Publishing Company (KTNT, Tacoma, Washington). ABC, CBS, and NBC, while favoring the objectives of the proposal, made some suggestions for changes in some of the proposed rules.

3. ABC proposes that "RF" be used instead of the word "wireless" in § 4.437 (a) since the former is in more common usage in this country; that § 4.437 (b) be amended so as not to restrict the use of these stations to the studio or building within which it is to be principally used in view of the fact that to do so would restrict the usage to a particular building, would complicate record keeping, and necessitate the purchase of additional units; that § 4.437 (d) permit 2 days of operation at another location before the Engineer in charge must be notified since often two days are required for rehearsal and production; and that § 4.437 (f) be changed so as not to require the presence of a licensed operator since such attendance is not necessary in view of the fact that maintenance and adjustment work is usually done in the shops by licensed operators. ABC also suggests a change in § 4.432 (f) in response to an earlier notice in this proceeding. However, the instant proposal for a new class of special stations for the purpose of cueing etc. renders the last suggestion moot.

4. CBS also suggests that § 4.437 (a) be amended to permit operation in the principal city served by the broadcast station rather than the studio or building. CBS points out that it has 15 television studios in New York at 12 different locations and that it is not desirable to limit the use of low power auxiliary stations to one studio or a group within the same building. It urges that these stations should not be limited to the bands 26.10-26.48 Mc and 450-451 Mc but should be authorized on any frequency allocated in § 4.402 for remote pickup broadcast stations. It urges that such a modification would permit greater latitude in operating frequencies and would insure against interference. CBS submits that the radiated field from wireless microphone equipment with an output of 100 milliwatts is in the order of 20 to 60 microvolts per meter at 100 feet. With respect to § 4.437 (d) CBS urges that it is often necessary to operate at a remote location for more than one day and suggests that this be changed to 10 days to conform with the requirements of § 4.431 concerning remote pickup stations. Finally, CBS suggests that § 4.437 (g) be amended to include the call sign of the broadcast station to which it is licensed rather than with which it is being used since on occasion in network operations the program may not be broadcast over the local station.

5. NBC submits that § 4.437 (a) is unduly restrictive and that an auxiliary

station could be used at any place within a particular city or metropolitan area without fear of interference. It also urges that § 4.437 (d) be amended to permit the use of low power broadcast auxiliary stations in conjunction with a broadcast station other than the broadcast station with which it is licensed consistent with the provisions of § 4.431 (a) concerning remote pickup stations.

6. We have carefully considered the comments filed in this proceeding and are of the opinion that some of the suggested changes have merit. These changes are incorporated in the rules adopted herein. We find that other suggested changes should not be adopted or should not be adopted entirely as suggested. ABC suggests that the term "RF" be used instead of "wireless" since radio frequency transmissions are no longer described as wireless transmissions in this country. The term "wireless microphone" is commonly applied to a microphone which employs radio frequency transmission instead of a microphone cable and is generally understood. We see no reason to attempt to introduce a new descriptive term in these rules since the present term appears to be adequate. ABC, CBS, and NBC are all of the view that the provision of § 4.437 which would identify these low power devices with a single studio or group of studios within a single building is too restrictive and that greater flexibility is needed to permit the efficient use of these devices. In order to carry out its functions in an orderly and expeditious manner, the Commission must be aware of the general location of all licensed radio transmitting apparatus at all times. Where portable or mobile apparatus is involved, the licensee must share this responsibility and be able to advise any representative of the Commission of the location of such apparatus at any time, and such apparatus shall be available for inspection by Commission representatives upon request. The proposal to identify these low power devices with a particular studio or building is a part of the "home base" concept usually applied to portable or mobile apparatus. However, in applying the "home base" concept to these devices we do not wish it to become so restrictive as to deprive the licensee of needed flexibility. Accordingly, the rules adopted herein will provide the required degree of flexibility and at the same time preserve the "home base" concept by permitting the apparatus to be used in any studio or other leased or owned premises in a given city, but will require that a central record be kept of the location of such devices at all times. Under this provision, notification need be given the Commission's Engineer in Charge only when the devices are to be operated in some other area, in which case such notification shall be given whenever the operation in another area will be for a period of more than one day. CBS has suggested that the use of these low power devices be permitted in all remote pickup bands rather than those proposed by the Commission, i. e., 26.10–26.48 and 450–451 Mc. The above bands were selected by the Commission because they are allocated exclusively for remote broadcast pickup operation. It is not considered desirable to permit these devices to operate without specific frequency assignments in those bands shared with other services. Furthermore, most of the apparatus in use today operates in the 26.10–26.48 Mc band. In the absence of a specific showing that the proposed bands are not adequate to meet the reasonable requirements of the broadcast industry, there appears to be no reason to provide additional frequency space for such operation. As to the suggestion by ABC that we do away with the requirement that a licensed operator of any kind be present at the place where these low power devices are being operated, the Commission is of the opinion that it has gone as far as possible by permitting these devices to be attended by a non-technical licensed operator. The sense of responsibility of the holder of an operator's license is expected to insure against abuses such as leaving these devices turned on when they are not in use or operation outside of the bands allocated for such operation. Should experience show that the non-technical operator is not capable of preventing such abuses, the Commission will consider the advisability of requiring attendance by a technically qualified operator. CBS has suggested that the identification announcement should include the call sign of the broadcast station with which the low-power broadcast auxiliary unit is licensed rather than the call sign of the broadcast station with which it is being used. One of the most important functions of station identification announcements is to facilitate the location of the source of radio signals. This becomes critical when interference develops and it is necessary to secure prompt termination of the offending operation. Whenever one of these units is being used with a broadcast station other than the licensee station either in the same city or in some other city, more rapid identification can be accomplished by knowing the call sign of the station with which the unit is being used and the place at which the unit is being operated. In the special case where a network originates a program which is not broadcast by the local station originating the program, it will be sufficient to identify the location of the unit and the local station responsible for the origination.

7. Authority for the issuance of the amendments adopted herein is contained in sections 4 (i), 303 (a), (b), (c), (e), (f), (g) and (r) of the Communications Act of 1934, as amended.

8. In view of the foregoing: *It is ordered*, That effective September 5, 1958, Part 4 of the Commission's rules and regulations is amended as follows:

Add a new § 4.437 to Subpart D—Rules Governing Remote Pickup Broadcast Stations, as follows:

§ 4.437 *Special rules relating to low power broadcast auxiliary stations.* (a) The devices which will be licensed under this section are those which are normally intended to be operated over distances not in excess of a few hundred feet and will fall into two general categories: studio cueing transmitters and wireless microphones. Paragraphs (b) to (j) of this section will govern the licensing of such devices.

(b) A license for a low power broadcast auxiliary station will be issued only to the licensee of a standard, FM, or television broadcast station and for use with a specific station or combination of such broadcast stations within the same city. Such stations may be operated at other locations from time-to-time in accordance with the provisions of parargaph (f) of this section.

(c) The license of a low power broadcast auxiliary station authorizes the transmission of cues and orders to production personnel and participants in broadcast programs and in the preparation thereof, and the transmission of program material by means of a wireless microphone worn by a performer or other participant in a broadcast program during rehearsal and the actual performance. Such transmissions shall be intended for reception at a receiving point within the same studio, building, stadium, or similarly limited indoor or outdoor area.

(d) An application for a new low power broadcast auxiliary station or for a change in an existing authorization shall specify the broadcast station or combination of stations in the same city, as set forth in paragraph (b) of this section, with which it is to be used principally. A single application, filed on FCC Form 313, in duplicate, may be used in applying for authority to construct and operate one or more low power broadcast auxiliary transmitting units provided that such transmitting units are designed for operation in a common frequency band and will be normally operated with the same broadcast station or combination of stations in a single city.

(e) The operation of low power broadcast auxiliary stations will be authorized only in the bands 26.10–26.48 Mc and 450–451 Mc. Transmitting units may be operated on any frequency within the band of frequencies for which the station is licensed, provided that the emissions are confined to the authorized band. Transmitting units are not required to maintain a constancy of frequency beyond that necessary to insure compliance with the above requirement.

(f) A low power broadcast auxiliary station may be used in conjunction with broadcast stations of other licensees located in the same area as the broadcast station or stations with which it is licensed without further authority of the Commission, provided that such operation is conducted by the licensee of the low power broadcast auxiliary station. Low power broadcast auxiliary stations may also be operated in conjunction with broadcast stations of its licensee or other licensees in other locations provided that such operation is conducted by the licensee of the low power broadcast auxiliary station and provided further that if such operation is to be conducted over a consecutive period of more than one day, the Engineer in Charge of the radio district in which the low power broadcast auxiliary station is licensed and the Engineer in Charge of the radio district in which the operation is to be conducted

shall be notified in writing at least two days in advance of such operation and of the expected duration of the proposed operation.

(g) Low power broadcast auxiliary stations will not be licensed for a power input to the plate of the final radio frequency amplifier in excess of 1 watt and all operation thereof is subject to the condition that no harmful interference is caused to remote pickup broadcast base and mobile stations. Unusual transmitting antennas or antenna elevations shall not be used to extend the range of these low power devices beyond the limited areas defined in paragraph (c) of this section.

(h) No operator's license is required of the person actually using a low power broadcast auxiliary transmitting unit, provided that an operator holding any commercial radio operator license or permit, except an aircraft radiotelephone operator authorization or a temporary radiotelegraph second-class operator license, is on duty at the place where the transmitting unit is being operated to take immediate steps to correct any condition of improper operation observed. Any adjustments or repairs that could affect the proper operation of transmitting units shall be made by or under the immediate supervision of an operator holding a valid first or second-class radiotelephone license.

(i) Call signs will not be assigned to low power broadcast auxiliary stations. In lieu thereof, an announcement shall be made at the beginning and end of each period of operation at a single location, over the transmitting unit being operated, identifying the type of transmitting unit, its location, and the call sign of the broadcast station with which it is being used. Transmitting units will normally fall into one of two types: a cueing transmitter or a wireless microphone. A period of operation may consist of a continuous transmission or intermittent transmissions in connection with a single program.

(j) The licensee of each low power broadcast auxiliary station shall maintain adequate records at the main studio or transmitter of the broadcast station with which the auxiliary is principally used, which will accurately show the current location of all transmitting units, the periods of operation at such locations and any other pertinent remarks concerning transmissions.

(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 30, 1958.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6391; Filed, Aug. 8, 1958; 8:48 a. m.]

[Rules Amdt. 9-22]

[Docket No. 12400; FCC 58-791]

PART 9—AVIATION SERVICES

1. Notice of proposed rule making in the above-entitled matter was released by the Commission on April 21, 1958. That notice, which made provision for the filing of comments by May 23, 1958, was duly published in the FEDERAL REGISTER on April 24, 1958 (23 F. R. 2744).

2. Favorable comments in this proceeding were received from Aeronautical Radio, Inc., and the Civil Air Patrol.

3. In addition, the Commission has considered the resolution, adopted by the National Association of State Aviation Officials (NASAO) shortly before the issuance of rule making in this proceeding, recommending that any action by the Commission making the frequency 121.6 Mc available for search and rescue (SAR) communications be limited to an 18-month trial period to be followed by a survey of the effectiveness of that frequency for SAR purposes. In this connection, no specific provision is required in this rule making to permit the NASAO to conduct a survey at the end of an 18-month period, and, as a result of information developed by such survey, to request any change in the rules which may be appropriate.

4. In the light of the demonstrated requirement for communications between ground mobile stations and aircraft stations engaged in SAR operations, the public interest would be served by providing an additional frequency and establishing a new class of mobile station for the conduct of such communications.

5. In view of the foregoing: *It is ordered*, That pursuant to the authority contained in sections 303 (a), (b), (c), (g), and (r) of the Communications Act of 1934, as amended, Part 9 of the Commission's rules be amended, effective September 8, 1958, as set forth below, and

6. *It is further ordered*, That the proceedings in Docket 12400 are hereby terminated.

(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 31, 1958.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

Amend Part 9—Aviation Services as indicated below:

1. Amend § 9.3 by inserting the following definition in alphabetical order:

Aeronautical search and rescue mobile station. A mobile station used for communication with aircraft engaged in search and rescue operations.

2. Amend paragraph (a) of § 9.151 to read as follows:

§ 9.151 *Information required in station logs.* (a) All stations at fixed locations shall maintain logs showing hours of operation, frequencies used, stations with which communication was held, and hours of duty and signature of the operator(s) on duty.

3. Insert the following text in paragraph (d) of § 9.312:

(d) 8364 kilocycles: Frequency for use by lifeboats, liferafts and other survival craft for search and rescue communications with stations of the maritime mobile service.

4. Delete paragraphs (e), (f), and (g) of § 9.312 and substitute the following:

(e) 121.5 megacycles: This is a universal simplex emergency and distress frequency and will not be assigned to aircraft unless other frequencies are assigned and available for use to accommodate the normal communication needs of the aircraft. This frequency may be used by radio stations aboard aircraft for emergency direction finding purposes; to establish air-ground communications in emergencies; and for search and rescue operations by aircraft not equipped to transmit on 121.6 Mc.

(f) 121.6 megacycles: This frequency may be used by aircraft for air-to-air communications and air-to-ground communications with aeronautical search and rescue mobile stations when engaged in search and rescue operations.

(g) 121.7 and 121.9 megacycles: Airport utility frequencies.

5. Amend paragraph (a) of § 9.432 to read as follows:

§ 9.432 *Frequencies available.* (a) 121.5 megacycles: This is a universal simplex emergency and distress frequency for air-ground communications and will not be assigned unless other frequencies are assigned and available for use to accommodate normal communications needs.

6. Add a new Subpart W to read as follows:

SUBPART W—AERONAUTICAL SEARCH AND RESCUE MOBILE STATIONS

Sec.
9.1301 Frequency available.
9.1302 Scope of service.

AUTHORITY: §§ 9.1301 and 9.1302 issued under sec. 4, 48 Stat. 1068, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303.

§ 9.1301 *Frequency available.* The frequency 121.6 megacycles is available for use by aeronautical search and rescue mobile stations.

§ 9.1302 *Scope of service.* Aeronautical search and rescue mobile stations shall be used only for communications with aircraft engaged in search and rescue operations.

[F. R. Doc. 58-6392; Filed, Aug. 8, 1958; 8:48 a. m.]

[Rules Amdt. 12-6 & 19 Rev.]

[Docket No. 11994; FCC 58-798]

PART 12—AMATEUR RADIO SERVICE

PART 19—CITIZENS RADIO SERVICE

MISCELLANEOUS AMENDMENTS

1. *Introduction.* The Commission adopted on April 3, 1957, a notice of proposed rule making in the above-entitled matter which was published in the FEDERAL REGISTER on April 16, 1957 (22 F. R. 2606). Ample opportunity was afforded interested persons to submit comments in support of or in opposition to the rule amendments proposed and the time for filing such comments has now expired.

On April 16, 1958, the Commission adopted a first report and order in this proceeding which was published in the FEDERAL REGISTER on April 24, 1958 (23 F. R. 2737). This first report and order adopted certain of the proposed changes which were designed to promote more efficient administration of the service and eligibility therein, and deferred to a later date consideration of those proposed rule changes which might affect frequency availability or technical standards.

Numerous comments, ranging from detailed multi-page documents to single-page letters and postcards, were filed in this proceeding by individual users, by organizations representing large numbers of users, by manufacturers of equipment, and by other interested parties. Due to the large number, it is not feasible to list here all such comments nor to discuss the positions of all interested parties. Nevertheless, all comments have been carefully read, considered, and given appropriate weight by the Commission in the disposition of the issues involved in this proceeding.[1] Some comments contained suggestions and proposals which go beyond the scope of this proceeding; however, those portions of such comments pertinent to the issues involved were fully considered. Parties who wish further consideration of any such suggestion or proposal should file formal petitions for rule making in accordance with the provisions of § 1.202 of the Commission's rules.

It should be noted that the only reallocation of frequencies proposed in this proceeding was the reallocation of frequencies in the range 26.96–27.23 Mc from the Amateur Radio Service to the Citizens Radio Service. The proposal to reallocate 1 Mc of the band 460–470 Mc to the Domestic Public Radio Service will be considered in the proceedings contained in Docket No. 11959.[2] The proposal to reallocate other frequencies in the 460–470 Mc band to the Industrial Radio Services has been considered and decided by the Commission in its First Report and Order in Docket 11991 (FCC 58-602, released June 23, 1958) and that decision and its effects on this proceeding will be further discussed elsewhere in this document.

In brief, this second report and order:

(a) Makes frequencies in the frequency band 26.96–27.23 Mc available to the Citizens Radio Service, and deletes their availability to the Amateur Radio Service;

(b) Limits the maximum permissible plate input DC power of citizens radio stations operating in the band 26.96–27.23 Mc to 5 watts;

(c) Establishes a new Class D citizens radio station, to be operated on specified frequencies in the 26.96–27.23 Mc band with radiotelephony, in lieu of adding those frequencies to those available to Class A stations;

(d) Provides for "type-acceptance" rather than "type-approval" of equipment to be used by Class A citizens radio stations;

(e) Provides for the assignment of specific frequencies to Class A citizens radio stations, in those portions of the frequency band 460–470 Mc remaining available for their use;

(f) Provides for the operation of Class C and Class D citizens radio stations on any of the "available" frequencies in the 26.96–27.28 Mc band in lieu of the assignment of single frequencies in that band to individual stations;

(g) Retains Class B citizens radio stations in substantially their present form, but reduces the maximum authorized power of such stations from ten watts to five watts and applies slightly more strict technical restrictions to such stations operating with over three watts power, while permitting the emissions of such Class B stations to appear on frequencies in the range 462.525–467.475 Mc which is otherwise shared, in part, by stations in the Industrial Radio Services. In addition, provision is made for Class B stations utilizing equipment which meets the technical standards applicable to Class A stations, but with plate input power ratings of five watts or less, to be operated at the discretion of the licensee on certain frequencies which would otherwise be available only to Class A stations.

(h) Completely revises Part 19 of the Commission's rules, governing the Citizens Radio Service, to incorporate proposed procedural and other changes, and to incorporate amendments to those rules previously adopted in this and other proceedings since this revision was proposed.

2. *Reallocation of frequencies in the range 26.96–27.23 Mc.* The notice of proposed rule making in this proceeding recognized a need for additional spectrum space for personal use by any individual, especially those persons now holding authorizations for Class A stations in the Citizens Radio Service who will not be able to establish eligibility in any of the Industrial or Land Transportation Radio Services, as well as a substantial need for additional frequencies in the 27 Mc range for use in the remote control of such objects or devices as model aircraft. Accordingly, it was proposed to reallocate frequencies in the band 26.96–27.23 Mc from the Amateur Radio Service to the Citizens Radio Service for use by Class A stations for general purposes and, in addition, provide certain other frequencies to Class C stations exclusively for the purposes of remote control. The Commission stated that this reallocation appeared appropriate because the frequencies in this band are a part of a larger frequency band within which interference may normally be expected and must be accepted from industrial, scientific and medical (ISM) devices and because, as a result of the foregoing, only limited use of this band has been made by the amateurs. In addition, it was pointed out that amateurs, as individuals, would be able to obtain licenses in the Citizens Radio Service for either radio control or voice communication in this band.

In connection with this proposal, the Commission received a very large number of comments from both individual amateurs and modelers, as well as clubs and organizations representing persons active in each of these hobbies. In general, it may be said that all but a few comments from modelers enthusiastically supported the proposal and most of those from persons who are both amateurs and modelers also supported the reallocation. Most of the comments from other amateurs were in complete opposition to any use by the Citizens Radio Service of frequencies in this band. However, a substantial number suggested that the band be shared by the Amateur and Citizens Radio Services. A few amateurs suggested that other amateur frequencies be substituted in lieu of those proposed, or concurred in the proposed reallocation.

Typical of the reasons set forth by the amateurs opposing deletion of the availability of frequencies in the 26.96–27.23 Mc range to the Amateur Radio Service are:

(a) The adoption of the Commission's proposal would constitute a derogation of the Atlantic City Radio Regulations to which the United States is a signatory nation.

(b) This band is the only one in the lower frequency ranges open to the amateurs where the Commission permits certain types of emissions and operations, and accordingly where the amateurs may engage in experimentation in facsimile, continuous carrier, and duplex operations.

(c) The characteristics which make these frequencies particularly good for long-range and international communications will cause too much interference and "skip", and prevent the widespread use of this band for short-range communications and remote control.

(d) The recent non-use of this band by amateurs is due to cyclical "sun spots."

(e) Other amateur bands are overcrowded, the service is expanding at a rapid rate, and the 26.96–27.23 Mc band is the only area left for expansion.

(f) The fact that an amateur might obtain a Citizens Radio Service authorization is not an adequate substitute because some amateurs could not meet the age requirements of that service, and in addition, amateurs would not be permitted to make their own adjustments to a citizens radio station.

On the other hand, the modelers point out their dire and immediate need for additional frequencies, stating that the situation has been aggravated by recent authorizations of high-powered stations in other radio services on the frequency 27.255 Mc for such purposes as traffic controls and remote radio paging. They further state that the use of frequencies in the 26.96–27.23 Mc band for control of models is feasible and is similiar to al-

[1] Included in those comments considered is that of Wells-Gardner & Co. and, accordingly, its petition for acceptance of late comments filed on February 14, 1958 is granted.

[2] Pending the outcome of the proceedings in Docket No. 11959, the frequencies proposed to be reallocated to Domestic Public Radio Service will continue to be available to the Citizens Radio Service.

location practices found practical by other governments.[2]

The Commission is well aware of the history of the Amateur Radio Service in the development of the radio art and in providing a springboard of interest for future engineers and scientists. However, it must also be remembered that the remote control of models fosters a similar interest in young people and is a hobby in which many young people are able to participate. The Commission is aware of the Amateur's outstanding record of assistance in local and national disasters. The Commission also recognizes that the Amateur Radio Service is a rapidly expanding service, but then, so is the number of persons engaged in the remote control of models expanding at an ever-increasing rate.

While both amateurs and modelers suggest that spot frequencies located in different portions of the spectrum might be more desirable for remote control, such allocations are simply not possible at this time with the present scarcity of spectrum space.

In addition to filling the need for additional frequencies for remote control purposes, the proposed reallocation would also fill an urgent need for additional frequencies for voice communications by persons who will be unable to establish their eligibility in any of the Land Transportation or Industrial Radio Services. Although the Commission may have originally underestimated the use of the 26.96–27.23 Mc band by amateurs, the use of that band is still considerably less than in other bands available to the amateurs, a fact which is admitted by many amateurs and established by monitoring observations of the Commission.

As to whether the proposed reallocation would be in derogation of the Atlantic City Radio Regulations, the Commission considers that no derogation is involved. The primary world-wide allocation of that frequency band is to the Fixed and Mobile Services and the footnote permitting its use by amateurs is merely permissive. Therefore, the reallocation ordered herein and in the companion proceeding in Docket No. 11959 from the Amateur Radio Service to the Citizens Radio Service is not in derogation of the Regulations.

As stated above, the 26.96–27.23 Mc band is a part of a larger band in which interference may normally be expected from ISM devices. Most of the reasons presented in opposition to be proposed reallocation of that band to the Citizens Radio Service were based upon potential use of this band in the future by the Amateur Radio Service instead of actual need or existing use of the band. Monitoring records indicate that this band is not heavily used by the Amateur Radio Service, due obviously to the interference hazard presented by the operation of ISM devices on 27.12 Mc and also due to the proximity of the more desirable 10-meter exclusive amateur band. The Commission feels that substantially greater use can be made of this band by the Citizens Radio Service and that the loss to the Amateur Radio Service is negligible. While it is true that certain operations have been possible in this band which were not permitted on lower frequencies available to the Amateur Radio Service, such operations are still possible on frequencies above 51 Mc and frequencies in those ranges appear to be coming into even greater usage by the amateurs than the band here under consideration. Although the Commission realizes that, in many cases, an authorization in the Citizens Radio Service may not be an adequate substitute for the privileges lost in this band; nevertheless, the Commission finds that public interest, convenience and necessity requires the reallocation of the 26.96–27.23 Mc band to the Citizens Radio Service for the purposes proposed. The recommendation that this band be shared by the two services involved is not adopted, since that action would be inconsistent with the Commission's position in international affairs regarding the shared use of amateur bands.

The Commission had proposed that the frequencies in this band, which would be available for voice communications, be assigned to Class A citizens radio stations, but inasmuch as the frequencies normally assigned to Class A stations are in a different frequency band (460–470 Mc) and different technical standards would be applicable to equipment operating in each of these bands, the Commission has decided to create a new Class D citizens radio station. The new Class D station will embody all of the proposals with respect to the operation of Class A stations in the 26.96–27.23 Mc band for radiotelephony, except that instead of being assigned a single frequency, each Class D station may operate on any of the specific frequencies available to Class D stations in that range.

3. *First report and order in Docket 11991 and its effect on this proceeding.* The notice of proposed rule making in the proceedings contained in Docket 11991 (FCC 57–356, released April 9, 1957) proposed that the 461–464.75 and 465.275–470 Mc segments of the 460–470 Mc band be reallocated from the Citizens Radio Service to the Industrial Radio Services. However, the Commission in its first report and order in that matter (FCC 58–602) released June 23, 1958, in Paragraph 9, stated:

9. Based upon the foregoing considerations, the Commission makes the following disposition of its proposals for the 460–470 Mc band:

a. A total of 6.550 megacycles (as opposed to the proposed 8.450 megacycles) is reallocated for use in the Industrial services. These 6.550 megacycles are comprised of the 461–462.525, 463.225–464.725 and 466.475–470 portions of the band.

b. As proposed, a total of 0.550 megacycles (consisting of the 464.725–465.275 Mc portion) of the band is being retained for use in the Citizens Radio Service.

c. With respect to a total of 1.900 megacycles (consisting of the 462.525–463.225 and 465.275–466.475 portions) of the band, the Commission is withholding a final determination at this time. Pending greater crystallization of the expressed and anticipated needs for fixed and mobile operations in the frequency range 460–470 Mc, these 1.9 megacycles will continue to be allocated to the Citizens Radio Service for use therein. Until further disposition is made of this space, no licensee on the frequencies involved will be required to vacate as a direct result of actions taken herein. With respect to the 1.9 megacycles, it should be noted that there is an approximate 4-megacycle span between the two blocks of frequencies. This spacing will permit the Commission to provide as many as fourteen pairs of frequencies for duplex operation and an additional ten frequencies for simplex-only operation, and will thus allow the Commission considerable flexibility in the eventual disposition of the space involved.

d. In connection with all of the foregoing, Class B citizens stations will be permitted, at least for the time being, to operate within the 462.525–467.475 portion of the band subject to no interference-protection from other Class B stations, from Class A citizens stations operating in any portion of the 460–470 Mc band, or from any station authorized to use a frequency in the 460–470 Mc band in the Industrial Radio Services. To lessen the probability of harmful interference being caused by Class B stations, their permissible power is being reduced to 5 watts input to the final radio frequency stage. This reduction will have only limited practical effect upon existing users and manufacturers since virtually all Class B equipment being sold or used at the present time already conforms to the new requirement. Manufacturers of Class B equipment are cautioned that the range of occupancy provided for by this Report and Order cannot be guaranteed on a permanent basis and that future developments may require a reduction to the limits originally proposed in this proceeding. Meanwhile, it may be possible for such manufacturers to design equipment capable of meeting these limits at prices attractive to the market.

4. *Class A stations.* The proposals specifically concerned with Class A stations are adopted substantially as proposed except, as noted above, the frequencies in the 26.96–27.23 Mc band to be used for voice communications will be available to the newly created Class D stations rather than Class A stations, as proposed. Additional frequencies will be available for the time being for assignment to Class A stations as a result of the Commission's action in Docket No. 11991 discussed in Item 3 of this order. Also, pending the outcome of the proceedings in Docket No. 11959, frequencies within the 1 Mc (460–461 Mc) band proposed to be reallocated to the Domestic Public Radio Service will continue to be available for assignment to Class A stations. Present licensees of Class A stations operating on frequencies which have been reallocated to the Industrial Radio Services may continue to operate on those frequencies (subject to timely renewal applications) until June 15, 1963; however, the actual frequencies

[2] For example: It is understood that in England six frequencies for the remote control of model aircraft and five frequencies for the remote control of model boats have been allocated within the band 26.96–27.28 Mc.

will be specified in all renewals issued after the effective date of this action.

The adoption of the proposed technical standards, necessary in order to assign specific frequencies at a 50 kc spacing, will apparently not cause any undue hardship since it appears that the equipment now being manufactured and presently in use, for the most part, already meets the new technical standards. None of the comments received were specifically either in support of or in opposition to the Commission's proposal to provide for "type-acceptance" rather than "type-approval" of equipment for use by Class A stations, and that proposal is herewith adopted.

Comments from both the Electronics Industrial Association (EIA) and the Electronic Protection, Inc. suggested that Class A stations be permitted to employ any desired emission. The rules as proposed and adopted provide specifically only for radiotelephony; however, they do not prohibit other types of emission but merely provide that such other types of emission will be authorized only upon a showing of a need therefor. The only inherent restriction (other than a showing of need) placed on such other types of emission by Class A stations is that the equipment must comply with all other technical standards applicable to Class A stations.

The suggestion of EIA that the deviation of Class A stations be limited to ±10 kc when using frequency modulation and that a "roll-off filter" after the modulator be required is not adopted, because the Commission believes such stringent technical requirements are unnecessary at this time in this service. In fact, in other services utilizing comparable frequencies, only the "roll-off filter" is required; the deviation in these services is only limited to ±15 kc, which same limitation was proposed and is now adopted in this service.

5. *Class B stations.* Because of the action taken in its First Report and Order in Docket No. 11991 (see Item 3, supra), the Commission is not adopting its proposals with respect to Class B stations. Instead, the present rules will remain substantially in effect with respect to Class B stations operating with 3 watts, or less input power on the frequency 465 Mc. The maximum permissible power of any Class B station will be 5 watts, and in the case of Class B stations operating with from 3 to 5 watts input power, the new frequency tolerance will be 0.3 percent. In addition, as a special concession to Class B stations employing equipment which complies with the technical standards applicable to Class A stations, but which are mobile stations with not more than 5 watts input power, they will be permitted to be operated on certain specified frequencies which are otherwise available only to Class A stations and to shift among such frequencies without prior Commission approval.

The detailed comments of the Vocaline Company of America, Inc., were extensively discussed in the First Report and Order in Docket No. 11991 and need not be repeated here. The action taken herein further renders moot the comments or proposals with respect to Class B stations made by the Citizen-Ship Radio Corp., Wells-Gardner & Co., Babcock Models, Inc., Z & W Manufacturing Corp., and Electronic Protection, Inc.

6. *Class C stations.* The rules pertaining to Class C stations, as adopted herewith, provide that the maximum permissible power shall be five watts, except in the case of Class C stations operating on the frequency 27.255 Mc in which case the maximum permissible power shall be 30 watts. The request of the Stromberg-Carlson Company that the frequency 26.995 Mc be made available for Class C stations with 30 watts power must be denied, although it should be noted that the paging systems represented by the Stromberg-Carlson comment can also be operated with that power in other services where four other frequencies are also available in the 27.23–27.28 Mc range. The higher power for Class C stations on the frequency 27.255 Mc is permitted on the basis that other services already have authorized the use of even higher power on that frequency and its use by Class C stations operating with 30 watts will not substantially increase the interference. Conversely, the use of 30 watts power on the frequency 26.995 Mc, even though intermittent, would appear to substantially increase the interference potentialities on that frequency and to materially lessen its value for the purposes of remote control of objects or devices.

The Commission has reconsidered its proposed tolerance requirements and has concluded that some modification thereof is necessary. The proposal was to permit a tolerance of ±.01 percent for Class C stations employing 5 watts, or less, power. However, if this were permitted, the authorized bandwidth plus tolerance would exceed the 10 kc spacing of frequencies available to Class C stations. While this would create no problem with respect to Class C stations employing 3 watts, or less, power for the remote control of objects or devices, the Commission feels that it would create undue interference when used by Class C stations employing over 3 watts power or being used for the remote actuation of devices which are used solely as a means of attracting attention. Accordingly, the rules, as adopted, provide for a tolerance of 0.005 percent for all Class C stations, except that stations of 3 watts or less plate power, which are used for the remote control of objects or devices other than devices used as a means of attracting attention, are permitted a tolerance of 0.01 percent.

In order to insure flexibility at model shows or meets, the Commission is not adopting its proposal to assign a specific frequency to Class C stations but, instead, is providing that a Class C station may operate on any of the frequencies available to that class.

The EIA request that F3 emission be permitted in the 26.96–27.23 Mc band and on the frequency 27.255 Mc is denied both with respect to Class C and Class D stations as inconsistent with the 10 kc spacing of frequencies in this range, since no information was submitted which could lead the Commission to believe that satisfactory communications can be accomplished with type F3 emission when limited to a bandwidth less than 10 kc.

The Stromberg-Carlson Company expressed concern that no specific provision is made for Class C base stations, stating that a base station is necessary for the operation of its paging systems. The classification of all Class C stations, as well as all Class B and D stations, as mobile stations is done for convenience and the rules specifically provide that such stations may be operated at fixed locations. However, a permanently installed antenna for use with a Class B, C, or D station shall not exceed 20 feet in height above an existing structure and the distance of the antenna from the transmitter shall not exceed 25 feet. Stromberg-Carlson also suggested that Class C stations used to remotely control devices which are used solely as a means of attracting attention be exempted from the requirements of station identification and that suggestion is herewith adopted. The suggestion of Stromberg-Carlson that a definition of "signaling communication" be added to the rules is not adopted as it is unnecessary.

Several suggestions were received that the age limit be lowered from 18 years of age, inasmuch as many persons below that age are interested in model control but cannot use radio for that purpose except by stations licensed to their parents. The Commission concludes that in order to encourage the youth of the United States to participate in this worthy hobby, the required age for eligibility to hold a Class C citizens radio station license only will be lowered to 12 years.

The Commission proposed, and by its first report and order in this proceeding amended Part 19, to provide that applications for Class A, Class B, and Class C stations employing non-crystal controlled equipment be submitted to its Washington, D. C. offices. Applications for Class C stations using crystal controlled equipment presently may be submitted at one of the Commission's field offices. The Commission upon reconsideration has decided that the orderly administration of the Citizens Radio Service requires all applications for any class of citizens radio station be submitted to its Washington, D. C., office, and the rules as amended hereby so provide.

7. *General.* With respect to the complete revision of Part 19, certain minor editorial modifications from the original proposal have been made for the purposes of clarification. Thus, the section dealing with definitions has been broken down into categories dealing with subject matter to facilitate finding the desired definition. Certain rule amendments adopted by the Commission in its First Report and Order in this proceeding have been renumbered so that the amendments appear in a more appropriate order in the revision.

In order to receive all the information necessary for the administration of the Citizens Radio Service and to issue an authorization therein, it has been necessary to revise the present FCC Form 505, "Application for Citizens Radio Sta-

tion Construction Permit and License." The revised FCC Form 505, "Application for Citizens Radio License" will be used when regularly applying for any citizens radio station authorization, including renewal and modification thereof.

The complete revision of Part 19, as set forth below also incorporates all amendments to Part 19, initiated and adopted subsequent to the issuance of the notice of proposed rule making in this proceeding.

8. *Pending petitions.* Considered herein to the extent they were pertinent to the instant proceeding were the following petitions: Petition of the Academy of Model Aeronautics, filed on January 23, 1957; Petition for the Deletion of the Citizens Radio Service in the 460–470 Mc band of Motorola, Inc., filed on April 30, 1958; Opposition to Petition of Motorola, Inc. to Delete Entire Citizens Radio Service (Docket No. 11994) and Petition for Termination of Proceedings of the Vocaline Company of America, Inc., filed on May 28, 1958; Opposition of American Telephone and Telegraph Company to Petition of Vocaline Company of America, Inc. for Termination of Proceedings, filed on June 16, 1958; and Petition of Electronic Industries Association, filed on July 10, 1958.

9. *Conclusion and order.* Upon consideration of all of the comments filed herein and of all other matters relevant to this proceeding, the Commission concludes that the amendments outlined above and set forth below will materially serve the public interest, convenience and necessity. The authority for such amendments is contained in section 4 (i) and 303 of the Communications Act of 1934, as amended.

In view of the foregoing: *It is ordered*, This 31st day of July 1958, That effective September 11, 1958, Parts 12 and 19 of the Commission's rules are hereby amended, in the manner set forth below. *It is further ordered*, That the petitions identified in Item 8 hereof are granted to the extent that such action is consistent with other actions taken herein, and in all other respects are denied.

(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)

Released: August 4, 1958

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

I. Amend Part 12—Amateur Radio Service as follows:

1. Delete paragraph (f) of § 12.111 and substitute the following:

(f) [Reserved.]

2. Amend § 12.134 to read as follows:

§ 12.134 *Modulation of carrier wave.* Except for brief tests or adjustments, an amateur radiotelephone station shall not emit a carrier wave on frequencies below 51 megacycles unless modulated for the purpose of communication.

II. Revise Part 19—Citizens Radio Service to read as follows:

Subpart A—General

Subpart B—Applications and Licenses

Subpart C—Technical Regulations

Subpart D—Station Operating Requirements

Subpart E—CONELRAD

AUTHORITY: §§ 19.1 to 19.107 issued under sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303.

SUBPART A—GENERAL

§ 19.1 *Basis and purpose.* The rules and regulations set forth in this part are issued pursuant to the provisions of Title III of the Communications Act of 1934, as amended, which vests authority in the Federal Communications Commission to regulate radio transmissions and to issue licenses for radio stations. The rules in this part are designed to provide for private short-distance radiocommunications, radio signaling, and the control of remote objects or devices by means of radio, and to provide procedures whereby manufacturers of radio equipment to be used or operated in the Citizens Radio Service may obtain type acceptance and/or type approval of such equipment as may be appropriate.

§ 19.2 *Definitions.* For the purpose of this part, the following definitions shall be applicable. For other definitions, refer to Part 2 of this chapter.

(a) Definitions of services.

Base station. A land station in the land mobile service carrying on a service with land mobile stations.

Citizens Radio Service. A radio communications service of fixed, land, and mobile stations intended for personal or business radiocommunication, radio signalling, control of remote objects or devices by means of radio, and other purposes not specifically prohibited in this part.

Fixed service. A service of radiocommunication between specified fixed points.

Mobile service. A service of radiocommunication between mobile and land stations or between mobile stations.

(b) Definitions of stations.

Class A citizens radio station. A station in the Citizens Radio Service operating on an assigned frequency available to that service in the 460–470 Mc frequency band, with an authorized plate input power of 60 watts or less. (Class A stations are authorized to be operated as mobile stations, as base stations, or as fixed stations.)

Class B citizens radio station. A mobile station in the Citizens Radio Service operating on an authorized frequency available to that service in the 460–470 Mc frequency band, with an authorized plate input power of 5 watts or less. (Class B stations are authorized to be operated as mobile stations only; however, they may be operated at fixed locations in accordance with other provisions of this part.)

Class C citizens radio station. A mobile station in the Citizens Radio Service operating on an authorized frequency in the 26.96–27.23 Mc frequency band, or on the frequency 27.255 Mc, for the remote control of objects or devices by radio, or for the remote actuation of devices which are used solely as a means of attracting attention. (Class C stations are authorized to operate as mobile stations only; however, they may be operated at fixed locations in accordance with other provisions of this part.)

Class D citizens radio station. A mobile station in the Citizens Radio Service operating on an authorized frequency in the 26.96–27.23 Mc frequency band with an authorized plate input power of 5 watts or less for radiotelephony only. (Class D stations are authorized to operate as mobile stations only; however, they may be operated at fixed locations in accordance with other provisions of this part.)

Fixed station. A station in the fixed service.

Land station. A station in the mobile service not intended for operation while in motion. (Of the various types of land stations, only the base station is pertinent to this part.)

Mobile station. A station in the mobile service intended to be used while in motion or during halts at unspecified points. (For the purposes of this part, the term includes hand-carried and pack-carried units.)

(c) Miscellaneous definitions.

Antenna structure. The term "antenna structure" includes the radiating system, its supporting structures, and any surmounting appurtenances.

Assigned frequency. The frequency appearing on a station authorization, from which the carrier frequency may deviate by an amount not to exceed that permitted by the frequency tolerance.

Authorized bandwidth. The maximum width of the band of frequencies, as specified in the authorization, to be occupied by an emission.

Bandwidth occupied by an omission. The band of frequencies comprising 99 percent of the total radiated power extended to include any discrete frequency on which the power is at least 0.25% of the total radiated power.

Harmful interference. Any radiation or any induction which endangers the functioning of a radionavigation service or of a safety service, or obstructs or repeatedly interrupts a radio service operating in accordance with applicable laws, treaties, and regulations.

Landing area. A landing area means any locality, either of land or water, including airports and intermediate landing fields, which is used or approved for use for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

Station authorization. Any construction permit, license, or special temporary authorization issued by the Commission.

§ 19.3 *Policy governing the assignment of frequencies.* (a) The frequencies which may be assigned to Class A stations in the Citizens Radio Service, and the frequencies which are available for use by Class B, C, or D stations, are listed in Subpart C. All applicants for, and licensees of, stations in this service shall cooperate in the selection and use of the frequencies assigned or authorized, in order to minimize interference and thereby obtain the most effective use of the authorized facilities. Each frequency available for assignment to, or use by, stations in this service is available on a shared basis only, and will not be assigned for the exclusive use of any one applicant; such use may also be restricted to one or more specified geographical areas.

(b) In no case will more than one frequency be assigned to Class A stations for the use of a single applicant in any given area until it has been demonstrated conclusively to the Commission that the asignment of an additional frequency is essential to the operation proposed.

§ 19.4 *General citizenship restrictions.* A station license may not be granted to or held by:

(a) Any alien or the representative of any alien;

(b) Any foreign government or the representative thereof;

(c) Any corporation organized under the laws of any foreign government;

(d) Any corporation of which any officer or director is an alien;

(e) Any corporation of which more than one-fifth of the capital stock is owned of record or voted by: Aliens or their representatives; a foreign government or representative thereof; or any corporation organized under the laws of a foreign country;

(f) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, if the Commission finds that the public interest will be served by the refusal or revocation of such license; or

(g) Any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by: Aliens or their representatives; a foreign government or representatives thereof; or any corporation organized under the laws of a foreign government, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

SUBPART B—APPLICATIONS AND LICENSES

§ 19.11 *Station authorization required.* No radio station shall be operated in the Citizens Radio Service except under and in accordance with an authorization granted by the Federal Communications Commission.

§ 19.12 *Eligibility for station license.* Subject to the general restrictions of § 19.4, any person is eligible to hold authorizations to operate stations in the Citizens Radio Service: *Provided,* That if the applicant for a Class A, Class B, or Class D station authorization is an individual or partnership, such individual or each partner is eighteen or more years of age; or if the applicant for a Class C station authorization is an individual or partnership, such individual or each partner is twelve or more years of age: *And provided further,* That not more than one person shall be eligible as licensee of the same transmitting equipment.

NOTE: While the basis of eligibility in this service includes any state, territorial or local governmental entity or any organization or association operating by the authority of such governmental entity, including any duly authorized state, territorial or local civil defense organization, it should be noted that the frequencies available to stations in this service are shared without distinction between all licensees and that during periods of normal operation no protection can be afforded to the communications of any station in this service, even when involving the protection of life or property, from interference which may be caused by the operation of other authorized stations.

§ 19.13 *Filing of applications.* (a) To assure that necessary information is supplied in a consistent manner by all persons, standard forms are prescribed for use in connection with the majority of applications and reports submitted for Commission consideration. Standard numbered forms applicable to the Citizens Radio Service are discussed in § 19.15 and may be obtained from the Washington 25, D. C., office of the Commission, or from any of its engineering field offices.

(b) An application for any class citizens radio station authorization and all correspondence relating thereto shall be submitted to the Commission's office at Washington 25, D. C., and should be directed to the attention of the Secretary. Applications involving Class C or Class D station equipment which is neither type approved nor crystal controlled, whether of commercial or home construction, shall be accompanied by supplemental data describing in detail the design and construction of the transmitter and the methods employed in testing it to determine compliance with the technical requirements set forth elsewhere in this part.

(c) Unless otherwise specified, an application shall be filed at least sixty days prior to the date on which it is desired that Commission action thereon be completed. In any case where the applicant has made timely and sufficient application for renewal of license, in accordance with the Commission's rules, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined.

(d) Failure on the part of the applicant to provide all the information required by the application form, or to supply the necessary exhibits or supplementary statements may constitute a defect in the application.

§ 19.14 *Who may sign applications.* The application for an authorization shall be signed under oath or affirmation by the applicant if the applicant be an individual, by any one of the partners if an applicant be a partnership, by an officer if the applicant be a corporation, or by a member who is an officer if the applicant be an unincorporated association: *Provided, however,* That applications may be signed by the attorney for an applicant in case of physical disability of the applicant or his absence from the continental United States. If it be made by a person other than the applicant, he must set forth in the verification the grounds of his belief as to all matters not stated upon his knowledge and the reason why it is not made by the applicant.

§ 19.15 *Standard forms to be used—*(a) *FCC Form 505, Application for Citizens Radio License.* This form shall be used when:

(1) Application is made for a new Class A base station or fixed station authorization. Separate applications shall be submitted for each proposed base or fixed station at different fixed locations; however, all equipment intended to be operated at a single fixed location is considered to be one station which may, if necessary, be classed as both a base station and a fixed station.

(2) Application is made for a new Class A, Class B, Class C, or Class D station authorization for any required number of mobile units, including hand-carried and pack-carried units) to be operated as a group in a single radiocommunication system. Separate application shall be submitted for each proposed Class A, Class B, Class C, or Class D mobile station; however, an application for Class A authorization for mobile units may be combined with the application for a single Class A base station authorization when such mobile units are to be operated with that base station only.

(3) Application is made for station license of any Class A base station or fixed station upon completion of construction or installation in accordance with the terms and conditions set forth in any construction permit required to be issued for that station.

(4) Application is made for modification of any existing Class A, Class B, Class C, or Class D station authorization in those cases where prior Commission approval of certain changes is necessary (see § 19.24).

(5) Application is made for renewal of an existing station authorization, or for reinstatement of an expired authorization.

(b) *FCC Form 401–A, Description of Proposed Antenna Structure.* This form shall be submitted in triplicate when specifically requested by the Commission in a particular case. Situations in which FCC Form 401–A may be required include, but are not necessarily limited to, the following:

(1) Where the antenna structure proposed to be erected will exceed an overall height of 170 feet above ground level, or

(2) Where the antenna structure proposed to be erected will exceed an overall height of one foot above the established airport (landing area) elevation for each 200 feet of distance or fraction thereof from the nearest boundary of any such landing area.

§ 19.16 *Amendment or dismissal of application.* (a) Any application may be amended upon request of the applicant as a matter of right prior to the time the application is granted or designated for hearing. Each amendment to an application shall be signed, subscribed and submitted in the same manner and with the same number of copies as required for the original application.

(b) Any application may, upon written request signed by the applicant or his attorney, be dismissed without prejudice as a matter of right prior to the time the application is granted or designated for hearing.

§ 19.17 *Transfer of license prohibited.* A station authorization in the Citizens Radio Service may not be transferred or assigned. In lieu of such transfer or assignment, an application for new station authorization shall be filed in each case, and the previous authorization shall be forwarded to the Commission for cancellation.

§ 19.21 *Defective applications.* (a) If an applicant is requested by the Commission to file any documents or information not included in the prescribed application form, a failure to comply with such request will constitute a defect in the application.

(b) When an application is considered to be incomplete or defective, such application will be returned to the applicant, unless the Commission may otherwise direct. The reason for return of the applications will be indicated, and if appropriate, necessary additions or corrections will be suggested.

§ 19.22 *Partial grant.* Where the Commission, without a hearing, grants an application in part, or with any privileges, terms, or conditions other than those requested, 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, if necessary, set the application for hearing.

§ 19.23 *License period.* Unless otherwise stated in the authorization, licenses for all stations in the Citizens Radio Service will normally be issued for a term of five years from the date of original issuance, renewal or modification.

§ 19.24 *Changes in authorized stations.* Authority for certain changes in authorized stations must be obtained from the Commission before the changes are made, while other changes do not require prior Commission approval. The following paragraphs describe the conditions under which prior Commission approval is or is not necessary.

(a) Proposed changes which will result in operation inconsistent with any of the terms of the current authorization require that an application for modification of license be submitted to the Commission. Application for modification shall be submitted in the same manner as an application for a new station on FCC Form 505, and the licensee shall forward his existing authorization to the Commission for cancellation immediately upon receipt of the superseding authorization. Any of the following changes to the authorized stations may be made only upon approval by the Commission:

(1) Change the permanent address of the station licensee.

(2) Change the presently authorized location of a fixed transmitter or control point.

(3) Move, change the height of, or erect an antenna structure of the type which requires prior approval from the Commission as set forth in § 19.25 of this part.

(4) Increase the overall number of transmitters authorized.

(5) Make changes of any nature which may affect the operational characteristics of the transmitting equipment.

(6) Addition or deletion of control point(s) for presently authorized transmitter.

(7) Change or increase in the area of operation of a Class A station.

(8) Change the operating frequency of a Class A station.

(b) Proposed changes which will not depart from any of the terms of the outstanding authorization for the station involved may be made without prior Commission approval. Included in such changes is the substitution of various makes of transmitting equipment at any station provided that the particular equipment to be installed as included in the Commission's "Radio Equipment List, Part C", or, in the case of a Class C or Class D station using crystal control, the substitute equipment is crystal controlled; and provided the substitute equipment employs the same type of emission and does not exceed the frequency tolerance and power limitations prescribed for the particular class of station involved.

§ 19.25 *Limitation on antenna structures.* (a) No new antenna or antenna structures shall be erected for use by any station licensed or proposed to be licensed in this service, and no change shall be made in any existing antenna or antenna structures for use or intended to be used by any station licensed or proposed to be licensed in this service so as to increase its overall height above ground level, without prior approval from the Commission in any case when either:

(1) The antenna structures proposed to be erected will exceed an overall height of 170 feet above ground level, except where the antenna is mounted on top of an existing man-made structure, other than an antenna structure, and does not increase the overall height of such man-made structure by more than 20 feet; or

(2) The antenna structures proposed to be erected will exceed an overall height of one foot above the established airport (landing area) elevation for each 200 feet of distance or fraction thereof from the nearest boundary of such landing area, except where the antenna does not exceed 20 feet above the ground or where the antenna is mounted on top of an existing man-made structure, other than an antenna structure, or natural formation and does not increase the overall height of such man-made structure or natural formation by more than 20 feet. Application for Commission approval, if required, shall be submitted on FCC Form 505, unless specifically requested by the Commission to be filed on FCC Form 401–A.

(b) In cases where an FCC Form 401–A is required to be filed, further details as to whether an aeronautical study and/or obstruction marking may be required, as well as specifications for obstruction when required, may be obtained from Part 17 of this chapter.

(c) A permanently installed antenna for use with a Class B, Class C or Class D mobile station shall not exceed 20 feet in height above any man-made structure or natural formation (other than an antenna structure) on which it is mounted, and the distance from the transmitter of such station, or from the point from which the transmitter is controlled, to the center of the radiating

portion of its antenna shall not exceed 25 feet in any case.

SUBPART C—TECHNICAL REGULATIONS

§ 19.31 *Frequencies available.* (a) The following frequencies are available for assignment to Class A base, mobile, or fixed stations, on a shared basis with other stations in the Citizens Radio Service:

Mc	Mc	Mc	Mc
462.55	463.15	465.30	465.90
462.60	463.20	465.35	465.95
462.65	464.75	465.40	466.00
462.70	464.80	465.45	466.05
462.75	464.85	465.50	466.10
462.80	464.90	465.55	466.15
462.85	464.95	465.60	466.20
462.90	465.05	465.65	466.25
462.95	465.10	465.70	466.30
463.00	465.15	465.75	466.35
463.05	465.20	465.80	466.40
463.10	465.25	465.85	466.45

(b) The frequency 465.00 Mc is available for use by Class B mobile stations under the conditions specified in §§ 19.33 to 19.35 on a shared basis with other stations in the Citizens Radio Service. In addition, a Class B mobile station employing equipment which has been type accepted for use by Class A citizens radio stations, is authorized to be operated on any of the frequencies listed in paragraph (a) of this section.

(c) The following frequencies are available for use by Class C mobile stations when employing amplitude tone modulation or on-off keying of the unmodulated carrier for the remote control of objects or devices by radio, or for the remote actuation of devices which are used solely as a means of attracting attention, on a shared basis with other stations in the Citizens Radio Service, subject to no protection from interference due to the operation of industrial, scientific, or medical devices on the frequency 27.12 Mc.

Mc	Mc	Mc
26.995	27.095	27.195
27.045	27.145	[1] 27.255

[1] The frequency 27.255 Mc is shared with stations in other services.

(d) The following frequencies are available for use by Class D mobile stations employing radiotelephony only, on a shared basis with other stations in the Citizens Radio Service, and subject to no protection from interference due to the operation of industrial, scientific, or medical devices on the frequency 27.12 Mc.

Mc	Mc	Mc	Mc
26.965	27.035	27.115	27.185
26.975	27.055	27.125	27.205
26.985	27.065	27.135	27.215
27.005	27.075	27.155	27.255
27.015	27.085	27.165	
27.025	27.105	27.175	

(e) Subject to the proceeding in Docket No. 11959, the following frequencies are available for assignment to Class A fixed, base, or mobile stations, on a shared basis with other stations in the Citizens Radio Service:

Mc	Mc	Mc	Mc
460.05	460.30	460.55	460.80
460.10	460.35	460.60	460.85
460.15	460.40	460.65	460.90
460.20	460.45	460.70	460.95
460.25	460.50	460.75	

(f) Upon specific request accompanying application for renewal of station authorization, a Class A citizens radio station which prior to August 1, 1958 operated on a frequency in the 460–470 Mc band other than one specified in the preceding paragraphs of this section, may be assigned that frequency for continued use until not later than June 15, 1963, subject to all other provisions of this part.

§ 19.32 *Station power.* The maximum plate power input to the anode (plate) circuit of the electron tube or tubes which supply energy to the radiating system of a station in this service shall not exceed the following values:

Class of station	Maximum plate power input
Class A	60 watts.
Class B	5 watts.
Class C	5 watts.[1]
Class D	5 watts.

[1] A maximum plate power input of 30 watts is permitted on the frequency 27.255 Mc only.

§ 19.33 *Frequency tolerance.* The carrier frequency of a station in this service shall be maintained within the following percentage of the authorized frequency:

Class of station	Maximum authorized plate power input	Frequency tolerance	
		Fixed and base	Mobile
		Percent	*Percent*
A	3 watts or less	.001	.005
A	over 3 watts	.001	.001
B	3 watts or less		.5
B	over 3 watts		.3
C	5 watts or less [1]		.005
C	over 5 watts (27.255 Mc only)		.005
D	5 watts or less		.005

[1] Class C stations of 3 watts or less plate power input which are used solely for the remote control of objects or devices by radio (other than devices used solely as a means of attracting attention) are permitted a frequency tolerance of .01%.

§ 19.34 *Types of emission.* (a) Except as provided in paragraph (e) of this section, Class A stations in this service will normally be authorized to transmit radiotelephony only. The authorization to use radiotelephony will be construed to include the use of tone signals or signalling devices whose sole function is to establish and maintain voice communication between stations.

(b) Class B citizens radio stations are authorized to use amplitude or frequency modulation, or on-off unmodulated carrier, and may be used for radiotelephony to control remote objects or devices by means of radio, or to remotely actuate devices which are used as a means of attracting attention.

(c) Class C citizens radio stations are authorized to use amplitude tone modulation or on-off unmodulated carrier only, for the remote control of objects or devices by radio or for the remote actuation of devices which are used solely as a means of attracting attention. The authorization of a Class C station shall not be construed to include authority for the transmission of any form of intelligence.

(d) Class D citizens radio stations are authorized to use amplitude voice modulation for radiotelephone communications only. The authorization of Type A3 emission to a Class D station shall not be construed to include authority for the transmission of any form of radiotelegraphy; however, it will be construed to include the use of tone signals or signalling devices whose sole functions is to establish and maintain voice communication between stations.

(e) Other types of emission not described in paragraph (a) of this section may be authorized for Class A citizens radio stations upon a showing of need therefor. An application requesting such authorization shall fully describe the emission desired, shall indicate the bandwidth required for satisfactory communication, and shall state the purpose for which such emission is required. For information regarding the classification of emissions and the calculation of bandwidth, reference should be made to Part 2 of this chapter.

§ 19.35 *Emission limitations.* (a) Each authorization issued to a Class A citizens radio station will show, as a prefix to the classification of the authorized emission, a figure specifying the maximum bandwidth to be occupied by the emission.

(b) All operation of a Class B citizens radio station (including tolerance and bandwidth occupied by the emission) shall be confined to the frequency band 462.525–467.475 Mc.

(c) Except in the case of Class B citizens radio stations operating only on the frequency 465.00 Mc (see § 19.31 (b)), the maximum authorized bandwidth of the emission of any station employing amplitude modulation (Type A2 or A3 emission) shall be 8 kilocycles, and the maximum authorized bandwidth of the emission of any station employing frequency or phase modulation (Type F2 or F3 emission) shall be 40 kilocycles. The use of Type F2 or F3 emission in the frequency band 26.96–27.28 Mc is not authorized.

(d) For the purpose of demonstrating compliance with paragraphs (a), (b) and (c) of this section, the following limits apply:

(1) Any emission appearing on any frequency removed from the carrier frequency by at least 50 percent, but not more than 100 percent, of the maximum authorized bandwidth shall be attenuated not less than 25 db below the unmodulated carrier.

(2) Any harmonic or other spurious emission appearing on any frequency removed from the carrier frequency by at least 100 percent of the maximum authorized bandwidth shall be attenuated below the unmodulated carrier by not less than the amount indicated in the following table:

Maximum authorized plate power input to the final radio frequency stage:	Attenuation (db)
Over 3 watts	50
3 watts or less	[1] 40

[1] In the case of Class B stations having a maximum plate power input to the final radio frequency stage of 3 watts or less, any emission appearing on any frequency that falls within a band allocated to industrial, scientific, and medical equipment under the provisions of Part 2 of this chapter shall be attenuated below the unmodulated carrier by not less than 30 db.

(e) When an unauthorized emission results in harmful interference, the Commission may, in its discretion, require appropriate technical changes in equipment to alleviate the interference.

§ 19.36 *Modulation limitations.* (a) When the radio frequency carrier of a station in this service is amplitude modulated, such modulation shall not exceed 100 percent on positive or negative peaks.

(b) Except in the case of Class B citizens radio stations operating only on the frequency 465.00 Mc (see § 19.31 (b)), the frequency deviation of any frequency modulated transmitter operated in this service shall not exceed ±15 kc and the simultaneous amplitude modulation and frequency or phase modulation of a transmitter is not authorized.

§ 19.41 *Technical measurements.* Where it appears that a station in this service is not being operated in accordance with the technical standards therefor, the Commission may require the licensee to provide for such tests as may be necessary to determine whether the equipment is capable of meeting these standards.

§ 19.42 *Acceptability of transmitters for licensing.* (a) From time to time the Commission will publish a list of equipment entitled "Radio Equipment List, Part C". Copies of this list are available for inspection at the Commission's offices in Washington, D. C., and at each of its field offices. Equipment once placed on that list will continue to be included on the list until it is removed therefrom by Commission action in accordance with the provisions of Part 2 of this chapter.

(b) Except for crystal-controlled transmitters used at Class C and Class D stations, each transmitter utilized by a station authorized for operation under this part must be a type which is included on the Commission's current "Radio Equipment List, Part C" and designated for use in this service. Until June 15, 1963, however, equipment on that list on September 1, 1958 may continue to be used, provided the operation of such equipment does not result in harmful interference due to the failure of that equipment to comply with the current technical standards of this part.

§ 19.43 *Type acceptance of equipment.* (a) Any manufacturer of a transmitter to be built for use at Class A stations in this service may request "type acceptance" for such transmitter following the type acceptance procedures set forth in Part 2 of this chapter.

(b) Type acceptance for an individual transmitter may also be requested by an applicant for a station authorization by following the type acceptance procedures set forth in Part 2 of this chapter. Such transmitters, if accepted, will not normally be included on the Commission's "Radio Equipment List, Part C", but will be individually enumerated on the station authorization.

(c) Additional rules with respect to type acceptance are set forth in Part 2 of this chapter. These rules include information with respect to withdrawal of type acceptance, modification of type-accepted equipment and limitations on the findings upon which type acceptance is based.

§ 19.44 *Submission of Class B and non-crystal controlled Class C or Class D station equipment for type approval.* (a) Manufacturers of equipment capable of being used or operated in this service may submit units of such equipment to the Commission for type approval, upon grant of request therefor made in writing by the manufacturer to the Secretary of the Commission. Such a request normally will not be granted unless at least 100 units of the model to be submitted are scheduled for manufacture. When advised by the Commission, the applicant must send a typical production model or prototype of the particular equipment complete with tubes and power supply to the Commission's laboratory at Laurel, Maryland, for tests. All instructions which are intended to be supplied to the purchaser of the equipment shall be included. Transportation of the equipment and associated documents to and from the laboratory shall be at no cost to the Government.

(b) Prior to approval or rejection of the equipment, the results of these tests will be made known only to the responsible Government officials and to the Commission. An official report of the tests will be made available only to the manufacturer involved; however, the Commission will publish from time to time lists of approved equipment.

(c) The prescribed tests may be conducted by the Federal Communications Commission or by any other cooperating Government department. In addition, field tests, as deemed necessary or desirable by the Commission, may be carried out by authorized Government personnel to determine the reliability of the equipment under operating conditions comparable to those expected to be encountered in actual service.

(d) Type approval is not required for Class C or Class D station equipment employing crystal control; however, the licensee may be required to certify that the frequency stability of the crystal-controlled transmitter is within the tolerance specified elsewhere in this part.

§ 19.45 *Type approval of receiver-transmitter combinations.* Type approval will not be issued for transmitting equipment for operation under this part when such equipment is enclosed in the same cabinet, is constructed on the same chassis in whole or in part, or is identified with a common type or model number with a radio receiver, unless such receiver has been certificated to the Commission as complying with the requirements of Part 15 of this chapter.

§ 19.51 *Minimum equipment specifications.* Equipment submitted for type approval in this service shall be capable of meeting the technical specifications contained in this part for Class B, Class C or Class D stations, and, in addition, shall comply with the following:

(a) Any basic instructions concerning the proper adjustment, use or operation of the equipment that may be necessary shall be attached to the equipment in a suitable manner and in such positions as to be easily read by the operator.

(b) A durable nameplate shall be mounted on each transmitter showing the name of the manufacturer, the type or model designation, and providing suitable space for permanently displaying the transmitter serial number, FCC type approval number, and the class of station for which approved.

(c) The transmitter shall be designed, constructed, and adjusted by the manufacturer to operate on a frequency or frequencies available to the class of station for which type approval is sought. In designing the equipment, every reasonable precaution shall be taken to protect the user from high voltage shock and radio frequency burns. Connections to batteries (if used) shall be made in such a manner as to permit replacement by the user without causing improper operation of the transmitter. Generally accepted modern engineering principles shall be utilized in the generation of radio frequency currents so as to guard against unnecessary interference to other services. In cases of harmful interference arising from the design, construction, or operation of the equipment, the Commission may require appropriate technical changes in equipment to alleviate interference.

(d) Controls which may effect changes in the carrier frequency of the transmitter shall not be accessible from the exterior of any unit unless such accessibility is specifically approved by the Commission.

§ 19.52 *Test procedure.* Type approval tests to determine whether radio equipment meets the technical specifications contained in this part will be conducted under the following conditions:

(a) Gradual ambient temperature variations from 0° to 125° F.

(b) Relative ambient humidity from 20 to 95 percent. This test will normally consist of subjecting the equipment for at least three consecutive periods of 24 hours each, to a relative ambient humidity of 20, 60, and 95 percent, respectively, at a temperature of approximately 80° F.

(c) Movement of transmitter or objects in the immediate vicinity thereof.

(d) Power supply voltage variations normally to be encountered under actual operating conditions.

(e) Additional tests as may be prescribed, if considered necessary or desirable.

§ 19.53 *Certificate of type approval.* A certificate or notice of type approval, when issued to the manufacturer of equipment intended to be used or operated in the Citizens Radio Service, constitutes a recognition that on the basis of the test made, the particular type of equipment appears to have the capability of functioning in accordance with the technical specifications and regulations contained in this part: *Provided,* That all such additional equipment of the same type is properly constructed, maintained, and operated: *And provided further,* That no change whatsoever is made in the design or construction of such equipment except upon specific approval by the Commission.

§ 19.54 *Acceptance of composite equipment.* (a) Class B and non-crystal controlled Class C or Class D station equipment constructed by a manufacturer in lots of less than 100 units will not, in the usual case, be tested by the Commission for the purpose of granting type approval. Except as provided in paragraph (b) of this section, an applicant in this service who proposes to use or operate composite or other equipment which has not been type approved shall supply complete information showing that the equipment fully complies with appropriate station requirements, using supplementary sheets which shall accompany the standard application form. The Commission may, at its discretion, require that such equipment or a prototype thereof be made available to its laboratory at Laurel, Maryland, for testing in accordance with the procedures described elsewhere in this part, as applicable to equipment to be manufactured in lots of more than 100 units. In addition, field tests as deemed necessary or desirable may be carried out by authorized Government personnel to determine the reliability of the equipment under operating conditions comparable to those encountered in actual service.

(b) In the case of Class C or Class D equipment employing crystal control, supplemental technical information is not required to accompany the standard application form: *Provided, however,* That it is clearly indicated that the equipment employs crystal control: *And provided further,* That the Commission may require the applicant to certify that the frequency stability of the crystal-controlled transmitter is within the tolerance specified elsewhere in this part.

SUBPART D—STATION OPERATING REQUIREMENTS

§ 19.61 *Permissible communications.* (a) Each station in the Citizens Radio Service is authorized to communicate with other stations in the same service. Communications with stations licensed under other parts of this chapter or with any United States Government or foreign station is prohibited, except for communications relating to civil defense in accordance with the provisions of § 19.93.

(b) Any station licensed in this service may be used to provide a radiocommunication service to any person, including the licensee of another station in the same service, on a strictly voluntary and no-charge basis; however, no other form of cooperative or shared use of facilities licensed in this service shall be permitted.

(c) All communications shall be limited to the minimum practicable transmission time.

(d) A citizens radio station may not be used for any purpose contrary to federal, state, or local law; or to carry communications for hire; or to carry program material of any kind either directly or indirectly for use in connection with radio broadcasting; or for direct transmission to the public through public address systems or by any other means.

(e) The licensee of any station in this service may, during a period of emergency in which normal communications facilities are disrupted or inadequate as a result of hurricane, flood, earthquake, enemy action, or similar disaster, utilize such station for emergency communications without regard to the provisions of this section other than the following:

(1) As soon as possible after the beginning of such emergency use, notice shall be sent to the Commission in Washington, D. C., or to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the emergency and the use to which the station is being put;

(2) The emergency use of the station shall be discontinued as soon as substantially normal communication facilities are again available, and the Commission in Washington, D. C., or the Engineer in Charge, shall be notified immediately when such special use of the station is terminated; and

(3) The Commission may at any time order discontinuance of such special use of the authorized facilities.

(f) Except as provided in paragraph (h) of this section, a citizens radio station used to control remote objects or devices by means of radio, or to remotely actuate devices which are used as a means of attracting attention, shall not be operated in a manner which involves the continuous radiation of energy.

(g) Except as provided in paragraph (h) of this section, a citizens radio station which is used for the purpose of communication by radiotelephony shall not emit a carrier wave unless modulated for the purpose of communication, and a citizens radio station which is used for the purpose of communication by radiotelegraphy of any type shall not emit a carrier wave except when telegraph signals are being transmitted.

(h) A citizens radio station may transmit a continuous carrier, without being modulated by any form of communication or signal, under the following conditions only:

(1) When transmitting for brief tests or when adjustments are being made to the transmitter; or

(2) When a station which is being used to control model aircraft by means of interrupted tone-modulation is actually controlling such aircraft in flight.

§ 19.62 *Station identification.* The registered serial number appearing on each citizens radio station license shall be the call sign assigned to such station. A citizens radio station shall transmit its call sign at the beginning and at the termination of all communications as well as at least once every ten minutes during every transmission of more than ten minutes' duration: *Provided,* That, in the case of stations conducting an exchange of several transmissions in sequency with each transmission less than three minutes' duration, the call sign of the communicating stations need be transmitted only once every ten minutes of operation. Stations operated solely for the radio control of remote objects or devices, or to remotely actuate devices which are used solely as a means of attracting attention, are not required to identify their transmissions except upon specific instructions of the Commission.

§ 19.63 *Remote control.* A Class A citizens radio base or fixed station may be authorized to be used or operated by remote control from another fixed location or from mobile units: *Provided,* That adequate means are available to enable the person using or operating the station to render the transmitting equipment inoperative from the remote control position or positions should improper operation occur. The authority for such remote control shall be shown on the station authorization.

§ 19.64 *Suspension of transmissions required.* The radiations of the transmitter shall be suspended immediately upon detection or notification of a deviation from the technical requirements of the rules in this part until such deviation is corrected.

§ 19.71 *Operator requirements.* (a) Except for stations using manually operated telegraphy transmitting by any type of the Morse Code, no operator license is required for the operation of a citizens radio station during the course of normal rendition of service.

(b) Stations using manually operated telegraphy transmitting by any type of the Morse Code may, during the course of normal rendition of service, be operated only by the holders of either a Radiotelegraph Third Class Operator Permit or a higher class of radiotelegraph operator license (except the holders of Temporary Limited Radiotelegraph Second Class Operator Licenses).

(c) In any case, however, all transmitter adjustments or tests during or coincident with the installation, servicing, or maintenance of a radio station, which may affect the proper operation of such station, shall be made by or under the immediate supervision and responsibility of a person holding a first or second-class commercial radio operator license, either radiotelephone or radiotelegraph, as may be appropriate for the type of emission employed, and such person shall be responsible for the proper functioning of the station equipment.

§ 19.72 *Posting of station license.* (a) The current authorization of each citizens radio station operated at a fixed location shall be permanently posted at the principal fixed location from which the station is controlled when being operated, and a photocopy thereof shall be permanently posted at all other fixed locations (if any) from which the station is controlled. In addition, if the transmitter of any such station is not readily accessible for inspection by Commission representatives or is not in view from at least one location at which the station license or a photocopy thereof is required to be posted, an executed Transmitter Identification Card (FCC Form 452–C, Revised) shall be affixed to that transmitter.

(b) The current authorization of each citizens radio station operated as a mobile station or operated at temporary locations may be retained in the permanent records of the station and need not be posted; however, an executed Transmitter Identification Card (FCC Form 452–C, Revised) shall be affixed to each transmitter which is operated as a mobile

station or is operated at temporary locations, and to the control equipment of each such transmitter in every case where such transmitter is not in view from the location from which the station is controlled.

(c) The following information shall be entered on each Transmitter Identification Card (FCC Form 452–C, Revised) which is used for transmitter or station identification in accordance with the foregoing:

(1) Name of the station licensee;

(2) Station call sign assigned by the Commission (see § 19.62);

(3) Exact location or locations of the permanent station records;

(4) Frequency or frequencies upon which the associated transmitter is adjusted to operate; and

(5) Signature of the licensee.

§ 19.73 *Inspection of stations.* All stations and records of stations in the Citizens Radio Service shall be made available for inspection upon request of an authorized representative of the Commission made to the licensee or to his representative.

§ 19.74 *Inspection and Maintenance of tower marking and associated control equipment.* The licensee of any radio station which has an antenna structure required to be painted or illuminated pursuant to the provisions of section 303 (q) of the Communications Act of 1934, as amended, and/or Part 17 of this chapter, shall operate and maintain the tower marking and associated control equipment in accordance with the following:

(a) The tower lights shall be observed at least once each 24 hours, either visually or by observing an automatic and properly maintained indicator designed to register any failure of such lights, to insure that all such lights are functioning properly as required; or, alternatively, there shall be provided and properly maintained an automatic alarm system designed to detect any failure of the tower lights and to provide indication of such failure to the licensee.

(b) Any observed or otherwise known failure of a code or rotating beacon light or top light not corrected within thirty minutes, regardless of the cause of such failure, shall be reported immediately by telephone or telegraph to the nearest Airways Communication Station or Office of the Civil Aeronautics Administration. Further notification by telephone or telegraph shall be given immediately upon resumption of the required illumination.

(c) All automatic or mechanical control devices, indicators, and alarm systems associated with the tower lights shall be inspected at intervals not to exceed three months, to insure that such apparatus is functioning properly.

(d) All lighting shall be exhibited from sunset to sunrise unless otherwise specified in the instrument of station authorization.

(e) A sufficient supply of spare lamps shall be maintained for immediate replacement purposes at all times.

(f) All towers shall be cleaned or repainted as often as is necessary to maintain good visibility.

§ 19.81 *Answers to notices of violations.* (a) Any licensee receiving official notice of a violation of the terms of the Communications Act of 1934, as amended, any legislative act, Executive Order, treaty to which the United States is a party, or the rules and regulations of the Federal Communications Commission, shall within 10 days from such receipt send a written answer direct to the office of the Commission originating the official notice. If an answer cannot be sent or acknowledgment made within such three-day period by reason of illness or other unavoidable circumstances, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay. The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices.

(b) If the notice relates to some violation that may be due to the physical or electrical characteristics of the transmitting apparatus, the answer shall state fully what steps, if any, are taken to prevent future violations.

(c) If the notice of violation relates to some lack of attention to, or improper operation of, the station, the name of the person who caused the violation shall be given.

§ 19.82 *Recording of tower light inspections.* When a station in this service has an antenna structure which is required to be illuminated, appropriate entries shall be made in the station records, and retained for a period of at least one year, as follows:

(a) The time the tower lights are turned on and off each day, if manually controlled.

(b) The time the daily check of proper operation of the tower lights was made.

(c) In the event of any observed or otherwise known failure of a tower light:

(1) Nature of such failure.

(2) Date and time the failure was observed or otherwise noted.

(3) Date, time and nature of the adjustments, repairs, or replacements made.

(4) Identification of the Airways Communication Station (Civil Aeronautics Administration) notified of the failure of any code or rotating beacon light not corrected within thirty minutes, and the date and time such notice was given.

(5) Date and time notice was given to the Airways Communication Station (Civil Aeronautics Administration) that the required illumination was resumed.

(d) Upon completion of the three-month periodic inspection required by § 19.74 (c):

(1) The date of the inspection and the condition of all tower lights and associated tower lighting control devices, indicators, and alarm systems.

(2) Any adjustments, replacements, or repairs made to insure compliance with the lighting requirements and the date such adjustments, replacements, or repairs were made.

§ 19.83 *False signals.* No person shall transmit false or deceptive signals or communications by radio, or identify the station he is using or operating by means of a call sign or signal which has not been assigned by proper authority to that station, or refuse to properly identify himself and the radio station he is using or operating when such identification is possible under the conditions of use or operation in effect at the time such identification is requested.

§ 19.91 *Station location.* (a) The specific location of each Class A base station and each Class A fixed station and the specific area of operation of each Class A mobile station shall be indicated in the application for license. Authorization will not be granted for the operation of a base station or a fixed station in this service at unspecified temporary fixed locations.

(b) A Class A mobile station authorized in this service may be used or operated anywhere in the United States subject to the provisions of paragraph (d) of this section: *Provided,* That when the area of operation is changed for a period exceeding seven days, the following procedure shall be observed:

(1) When the change of area of operation occurs inside the same Radio District, the Engineer in Charge of the Radio District involved and the Commission's office, Washington 25, D. C., shall be notified.

(2) When the station is moved from one Radio District to another, the Engineers in Charge of the two Radio Districts involved and the Commission's office, Washington 25, D. C., shall be notified.

(c) A Class B, Class C or Class D mobile station may be used or operated anywhere in the United States subject to the provisions of paragraph (d) of this section.

(d) A mobile station authorized in this service may be used or operated on any craft or vehicle: *Provided,* That when such craft or vehicle is outside the territorial limits of the United States, the station, its operation, and its operator shall be subject to the governing provisions of any treaty concerning telecommunications to which the United States is a party, and when within the territorial limits of any foreign country, the station shall be subject also to such laws and regulations of that country as may be applicable.

§ 19.92 *Control of transmitters.* All transmitters licensed in the Citizens Radio Service must at all times be under the control of the licensee. The licensee shall not transfer, assign, or dispose of, in any manner, directly or indirectly, the operating authority under his station license.

§ 19.93 *Civil defense communications.* A licensee of a station authorized under this part may use the licensed radio facilities for the transmission of messages relating to civil defense activities in connection with official tests or drills

conducted by, or actual emergencies proclaimed by, the civil defense agency having jurisdiction over the area in which the station is located: *Provided*, That:

(a) The operation of the radio station shall be on a voluntary basis.

(b) The operation of the station shall not conflict with CONELRAD requirements.

(c) Such communications are conducted under the direction of civil defense authorities.

(d) As soon as possible after the beginning of such use, the licensee shall send notice to the Commission in Washington, D. C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the communications being transmitted and the duration of the special use of the station. In addition, the Engineer in Charge shall be notified as soon as possible of any change in the nature of or termination of such use.

(e) In the event such use it to be a series of pre-planned tests or drills of the same or similar nature which are scheduled in advance for specific times or at certain intervals of time, the licensee may send a single notice to the Commission in Washington, D. C., and to the Engineer of the Radio District in which the station is located, stating the nature of the communications to be transmitted, the duration of each such test, and the times scheduled for such use. Notice shall likewise be given in the event of any change in the nature of or termination of any such series of tests.

(f) The Commission may, at any time, order the discontinuance of such special use of the authorized facilities.

SUBPART E—CONELRAD

§ 19.101 *Scope and objective.* (a) This subpart applies to all radio stations in the Citizens Radio Service located within the continental United States, and is for the purpose of providing for the alerting and operation of radio stations in this service during periods of enemy air attack or imminent threat thereof.

(b) The objective of these CONELRAD rules is to minimize the navigational aid that an enemy might obtain from the electromagnetic radiations from radio stations in the Citizens Radio Service while simultaneously providing for a continued radio service under controlled conditions when such operation is essential to the public welfare.

§ 19.102 *Alerting.* (a) Licensees of radio stations in the Citizens Radio Service are responsible for making provisions to receive the CONELRAD Radio Alert and the CONELRAD Radio All Clear.

(b) The CONELRAD Radio Alert will be initiated by the Commanding Officer of the Air Division (Defense) or higher military authority.

(c) Citizens Radio Service mobile radio systems, including stations at fixed locations associated therewith, and point-to-point systems where applicable, may, if desired, be alerted at a single point, normally the control point or the control center. The control point thus receiving the CONELRAD Radio Alert will be responsible for the dissemination of the CONELRAD Radio Alert to all stations integrated into the radio system or systems and insuring that all associated stations execute CONELRAD requirements immediately. Relaying of a CONELRAD Radio Alert is considered a transmission of extreme emergency affecting the national safety and may be carried on under the authority of § 19.103 (a) (1).

(d) The CONELRAD Radio Alert for the Citizens Radio Service may be received by one or more of the methods outlined below:

(1) By monitoring any standard, FM, or TV broadcast station by aural or automatic means, to receive the CONELRAD Radio Alert.

(2) By reception of the CONELRAD Radio Alert from a point that has received the CONELRAD Radio Alert from a standard, FM, or TV broadcast station.

(3) Radio station licensees desiring to receive the CONELRAD Radio Alert by a means not covered by subparagraph (1) or (2) of this paragraph may request authority from the Secretary, Federal Communications Commission to receive the Alert in another manner. The request must include reason why methods described in subparagraph (1) or (2) of this paragraph are not suitable and must fully describe the proposed method for receiving the Alert.

NOTE: Every standard, FM, and TV broadcast station will be notified of the CONELRAD Radio Alert by telephone calls or by radio broadcasts. Immediately upon receipt of the Radio Alert each standard, FM, and TV broadcast station will proceed as follows on its normally assigned frequency:

(1) Discontinue the normal program.

(2) Cut the transmitter carrier for approximately five seconds. (Sound carrier only for TV stations.)

(3) Return carrier to the air for approximately 5 seconds.

(4) Cut the transmitter carrier for approximately 5 seconds.

(5) Return carrier to the air.

(6) Broadcast 1000 cycle (approximate) steady state tone for fifteen seconds.

(7) Broadcast the CONELRAD Radio Alert message as follows: "We interrupt our normal program to cooperate in security and Civil Defense measures as requested by the United States Government. This is a CONELRAD Radio Alert. Normal broadcasting will now be discontinued for an indefinite period. Civil Defense information will be broadcast in most areas at 640 and 1240 on your regular radio receiver".

(8) The CONELRAD Radio Alert message will then be repeated.

(1) through (6) above is for the purpose of attracting the listeners' attention, or, if desired, to operate an automatic alert receiver or warning device. (Caution: (1) through (6) is a warning that a Radio Alert may follow; the actual Radio Alert signal is the spoken word in the form of the CONELRAD Radio Alert message.)

The CONELRAD Radio Alert message as set forth in (7) above, is worded in a manner suitable for reception by the public; however, the message is also the CONELRAD Radio Alert. When this CONELRAD Radio Alert message is received, all licensees must immediately comply with the CONELRAD operating procedure. The precise CONELRAD Radio Alert message, above, will be broadcast only in the event of an actual alert. In the event of a CONELRAD test or drill, broadcast stations will make an announcement that a test or drill is taking place.

(e) All radio stations in the Citizens Radio Service not directly receiving the CONELRAD Radio Alert must use caution in returning to the air after an "out of service" period, to insure that a CONELRAD Radio Alert is not in progress before making any transmissions.

§ 19.103 *Operation during a CONELRAD Radio Alert.* (a) Radio stations in the Citizens Radio Service, upon receipt of a CONELRAD Radio Alert, will interrupt any communications in progress, leave the air and maintain radio silence for the duration of the CONELRAD Radio Alert, except for transmissions handled in accordance with the following restrictions unless otherwise ordered by the Federal Communications Commission:

(1) No transmissions shall be made unless they are of extreme emergency nature affecting the national safety or the safety of people and property.

NOTE: Transmission affecting the safety or security of industrial plants, personnel or equipment and materials necessary to the national defense may be made. All transmissions not immediately necessary must be withheld until the CONELRAD Radio All Clear has been issued.

(2) All transmissions shall be as short as possible and the stations' carrier shall be removed from the air during periods of no message transmission.

(3) No station identification shall be given either by announcement of regularly assigned call sign or by announcement of geographical location. If identification is necessary to carry on the service, the use of special identifiers will be authorized.

§ 19.104 *Special conditions.* Licensees of radio stations or systems in the Citizens Radio Service, who for technical or operational reasons believe that compliance with § 19.103 cannot be met, may request a waiver of § 19.103. Such request must be made by letter to the Secretary, Federal Communications Commission, Washington 25, D. C., stating why § 19.103 cannot be complied with. The Commission upon investigation may modify the CONELRAD operating requirements of the station or system if it is found to be essential to the defense of the nation or the public welfare.

§ 19.105 *Radio All Clear.* The CONELRAD Radio All Clear will be initiated only by the Air Division (Defense) Commander or higher military authority and will be disseminated over the same channels as the CONELRAD Radio Alert. Broadcast stations will transmit the CONELRAD Radio All Clear message on normally assigned frequencies as follows:

The CONELRAD operating procedures have been ordered discontinued. All radio stations are authorized to return to normal operation on their regularly assigned frequencies:

I repeat

The CONELRAD operating procedures have been ordered discontinued. All radio stations are authorized to return to normal operation on their regularly assigned frequencies.

Radio stations and systems licensed in the Citizens Radio Service may resume

normal operation when the CONELRAD Radio All Clear message is received unless otherwise restricted by order of the Federal Communications Commission.

§ 19.106 *Tests.* Tests of the CONELRAD alerting and operating systems may be conducted at appropriate intervals. Stations not normally in operation during the period of a test will not be required to take part. Tests of the operating system will not require the station to close down and will be conducted in a manner that will not interfere with the transmission of normal traffic. Reports of the results of such tests may be required in a form to be prescribed by the Commission.

§ 19.107 *Record entries.* Appropriate entries of all CONELRAD tests, drills, and operations shall be made in the station records.

[F. R. Doc. 58-6393; Filed, Aug. 8, 1958; 8:48 a. m.]

[Rules Amdt. 15-3]

[Docket No. 12340; FCC 58-793]

PART 15—INCIDENTAL AND RESTRICTED RADIATION DEVICES

DATE WHEN CERTIFICATION IS REQUIRED

1. As the result of a petition from Vocaline Company of America, Inc., the Commission issued a notice of proposed rule making to amend the receiver radiation rules in Part 15. It was proposed that the present receiver radiation limitations be relaxed to the extent that no limitation will apply in the case of radiation in the 460-470 Mc Citizens Radio band from super-regenerative receivers operating in that band.

2. The notice of proposed rule making concerning the subject docket stated that the Commission believes that Vocaline should not be required at this time to re-design its equipment to comply with the receiver radiation limits applicable to the UHF Citizens band. This view is based on the belief that such action would unduly restrict the availability of equipment to the public for use in the UHF Citizens band. We pointed out in our notice of proposed rule making that the proposed relaxation must be considered to be a temporary measure until such time as the Commission determines its course of action in Docket No. 11994.

3. On June 18, 1958, the Commission adopted an order (Docket No. 11959) providing for operations in the Citizens Radio Service on frequencies from 462.525 to 467.475 Mc. It is expected that Vocaline's equipment will be operated in this band of frequencies.

4. Comments from Vocaline Company of America support the Commission's proposal. Comments opposing the proposal have been received from several public service agencies of the State of California. This group is generally concerned over the possibility of interference outside of the Citizens band where their operations take place. Opinion is also expressed that the Commission's proposed exemption is based on financial considerations purely and that no compromise should be made with any device known to be a potential source of interference to any authorized radio service.

5. The Vocaline petition presents three basic factors for consideration by the Commission. The first is the protection of authorized radio services. The second factor is whether or not the use and availability of super-regenerative receivers operative in the UHF Citizens band (Class B) should be continued for the present time. The third factor is the extent of the relief, if any, it is possible to give Vocaline based upon its petition.

6. Since the amendment promulgated herein does not relax the present radiation limits outside the UHF Citizens band, services operating outside this band are afforded the same protection as heretofore. Secondly, the Commission has stated in its proposal, and is still of the opinion that it should not restrict the present availability of UHF Citizens radio equipment. In order to continue such availability, the Commission concludes that relief should be granted to the extent set forth below.

7. The Commission believes that the public interest will be served by adopting the amendment set forth below to the rules governing incidental and restricted radiation devices. Authority for the adoption of the rules set forth below is contained in section 4 (i), 301 and 303 (f) of the Communications Act of 1934, as amended (47 U. S. C. 154 (i), 301, and 303 (f)).

8. *It is ordered*, That effective September 1, 1958, Part 15 of the Commission's rules and regulations is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply secs. 301, 303, 48 Stat. 1081, 1082; 47 U. S. C. 301, 303)

Adopted: July 31, 1958.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

Amend Part 15 as follows:

1. Change title of § 15.68 to read: § 15.68 *Date when certification is required.*

2. Add a new paragraph (d) to § 15.68 which reads:

(d) Super-regenerative receivers manufactured after October 1, 1956, for use by Class B stations in the Citizens Radio Service shall comply with the certification requirements of this subpart; except that, until November 1, 1963, radiation need not be limited within the band 462.525-467.475 Mc.

[F. R. Doc. 58-6394; Filed, Aug. 8, 1958; 8:48 a. m.]

[Docket No. 12295]

PART 16—LAND TRANSPORTATION RADIO SERVICES

CHANGE IN EFFECTIVE DATE OF CERTAIN TECHNICAL STANDARDS

The Commission's supplemental order No. 1—Part 16 of July 23, 1958 (Mimeo. 61086) in the above-entitled matter is corrected as follows:

Correct the percentage figures contained in the table in § 16.102 (a) so that the frequency stability specified in the frequency range 50-1000 Mc, for all fixed and base stations and all mobile stations over 3 watts is 0.0005 percent rather than 0.005. As corrected, the table in § 16.102 (a) reads as follows:

Frequency range	All fixed and base stations	All mobile stations	
		Over 3 watts	3 watts or less
	Percent	*Percent*	*Percent*
Below 25 Mc	0.01	0.01	0.02
25 to 50 Mc	.002	.002	.005
50 to 1000 Mc	.0005	.0005	.005
Above 1000 Mc	(1)	(1)	(1)

[1] To be specified in the station authorization.

Released: July 24, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6395; Filed, Aug. 8, 1958; 8:48 a. m.]

[Rules Amdt. 16-31]

[Docket No. 11992; FCC 58-802]

PART 16—LAND TRANSPORTATION RADIO SERVICES

MISCELLANEOUS AMENDMENTS

1. On April 3, 1957, the Commission adopted a notice of proposed rule making in the above-entitled matter which was released on April 9, 1957, and published in the FEDERAL REGISTER of April 16, 1957 (22 F. R. 2602). A further notice of proposed rule making, specifying certain changes in the original proposal, was adopted by the Commission on June 28, 1957, released on July 2, 1957, and published in the FEDERAL REGISTER of July 6, 1957 (22 F. R. 4765). The time allowed for the submission of comments in this matter has expired.

2. A first memorandum report and order in this matter was adopted by the Commission on January 22, 1958, released on January 23, 1958, and published in the FEDERAL REGISTER of January 28, 1958 (23 F. R. 535). In that order it was stated that the comments of the American Trucking Associations, Inc., as well as those of the Willett Company, having to do with the proposed inclusion in the Motor Carrier Radio Service of common and contract motor carriers of property operating solely within urban areas, would be separately considered at a later date. It was also stated that the matter of the availability of frequencies in the range 159.495-160.200 Mc to the Motor Carrier Radio Service and the matter of the date by which existing usage of frequencies not in conformity with the revised rules shall be discontinued would be determined at a later date. The Commission hereby proposes to conclude those determinations.

3. The comments of the Willett Company supported, and no comments were

received in opposition to, the proposal that all common and contract carriers of property operating within single urban areas (local pickup and delivery services) be made eligible for station licenses in the Motor Carrier Radio Service. This proposal, therefore, is adopted substantially in the manner proposed; however, the matter of availability of frequencies for use by stations of such persons is reconsidered, as indicated below.

4. The American Trucking Associations, Inc. recommended that all of the frequencies in the 152–162 Mc band proposed to be made available to the Motor Carrier Radio Service should further be made available for assignment to stations of either local or long-haul motor carriers of property, without distinction, and contended that the proposed separation of those frequencies into two groups, with the respective groups available only for assignment to one category of user, would tend to promote inefficient frequency utilization. With this recommendation the Commission concurs; accordingly, all of those frequencies in the range 159.495–160.200 Mc made available to the Motor Carrier Radio Service will further be made available for assignment to base and mobile stations of any common or contract motor carrier of property, regardless of his area of operation.

5. In its original comments in this proceeding, the American Trucking Associations, Inc. recommended that provision be made for the use of the frequencies indicated above on either a simplex (single frequency) or duplex (two frequency) basis, at the option of the respective applicants for facilities. In a letter to the Commission under date of July 9, 1958, however, the Associations indicate that the matter has been reconsidered and suggest that the frequencies be assigned entirely on a basis of the single-frequency method of operation. With this latter view the Commission concurs. The frequencies in this band which are to be made available to stations in this service are not separated sufficiently to permit true duplex operation of base and mobile stations on any two frequencies in the band; hence, mobile relay or other similar simultaneous operation is not feasible. In addition, as discussed in paragraph 6, stations in the Railroad Radio Service presently authorized to operate on the primary frequencies in this band may continue to operate on such frequencies until November 1, 1963 and may therefore initially be afforded protection. For this reason, all of the frequencies in this band will not become immediately available in all areas for assignment to stations in the Motor Carrier Radio Service and the Commission believes that under the above limitations the two-frequency method of operation in the Motor Carrier Radio Service would not be practical. The Commission therefore finds that public interest, convenience and necessity will be best served by the limitation of these frequencies to the single-frequency method of operation, and the rule amendments adopted herewith will so provide.

6. In addition to the foregoing matters, there still remains the matter of the period of time during which stations in the Railroad Radio Service now operating on frequencies which they may no longer be assigned, may be permitted to continue that operation, particularly in view of the Commission's recent decisions in Docket No. 12295 permitting those stations to be moved to other frequencies which are now available for their use without necessarily meeting the new "narrow-band" technical standards. The Commission has considered all available information on this matter and has concluded that compliance with the "narrow-band" technical standards will automatically be necessary on the part of all stations involved to avoid adjacent-channel interference in many cases of 15 and 30 kc frequency separation and, hence, that such stations should not be required to move without an opportunity to amortize the investment in the existing station equipment. Accordingly, the amendments adopted herewith provide that stations in the Railroad Radio Service operating on frequencies which are no longer available for assignment to such stations may continue to be authorized to operate on those frequencies until not later than October 31, 1963, which is the last date on which operation of any equipment not meeting the new "narrow-band" technical standards is permitted, and that the radiocommunication systems comprising those stations may be expanded on those frequencies if necessary. However, it will be provided that no new systems will be permitted to be established on frequencies other than those currently available for assignment to the stations of those systems, and it is strongly urged, in view of the Commission's recent action in Docket No. 12295, that licensees in the Railroad Radio Service move to currently available frequencies as soon as possible.

7. In view of the foregoing, the Commission finds that the public interest, convenience and necessity will be served by the amendments herein ordered, which are issued pursuant to authority contained in sections 4 (i) and 303 of the Communications Act of 1934, as amended. *Accordingly, it is ordered:* That effective September 15, 1958, Part 16 of the Commission's rules, Land Transportation Radio Services, is amended as set forth below. *And it is further ordered:* That the proceedings in this docket are hereby terminated.

(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 31, 1958.

Released: August 1, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

1. Amend subparagraph (4) of § 16.251 (a) to read as follows:

(4) Persons primarily engaged in providing a common or contract motor carrier transportation service for the local distribution or collection of property.

2. Amend paragraph (e) of § 16.252 to read as follows:

(e) The following frequencies are available for assignment to base stations and mobile stations of common or contract motor carriers of property: *Provided,* That only one of these frequencies shall be assigned to the stations of any single licensee operated in any given area unless it has been demonstrated conclusively to the Commission that the assignment of an additional frequency for the single-frequency method of operation is essential to the operation of the transportation system:

Mc	*Mc*	*Mc*	*Mc*
[2] 159.495	[2] 159.675	[2] 159.855	[2] 160.035
159.510	159.690	159.870	160.050
[2] 159.525	[2] 159.705	[2] 159.885	[2] 160.065
[1] 159.540	[1] 159.720	[1] 159.900	[1] 160.080
[2] 159.555	[2] 159.735	[2] 159.915	[2] 160.095
159.570	159.750	159.930	160.110
[2] 159.585	[2] 159.765	[2] 159.945	[2] 160.125
[1] 159.600	[1] 159.780	[1] 159.690	[1] 160.140
[2] 159.615	[2] 159.795	[2] 159.975	[2] 160.155
159.630	159.810	159.990	160.170
[2] 159.645	[2] 159.825	[2] 160.005	[2] 160.185
[1] 159.660	[1] 159.840	[1] 160.020	[1] 160.200

[1] Secondary frequency—see § 16.8 (f).
[2] Tertiary frequency—see § 16.8 (f).

3. Amend § 16.352 by the addition of the following new paragraph:

(e) Base and mobile stations, operationally integrated with existing radiocommunication systems authorized prior to April 1, 1958 to operate on frequencies not currently available for assignment to such stations, may be authorized to operate on frequencies formerly assigned the stations of the respective systems until not later than October 31, 1963. During this period, the licensees of such stations may renew, modify, reinstate or assign their licenses in those cases where such assignment accompanies a change of ownership of the licensee's business to the assignee, and may expand existing systems when using such frequencies; however, they will not be authorized to establish any new systems using frequencies which are not currently available for assignment to such stations.

[F. R. Doc. 58-6396; Filed, Aug. 8, 1958; 8:48 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F—Alaska Commercial Fisheries

PART 106—ALEUTIAN ISLANDS AREA

PART 108—KODIAK AREA

ADDITIONAL FISHING TIME

AUGUST 8, 1958.

Basis and purpose. An excellent run of pink salmon has developed in the eastern portion of the Aleutian Islands area, and as a result additional fishing time can be permitted there.

Conversely, the late pink salmon runs in the Kodiak area have not developed satisfactorily and it is necessary, therefore, to curtail the season.

1. Section 106.5 is amended by deleting "August 9" and substituting in lieu thereof "August 16, 1958."

2. Section 108.5 is amended in paragraphs (a) to (h) by deleting "August 13"

wherever it appears and substituting in lieu thereof "August 8, 1958."

In order to permit full utilization of pink salmon runs in the Aleutian Islands area and to secure needed escapements of pink salmon in the Kodiak area, notice and public procedure on these amendments is impracticable and, therefore, they shall become effective immediately upon publication in the FEDERAL REGISTER. (60 Stat. 237; 5 U. S. C. 1001 et seq.)

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

RALPH C. BAKER,
Acting Director,
Bureau of Commercial Fisheries.

[F. R. Doc. 58-6464; Filed, Aug. 8, 1958; 10:35 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Parts 270, 275]

CIGARS, CIGARETTES, AND MANUFACTURED TOBACCO; MANUFACTURERS, IMPORTERS, AND DEALERS

MANUFACTURERS' REPORTS

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805).

[SEAL] RUSSELL C. HARRINGTON,
Commissioner of Internal Revenue.

In order to eliminate the requirements that manufacturers of tobacco, cigars, and cigarettes shall include in their reports the quantities of tobacco materials received, shipped, and lost or destroyed, and to make certain editorial and clarifying changes, regulations in 26 CFR Parts 270 and 275 are amended as follows:

PARAGRAPH 1. 26 CFR Part 270 is amended as follows:

(A) Section 270.143 is amended to read as follows:

§ 270.143 *Reports*—(a) *General.* Every manufacturer of cigars and cigarettes shall make a report, on Form 2136, to the assistant regional commissioner, of all (1) cigars and cigarettes manufactured, received, removed, furnished for personal consumption by employees, used for experimental purposes, reduced to material, and lost or destroyed, and (2) stamps received, used, and lost or destroyed. Such report shall be made at the times specified in this section and shall be made whether or not any operations or transactions occurred during the period covered by the report. A copy of each report shall be retained by the manufacturer for two years following the close of the calendar year covered in such reports, and made available for inspection by any revenue officer upon his request.

(b) *Opening.* An opening report, covering the period from the date of the opening inventory, or inventory made in connection with a superseding bond, to the end of the month, shall be made on or before the 20th day following the end of the month in which the business was commenced.

(c) *Monthly.* A report for each full month shall be made on or before the 20th day following the end of the month covered in the report.

(d) *Special.* A special report, covering the unreported period to the day preceding the date of any special inventory required by a revenue officer, shall be made with such inventory. Another report, covering the period from the date of such inventory to the end of the month, shall be made on or before the 20th day following the end of the month in which the inventory was made.

(e) *Closing.* A closing report, covering the period from the first of the month to the date of the closing inventory, or the day preceding the date of an inventory made in connection with a superseding bond, shall be made with such inventory.

(68A Stat. 713; 26 U. S. C. 5722)

(B) Section 270.158 is amended by striking from the second sentence "§§ 270.142 and 270.143" and inserting in lieu thereof "§ 270.142".

(C) Section 270.159 is amended by striking "§§ 270.142 and 270.143" and inserting in lieu thereof "§ 270.142".

PAR. 2. 26 CFR Part 275 is amended as follows:

(A) Section 275.133 is amended to read as follows:

§ 275.133 *Reports*—(a) *General.* Every manufacturer of tobacco shall make a report, on Form 2134, to the assistant regional commissioner, of all (1) manufactured tobacco produced, received, removed, furnished for personal consumption or use by employees, used for experimental purposes, reduced to material, and lost or destroyed, and (2) stamps received, used, and lost or destroyed. Such report shall be made at the times specified in this section and shall be made whether or not any operations or transactions occurred during the period covered by the report. A copy of each report shall be retained by the manufacturer for two years following the close of the calendar year covered in such reports, and made available for inspection by any revenue officer upon his request.

(b) *Opening.* An opening report, covering the period from the date of the opening inventory, or inventory made in connection with a superseding bond, to the end of the month, shall be made on or before the 20th day following the end of the month in which the business was commenced.

(c) *Monthly.* A report for each full month shall be made on or before the 20th day following the end of the month covered in the report.

(d) *Special.* A special report, covering the unreported period to the day preceding the date of any special inventory required by a revenue officer, shall be made with such inventory. Another report, covering the period from the date of such inventory to the end of the month, shall be made on or before the 20th day following the end of the month in which the inventory was made.

(e) *Closing.* A closing report, covering the period from the first of the month to the date of the closing inventory, or the day preceding the date of an inventory made in connection with a superseding bond, shall be made with such inventory.

(68A Stat. 713; 26 U. S. C. 5722)

(B) Section 275.147 is amended by striking from the second sentence "§§ 275.132 and 275.133" and inserting in lieu thereof "§ 275.132".

(C) Section 275.148 is amended by striking "§§ 275.132 and 275.133" and inserting in lieu thereof "§ 275.132".

[F. R. Doc. 58-6372; Filed, Aug. 8, 1958; 8:47 a. m.]

[26 CFR (1954) Parts 270, 275]

CIGARS, CIGARETTES, AND MANUFACTURED TOBACCO; MANUFACTURERS, IMPORTERS, AND DEALERS

NOTICE OF PROPOSED RULEMAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805).

[SEAL] RUSSELL C. HARRINGTON,
Commissioner of Internal Revenue.

In order to conform regulations to the provisions of Public Law 85–211 relative to the importation of certain samples of tobacco products without payment of the internal revenue tax imposed on, or by reason of, importation, 26 CFR Parts 270 and 275 are amended as follows:

PARAGRAPH 1. Paragraph (a) of § 270.190 is amended by inserting a colon in place of the period at the end of the second sentence and adding, immediately thereafter, the expression *"Provided,* That cigars and cigarettes removed as samples pursuant to the provisions of § 270.196a shall be exempt from the provisions of this paragraph."

PAR. 2. A new § 270.196a to read as follows is added:

§ 270.196a *Exemption of certain samples from internal revenue taxes.* Samples of cigars and cigarettes, to be used in the United States by persons importing tobacco products in commercial quantities, are, subject to the limitations in this section, exempt from payment of any internal revenue tax imposed on, or by reason of, importation. These exemptions apply only to samples to be used for soliciting orders for products of foreign countries. Only one sample of cigars and cigarettes of the same brand, blend, size, shape, and weight, and having the same kind of wrapper, filter, mouthpiece, etc., shall be so admitted during any calendar quarter for the use of each such person. No such sample shall contain more than 3 cigars or 3 cigarettes.

(71 Stat. 486; 19 U. S. C. 1201)

PAR. 3. Paragraph (a) of § 275.180 is amended by inserting a colon in place of the period at the end of the second sentence and adding, immediately thereafter, the expression *"Provided,* That manufactured tobacco removed as samples pursuant to the provisions of § 275.185a shall be exempt from the provisions of this paragraph."

PAR. 4. A new § 275.185a to read as follows is added:

§ 275.185a *Exemption of certain samples from internal revenue taxes.* Samples of manufactured tobacco, to be used in the United States by persons importing tobacco products in commercial quantities, are, subject to the limitations in this section, exempt from payment of any internal revenue tax imposed on, or by reason of, importation. These exemptions apply only to samples to be used for soliciting orders for products of foreign countries. Only one sample of manufactured tobacco of the same kind, brand, blend, form, flavor, cut, grind, etc., shall be so admitted during any calendar quarter for the use of each such person. No such sample shall contain more than one-eighth of an ounce of manufactured tobacco.

(71 Stat. 486; 19 U. S. C. 1201)

PAR. 5. Since the amendments made by Public Law 85–211 apply to articles entered for consumption or withdrawn from warehouse for consumption on or after October 17, 1957, the date on which the International Convention To Facilitate the Importation of Commercial Samples and Advertising Materials came into force for the United States, these regulations are being made retroactively effective to that date pursuant to section 7805 of the Internal Revenue Code of 1954.

[F. R. Doc. 58–6371; Filed, Aug. 8, 1958; 8:47 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1003]

DOMESTIC DATES PRODUCED OR PACKED IN LOS ANGELES AND RIVERSIDE COUNTIES OF CALIFORNIA

NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO ESTABLISHING FREE, RESTRICTED, AND WITHHOLDING PERCENTAGES FOR 1958–59 CROP YEAR

Notice is hereby given that there is being considered a proposal to establish for the 1958–59 crop year beginning August 1, 1958, free, restricted, and withholding percentages for marketable dates of the Deglet Noor, Zahidi, and Khadrawy varieties as hereinafter set forth. The proposed percentages, which are based on the unanimous recommendation of the Date Administrative Committee and other information available to the Secretary, would be established in accordance with the applicable provisions of Marketing Agreement No. 127 and Order No. 103 (7 CFR Part 1003), regulating the handling of domestic dates produced or packed in Los Angeles and Riverside Counties of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

Consideration will be given to any data, views, or arguments pertaining thereto which are submitted in triplicate with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., and received not later than the close of business on the eighth day after publication of this notice in the FEDERAL REGISTER. In the event the said eighth day should fall on a legal holiday, Saturday, or Sunday, such submissions must be received by the Director not later than the close of business on the next following business day.

The proposed percentages for marketable dates of the Deglet Noor variety and of the Zahidi variety are based on the following estimates of the Date Administrative Committee:

Factors	Deglet Noor	Zahidi
	1,000 pounds	*1,000 pounds*
1. Uncertified handler carryover (July 31, 1958)	5,331	96
2. Production of marketable dates	30,360	1,344
3. Total marketable dates subject to regulation	35,691	1,440
4. Trade demand	24,000	1,200
5. Plus desirable handler carryover (July 31, 1959)	5,000	100
6. Less certified handler carryover (July 31, 1958)	2,889	0
7. Free dates	26,111	1,300
8. Restricted dates (item 3 minus 7)	9,580	140

The indicated free poundage of Deglet Noor dates is 73.16 percent of the estimated total supply of such variety of dates subject to regulation. The committee unanimously recommended that the free percentage be rounded to 74 percent, making the restricted percentage 26 percent and the withholding percentage 35.1 percent.

The indicated free poundage of Zahidi dates is 90.28 percent of the estimated total supply of such variety of dates subject to regulation. The committee unanimously recommended that the free percentage be rounded to 90 percent, making the restricted percentage 10 percent and the withholding percentage 11.1 percent.

The committee's estimate of the production of marketable dates of the Khadrawy variety for the 1958–59 crop year is 539,000 pounds and approximates the committee's estimated trade demand therefor. Hence, no volume restrictions are proposed to be established for this variety.

Average return to California producers for 1958–59 crop dates will not exceed the price level specified in section 2 (1) of the aforesaid act.

On the basis of the committee's estimates and the information presently available on potential trade demand for the 1958–59 crop year, the percentages recommended by the committee appear desirable. Therefore, the proposal is as follows:

§ 1003.206 *Free, restricted, and withholding percentages.* The free percentage, restricted percentage, and withholding percentage of marketable dates for each variety shall be, for the crop year beginning August 1, 1958, and ending July 31, 1959, as follows: (a) Deglet Noor variety dates: Free percentage, 74 percent; restricted percentage, 26 percent; and withholding percentage, 35.1 percent; (b) Zahidi variety dates: Free percentage, 90 percent; restricted percentage, 10 percent; and withholding percentage, 11.1 percent; and (c) Khadrawy variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding percentage, 0 percent.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 6, 1958.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F. R. Doc. 58–6375; Filed, Aug. 8, 1958; 8:47 a. m.]

Agricultural Research Service

[7 CFR Part 319]

FOREIGN QUARANTINE NOTICES

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) that the Director of the Plant Quarantine Division, pursuant to the authority contained in amended § 319.37–18 (c) of the regulations supplemental to the quarantine relating to nursery stock, plants, and seeds for im-

portation into the United States (7 CFR 319.37–18 (c), 23 F. R. 1715), under sections 1, 5, 7, and 9 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 154, 159, 160, 162), is considering the issuance of administrative instructions to be designated as 7 CFR 319.37–18a to read as follows:

§ 319.37–18a *Administrative instructions prescribing size limitations for cacti, cycads, yuccas, dracaenas, and plants of similar growth habits; interpretation regarding status of palms.*—(a) *Size limitations.* Plants of cacti, cycads, yuccas, dracaenas, and plants of similar growth habits, not subject to size-age limitations under § 319.37–18 (a) or (b), whose growth habits simulate the woody character of trees and shrubs, may be imported under permit if they are:

(1) Small, young plants no greater than 12 inches in height, exclusive of foliage;

(2) Specimen plants and meet the conditions prescribed for the importation of such plants in § 319.37–18 (a).

(b) *Interpretation.* Palms are considered to be in the same category as woody plants and are subject to the limitations prescribed in § 319.37–18 (a).

The limitations proposed in these administrative instructions would reduce the pest risk incident to the importation of cacti, cycads, yuccas, dracaenas, and plants of similar growth habits, and would allow a more thorough and satisfactory inspection to be made than is possible with larger plants. It is anticipated that any plants that might be imported under the proposed limitations can be successfully transported and reestablished.

All persons who desire to submit written data, views, or arguments in connection with this matter should file the same with the Director of the Plant Quarantine Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D. C., within 30 days after the date of the publication of this notice in the FEDERAL REGISTER.

(Secs. 1, 5, 7, and 9, 37 Stat. 315, 316, 317, 318, as amended; 7 U. S. C. 154, 159, 160, 162; 7 CFR 319.37–18 (c), 23 F. R. 1715)

Done at Washington, D. C., this 6th day of August 1958.

[SEAL] H. S. DEAN,
Acting Director,
Plant Quarantine Division.

[F. R. Doc. 58–6379; Filed, Aug. 8, 1958; 8:47 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Docket No. 12571; FCC 58–788]

RULES OF PRACTICE AND PROCEDURE

NOTICE OF PROPOSED RULE MAKING

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

2. The Commission has before it for consideration a proposal to amend § 1.47 of the Commission's rules and regulations to provide as follows:

§ 1.47 *Appeals to the Commission from rulings of the Motions Commissioner, Chief Hearing Examiner or Hearing Examiners.* Rulings of the Motions Commissioner, Chief Hearing Examiner or Hearing Examiners may not be appealed to the Commission prior to its consideration of the entire record of the proceeding, except in extraordinary circumstances and with the consent of the officer by whom the rulings are made. An appeal shall be disallowed unless such officer finds, either on the record of the proceeding or by formal order, that the allowance thereof is necessary to prevent substantial detriment to the public interest or undue prejudice to any interested party. Requests for allowance of appeal shall be filed with the ruling officer within five days after such ruling is made or order released. In the event an appeal is allowed, any party to the proceeding may file a brief with the Commission within such period as the ruling officer directs. The rulings involved may be reviewed by the Commission in connection with its final action upon the merits of the proceeding, irrespective of the filing of an appeal or any action taken thereon.

3. The present Commission rule provides as follows: "*Review of adverse ruling.* Any interested party may obtain a review of an adverse ruling made by the Motions Commissioner, Chief Hearing Examiner or Hearing Examiner, (a) by filing, within five days after the order is released or the ruling is made, a petition for review by the Commission or (b) by specifically requesting review of the ruling complained of as part of the exceptions filed to the initial decision in accordance with the provisions of §§ 1.153 through 1.155."

4. The Commission is of the view that rule making proceedings should be instituted in this matter in order that all interested parties may submit their views.

5. Authority for the adoption of the amendment herein is contained in section 303 (r) of the Communications Act of 1934, as amended.

6. Any interested party who is of the view that the proposed amendment should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before September 30, 1958, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established.

7. In accordance with the provisions of § 1.54 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: July 31, 1958.

Released: August 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58–6399; Filed, Aug. 8, 1958; 8:49 a. m.]

[47 CFR Part 2]

[Docket No. 12572; FCC 58–789]

FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

NOTICE OF PROPOSED RULE MAKING

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

2. Part 2 of the Commission's rules now requires that, with certain exceptions, all assignments of frequencies be made in accordance with the table of frequency allocations. Some of the exceptions are contained in § 2.103 while others are contained in footnotes NG1 and US17 applicable to § 2.104 (a).

3. This proposal will consolidate these exceptions into one codified version of § 2.103 so as to delete the numerous references in the table of frequency allocations with respect to the above mentioned footnotes. This intent, with respect to footnote US17, is pointed out in the Commission's notice of proposed rule making in Docket No. 12404, adopted April 16, 1958.

4. There are several significant changes proposed with respect to certain bands of frequencies which may be authorized in the experimental service. Heretofore the Commission, in individual instances, has authorized such operation on a case by case basis utilizing the exceptions presently provided in § 2.103. These proposed changes are as follows:

(a) Specific exception is being made for radio-sounding stations which require the use of the technique of "sweeping" a portion of the spectrum.

(b) Experimental stations engaged in research, other than those in (a) above will be restricted to frequencies in bands allocated to the fixed, broadcasting or land mobile services or to one of these services shared with another service.

(c) The proposed amendment with reference to contract developmental stations represents an editorial change in an amendment previously proposed in a notice of proposed rule making in Docket No. 12404 adopted April 16, 1958, and further rule making action in this matter will take into account those comments received in Docket No. 12404.

(d) The proposed amendment provides for assignment of frequencies in all bands except those allocated to the amateur service, to export developmental stations. This is consistent with the Commission's policy of issuing authorizations for the development of equipment for foreign use where such use is not gov-

erned by the Commission's rules and regulations.

(e) The Commission, for purposes of simplifying the Table of Frequency Allocations, is also proposing to delete footnote NG22, transfer its provisions to § 2.103 (g) and apply such provisions to all non-Government bands above 25 Mc which are allocated to the land mobile service.

5. The proposed amendments would retain a general provision in the current rules whereby, in the event a band is reallocated so as to delete its availability for use by a particular service, the Commission may provide for the further interim use of the band by stations in that service for a temporary, specific period of time. In that connection, in the case of experimental stations authorized on frequencies which may subsequently become unavailable for such use as a result of this proceeding, the Commission intends to permit those stations to continue to use such frequencies for the remainder of their license terms.

6. The proposed amendments to the rules are set forth below and are issued pursuant to the authority of sections 303 (c), (f), and (r) of the Communications Act of 1934, as amended.

7. Any interested person who is of the opinion that the proposed amendments should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before September 19, 1958, written data, views or arguments setting forth his comments. Comments in support of the proposed amendments may also be filed on or before the same date. Comments in reply to the original comments may be filed within ten (10) days from the last day for filing said original data, views or arguments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

8. In accordance with the provisions of § 1.54 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs or comments filed shall be furnished the Commission.

Adopted: July 31, 1958.

Released: August 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

It is proposed to amend Part 2 of the Commission's rules as follows:

1. In § 2.1, delete the definitions of contract developmental station, developmental fixed station, developmental land station, developmental mobile station and export developmental station.

2. In § 2.104 (a) (5), delete Footnotes NG1, NG22 and US17 from the Table of Frequency Allocations.

3. Amend § 2.103 (a), (b) and (g) to read as follows:

No. 156——7

§ 2.103 *Assignment of frequencies.*

(a) Except as otherwise provided in this section the assignment of frequencies and bands of frequencies to all stations and classes of stations and the licensing and authorizing of the use of all such frequencies between 10 kc and 40,000 Mc and the actual use of such frequencies for radiocommunication or for any other purpose, including the transfer of energy by radio, shall be in accordance with the Table of Frequency Allocations herein.

(b) On the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations, the following exceptions to paragraph (a) of this section may be authorized:

(1) In individual cases the Commission may, without rule-making proceedings, authorize on a temporary basis only, the use of frequencies not in accordance with the Table of Frequency Allocations for projects of short duration or emergencies where the Commission finds that important or exceptional circumstances require such utilization: *Provided*, That such authorizations are not intended to develop a service to be operated on frequencies other than those allocated such service.

(2) A station, for the development of techniques or equipment to be employed by services or classes of stations set forth in columns 8 and 9 of the Table of Frequency Allocations may be authorized the use of frequencies allocated to those services or classes of stations.

(3) Experimental stations, engaged solely in scientific or technical radio experiments not related to an existing or proposed service nor intended to develop a proposed service or specific use of radio, may be authorized the use of any frequency which is in a band allocated to the fixed, land mobile or broadcasting services or to one of these services shared with another service.

(4) Experimental stations, engaged solely in ionospheric sounding by means of the technique of sweeping a band of frequencies, may be authorized the use of any band or bands of frequencies.

(5) Experimental stations to be operated pursuant to a contractual agreement with the United States Government and intended for the sole and express purpose of developing equipment or a technique to be employed by stations belonging to and operated by the United States may be authorized the use of any frequency.

(6) Experimental stations intended for the sole and express purpose of developing equipment or a technique to be employed by stations under the jurisdiction of a foreign government may be authorized the use of any frequency which is not in a band allocated to the amateur service.

(7) In the event a band is reallocated so as to delete its availability for use by a particular service, the Commission may provide for the further interim use of the band by stations in that service for a temporary, specific period of time.

* * * * *

(g) In the bands above 25 Mc which are allocated to the non-Government land mobile service, fixed stations may be authorized on the following conditions:

(1) That such fixed stations are authorized in the service shown in Column 11 of the Table of Frequency Allocations in the band in question.

(2) That harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

[F. R. Doc. 58-6400; Filed, Aug. 8, 1958; 8:49 a. m.]

[47 CFR Part 3]

[Docket No. 12386; FCC 58-776]

TELEVISION BROADCAST STATIONS; WICHITA-HUTCHINSON, KANS.

TABLE OF ASSIGNMENTS

1. On February 4, 1958, Wichita-Hutchinson Company, licensee of Station KTVH on Channel 12 at Hutchinson, Kansas, filed with the Commission a petition requesting rule making to amend § 3.606, *Table of Assignments, Television Broadcast Stations*, to shift channel 12 from Hutchinson to Wichita, Kansas, as follows:

City	Channel No.	
	Present	Proposed
Wichita, Kans	3–, 10–, 16–, *22+	3–, 10–, 12, 16–, *22+
Hutchinson, Kans	12, 18	18

2. Consideration of the petition led to the issuance of a notice of proposed rule making (FCC 58-309) on April 3, 1958. Comments and Reply Comments on the proposed amendment were filed through June 2, 1958, by KAKE Television Corporation, Inc., licensee of Station KAKE-TV, Wichita Television Corporation, Inc., licensee of Station KARD-TV; and the petitioner. In addition, a letter in the form of a petition signed by a number of residents of Hutchinson was filed in opposition to the proposed channel shift.

3. In support of the proposed amendment, the petitioner contends that enabling the three stations in the Wichita-Hutchinson area to compete on an equal basis would foster competition. As Wichita is the population center and principal source of programming material in this area, KTVH is obliged to maintain an auxiliary studio in Wichita. KTVH claims that although its coverage is substantially the same as that of the two Wichita stations, KAKE and KARD, its competitive position is weakened by identification as the only station in Hutchinson, a city of approximately 40,000 population, instead of as one of three stations in Wichita, a city of approximately 200,000 population.

4. KTVH further contends that, on the basis of an engineering study included with the comments, it presently has principal city coverage over all of Wichita. Accordingly, KTVH claims that modification of its license to specify operation as a Wichita station would not require change of transmitter site, studios,

or other essential elements of station operation. KTVH states that it would redesignate the Wichita studio as the main studio but would continue to maintain the Hutchinson studio and to serve Hutchinson interests to the present extent. It is noted that the petitioner also contends that certain of the individuals signing the petition that KTVH remain a Hutchinson station are connected with one of the opponents by social and business ties and that several other individuals whose signatures were included are not residents of Hutchinson.

5. KTVH also contends that the proposed shifting of Channel 12 from Hutchinson to Wichita would be consistent with the Commission's assignment principles as applied in the cases of Tulsa-Muskogee (15 Pike & Fischer RR 1720) and Galveston-Houston (16 Pike & Fischer RR 1605).

6. In opposition to the proposed amendment, Stations KAKE and KARD contend that KTVH has been and presently is competing on an equal or even a preferred basis in Wichita. By utilizing Wichita studios, Wichita program material, and every other available means, KTVH has succeeded in identifying itself with Wichita to the greatest allowable degree. KTVH is the Wichita area Columbia Broadcasting System affiliate with "basic must buy" status and higher network rates than either KAKE or KARD. KTVH has been a financially successful operation since its inception and its present status in this regard is excellent.

7. The opponents also contend that Hutchinson, the fourth largest city in Kansas, has greater need of a first station than Wichita has of a third. Wichita is adequately served by KAKE and KARD, as well as by KTVH, whose present concentration on Wichita could not, in the opponents' opinion, be increased to any appreciable extent without total abandonment of Hutchinson interests. The history of KTVH has established Hutchinson's ability to support a television station. The present infeasibility of UHF operations in this area has been demonstrated by the recent failure of a UHF station in Wichita. Enabling KTVH to become a Wichita station would also enable KTVH to close its Hutchinson studio at any time without so much as notifying the Commission. The opponents contend that effectively depriving Hutchinson of any local outlet in the foreseeable future would not be consistent with the Commission's assignment principles.

8. The opponents of the proposed amendment further contend that on the basis of data (BPCT–2239) filed with the Commission by KTVH on November 29, 1956, and the applicable standards of the Commission's rules, KTVH does not presently have principal city coverage over all of Wichita, and, accordingly, would not qualify for operation as a Wichita station under the Commission's rules. These opponents contend that the engineering study submitted in support of KTVH's contrary claim is not acceptable as a basis for determination.

9. With regard to the engineering study submitted in support of the petitioner's claim that KTVH presently has principal community coverage over all of Wichita, we note that the end results are based upon measurements made along two radials through Wichita and along several short segments within the city, and that these measurements were based on visual transmissions during normal program operation rather than fixed level transmissions. In our opinion, these results are inconclusive.

10. With regard to the petitioner's claim that modification of KTVH's license would not require modification of any essential element of station operation, it appears that KTVH would be unable to effect any appreciable improvement in the technical quality of its service to Wichita in any event. The KTVH transmitter is located approximately 33 miles northwest of Wichita; KTVH is precluded from moving appreciably closer to Wichita by the assignment of Channel 12+ in Joplin, Missouri, to the southeast of Hutchinson and Wichita at a distance approximately equal to the minimum separation of this zone (190 miles). KTVH's present power (316 kilowatts) is maximum for operation on Channel 12. KTVH's present antenna height (approximately 800 feet above average terrain) is of the order of magnitude where air space problems become complex and there is no assurance that it can be increased appreciably. Accordingly, any present deficiencies with respect to qualification for operation as a Wichita station may not lend themselves to remedial action.

11. As contended by the opponents, the coverage data included with the KTVH application for the construction permit for its present facilities (BPCT–2239) indicates that KTVH does not have principal city coverage over all of Wichita. In accordance with Figure 1 of this application, the 77 decibels above one microvolt (dbu) or minimum required field intensity contour passes through a point slightly to the far side of the center of Wichita and does not pass through any point closer to the farthest point within the city limits than approximately two and one-half miles. Approximately one-third of the city lies outside of this contour, as determined by KTVH, on the basis of the procedure set forth in the Commission's rules.

12. We conclude, therefore, that on the basis of the data included with BPCT–2239, KTVH would not qualify for operation as a Wichita station under the Commission's rules. We note the absence of any similar consideration in the cases of Tulsa-Muskogee and Galveston-Houston as cited by the petitioner. Further, as has been noted, in the event that the Table of Assignments were amended to remove Channel 12 from Hutchinson, there is no assurance that KTVH would be able to institute modifications to enable it to qualify for operation on Channel 12 in Wichita. Thus, we are unable to conclude that adoption of the subject proposal would serve the public interest.

13. Accordingly, for the foregoing reasons: *It is ordered*, That the above-described petition of Wichita-Hutchinson Company is denied, and this proceeding is terminated.

Adopted: July 30, 1958.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6397; Filed, Aug. 8, 1958; 8:48 a. m.]

[47 CFR Part 4]

[Docket No. 12567; FCC 58-778]

EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST STATIONS

TRANSMITTER POWER OUTPUT

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

2. On May 23, 1956, the Commission adopted a report and order in Docket No. 11611 (FCC 56–488) which amended Part 4 of the rules to provide for the licensing of television broadcast translator stations. Under these rules translator stations are limited to a maximum power output from the transmitter of 10 watts. In placing this limitation on power, the Commission stated in its decision, as follows: "Upon carefully considering the foregoing suggestions, we have concluded that the 10 watt maximum power requirement should be retained until data based on actual experience with translators operating under a variety of conditions is obtained. Such data will demonstrate whether the maximum power now authorized is adequate, or whether more power is necessary or desirable. The experience obtained in this initial stage will also assist us in evaluating the possible effects that increased power might have on other translators and other services."

3. In the two years that have elapsed since the inauguration of translator service the Commission has received a number of suggestions, requests and petitions that TV translators be permitted to employ more power. In the same period of time we have received no reports of interference between translators or to other stations or services, even though around 125 TV translators are now on the air. There are many areas in which translators are now operating or in which translator operation is contemplated where an increase in power would improve the service now being provided and bring service to new areas in which there is little or no TV reception at present. We believe, therefore, that consideration should be given to increased power for television broadcast translator stations.

4. Accordingly, it is proposed to amend §§ 4.735 (a) and 4.750 (c) (5) of the rules, as set forth below, to permit TV translators to employ a maximum transmitter power output of 100 watts.

5. Authority for the adoption of the amendments proposed herein is contained in sections 4 (i), 301, and 303 (f), (j) and (r) of the Communications Act of 1934, as amended.

6. Any interested party who is of the view that the proposed amendments should not be adopted, or should not be adopted in the form set forth below, may file with the Commission on or before September 5, 1958, a written statement setting forth his comments. Comments in support of the proposed amendments may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established.

7. In accordance with § 1.54 of the Commission rules and regulations, an original and 14 copies of all statements, briefs or comments shall be furnished to the Commission.

Adopted: July 30, 1958.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

1. It is proposed to delete § 4.735 (a) and to substitute the following:

§ 4.735 *Power limitations.* (a) A television broadcast translator station will not be authorized to operate with transmitter output power in excess of the rated power output of the transmitter and in no event shall the rated peak visual power output of the transmitter be in excess of 100 watts. No minimum power is specified for television broadcast translator stations.

2. It is proposed to delete § 4.750 (c) (5) and to substitute the following:

§ 4.750 *Equipment and installation.*
* * *
(c) * * *

(5) The tube or tubes employed in the final radio frequency amplifier shall be of the proper rating to supply the rated power output. The rated maximum peak visual output power of the translator shall not be greater than 100 watts. The translator shall be capable of delivering the rated power in continuous service when driven with an input signal modulated by a video waveform corresponding to a black picture and a sound signal power equal to 50 percent of the peak visual power. Translators rated at more than 10 watts maximum peak visual power output shall be equipped with a suitable device for indicating the peak visual power output. Where the composite visual and aural signal powers are measured together, the indicating device shall be calibrated so as to read the true peak visual power when the input television signal is modulated by a waveform corresponding to a black picture and when the sound signal power is equal to 50 percent of the peak visual power.

[F. R. Doc. 58-6398; Filed, Aug. 8, 1958; 8:48 a. m.]

[47 CFR Parts 5, 7–11, 16, 19, 21]

[Docket No. 12573; FCC 58-790]

TRANSMITTER IDENTIFICATION CARD

NOTICE OF PROPOSED RULE MAKING

In the matter of amendment of §§ 5.157, 7.102, 8.102, 9.118, 10.157, 11.156, 16.156, 19.72, and 21.202 of the Commission's rules concerning the use of FCC Form 452–C, the Transmitter Identification Card.

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

2. Information available to the Commission, including comments filed in response to the Commission's inquiry on the adequacy and suitability of forms used in the Safety and Special Radio Services (Docket No. 11692), indicates that problems have been engendered because of a lack of uniformity in the Commission's rules concerning the use and placement of FCC Form 452–C, the Transmitter Identification Card.

3. The Commission proposes to eliminate such difficulties by amending the relevant sections of its rules so as to permit licensees to use either FCC Form 452–C or a plate of metal or other durable material which shall bear the title "Radio Transmitter Identification" and shall display clearly all the information required to be shown on the present FCC Form 452–C, with the exception of the signature of the licensee. In addition, the Commission proposes to amend the sections of the rules listed above to make it mandatory that such identification cards be affixed to transmitters in a manner so as to be readily accessible for governmental inspection; but in the case of mobile transmitters or fixed transmitters authorized to be operated at temporary locations, if the transmitter is not in view of the transmitter operating position, then the identification card must be attached to the control equipment at the transmitter operating position.

4. The authority for the amendments proposed herein is contained in sections 4 (i) and 303 of the Communications Act of 1934, as amended.

5. Any interested person who is of the opinion that the proposed amendments should not be adopted, or should not be adopted in the form outlined above, may file with the Commission, on or before September 8, 1958, written data, views, or arguments setting forth his comments. Comments in support of the proposed amendments may be filed also on or before the same date. Comments in reply to original comments may be filed on or before the tenth day following the last day for the filing of original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for filing such additional comments is established. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

6. In accordance with the provisions of § 1.54 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission.

Adopted: July 31, 1958.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6401; Filed, Aug. 8, 1958; 8:49 a. m.]

NOTICES

DEPARTMENT OF COMMERCE

Federal Maritime Board

MEMBER LINES OF NORTH ATLANTIC MEDITERRANEAN FREIGHT CONFERENCE

NOTICE OF AGREEMENT FILED FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to Section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U. S. C. 814):

Agreement No. 7980–4, between the member lines of the North Atlantic Mediterranean Freight Conference, modifies the basic agreement of that conference (No. 7980, as amended), which covers the trade from North Atlantic ports of the United States, in the Hampton Roads/Portland, Maine, range, either by direct call or transshipment, to ports in the Mediterranean and adjacent seas. The purpose of the modification is to provide (1) for a penalty of not more than $15,000 for each violation of the conference agreement; (2) for arbitration of disputes in case of a violation; and (3) for a deposit of $15,000 in cash or other security of like value, by each of the member lines to guarantee the faithful performance and the payment of any penalty or judgment against them.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

By order of the Federal Maritime Board.

Dated: August 6, 1958.

[SEAL] GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 58-6380; Filed, Aug. 8, 1958; 8:47 a. m.]

Maritime Administration

TRADE ROUTE NO. 13, U. S. SOUTH ATLANTIC AND GULF/MEDITERRANEAN AND BLACK SEA

NOTICE OF TENTATIVE CONCLUSIONS AND DETERMINATIONS REGARDING ESSENTIALITY AND UNITED STATES FLAG SERVICE REQUIREMENTS

Notice is hereby given that on July 31, 1958, the Maritime Administrator, acting pursuant to section 211 of the Merchant Marine Act, 1936, as amended, found and determined the essentiality and United States flag service requirements of United States foreign Trade Route No. 13 and in accordance with his action of July 27, 1956 ordered that the following tentative conclusions and determinations reached by the Maritime Administrator with respect to said trade route be published in the FEDERAL REGISTER:

1. Trade Route No. 13, as described below, is reaffirmed as an essential foreign trade route of the United States:

Trade Route No. 13—U. S. South Atlantic and Gulf/Mediterranean and Black Sea. Between U. S. South Atlantic and Gulf ports (North Carolina-Texas inclusive) and ports on the Mediterranean Sea, Black Sea and in Portugal, Spain south of Portugal and Morocco (Tangier to southern border of Morocco).

2. Requirements for United States flag operations on Trade Route No. 13 are approximately 7 or 8 sailings per month of freight vessels serving the route exclusively or predominantly.

3. The C-2 and C-3 type freight ships operated on the route are suitable for service to the full range of United States and foreign ports on Trade Route No. 13 and Victory-type ships are suitable for interim operations. Replacement ships required in the near-term future will need to be superior to present C-type ships in speed and also provide adequate deep tank, refrigerated and dry cargo capacity for the needs of this Trade Route.

Any person, firm or corporation having any interest in the foregoing who desires to offer comments and views or request a hearing thereon, should submit same in writing to the Chief, Office of Government Aid, Maritime Administration, Department of Commerce, Washington 25, D. C., by close of business on August 25, 1958. In the event a hearing is requested, a statement must be included giving the reasons therefor. Any hearing thereby afforded will be before an Examiner on an informal basis only. The Maritime Administrator will consider these comments and views and take such action with respect thereto as in his discretion he deems warranted.

Dated: August 6, 1958.

By order of the Maritime Administrator.

[SEAL] JAMES L. PIMPER,
Secretary.

[F. R. Doc. 58-6381; Filed, Aug. 8, 1958; 8:47 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Document No. 185]

ARIZONA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

The Bureau of Prisons has filed an application, Serial No. AR-019097, for the withdrawal of the lands as described below, from all forms of appropriation including the mining laws.

The applicant desires the land for a prison site.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Post Office Box 148, Phoenix, Arizona.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 8 S., R. 26 E.,
Sec. 19: W½SE¼, E½SW¼, containing 160 acres.

E. I. ROWLAND,
State Supervisor.

AUGUST 4, 1958.

[F. R. Doc. 58-6351; Filed, Aug. 8, 1958; 8:45 a. m.]

Bureau of Reclamation

GRAND VALLEY PROJECT, COLORADO

ORDER OF REVOCATION

By virtue of the authority vested in the Secretary of the Interior by section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U. S. C. 416), and pursuant to Departmental Order No. 2765 of July 30, 1954, I hereby revoke the Departmental Orders of February 28, 1908, July 25, 1908, February 24, 1941, July 2, 1902, October 11, 1902 and July 27, 1910, insofar as said orders affect the following-described lands; provided, however, that such revocation shall not affect the withdrawal of any other lands by said orders, or affect any other order withdrawing or reserving the lands hereinafter described.

SIXTH PRINCIPAL MERIDIAN

T. 10 S., R. 98 W.,
Sec. 13, SE¼SW¼;
Sec. 22, SE¼SE¼;
Sec. 23, SW¼NE¼ and SW¼;
Sec. 26, W½W½;
Sec. 34, N½NE¼, SW¼NE¼, S½NW¼, SW¼ and NW¼SE¼.

T. 11 S., R. 98 W.,
Sec. 2, lots 4, 6, 13, 14, 18 and 20;
Sec. 3, lots 1, 7 to 11, incl., 16 and 17, and NW¼SE¼;
Sec. 10, lots 1 to 4, incl.;
Sec. 11, lots 1 and 2, and SW¼NW¼.

T. 11 S., R. 99 W.,
Sec. 2, lot 9;
Sec. 11, lot 1;
Sec. 12, lots 1 to 4, incl., S½NE¼ and SW¼NW¼.

T. 12 S., R. 100 W.,
Sec. 19, all.

T. 9 S., R. 101 W.,
Sec. 7, lots 1 to 4, incl., E½ and E½W½;
Sec. 18, lots 1 to 3, incl.;
Sec. 34, lots 3 and 4.

T. 10 S., R. 101 W.,
Sec. 2, S½SW¼;
Sec. 3, lots 1 to 4, incl.;
Sec. 10, lots 1, 2, and 4;
Sec. 11, NW¼ and E½SW¼;
Sec. 12, S½S½;
Sec. 13, lots 1 to 4, incl.;
Sec. 14, lots 1 to 3, incl.;
Sec. 15, lot 1.

T. 9 S., R. 102 W.,
Sec. 11, all;
Sec. 12, all;
Sec. 13, lots 1 and 2;
Sec. 14, lots 1 and 2.

T. 9 S., R. 103 W.,
Sec. 2, lots 6, 7, 8, SW¼NE¼, S½NW¼, SW¼, NW¼SE¼ and W½SW¼SE¼;
Sec. 3, S½SW¼NE¼, S½SE¼NW¼, NE¼SW¼, S½NW¼SW¼ and SE¼;
Sec. 4, W½SE¼SE¼;
Sec. 7, lots 1 to 4, incl., SE¼NE¼, E½W½, E½SE¼ and S½SW¼SE¼;
Sec. 8, S½NE¼, SE¼NW¼, E½SW¼, W½W½SW¼, NE¼NW¼SW¼, SE¼SW¼SW¼ and SE¼;
Sec. 9, S½SW¼SW¼NE¼, SW¼NW¼, W½SE¼NW¼, S½SE¼SE¼NW¼, SW¼, NW¼SE¼ and S½SE¼;
Sec. 10, NE¼NE¼NE¼, S½NE¼NE¼, SE¼SW¼NE¼, SE¼NE¼, E½NE¼SW¼, SW¼SW¼ and SE¼;
Sec. 11, SE¼NE¼, W½, W½SE¼, W½SE¼SE¼, N½SE¼SE¼SE¼ and SW¼SE¼SE¼;
Sec. 14, W½ lot 1 and lot 2;
Sec. 15, NW¼ and N½SW¼;
Sec. 16 and 17, all;
Sec. 18, lots 1 to 3, incl., E½ and E½W½;
Sec. 19, lots 1, 2, S½ of 3, and 4, N½NE¼, SW¼NE¼, E½NW¼, NE¼NE¼SW¼, and SE¼SW¼;
Sec. 20, N½ and N½SE¼;
Sec. 21, N½, SW¼, N½SE¼ and SW¼SE¼;
Sec. 22, W½NE¼NW¼, W½NW¼ and NW¼SW¼;
Sec. 27, lots 1 to 4, incl., SE¼NW¼, NE¼SW¼, E½NW¼SW¼, E½SW¼NW¼SW¼ and S½SW¼;
Sec. 28, W½NW¼NE¼, S½SW¼NE¼, SE¼NE¼, NW¼, N½SW¼, SW¼SW¼, E½SE¼SW¼, N½SE¼ and SW¼SE¼;
Sec. 29, S½NE¼NE¼, SE¼NW¼NE¼, NE¼SW¼NE¼, SE¼NE¼, SW¼NW¼, NE¼SE¼ and S½SE¼;
Sec. 33, SE¼NE¼, N½NW¼NW¼, W½SW¼NW¼, W½SW¼, W½SE¼SW¼ and E½SE¼;
Sec. 34, lots 2 to 6, incl., and W½.

T. 10 S., R. 103 W.,
Sec. 3, lots 1 to 6, incl., S½NW¼ and SW¼.

T. 9 S., R. 104 W.,
Sec. 2, SW¼SW¼;
Sec. 3, SE¼SE¼;
Sec. 11, N½NE¼, SW¼NE¼, NE¼NW¼ and W½SW¼;
Sec. 12, E½NE¼, S½SW¼, and SE¼;
Sec. 13, NE¼, NE¼NW¼, W½SW¼NW¼ and N½SE¼.

UTE PRINCIPAL MERIDIAN

T. 1 N., R. 1 E.,
Sec. 26, N½NE¼ and S½;
Sec. 27, SW¼ and SW¼SE¼;
Sec. 29, W½;
Sec. 30, lots 1 to 3, incl., NE¼, E½NW¼, NE¼SW¼ and N½SE¼;
Sec. 31, lots 2 to 4, incl., S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Secs. 32, 33 and 34, all;
Sec. 35, N½, E½SW¼ and SE¼.

T. 1 S., R. 1 E.,
Sec. 1, lots 1, 2, 4, S½N½ and S½;
Sec. 2, lot 2, S½NE¼, SE¼NW¼ and S½;
Sec. 3, lots 1 to 4, incl., S½N½ and S½;
Sec. 4, lots 1 to 4, incl., S½N½ and S½;
Sec. 5, lots 1 to 4, incl., S½N½ and S½;
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1 to 4, incl., E½ and E½W½;
Sec. 8, all;
Sec. 9, N½NE¼, SW¼NE¼, NW¼ and S½;
Secs. 10 and 11, all;
Sec. 12, lots 1 and 2, N½, SW¼ and N½SE¼;
Sec. 13, lots 1, 2, 3, 4, 6, 7, NW¼ and N½SW¼;
Sec. 14, lot 1, N½, SW¼ and N½SE¼;
Secs. 15, 16, 17, all;
Sec. 18, lots 1 to 4, incl., E½ and E½W½;
Sec. 19, lots 1 to 7, incl., NE¼, E½NW¼ and N½SE¼;
Sec. 20, lots 1 to 4, incl., N½ and NW¼SW¼;
Sec. 21, lots 1 to 7, incl., N½NW¼, SW¼NW¼ and S½SE¼;
Sec. 22, lots 1 to 3, incl., 5 to 9, incl., N½N½ and S½S½;
Sec. 23, lots 1 to 5, incl., NW¼NW¼, NE¼SW¼, S½SW¼ and SE¼;
Sec. 24, lot 5, NE¼, S½NW¼ and S½;
Sec. 25, N½;
Sec. 26, N½, NE¼SW¼, N½SE¼ and SE¼SE¼;
Secs. 27, 28, all;
Sec. 29, lots 1 to 3, incl., S½N½ and S½;
Sec. 30, lots 1 to 5, incl., NW¼NE¼, S½NE¼, E½W½ and SE¼;
Sec. 31, lots 1 to 5, incl., NE¼, E½W½ and S½SE¼;
Sec. 32, N½, NE¼SW¼, S½SW¼ and SE¼;
Secs. 33, 34;
Sec. 35, NW¼.

T. 1 S., R. 2 E.,
Sec. 2, lots 1 to 6, incl., and SE¼NW¼;
Sec. 3, lots 1 to 12, incl., and S½S½;
Sec. 4, lots 1 to 13, incl., and S½SE¼;
Sec. 5, lots 1 to 4 (North Half), lots 1 to 5 (South Half), S½N½ and NW¼SW¼;
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1 to 10, incl., N½NE¼ and NE¼NW¼;
Sec. 8, lots 1 to 6, incl., S½NE¼, NE¼SW¼, S½SW¼ and SE¼;
Sec. 9, N½, SW¼, NE¼SE¼ and S½SE¼;
Sec. 10, NW¼NW¼;
Sec. 16, S½SW¼NW¼;
Sec. 17, N½NE¼, S½S½NE¼, NW¼ and N½SW¼;
Sec. 18, lots 1 to 4, incl., NE¼, SE¼NW¼, ESW¼, N½SE¼ and SW¼SE¼;
Sec. 19, lots 2 to 4, incl., N½NE¼, SW¼NE¼, SE¼NW¼, E½SW¼, NE¼NW¼SE¼ and S½NW¼SE¼;
Sec. 20, NW¼;
Sec. 30, lots 1 and 2.

T. 1 N., R. 1 W.,
Sec. 4, lots 3, 4 and S½NW¼;
Sec. 5, lots 1 to 4, incl., SE¼NE¼, SW¼, W½W½SE¼ and E½SE¼;
Sec. 6, lots 1, 4, 5, 6, 7, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1 to 4, incl., E½ and E½W½;
Sec. 8, all;
Sec. 9, NW¼NE¼, N½SW¼NE¼, N½NW¼, NE¼SW¼ NE¼NW¼SW¼, S½NW¼SW¼, S½SW¼ and SE¼SE¼;
Sec. 10, SE¼;
Sec. 14, SW¼;
Secs. 15, 16, 17, all;
Sec. 18, lots 1 to 4, incl., E½ and E½W½;
Sec. 19, lots 1 to 4, incl., E½ and E½W½;
Secs. 20, 21, 22, all;
Sec. 23, NE¼, N½NW¼ and S½;
Sec. 24 to 29, incl., all;
Sec. 30, lots 1 to 4, incl., E½ and E½W½;
Sec. 31, lots 1 to 4, incl., E½ and E½W½;
Secs. 32 to 36, incl., all.

T. 1 S., R. 1 W.,
Sec. 1, lots 1 to 4, incl., S½N½ and S½;
Sec. 2, lots 1 to 4, incl., S½N½ and S½;
Sec. 3, lots 1 to 4, incl., S½N½ and S½;
Sec. 4, lots 1 to 4, incl., S½N½ and S½;
Sec. 5, lots 1 to 4, incl., S½N½ and S½;
Sec. 6, lots 1 to 9, incl., S½NE¼, SE¼NW¼ and NE¼SE¼;
Sec. 7, lot 6;
Sec. 8, lots 1, 2, 3, 4, and NE¼NE¼;
Sec. 9, lots 1, 2, 3, E½, N½NW¼ and SE¼NW¼;
Secs. 10 to 14, incl., all;
Sec. 15, lots 1 to 5, incl., NE¼, NE¼NW¼, NW¼SW¼ and E½SE¼;
Sec. 16, lot 1;
Sec. 22, lot 1 and W½SE¼;
Sec. 23, lots 1, 2, 3, NE¼, and N½NW¼;
Sec. 24, lots 1 to 4, incl., and N½.

T. 1 N., R. 2 W.,
Sec. 1, lots 2 to 6, incl., S½N½ and S½;
Sec. 2, lots 1 to 4, incl., S½N½ and S½;
Sec. 3, lots 1 to 4, incl., S½N½ and S½;
Sec. 4, lots 1 to 4, incl., S½N½ and S½;
Sec. 5, lots 1 to 4, incl., S½N½ and S½;
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1 to 4, incl., E½ and E½W½;
Secs. 8 to 17, incl., all;
Sec. 18, lots 1 to 5, incl., NE¼, NE¼NW¼, N½SE¼ and SE¼SE¼;
Sec. 19, lots 1 to 4, incl.;
Sec. 20, lots 1 to 5, incl., N½, NE¼SW¼ and N½SE¼;
Secs. 21 to 25, incl., all;
Sec. 26, lots 1, 2, N½, N½SW¼ and SE¼;
Sec. 27, lots 1 to 5, incl., N½, NE¼SW¼ and N½SE¼;
Sec. 28, lots 1 to 3, incl., N½NE¼, SE¼NE¼ and NE¼NW¼;
Sec. 34, lot 1.

T. 2 N., R. 2 W.,
Sec. 3, lots 1 to 4, incl., S½N½ and S½;
Sec. 4, lots 1 to 4, incl., S½N½ and S½;
Sec. 5, lots 1 to 4, incl., S½N½ and S½;
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 4, NE¼, E½NW¼, NE¼SW¼, S½SE¼SW¼, N½SE¼ and N½S½SE¼;
Sec. 8, N½, N½S½ and N½S½SW¼;
Secs. 9, 10, all;
Sec. 15, N½, SW¼, N½SE¼, E½SW¼SE¼ and SE¼SE¼;
Sec. 16, NE¼, N½NW¼, SE¼NW¼ and NE¼SE¼;
Sec. 17, NE¼NE¼, NE¼NW¼NE¼, S½NW¼NE¼, S½NE¼NW¼, S½N½, E½SW¼, N½NW¼SW¼, SW¼NW¼SW¼ and SE¼;
Sec. 18, lots 1, 2, 3, 5, 6, E½W½, S½N½SE¼ and S½SE¼;
Sec. 19, lots 1 to 4, incl., NW¼NE¼, S½NE¼, NE¼NW¼, E½SE¼NW¼, W½W½SE¼NW¼, E½SW¼ and SE¼;
Sec. 20, E½, E½W½ and SW¼NW¼;
Sec. 21, NE¼, S½NW¼ and S½;
Sec. 22, E½E½, E½W½NE¼, N½NW¼, N½SW¼NW¼, N½SW¼NW¼SW¼NW¼, SE¼SW¼NW¼, W½W½SE¼NW¼, W½NE¼SW¼, NW¼SW¼, S½SW¼, E½NW¼SE¼, NE¼SW¼SE¼ and SW¼SW¼SE¼;
Sec. 23, S½;
Sec. 24, S½;
Sec. 25, N½, N½SW¼, SW¼SW¼ and SE¼;
Secs. 26, 27, 28, 29, all;
Sec. 30, lots 1 to 4, incl., NE¼NE¼, NW¼NW¼NE¼, S½NE¼, E½W½ and SE¼;
Sec. 31, lots 1 to 4, incl., E½ and E½W½;
Secs. 32, 33, 34, 35, all;
Sec. 36, N½, SW¼ and S½S½SE¼.

T. 1 N., R. 3 W.,
Sec. 1, lots 1 to 4, incl., S½N½ and S½;
Sec. 2, lots 1, 2, 4, S½N½ and S½;
Sec. 3, lots 1 to 4, incl., S½N½ and S½;
Sec. 4, lots 1 to 4, incl., S½N½ and S½;
Sec. 5, lots 2, 3, 4, SW¼NE¼, S½NW¼ and S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 8, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 10, lots 1 to 6, incl.;
Sec. 11, lots 1 to 4, incl., NE¼, N½NW¼, SE¼NW¼ and N½SE¼;
Sec. 12, all;
Sec. 13, lots 1, 2 and 3.

T. 2 N., R. 3 W.,
Sec. 1, SW¼SW¼;
Sec. 2, SE¼SE¼;
Sec. 3, S½SW¼;
Sec. 4, E½ lot 4, E½SW¼NW¼, SE¼NW¼, NE¼SW¼, NE¼NW¼SW¼, SW¼NW¼SW¼, S½SW¼, N½SE¼, SW¼SE¼ and N½SE¼SE¼;
Sec. 5, NW¼SW¼, S½S½ and S½SE¼NW¼SE¼;
Sec. 6, lots 1, 2, 3, SE¼NW¼ and S½SE¼;
Sec. 7, lots 4, 5, 6, E½ and E½W½;
Sec. 8, E½, N½NW¼, W½SW¼ and E½E½SE¼SW¼;
Sec. 9, all;
Sec. 10, NW¼NW¼, S½N½ and S½;
Sec. 11, S½N½ and S½;
Sec. 12, N½NE¼, NE¼NW¼, W½SW¼SW¼NW¼, W½NW¼SW¼, W½SE¼NW¼SW¼, S½SW¼ and SE¼;
Secs. 13, 14, 15, 16, 17, all;
Sec. 18, lots 1, 2, 3, E½SE¼ of lot 4, NE¼, E½W½, N½SE¼, SW¼SE¼, NW¼SE¼SE¼ and W½SW¼SE¼SE¼;
Sec. 19, lots 3, 4, S½S½NE¼, E½SW¼ and SE¼;
Secs. 20, 21, 22, 23, 24, 25, 26, all;
Sec. 27, NE¼, NE¼NW¼, W½W½, N½SE¼ and SE¼SE¼;
Sec. 28, E½, N½NW¼, SE¼NW¼, NW¼SW¼ and S½SW¼;
Sec. 29, S½;
Sec. 30, lots 1 to 4, incl., W½NE¼, E½W½ and SE¼;
Sec. 31, lots 1 to 4, incl., E½ and E½W½;
Sec. 32, N½NE¼, SE¼NE¼, W½ and NE¼SE¼;
Secs. 33, 34, all;
Sec. 35, N½, E½SW¼ and SE¼;
Sec. 36, W½NE¼, W½, N½SE¼ and SE¼SE¼.

The areas described, including both public and nonpublic lands, aggregate 127,915.47 acres.

FLOYD E. DOMINY,
Acting Commissioner.

[Colorado 021020]

AUGUST 4, 1958.

I concur. The records of the Bureau of Land Management will be noted accordingly.

1. The lands released from withdrawal by this order are sub-desert type range lands with heavy clay soils and sparse vegetative cover of desert shrubs, native grasses, and annual weeds, with the latter predominating. Because of poor soil and extremely low annual average precipitation, the lands are not suitable for agricultural crop production. They have a limited value for grazing purposes.

2. A major portion of the released lands are patented. The following described lands are public domain and are opened by this order:

SIXTH PRINCIPAL MERIDIAN

T. 12 S., R. 100 W.,
Sec. 19, lots 1 to 4, incl., E½ and E½W½.
T. 9 S., R. 101 W.,
Sec. 7, lots 1 to 4, incl., E½ and E½W½;
Sec. 18, lots 1, 2 and 3;
Sec. 34, lots 3 and 4.
T. 10 S., R. 101 W.,
Sec. 2, S½SW¼;
Sec. 3, lots 1 to 4, incl.;
Sec. 10, lots 1 and 2;
Sec. 11, NW¼ and E½SW¼;
Sec. 12, S½S½;
Sec. 13, lots 1 to 4, incl.;
Sec. 14, lots 1 to 3, incl.
T. 9 S., R. 102 W.,
Sec. 11, E½NE¼ and SW¼SW¼;
Sec. 12, E½, E½W½ and W½NW¼;
Sec. 13, lots 1 and 2;
Sec. 14, lot 1.
T. 9 S., R. 103 W.,
Sec. 3, S½NW¼SW¼;
Sec. 4, W½SE¼SE¼;
Sec. 7, SE¼NE¼ and N½NE¼NW¼;
Sec. 8, SW¼NE¼, SE¼NW¼, NW¼NE¼SW¼ and NE¼NW¼SW¼;
Sec. 11, SE¼NE¼;
Sec. 19, S½ lot 3, lot 4, and SE¼SW¼;
Sec. 29, SW¼NW¼, SW¼SE¼ and SW¼SE¼SE¼;
Sec. 33, W½SW¼NW¼, W½SW¼ and W½SE¼SW¼.
T. 10 S., R. 103 W.,
Sec. 3, lots 3, 5 and 6, SW¼NW¼ and SW¼.
T. 9 S., R. 104 W.,
Sec. 2, SW¼SW¼;
Sec. 3, SE¼SE¼;
Sec. 11, N½NE¼, SW¼NE¼, NE¼NW¼ and W½SW¼;
Sec. 13, W½SW¼NW¼.

UTE PRINCIPAL MERIDIAN

T. 1 N., R. 1 E.,
Sec. 26, N½NE¼;
Sec. 27, N½SW¼, SE¼SW¼ and SW¼SE¼;
Sec. 29, NW¼;
Sec. 30, Lot 1, NE¼ and NE¼NW¼;
Sec. 32, E½NE¼ and NE¼SE¼;
Sec. 33, W½NE¼, N½NW¼ and SE¼;
Sec. 34, N½NE¼ and NE¼NW¼;
Sec. 35, E½SW¼.
T. 1 S., R. 1 E.,
Sec. 31, NE¼SW¼.
T. 1 S., R. 2 E.,
Sec. 16, S½SW¼NW¼;
Sec. 17, S½S½NE¼;
Sec. 19, NE¼NW¼SE¼ and S½NW¼SE¼.
T. 1 N., R. 1 W.,
Sec. 4, lots 3 and 4, and S½NW¼;
Sec. 5, lots 1 to 4, incl., SE¼NE¼ and E½SE¼;
Sec. 6, lot 1;
Sec. 9, NW¼NE¼, N½SW¼NE¼, N½NW¼ and SE¼SE¼;
Sec. 10, SE¼;
Sec. 14, N½SW¼;
Sec. 15, NE¼ and N½NW¼;
Sec. 23, N½N½;
Sec. 24, NE¼, N½SE¼ and SE¼SE¼;
Sec. 25, SE¼NW¼.
T. 1 S., R. 1 W.,
Sec. 7, lot 6.
T. 1 N., R. 2 W.,
Sec. 19, lot 4;
Sec. 34, lot 1.
T. 2 N., R. 2 W.,
Sec. 3, lots 1 to 4, incl., S½N½ and S½;
Sec. 4, lots 1 to 4, incl., S½N½ and S½;
Sec. 5, lots 1 to 4, incl., S½N½ and S½;
Sec. 6, lots 1, 6, and 7, SE¼NE¼, E½SW¼ and SE¼;
Sec. 7, lots 1 and 2, NE¼, E½NW¼, NE¼SW¼, N½SE¼ and N½S½SE¼;
Sec. 8, N½, N½S½ and N½S½SW¼;
Secs. 9 and 10, all;
Sec. 15, N½, N½S½, E½SW¼SE¼ and SE¼SE¼;
Sec. 16, NE¼, E½NE¼NW¼, SE¼NW¼ and NE¼SE¼;
Sec. 22, E½E½, E½W½NE¼, E½NW¼SE¼ and NE¼SW¼SE¼;
Sec. 23, S½;
Sec. 24, S½;
Sec. 25, E½NE¼ and NW¼SW¼;
Sec. 26, S½NE¼, N½NW¼ and SE¼NW¼;
Sec. 36, S½NE¼.
T. 1 N., R. 3 W.,
Sec. 4, W½SW¼;
Sec. 5, lots 2, 3 and 4, SW¼NE¼, S½NW¼ and S½;
Sec. 6, lots 1 to 6, incl., and 8, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 10, lot 4 (NW¼NW¼).
T. 2 N., R. 3 W.,
Sec. 1, SW¼SW¼;
Sec. 2, SE¼SE¼;
Sec. 3, S½SW¼;
Sec. 4, E½ lot 4, E½SW¼NW¼, SE¼NW¼, NE¼SW¼, NE¼NW¼SW¼, N½SE¼ and N½SE¼SE¼;
Sec. 12, N½NE¼ and NE¼NW¼;
Sec. 30, lots 3 and 4, E½SW¼ and S½SE¼;
Sec. 31, lots 1 to 4, incl., E½ and E½W½;
Sec. 32, NE¼NW¼, W½W½ and SE¼SW¼.

The areas described aggregate approximately 16,900.00 acres.

3. No application for the lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

4. Subject to any valid existing rights and the requirements of applicable law, the lands are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public-land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284 as amended), presented prior to 10:00 a. m. on September 9, 1958, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on December 9, 1958, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on December 9, 1958, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

5. The lands have been open to applications and offers under the mineral-leasing laws. Those in first form withdrawal will be open to location under the United States mining laws beginning at 10:00 a. m. on December 9, 1958. Those in the second form have been open to such location.

6. Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Denver, Colorado.

EDWARD WOOZLEY,
Director,
Bureau of Land Management.

[F. R. Doc. 58-6355; Filed, Aug. 8, 1958; 8:45 a. m.]

ATOMIC ENERGY COMMISSION

ORGANIZATION AND GENERAL INFORMATION

OFFICE OF HEARING EXAMINER

This amendment indicates establishment of an Office of Hearing Examiner and defines the functions of that office.

The following is effective upon publication in the FEDERAL REGISTER.

SECTION 1.1065 *Office of Hearing Examiner.* The Office of Hearing Examiner has been established by the Commission and is responsible for conducting assigned hearings in accordance with the regulations of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended, including patent licensing under section 153 of the Atomic Energy Act of 1954, as amended, but excluding all other patent matters. Assignment and conduct of specific hearings by the Hearing Examiner is governed by the procedures established by the Administrative Procedure Act (5 U. S. C. 1006, 1007, 1010) and by the rules and regulations of the Commission (10 CFR Ch. I).

Dated at Germantown, Md., this 1st day of August 1958.

For the Atomic Energy Commission.

PAUL F. FOSTER,
General Manager.

[F. R. Doc. 58-6345; Filed, Aug. 8, 1958; 8:45 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 9333]

STEWART AIR SERVICE

NOTICE OF POSTPONEMENT OF HEARING

In the matter of Stewart Air Service Enforcement Proceeding.

Notice is hereby given that the hearing in the above-entitled proceeding heretofore assigned to be held on August 5, 1958, has been postponed indefinitely at the request of the Office of Compliance.

Dated at Washington, D. C., August 4, 1958.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 58-6347; Filed, Aug. 8, 1958; 8:45 a. m.]

[Docket No. 9252]

SEABOARD & WESTERN AIRLINES, INC.

NOTICE OF HEARING

In the matter of the application of Seaboard & Western Airlines, Inc. for amendment of its certificate of public convenience and necessity under section 401 of the Civil Aeronautics Act of 1938, as amended, authorizing the carriage of United States and Foreign Transit Mail on a non-subsidy, service-rate basis.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, and applicable regulations thereunder, that a hearing in the above-entitled proceeding is assigned to be held on August 13, 1958, at 10:00 a. m., e. d. s. t., in Room 5132, Commerce Building, 14th Street and Constitution Avenue NW., Washington, D. C., before Examiner Richard A. Walsh.

Without limiting the scope of the issues, particular attention will be directed to the question of whether the mail service proposed by Seaboard & Western in this proceeding is required by the public convenience and necessity and whether Seaboard & Western is fit, willing and able to perform the proposed mail transportation properly and to conform to the provisions of the Civil Aeronautics Act of 1938, as amended, and the rules, regulations and requirements of the Board thereunder.

For further details regarding the issues involving this proceeding, interested parties are referred to the Examiner's report of prehearing conference served June 25, 1958, which is on file with the Docket Section of the Civil Aeronautics Board.

Notice is further given that any person other than parties of record desiring to be heard in this proceeding shall file with the Board, on or before August 13, 1958, a statement setting forth the issues of fact or law which he desires to controvert.

Dated at Washington, D. C., August 1, 1958.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 58-6349; Filed, Aug. 8, 1958; 8:45 a. m.]

[Docket No. 9555]

SEABOARD & WESTERN AIRLINES, INC.

NOTICE OF PREHEARING CONFERENCE

In the matter of the application of Seaboard & Western Airlines, Inc., for disclaimer of jurisdiction or approval under section 408 of the Civil Aeronautics Act of 1938, as amended.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on September 29, 1958, at 10:00 a. m., e. d. s. t., in Room E-210, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington, D. C., before Examiner Curtis C. Henderson.

Dated at Washington, D. C., August 4, 1958.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 58-6348; Filed, Aug. 8, 1958; 8:45 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11258; FCC 58-749]

ALFRED NEWELL JOHNSON

ORDER DESIGNATING APPLICATIONS FOR HEARING ON STATED ISSUES

In the matter of Alfred Newell Johnson, 833 Shattuck Avenue, Berkeley, California, Docket No. 11258; application for renewal of first class radiotelephone operator license No. P1-12-122 and second class radiotelegraph license No. T-12-2330 and application for renewal of amateur radio station and operator licenses.

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 30th day of July 1958;

The Commission having under consideration the application of Alfred Newell Johnson, 833 Shattuck Avenue, Berkeley, California, for renewal of his amateur radio station and operator licenses; and the Commission's order released on January 24, 1955 in the matter of his application for renewal of his first class radiotelephone operator license No. P1-12-122 and second class radiotelegraph license No. T-12-2330; and

It appearing that the Commission, in pursuance of its authority under subsection 303 (1) of the Communications Act of 1934, as amended, to issue radio operator licenses to such citizens of the United States as it finds qualified and its authority under section 308 (b) to examine the qualifications of applicants for radio station licenses directed Alfred Newell Johnson to supplement his application for renewal of his radio operator license and radio station license by furnishing answers to certain specified questions, under oath; and

It further appearing that Alfred Newell Johnson, by letters dated August 6, 1954, August 9, 1957, and June 17, 1958, refused to answer, under oath, certain questions thus propounded to him and requested a hearing on his applications; and

It further appearing that in the light of his refusal to answer certain questions under oath, the Commission is unable to determine that Alfred Newell Johnson possesses the requisite qualifications to be the holder of a radio operator's license or station license.

It is ordered, That the Commission's order released January 24, 1955, in the matter of the above named applicant's commercial radio operator license application be modified to include his application for amateur operator and station licenses and pursuant to sections 303 (1) and 308 (b) of the Communications Act of 1934, as amended, that the above-entitled applications are hereby designated for hearing in San Francisco at a time, place, and before an Examiner, to be specified by subsequent order, upon the following issues to which such hearing shall be confined:

(1) To determine whether Alfred Newell Johnson failed to answer lawful questions with respect to his qualifications to be a licensee which the Commission had directed him to answer under oath;

(2) To determine in the light of the evidence adduced under Issue 1 whether Alfred Newell Johnson possesses the necessary qualifications to hold commercial radio operator licenses and amateur radio station and operator licenses.

Released: August 6, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6402; Filed, Aug. 8, 1958; 8:49 a. m.]

[Docket No. 11314; FCC 58-742]

SPARTAN RADIOCASTING CO. (WSPA-TV)

MEMORANDUM OPINION AND ORDER REMANDING APPLICATION FOR FURTHER HEARING

In re application of the Spartan Radiocasting Company (WSPA-TV), Spartanburg, South Carolina, Docket No. 11314, File No. BMPCT-2042; for modification of construction permit.

1. The Commission has before it for consideration a remand issued by the United States Court of Appeals for the District of Columbia Circuit on May 22, 1958,[1] in the appeal of a Commission Memorandum Opinion and Order of July 22, 1957, wherein the Commission, after reconsideration of the matter on an earlier remand, reaffirmed its grant of the application of the Spartan Radiocasting Company (Spartan) for modification of construction permit.

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[1] Wilton E. Hall and Greenville Television Company v. Federal Communications Commission, U. S. App. D. C., Case Nos. 13231, 14016, and 14087. Other documents which will furnish the history of this proceeding are as follows: Decision of the Commission in Docket No. 11314, released March 9, 1956, 13 RR 589; Wilton E. Hall and Greenville Television Company v. Federal Communications Commission, 237 F. 2d 567 (1956); and Memorandum Opinion and Order on Remand in Docket No. 11314, released July 22, 1957, 23 F. C. C. 106, 13 RR 610a.

2. The decision of the Court of Appeals of September 6, 1956, reversing the Commission's decision of March 9, 1956, held that the Commission had committed error in rejecting the propagation curves as evidence and in concluding that Spartan was not guilty of misrepresentation. With the propagation curves in evidence, the Court stated, the record shows the modification is a curtailment of service to the Spartanburg area which, unless outweighed by other factors, is not in the public interest. The Court stated further that it had no way of determining from the record whether the service curtailment may be outweighed by other factors pointing toward, rather than away from, public interest. The Court then stated that "* * * such a question is for the Commission's consideration, as is also the question whether intervenor's [Spartan's] misrepresentation so far deprives it of reliability as to disqualify it as a licensee."

3. In its memorandum opinion and order of July 22, 1957, the Commission, upon consideration of the instant proceeding in light of the Court's remand, concluded that factors existed which outweighed the question of curtailment of proposed service. Thus, the Commission stated that "considering the fact that Spartan's move to Paris Mountain with a network affiliation assured the Spartanburg community that a first local television outlet would be established, we are of the view that the network programing thereby brought to Spartanburg is of sufficient significance to outweigh the question of curtailment of proposed service." [1] Other considerations were also found to exist which compensated for the curtailment of service, as noted in the above-mentioned order. With respect to the question of misrepresentation, we concluded that while Spartan's misrepresentation is not to be condoned, the nature of its misrepresentation and the facts surrounding it do not so far deprive it of reliability as to disqualify it as a licensee.

4. The Court of Appeals reversed and remanded, supra, paragraph 1. It stated, inter alia, that additional findings by the Commision were required. The terms of the remand order permit the reopening of the record herein for receipt of additional evidence.

5. We are of the opinion that the record herein must be reopened to permit inquiry into the several matters to be mentioned hereinafter, the record presently being inadequate for resolution of the matters raised by the Court. In this connection, we have in mind particularly the expressions of the Court made in both its opinions of September 6, 1956, and May 22, 1958, with respect, inter alia, to concomitant factors which might offset the curtailment of service by reason of Spartan's move to the Paris Mountain location. Thus, in its opinion of September 6, 1956, the Court suggested that as concomitant factors the Commission might consider whether the value to the community of a network affiliation outweighed the curtailment of coverage, whether a network other than CBS might be available without a change, and whether a CBS affiliation necessitated lowering both power and antenna height, as well as relocating the transmitter. And in its opinion of May 22, 1958, the Court adverted to an additional concomitant factor in the determination of whether Spartan's modification was in the public interest, i. e., whether other network services, if available, would have less value to the community than CBS because they would be more duplicative of existing services. In connection with the question of misrepresentation, the Court suggested that since Spartan is the licensee of broadcast stations it may have a record of past reliability and candor to be considered by the Commission together with other circumstances. The record as it is now constituted will not permit findings to be made with respect to the above-mentioned matters. Accordingly, it is advisable that the record of this proceeding be reopened, that further issues be designated to be heard before the Examiner who originally presided at the hearing herein, that the proceeding be remanded to said Examiner for the purpose stated, and that after hearing on the further issues a Supplemental Initial Decision be issued.

6. The further hearing herein will be governed by the following issues:

1. To determine whether The Spartan Radiocasting Company would have commenced operation at its Hogback Mountain location without an affiliation with a national television network.

2. To determine whether an affiliation with a national television network, other than Columbia Broadcasting System, would be available to The Spartan Radiocasting Company with its transmitter situated at Hogback Mountain.

3. To determine whether, if Issue "2" is answered in the affirmative, there would be such duplication of network services as to make operation with such an affiliation of doubtful value to the community of Spartanburg, South Carolina.

4. To determine whether as a prerequisite to obtaining its affiliation with Columbia Broadcasting System it was necessary that The Spartan Radiocasting Company decrease its effective radiated power and lower its antenna height, as well as relocate its transmitter.

5. To determine the manner in which The Spartan Radiocasting Company as the former licensee of Stations WORD and WORD-FM, and as the licensee of Stations WSPA and WSPA-FM operated and has operated said stations, with particular regard to its past reliability and candor as a licensee.

6. To determine whether, in the light of the facts adduced upon the foregoing issues, public interest, convenience or necessity would be served by a grant of the application of The Spartan Radiocasting Company for modification of construction permit.

Both the burden of proceeding with the introduction of evidence as to each of the above issues, as well as the burden of proof with respect thereto is placed on the applicant.

7. In view of the foregoing: *It is ordered*, That the record of this proceeding be reopened, that the proceeding be remanded to the Hearing Examiner who originally presided at the hearing herein for the purpose of taking evidence upon the issues herein specified, and, thereafter, that a Supplemental Initial Decision be issued by the Hearing Examiner.

Adopted: July 30, 1958.

Released: August 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6403; Filed, Aug. 8, 1958; 8:49 a. m.]

[Docket Nos. 12539, 12540; FCC 58M-841]

PRESS WIRELESS, INC.

ORDER FOR PREHEARING CONFERENCE

In the matter of the applications of Press Wireless, Inc., Docket No. 12539, File No. 2579-C4-ML-58; Docket No. 12540, File No. 2580-C4-ML-58; for modification of its Centereach, N. Y., and Belmont, Calif., fixed public press station licenses to permit the handling of traffic specified in proposed Tariff F. C. C. No. 34 (International Telecon Service), and certain other non-press communications.

A prehearing conference in the above-entitled proceeding will be held on Wednesday, September 10, 1958, beginning at 10:00 a. m. in the offices of the Commission, Washington, D. C. This conference is called pursuant to the provisions of § 1.111 of the Commission's rules and the matters to be considered are those specified in that section of the rules.

It is so ordered, This the 30th day of July 1958.

Released: July 30, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6404; Filed, Aug. 8, 1958; 8:49 a. m.]

[Docket No. 12553; FCC 58-746]

MORTON BORROW

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In the matter of Morton Borrow, 2930 Haverford Road, Ardmore, Pennsylvania; Docket No. 12553; application for renewal of first-class radiotelephone operator license No. P1-3-1121, and first-class radiotelegraph operator license No. T1-3-116.

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 30th day of July 1958;

[1] This situation, not involving a comparison between mutually exclusive applications, is distinguishable from such cases as Hi-Line Broadcasting Company (Wolf Point, Mont.), 13 RR 1017 and Cherokee Broadcasting Company (Murphy, N. C.), 13 RR 725.

The Commission having under consideration the application of Morton Borrow, for renewal of his first-class radiotelephone operator license No. P1-3-1121 and first-class radiotelegraph license No. T1-3-116; and

It appearing that the Commission, in pursuance of its authority under subsection 303 (1) of the Communications Act of 1934, as amended, to issue radio operator licenses to such citizens of the United States as it finds qualified directed Morton Borrow to supplement his application for renewal of his radiotelephone operator license and radiotelegraph operator license by furnishing answers to certain specified questions, under oath; and

It further appearing that Morton Borrow, by letter dated April 12, 1958, refused to answer any of the questions he had been directed to answer; and

It further appearing that in the light of his refusal to answer the questions, the Commission is unable to determine that Morton Borrow possesses the requisite qualifications to be the holder of a radio operator license;

It is ordered, Pursuant to section 303 (1) of the Communications Act of 1934, as amended, that the above-entitled application is hereby designated for hearing at the Commission offices in Washington, D. C. at a time and before an Examiner to be specified by subsequent order, upon the following issues to which such hearing shall be confined:

(1) To determine whether Morton Borrow failed to answer lawful questions with respect to his qualifications to be a licensee which the Commission had directed him to answer under oath;

(2) To determine in the light of the evidence adduced under Issue 1 whether Morton Borrow possesses the necessary qualifications to hold a radio operator license.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6405; Filed, Aug. 8, 1958; 8:49 a. m.]

[Docket No. 12544; FCC 58-747]

WILLIAM C. CRONAN

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In the matter of William C. Cronan, 40 Moffitt Street, San Francisco 12, California; Docket No. 12554; applications for renewal of first-class radiotelephone operator license No. P1-12-837 and first-class radiotelegraph operator license No. T1-12-331.

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 30th day of July 1958;

The Commission having under consideration the applications of William C. Cronan, 40 Moffitt Street, San Francisco 12, California, for renewal of his first-class radiotelephone operator license No. P1-12-837 and first-class radiotelegraph operator license No. T1-12-331; and

It appearing that the Commission, in pursuance of its authority under subsection 303 (1) of the Communications Act of 1934, as amended, to issue radio operator licenses to such citizens of the United States as it finds qualified directed William C. Cronan to supplement his applications for renewal of his radiotelephone operator license and radiotelegraph operator license by furnishing answers to certain specified questions, under oath; and

It further appearing that William C. Cronan, by letter dated June 17, 1958, refused to answer any of the questions he had been directed to answer; and

It further appearing that in the light of his refusal to answer the questions, the Commission is unable to determine that William C. Cronan possesses the requisite qualifications to be the holder of a radio operator license;

It is ordered, Pursuant to section 303 (1) of the Communications Act of 1934, as amended, that the above-entitled applications are hereby designated for hearing in San Francisco, Calif., at a time, place, and before an Examiner to be specified by subsequent order upon the following issues to which such hearing shall be confined:

(1) To determine whether William C. Cronan failed to answer lawful questions with respect to his qualifications to be a licensee which the Commission had directed him to answer under oath;

(2) To determine in the light of the evidence adduced under Issue 1 whether William C. Cronan possesses the necessary qualifications to hold a radio operator license.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6406; Filed, Aug. 8, 1958; 8:49 a. m.]

[Docket No. 12555; FCC 58-748]

HOWARD V. TRAUTMAN

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In the matter of Howard V. Trautman, 33-47 14th Street, Long Island City 6, New York, Docket No. 12555; Application for renewal of second-class radiotelegraph operator license No. T2-2-999.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of July 1958;

The Commission having under consideration the application of Howard V. Trautman, 33-47 14th Street, Long Island City 6, New York, for renewal of his second-class radiotelegraph operator license No. T2-2-999; and

It appearing that the Commission, in pursuance of its authority under subsection 303 (1) of the Communications Act of 1934, as amended, to issue radio operator licenses to such citizens of the United States as it finds qualified directed Howard V. Trautman to supplement his application for renewal of his radiotelegraph operator license by furnishing answers to certain specified questions, under oath; and

It further appearing that Howard V. Trautman, by letter dated August 7, 1958, refused to answer any of the questions he had been directed to answer; and

It further appearing that in the light of his refusal to answer the questions, the Commission is unable to determine that Howard V. Trautman possesses the requisite qualifications to be the holder of a radio operator license;

It is ordered, Pursuant to section 303 (1) of the Communications Act of 1934, as amended, that the above-entitled application is hereby designated for hearing at the Commission offices in Washington, D. C., at the time and before an Examiner to be specified by subsequent order, upon the following issues to which such hearing shall be confined:

(1) To determine whether Howard V. Trautman failed to answer lawful questions with respect to his qualifications to be a licensee which the Commission had directed him to answer under oath;

(2) To determine in the light of the evidence adduced under Issue 1 whether Howard V. Trautman possesses the necessary qualifications to hold a radio operator license.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6407; Filed, Aug. 8, 1958; 8:49 a. m.]

[Docket Nos. 12556, 12557; FCC 58-756]

BERKSHIRE BROADCASTING CO., INC. (WSBS) AND NAUGATUCK VALLEY SERVICE, INC.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Berkshire Broadcasting Co., Inc. (WSBS), Great Barrington, Massachusetts, Docket No. 12556, File No. BP-11546; Naugatuck Valley Service, Inc., Naugatuck, Connecticut, Docket No. 12557, File No. BP-11962; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of July 1958;

The Commission having under consideration the above-captioned applications of the Berkshire Broadcasting Co., Inc., for a construction permit to increase the power of Station WSBS, Great Barrington, Massachusetts, from 250 watts to one kilowatt, to install a directional antenna system and to continue operation on the presently assigned frequency of 860 kilocycles, daytime only; and of Naugatuck Valley Service, Inc., for a construction permit for a new standard broadcast station to operate on 860 kilocycles with a power of 250 watts, directional antenna, daytime only, at Naugatuck, Connecticut;

It appearing that except as indicated by the issues specified below, both applicants are legally, technically, financially and otherwise qualified to operate the stations as proposed but that the operation of both proposals would result in mutual interference; and that the proposed operation of Station WSBS would cause interference to Station WTEL, Philadelphia (860 kc, 250 w, Day); and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicants were advised by letter dated November 5, 1957, of the aforementioned interference and that the Commission was unable to conclude that a grant of either application would be in the public interest; and

It further appearing that timely replies to the Commission's letter were filed by both applicants; and

It further appearing that by letter of December 3, 1957, the licensee of Station WTEL opposed a grant of the application of the Berkshire Broadcasting Co., Inc.; and

It further appearing that on January 21, 1958, Naugatuck Valley Service filed measurement data which indicated that no objectionable interference would be caused to the existing operation of Station WSBS; and

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said 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 areas and populations which may be expected to gain or lose primary service from the proposed operation of Station WSBS and the availability of other primary service to such areas and populations.

2. To determine the areas and populations which would receive primary service from the proposed operation of Naugatuck Valley Service, Inc., and the availability of other primary service to such areas and populations.

3. To determine whether the proposed operation of Station WSBS would cause interference to Station WTEL, Philadelphia, Pennsylvania, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

4. To determine the nature and extent of the interference, if any, that each of the instant proposals would cause to and receive from each other and all existing standard broadcast stations, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

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

6. 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 the Foulkrod Radio Engineering Company, licensee of Station WTEL, is made a party to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein, pursuant to § 1.140 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 fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the issues in this 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: August 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6406; Filed, Aug. 8, 1958; 8:49 a. m.]

[Docket Nos. 12556, 12557; FCC 58M-849]

BERKSHIRE BROADCASTING CO., INC. (WSBS) AND NAUGATUCK VALLEY SERVICE, INC.

ORDER SCHEDULING HEARING

In re applications of Berkshire Broadcasting Co., Inc. (WSBS), Great Barrington, Massachusetts, Docket No. 12556, File No. BP-11546; Naugatuck Valley Service, Inc., Naugatuck, Connecticut, Docket No. 12557, File No. BP-11962; for construction permits.

It is ordered, This 1st day of August 1958, that J. D. Bond will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on October 29, 1958, in Washington, D. C.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6409; Filed, Aug. 8, 1958; 8:49 a. m.]

[Docket No. 12558; FCC 58-758]

NORMAN O. PROTSMAN

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Norman O. Protsman, Valdosta, Georgia, Docket No. 12558, File No. BP-11395; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of July 1958;

The Commission having under consideration the above-captioned application of Norman O. Protsman for a construction permit for a new standard broadcast station to operate on 1450 kilocycles with a power of 250 watts during specified hours, 6:00 a. m. to 7:00 p. m. daily, at Valdosta, Georgia;

It appearing that except as indicated by the issues specified below, the applicant is legally, technically, financially and otherwise qualified to operate the proposed station but that the proposed transmitter site may not satisfy the requirement contained in § 3.188 of the Commission's rules that a transmitter site should be so located in order that a station may provide a minimum field intensity of 5 mv/m over the most distant residential areas of the city to be served; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the applicant was advised by letter dated June 5, 1958, of the aforementioned deficiency and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing that on July 7, 1958, the application was amended to include an exhibit which indicates that neither the 5 mv/m contour nor the nighttime interference-free contour would encompass the entire city of Valdosta; and

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

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

1. To determine whether the proposed transmitter site would be satisfactory in accordance with the provisions of § 3.188 (b) (2) of the Commission's rules.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, whether a grant of the application would serve the public interest, convenience and necessity.

It is further ordered, That, to avail himself of the opportunity to be heard, the applicant, pursuant to § 1.140 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 fixed for the hearing and present evidence on the issues specified in this order.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6410; Filed, Aug. 8, 1958; 8:49 a. m.]

[Docket Nos. 12559–12561; FCC 58–759]

DONNER BROADCASTING CO. ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Dr. Nathan Movich tr/as Donner Broadcasting Company, Truckee, California, Docket No. 12559, File No. BP–11377; Edward J. Jansen and Keith Jack Rudd d/b as Lakeside Broadcasters, Sparks, Nevada, Docket No. 12560, File No. BP–11656; Joseph William Rupley and Robert Sherman d/b as Truckee Broadcasting, Truckee, California, Docket No. 12561, File No. BP–11910; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of July 1958;

The Commission having under consideration the above-captioned applications of Dr. Nathan Movich tr/as Donner Broadcasting Company, and Joseph William Rupley and Robert Sherman d/b as Truckee Broadcasting, each for a construction permit for a new standard broadcast station to operate on 1270 kilocycles with a power of 500 watts, daytime only, at Truckee, California; and the application of Edward J. Jansen and Keith Jack Rudd d/b as Lakeside Broadcasters for a construction permit for a new standard broadcast station to operate on 1270 kilocycles with a power of one kilowatt, daytime only, at Sparks, Nevada; and

It appearing that except as indicated by the issues specified below, all three applicants are legally, technically, financially and otherwise qualified to operate their proposed stations, but that the simultaneous operation of all three proposals would result in mutually destructive interference; that the proposed antenna site of Lakeside Broadcasters is located near the site of Reno Radio (254KC RNO) and that data is required concerning the height and type of tower utilized by Reno Radio and whether there is a possibility of reradiation from the Reno Radio tower which would have adverse effects on the proposed nondirectional operation; and that the Donner Broadcasting Company and Truckee Broadcasting propose substantially the same service areas but that the estimates of the population residing within the proposed 0.5 mv/m contours which would receive primary service differ considerably; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the applicants were advised by letter dated June 4, 1958, of the aforementioned deficiencies and that the Commission was unable to conclude that a grant of any of the applications would be in the public interests; and

It further appearing that each applicant filed a timely reply to the Commission's letter; and

It further appearing that by amendment filed July 7, 1958, the Donner Broadcasting Company requested that the population figures presently on file be allowed to remain; but that these figures were not computed in accordance with the provisions of § 3.182 (g) of the Commission's rules; and

It further appearing that by letter dated June 27, 1958, Lakeside Broadcasters advised the Commission that data concerning the antenna of Reno Radio (254KC RNO) and the possibility of reradiation from the Reno Radio tower would be submitted as soon as possible but the data have not yet been received; and

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-captioned 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 areas and populations which would receive primary service from the proposed operations and the availability of other primary service to such areas and populations.

2. To determine whether the antenna tower of Reno Radio (254KC RNO) would have adverse effects on the nondirectional operation proposed by Lakeside Broadcasters because of the proximity of the respective antenna towers of Reno Radio and the proposed operation, and, if so, what corrective measures would be taken by Lakeside Broadcasters to correct such adverse effects.

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

4. To determine on a comparative basis, in the event that, pursuant to the foregoing issue, Truckee, California, is considered to have the greater need for either the operation proposed by the Donner Broadcasting Company or Truckee Broadcasting, which of the said two proposals would better serve the public interest, convenience and necessity in the light of the evidence adduced under the issues herein and the record made with respect to the significant differences between the two applicants as to:

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

(b) The proposal of each with respect to the management and operation of the proposed station.

(c) The programming services proposed in each of the said applications.

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

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.140 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 fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the issues in this 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: August 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6411; Filed, Aug. 8, 1958; 8:49 a. m.]

[Docket Nos. 12559–12561; FCC 58M–851]

DONNER BROADCASTING CO. ET AL.

ORDER SCHEDULING HEARING

In re applications of Dr. Nathan Movich, tr/as Donner Broadcasting Company, Truckee, California, Docket No. 12559, File No. BP–11377; Edward J. Jansen and Keith Jack Rudd, d/b as Lakeside Broadcasters, Sparks, Nevada, Docket No. 12560, File No. BP–11656; Joseph William Rupley and Robert Sherman, d/b as Truckee Broadcasting, Truckee, California, Docket No. 12561, File No. BP–11910; for construction permits.

It is ordered, This 1st day of August 1958, that Thomas H. Donahue will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on October 24, 1958, in Washington, D. C.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6412; Filed, Aug. 8, 1958; 8:49 a. m.]

INTERCONTINENTAL BROADCASTING CORP. (KOFY)

MEMORANDUM OPINION AND ORDER ASSIGNING MATTER FOR PUBLIC HEARING

1. The Commission has before it a "Petition For Reconsideration" filed on May 22, 1958, pursuant to section 405 of the Communications Act of 1934, as amended, by Mid-America Broadcasters, Inc. (KOBY, hereinafter), licensee of Station KOBY, San Francisco (1550 kc, 10 kw, U) and directed to the Commission's action of April 22, 1958, in assigning the call letters KOFY [1] to the standard broadcast station at San Mateo, California (1050 kc, 1 kw, daytime only) licensed to the Intercontinental Broad-

[1] Previously, the call letters KVSM had been assigned to this station.

casting Corp. (KOFY, hereinafter); and an opposition thereto filed on June 12, 1958, by KOFY.[2] On July 16, 1958, KOBY tendered a "supplement to its petition."[3]

2. KOBY requests that the Commission set aside the KOFY call letter assignment and "reassign such other call letters as will not result in confusion between the San Mateo station (KOFY) and Station KOBY."

3. KOBY claims that, as a result of the KOFY call letter assignment, KOBY is a "person aggrieved or whose interests are adversely affected thereby", within the meaning of section 405 of the Act, to have standing to file its petition pursuant thereto. In support of this claim, KOBY states that confusion from similarity of the call letters KOBY and KOFY "has resulted and will result in injury to good will, audience rating, and advertising revenue of Station KOBY."

4. KOBY alleges that San Mateo is just south of San Francisco; is part of the San Francisco urbanized area as defined by the U. S. Census, 1950; that the two stations have a large common service area; that the transmitter of KOBY was for many years located in San Mateo; and that many residents of the area "have come to associate Station KOBY with San Mateo as well as San Francisco."

5. KOBY further alleges that it uses a "phonetic pronunciation" of its call letters in connection with many of its program features, such as "Kobee News" (rhymes with Toby), "Kobee Music", and "Kobee Weather"; that KOFY has "embarked upon a similar campaign"; and that the result has been "utter confusion in the area."[4]

6. KOBY also alleges that "potential advertisers seeking to contact KOFY have contacted KOBY" and that "the converse is undoubtedly true"; that this situation "may result in loss of business by Station KOBY"; that KOBY has received many telephone calls intended for KOFY; that the U. S. Postoffice has mistaken the identity of the two stations; that Exhibit A attached to the KOBY petition "presents concrete evidence that such confusion (in the minds of the public) already exists" although KOFY has used its call letters for a period of only 30 days; that "it may be validly assumed that examples set forth in Exhibit A constitute only a minute portion of the instances of confusion which must have already taken place, but which have not as yet been called to the attention of the station"; and that the "situation will undoubtedly grow worse unless corrective action is taken by the Commission."

7. Attached to the KOBY petition as Exhibit A are three sworn letters written on behalf of said station by employees of KOBY and addressed to the station's Washington, D. C. legal counsel. Mr. John McRae, "Station Manager—General Sales Manager", states, in substance, that "the change in call letters" prompted "several" phone calls to the KOBY sales manager which should have been directed to KOFY; that he had just talked with a local columnist who "brought up the similarity of the call letters"; that the KOBY receptionist reports a number of calls from listeners asking for special requests for different popular songs but that KOBY doesn't accept requests; and that KOBY has received mail addressed to KOFY but delivered in error to KOBY. Mr. Jerry Friedman, "Sales Manager", states, in substance, that "the change of call letters * * * has certainly caused a burden on our sales staff"; that "I had no less than five calls last week left for me by the receptionist during my absence, which later proved to have been misdirected"; that the change in call letters "has, I am sure, resulted in utter confusion in the minds of listeners and many of our clients"; that this is "doubly so when * * * consider(ed) that KOFY (KVSM) occupies studios in San Mateo where for many years it was established that our predecessor KEAR now KOBY, had similarly occupied a transmitter site"; that KOFY "is duplicating the phonetic pronunciation technique which KOBY has established in the Bay Area as well as imitating (the) station's format"; and that similarity of the call letters "could well lead to loss of business should a client call (KOFY) for advertising information when his intention was to call KOBY." Grace Anne Carter, "Receptionist", states, in substance, that "my personal reaction is that KOFY has made a deliberate attempt to imitate KOBY by using the new call letters"; that "at first we received only one or two calls which should have been made to KVSM (KOFY) but (that) the number has increased daily"; that "some of the calls apparently were clients of KOFY and they seemed in some cases to be irritated and confused when I told them that they had the wrong station"; that "other calls were from listeners asking for special requests of different popular songs"; and that "since KOBY does not accept requests, this results in an increased burden of phone calls for the receptionist."

8. Exhibit B of the KOBY petition is "a photostatic copy of the address of a communication intended for Station KOFY which was delivered by mistake to Station KOBY."

9. In its opposition to the KOBY petition, KOFY contends that with respect to the call letters KOBY and KOFY, "to the ear B and F could never be mistaken" and "to the eye there is no similarity." "Attachment A" to the KOFY opposition is a sworn statement by Mr. Frank Oxarart, president of Intercontinental Broadcasting Corp., licensee of KOFY. Mr. Oxarart states that KOFY is concentrating virtually all its efforts in the San Mateo area; that the promotion and advertising of KOFY are being directed specifically to the San Mateo area; and that "it is very difficult to see how this kind of effort could possibly be confusing to a well established top rated radio station in San Francisco (KOBY)". Mr. Oxarart further states that "the fact that some time in the past KOBY, then KEAR, happened to be located in San Mateo is, I believe, a small consideration in the complaint"; that there is no similarity in the formats of KOBY and KOFY because KOBY is primarily a rock-and-roll station appealing to teenagers, whereas KOFY has "desperately avoided this type of segregated audience and (its) entire program format is directed to an adult audience and * * * will continue to be programmed in that direction"; that KOFY does not accept telephone requests; that the entire staff was questioned but that "to the best of their knowledge, (they) have never received a call from anyone, be it sponsor or potential sponsor or listener, that was intended for KOBY"; that KOFY has "to have a potential advertiser call KOFY, intentionally or otherwise, to discuss the possible purchase of an advertising schedule of KOFY and * * * never had a call from a potential advertiser pertaining to a proposed schedule on KOBY"; and that KOFY, in its extensive advertising campaign, uses the trade mark of a cup of coffee and identifies KOFY as the "coffee" station, for example, "instant KOFY (coffee) news", "instant KOFY (coffee) sports", "instant KOFY (coffee) disc jockeys"; that it was KOFY's intent to select call letters which were euphonious to say and could be identified with a well established word in the English language; and that, since KOFY advertises itself as the "coffee" station in San Mateo and KOBY advertises itself as the "Kobee" (rhymes with Toby) station in San Francisco, no confusion should arise.

10. Attachments B, C, D, and E to the KOFY "opposition" are sworn statements by Irene M. Turner, John R. Gillingham, Doris E. Williams, and Jack E. Early, respectively. Irene M. Turner, switchboard operator for KOFY, states that in said capacity "I have never received a telephone call that was intended for KOBY, nor have I had inquiries of any kind referring to KOBY." Mr. Gillingham and Mr. Early, San Francisco advertising agency men, state that their respective agencies look to KOBY for teenage audiences and to KOFY for adult audiences and that they find no confusion from said call letters. Doris E. Williams states that "As a Time Buyer, the

[2] On June 2, 1958, legal counsel for KOFY filed a petition for extension of time to June 12, 1958, to file an opposition to the KOBY petition. KOFY counsel stated that illness prevented his preparation of an opposition prior to said date. KOBY did not oppose the request. We hereby grant KOFY's petition for an extension of time.

[3] The "supplement" and KOFY's motion to dismiss same are treated in paragraphs 12, 13, and 14, infra.

[4] KOBY and KOFY state that the phonetic pronunciation of their respective call letters is used in promotional announcements and in connection with program features. KOBY states that the phonetic pronunciation is not used in station identification announcements. KOFY makes no such statement. While there is nothing in the KOFY opposition to indicate that the station does use such pronunciation in its station identifications, attention is invited to the fact that § 3.117 of the Commission Rules requires that call letters be pronounced individually, together with the location of the station, on station identification announcements at specified times. The Commission, on November 27, 1957, denied a request for waiver of the section and for permission to identify Station KBEE as "K B Double E." In re Matter of McClatchy Broadcasting Co., 16 Pike and Fischer RR 294.

call letters of a station have never been of primary importance in any purchase."

11. KOFY concludes its opposition by stating that "it would be a very serious blow to us if we are not permitted to continue with these call letters" because "all in all we have gone to a great amount of work and effort in addition to an expenditure of approximately eight to ten thousand dollars in promoting our new station format and our call letters." KOFY points out that, to publicize the call letters, it has completely changed all of its stationery, contract forms, checks, promotional pieces, advertising, and publicity to include the new call letters; is buying advertising space on billboards, posters, and display cards on busses, trains, and taxi cabs in the Redwood City, San Mateo, and Palo Alto area; has contracted for the purchase of five thousand ball point pens; and has made a series of station promotional spots using the "Pied Pipers" and a twelve piece orchestra at a cost of approximately $4,000.

12. On July 16, 1958, KOBY filed a "Supplement" to its instant petition and attached a photostat of three pieces of mail, two of which were addressed to KOFY at "San Francisco", and one of which was for KOFY's General Manager but was addressed to KOBY. KOBY requests the Commission to grant a waiver of its rules and to consider the matters set forth in KOBY's supplemental petition.

13. On July 22, 1958, KOFY filed a motion in which it requests the Commission to "reject" the KOBY "supplement" on the ground that "it is not a supplement but a new petition." KOFY contends that the misaddressed correspondence is not the result of "confusion", as claimed by KOBY, but of error such as KOBY made in mis-addressing a copy of said supplement to counsel for KOFY.

14. Section 1.191 of the Commission rules provides, in pertinent part, that no "supplement" filed after the 30 day period will be considered except upon leave granted by the Commission upon a showing that new material circumstances have occurred or that the matters advanced were not previously available to the petitioner through the exercise of due diligence. KOBY states that since the time of its filing the instant petition for reconsideration "the confusion has substantially increased" and that the "purpose of this supplement is to furnish the Commission with additional and current illustrations of this confusion." Under these circumstances, the "supplement" is given consideration herein.

15. We consider first whether KOBY has standing to file its instant Petition for Reconsideration pursuant to section 405 of the Communications Act of 1934, as amended. KOBY claims that confusion from use of the call letters KOBY in San Francisco and KOFY in San Mateo "has resulted and *will* result in injury to the good will, audience rating, and advertising revenue of Station KOBY" (italics supplied); that KOBY is injured economically and is, therefore, a "person aggrieved or whose interests are adversely affected" by the call letter assignment in question. As we stated In re Matter of Valley Broadcasting Co. (KWOW), 13 Pike and Fischer RR 308a, 308d, "* * * we are prepared to assume for the purposes of the case before us, that the issuance of call letters is a 'decision, order, or requirement' within the meaning of section 405 of the Act and that such action may be the subject of a petition for reconsideration." In light of the facts that KOBY is an existing station and contends that there is overlap of the service areas of Stations KOBY and KOFY and that KOBY has alleged that it will suffer injury to its goodwill, audience ratings, and advertising revenues as a result of the use of the "KOFY" call letters assigned to Intercontinental Broadcasting Corp., we find that KOBY is a "person aggrieved or whose interests are adversely affected" by said call letter assignment, within the meaning of section 405 of the Communications Act of 1934, as amended, to have standing to file its instant petition for reconsideration pursuant thereto. In re Matter of Valley Broadcasting Co. (KWOW), supra.

16. The Commission has given careful consideration to the facts and reasoning advanced in the instant matter by KOBY and KOFY and has concluded that a substantial question obtains as to whether KOFY should change its call letters to avoid confusion and misconception in the minds of listeners as to the identity of said two stations. Accordingly, we believe that the matter should be designated for hearing on the issue specified below. We are adopting the issue, and the burden of proceeding with the introduction of evidence and the burden of proof as to the issue should be on KOFY.

17. In view of the foregoing: *It is ordered*, That, pursuant to Section 405 of the Communications Act of 1934, as amended KOBY's instant petition for reconsideration of the above-referenced assignment of call letters "KOFY" is granted to the extent provided for below and is denied in all other respects; that said assignment of call letters is designated for evidentiary hearing at the offices of the Commission in Washington, D. C., on the following issue:

1. To determine whether use of the call letters KOFY by Intercontinental Broadcasting Corp. for its standard broadcast station at San Mateo, California would result in confusion in the minds of listeners in the service areas of Station KOFY and Station KOBY, San Francisco, California, and, if so, whether the confusion would be such that Intercontinental Broadcasting Corp. should be required to select new call letters.

It is further ordered, That, the burden of proceeding with the introduction of evidence and the burden of proof on the issue shall be on KOFY;

It is further ordered, That KOBY and the Chief of the Broadcast Bureau are hereby made parties to the proceeding herein and that:

1. The appearances by the parties intending to participate in the hearing shall be filed not later than August 20, 1958.

2. The hearing on the above issue is to commence at a time and place and before an examiner to be specified in a subsequent order.

3. The parties to the proceeding herein shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and seven (7) days thereafter to file replies to any such exceptions.

Adopted: July 30, 1958.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6413; Filed, Aug. 8, 1958; 8:49 a. m.]

[Docket No. 12563; FCC 58-764]

HAROLD LAMPEL

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Harold Lampel, Garden Grove, California, Docket No. 12563, File No. BPH-2430; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of July 1958;

The Commission having under consideration the above-captioned application of Harold Lampel for a construction permit for a new Class A FM broadcast station to operate on 94.3 megacycles (Channel No. 232) in Garden Grove, California; and

It appearing that except as indicated by the issues specified below, the applicant is legally, technically, financially and otherwise qualified to operate the proposed station but that by letter dated May 29, 1958, the permittee of Class A FM broadcast station KVFM (Channel No. 232), San Fernando, California, opposed a grant of the application on the ground that the proposed operation would cause interference to KVFM and that, by letter dated June 10, 1958, the licensee of Class B FM broadcast station KRHM (Channel No. 234), Los Angeles, California, contended that the proposed operation would suffer destructive interference from KRHM within the proposed normally protected 1 mv/m contour, that the proposal represents an inefficient use of the frequency involved and that a grant of the application would not serve the public interest; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the applicant was advised by letter dated June 19, 1958, of the foregoing deficiencies and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing that in a reply dated July 14, 1958, and in an attached engineering affidavit the applicant contends that no interference will be caused to KVFM and that the degree of interference which would be received from KRHM is commonly experienced by

[1] Commissioners Doerfer, Craven and Cross dissenting.

other Class A FM stations and requested a grant of the application without hearing; and

It further appearing that by letter of June 24, 1958, counsel for KRHM expressed an intention of appearing at a hearing on the applications; and

It further appearing that the proposed operation will cause interference to KRHM in a small area around the proposed transmitter site and that the area in which the proposed operation would cause interference to KVFM may be under interference from KRHM and KPOL–FM, both in Los Angeles, California; and

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

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

1. To determine whether the proposed station at Garden Grove, California, would cause interference to Station KVFM, San Fernando, California, and Station KRHM, Los Angeles, California, and, if so, the nature and extent thereof, the areas and populations affected thereby and the availability of other primary service to such areas and populations.

2. To determine whether the operation of the proposed Class A station at Garden Grove, California, would be in compliance with § 3.313 (c) of the Commission's rules with particular reference to the requirement that such channel be utilized only when necessary to provide an equitable and efficient use of the facilities.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the above-described application of Harold Lampel would serve the public interest, convenience and necessity.

It is further ordered, That Walter Gelb, and Ted Bolnick d/b as Valley FM Broadcasting Co., permittee of Station KVFM, and Harry Maizlish tr/as KRHM Broadcasting Company, licensee of Station KRHM, are made parties to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and parties respondent herein, pursuant to § 1.140 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 fixed for the hearing and present evidence on the issues specified in this order.

Released: August 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6414; Filed, Aug. 8, 1958; 8:50 a. m.]

[Docket No. 12563; FCC 58M-847]

HAROLD LAMPEL

ORDER SCHEDULING HEARING

In re application of Harold Lampel, Garden Grove, California, Docket No. 12563, File No. BPH–2430; for construction permit.

It is ordered, This 1st day of August 1958, that Elizabeth C. Smith will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on October 22, 1958, in Washington, D. C.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6415; Filed, Aug. 8, 1958; 8:50 a. m.]

[Docket No. 12564; FCC 58-765]

SANTA MONICA BROADCASTING CO.

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of J. D. Funk and C. D. Funk d/b as Santa Monica Broadcasting Company, Santa Monica, California, Docket No. 12564, File No. BPH–2401; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of July 1958;

The Commission having under consideration the above-captioned application of J. D. Funk and C. D. Funk d/b as Santa Monica Broadcasting Company for a construction permit for a new Class A FM broadcast station to operate on 103.1 megacycles (Channel No. 276) in Santa Monica, California;

It appearing that except as indicated by the issues specified below, the applicant is legally, technically, financially and otherwise qualified to operate the proposed station but that the applicant's proposal raises questions as to whether the operation would be an inefficient use of the channel since it would be limited within its normally protected 1 mv/m contour by Station KGLA, Channel 278, Los Angeles, California, and by the proposed operation of the Hall Broadcasting Company, Inc., applicant for a new Class B FM broadcast station on Channel 274 at Los Angeles, File No. BPH–2175, Docket No. 12203; and whether interference which the proposed operation would cause to Station KGLA and to the proposed operation of the Hall Broadcasting Company, Inc., in areas around the Santa Monica Broadcasting Company's proposed transmitter site is objectionable under the Commission's rules; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the applicant was advised by letter dated April 29, 1958, of the aforementioned questions and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing that in a reply dated May 26, 1958, to the Commission's letter, the applicant stated that the requested assignment was felt to be in accordance with the Commission's policy relating to assignments of Class A stations and that the small circle of interference to Class B stations two channels removed is a natural concomitant to such an assignment which the Commission has previously seen fit to consider as not precluding the channel assignment; and

It further appearing that by letter dated May 27, 1958, the Hall Broadcasting Company, Inc., requested that the application be designated for hearing; and

It further appearing that by letter dated May 29, 1958, the licensee of Station KGLA opposed a grant of the application; and

It further appearing that the Commission is unable to make a determination in this matter on the basis of the data before it and is of the opinion that an evidentiary hearing is necessary to obtain complete information relative to the above-captioned application and the grounds advanced in support of a grant thereof;

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

1. To determine whether the proposed station at Santa Monica, California, would cause interference to Station KGLA and the proposed station of the Hall Broadcasting Company, Inc., both in Los Angeles, California, and, if so, the nature and extent thereof, the areas and populations affected thereby and the availability of other primary service to such areas and populations.

2. To determine whether the operation of the proposed Class A station at Santa Monica, California, would be in compliance with § 3.313 (c) of the Commission's rules with particular reference to the requirement that such channel be utilized only when necessary to provide an equitable and efficient use of the facilities.

3. To determine in the light of the evidence adduced pursuant to the foregoing issues, whether the above-described application of the Santa Monica Broadcasting Company would serve the public interest, convenience and necessity.

It is further ordered, That The Echo Park Evangelistic Association, licensee of Station KGLA, and the Hall Broadcasting Company, Inc., applicant for a new Class B FM broadcast station in Los Angeles, California, are made parties to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and parties respondent herein, pursuant to § 1.140 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 fixed for the hearing and pre-

sent evidence on the issues specified in this order.

Released: August 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6416; Filed, Aug. 8, 1958; 8:50 a. m.]

[Docket No. 12564; FCC 58M-850]

SANTA MONICA BROADCASTING CO.

ORDER SCHEDULING HEARING

In re application of J. D. Funk and C. D. Funk, d/b as Santa Monica Broadcasting Company, Santa Monica, California, Docket No. 12564, File No. BPH-2401; for construction permit.

It is ordered, this 1st day of August 1958, that Basil P. Cooper will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on October 22, 1958, in Washington, D. C.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6417; Filed, Aug. 8, 1958; 8:50 a. m.]

[Docket No. 12565; FCC 58-767]

SOUTH BAY BROADCASTING CO. (KAPP)

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Sherman Somers and Robert William Crites, d/b as South Bay Broadcasting Company (KAPP), Redondo Beach, California, Docket No. 12565, File No. BPH-2416; for construction permit.

1. The Commission has before it (1) a "Protest Of Grant Without Hearing" filed on July 1, 1958, pursuant to Section 1.193 of the Commission Rules by Coast Radio Broadcasting Corporation (KPOL-FM, hereinafter) licensee of Station KPOL-FM, Los Angeles, California (Class B, 93.9 mc, 4.4 kw, 570 ft., CP for 22 kw); (2) a "Protest And Petition For Reconsideration" filed on July 7, 1958 pursuant to section 309 (c) of the Communications Act of 1934, as amended, by CBS Radio, a Division of Columbia Broadcasting System, Inc. (KNX-FM hereinafter) licensee of Station KNX-FM, Los Angeles, California (Class B, 93.1 mc, 67 kw, 2870 ft.), both of which are directed to the Commission's action of June 4, 1958 in granting without hearing the above-captioned application for a construction permit for a new Class A FM station (KAPP) at Redondo Beach, California, to operate on 93.5 megacycles, power of 1 kw, and antenna height of 82 feet; and (3) an Opposition to the KNX-FM pleading filed on July 17, 1958, by South Bay Broadcasting Company (KAPP, hereinafter).

2. KPOL-FM "requests a hearing" on the KAPP application. KNX-FM requests that the "Commission enter an order" (a) setting the KAPP application for hearing on issues specified by KNX-FM, (b) making KNX-FM a party to the proceeding, and (c) postponing the effective date of the KAPP grant pending the Commission's decision after a hearing.

3. KPOL-FM and KNX-FM both claim standing to file their respective pleadings on the grounds that each would receive objectionable interference from the operation of KAPP. KNX-FM, in an associated engineering affidavit, claims that "signal intensities from Station KNX-FM toward (KAPP) were predicted in accordance with § 3.313 (d)"; that "three radial paths from KNX-FM (180°, 225°, and 270°) taken from the Engineering Exhibit associated with Section V-B, FCC Form 301, Application for Modification of Construction Permit for relocation of the antenna of KNX-FM (File No. BMPH-4834) were used in determining the KNX-FM signal intensities in the vicinity of the (KAPP) site"; that, "using this topographic data it was estimated that the KNX-FM signal at the (KAPP) site is approximately 33 millivolts per meter"; that "on the basis that (KAPP) radiates 1 kw, or 137.6 mv/m at one mile, and assuming inverse distance propagation, its 330 mv/m contour would be at a distance of slightly over 0.4 mile from the transmitting antenna"; that "thus the (KAPP) operation will interfere with the KNX-FM coverage within an area approximately 0.4 mile radius of the (KAPP) site"; and that "based upon census tracts (U. S. Census, 1950) in the Los Angeles County area, the population residing (in said interference area) is computed to be approximately 5,700 persons." In the engineering affidavits attached to both the KPOL-FM and KNX-FM pleadings, it is shown that interference from said stations, predicted in accordance with the provisions of § 3.313 of the Commission rules, would affect 19 percent (by KPOL-FM) and 70.5 percent (by KNX-FM) of the population within the normally protected 1 mv/m contour of the KAPP operation. The area of interference from KPOL-FM falls within the area of interference from KNX-FM. KPOL-FM and KNX-FM state that the Commission erred in granting the KAPP application because such destructive interference received by KAPP constitutes an inefficient and wasteful use of the frequency by KAPP and is in contravention of § 3.313 (c) of the Commission rules which provides that FM stations normally will not be authorized to operate in the same city or in nearby cities with a frequency separation of less than 800 kc, provided that stations may be authorized to operate in nearby cities with a frequency separation of not less than 400 kc where necessary in order to provide an equitable and efficient distribution of facilities.

4. The issues upon which KNX-FM requests an opportunity to present evidence at a hearing on the KAPP application are set forth, with minor changes, in paragraph 9, infra. No issues are specified by KPOL-FM.

5. In its opposition to the KNX-FM pleading, KAPP contends that the Commission, by its rules, has established that Class A FM stations may be assigned in the same metropolitan area as Class B FM stations and that "as a natural concomitant to such assignments", where the Class A station is in the 1 mv/m contour of a second adjacent channel Class B station, there will be some interference to the Class B station, and, in turn, the Class A station will receive interference which causes a high limitation; that, also in the greater Los Angeles area, the Commission has granted two other Class A stations two channels removed from Class B stations therein; that the interference which KAPP would cause to KNX-FM is "negligible" since it affects less than 2,000 persons; that KAPP would provide a needed service in the community and would render a new service to some 300,000 people; that interference received by KAPP is in an area which is not considered part of the South Bay community and marketing district; and that use of "this proposed channel will be optimum for the purpose intended".

6. Our examination of the data submitted with the instant pleadings indicates that the KAPP proposal would cause interference within the normally protected 1 mv/m contours of both KNX-FM and KPOL-FM and would receive from said stations interference within its normally protected 1 mv/m contour.

7. In view of the facts that KPOL-FM and KNX-FM are existing FM stations and have submitted data from which it appears that they would receive interference within their normally protected 1 mv./m. contours from the proposed operation of KAPP; and that KAPP admits interference to KNX-FM and has not denied the KPOL-FM allegations of interference, we find KPOL-FM and KNX-FM, each, a "party in interest" within the meaning of § 1.193 of the Commission rules and section 309 (c) of the Communications Act of 1934, as amended, to have standing to file their instant pleadings pursuant thereto. *In re Application of Eastern Idaho Broadcasting and Television Company* (KIFI) 16 Pike and Fischer RR 717.

8. As stated above, our examination of the data submitted with the instant pleadings indicates that the KAPP proposal would involve objectionable interference to and from Stations KNX-FM and KPOL-FM. Accordingly, we find that the facts relied upon by the protestants herein as showing that the KAPP grant was improperly made have been specified with sufficient particularity within the meaning of section 309 (c) of the Act and § 1.193 of the Commission's rules to necessitate our designating the KAPP application for hearing. We are adopting, with minor changes, the issues specified by KNX-FM, and the burden of proceeding with the introduction of evidence and the burden of proof as to each of the issues will be on KAPP.

9. In view of the foregoing, *It is ordered*, That, pursuant to § 1.193 of the Commission rules and section 309 (c) of the Communications Act of 1934, as amended, effective immediately, the ef-

fective date of the grant of the above-captioned application is postponed pending a final determination by the Commission in the hearing ordered herein; that the instant protests of KPOL–FM and KNX–FM are granted; that the above-captioned KAPP application is designated for evidentiary hearing at the offices of the Commission in Washington, D. C., on the following issues:

1. To determine whether the proposed station at Redondo Beach, California, would cause interference to Stations KPOL–FM and KNX–FM, Los Angeles, California, and, if so, the nature and extent thereof, the areas and populations affected thereby and the availability of other primary service to such areas and populations.

2. To determine whether the operation of the proposed Class A station at Redondo Beach, California, would be in compliance with § 3.313 (c) of the Commission's rules with particular reference to the requirement that such channel be utilized only when necessary to provide an equitable and efficient use of the facilities.

3. To determine in the light of the evidence adduced pursuant to the foregoing issues, whether the above-described application of the South Bay Broadcasting Company would serve the public interest, convenience and necessity.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof as to each of the issues shall be on KAPP;

It is further ordered, That the protestants and the Chief of the Broadcast Bureau are made parties to the proceeding herein and that:

1. The appearances by the parties intending to participate in the above hearing shall be filed not later than August 20, 1958.

2. The hearing on the above issues is to commence at a time and place and before an Examiner to be specified in a subsequent order.

3. The parties to the proceeding herein shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and seven (7) days thereafter to file replies to any such exceptions.

Adopted: July 30, 1958.

Released: August 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6418; Filed, Aug. 8, 1958; 8:50 a. m.]

[Docket No. 12565; FCC 58M-843]

SOUTH BAY BROADCASTING CO. (KAPP)

ORDER SCHEDULING HEARING

In re application of Sherman Somers and Robert William Crites, d/b as South Bay Broadcasting Company (KAPP), Redondo Beach, California, Docket No. 12565, File No. BPH–2416; for construction permit.

It is ordered, This 1st day of August 1958, that Forest L. McClenning will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on September 23, 1958, in Washington D. C.

Released: August 5, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6419; Filed, Aug. 8, 1958; 8:50 a. m.]

[Docket No. 12566; FCC 58-768]

SANFORD L. HIRSCHBERG AND GERALD R. MCGUIRE

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Sanford L. Hirschberg and Gerald R. McGuire, Cohoes-Watervliet, New York, Docket No. 12566, File No. BP–11261; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of July 1958;

The Commission having under consideration the above-captioned application of Sanford L. Hirschberg and Gerald R. McGuire, for a construction permit for a new standard broadcast station to operate on 1300 kilocycles with a power of one kilowatt, during specified daytime hours at Cohoes-Watervliet, New York; and

It appearing that except as indicated by the issues specified below, the applicant is legally, technically, financially and otherwise qualified to operate the proposed station but that the proposed operation would cause interference to Station WRSA, Saratoga Springs, New York (1280 kc, 1 kw, Day); that the applicant proposes to avoid the overlap of the proposed 25 mv/m contour with the 25 mv/m contour of Station WHAZ, Troy, New York (1330 kc, 1 kw, S–WPOW, WEVD) by closing operation at 6:00 p. m. on Monday, April through September, when WHAZ commences operation under a share-time agreement with Stations WPOW and WEVD, both in New York City, but that it appears that a grant of the application would affect the flexibility of these share-time stations to operate other hours, if mutually agreed upon, pursuant to the provisions of §§ 3.74 and 3.77 of the Commission's rules; and

It further appearing, that by letter of November 18, 1957, the licensee of Station WRSA opposed a grant of the application for a station at Cohoes-Watervliet as proposed by the applicant; and

It further appearing that by letter of May 20, 1958, counsel for Sanford L. Hirschberg and Gerald R. McGuire contended that any interpretation of the Commission's rules permitting stations to enter into a share-time agreement which would bar the grant of a meritorious application "would render the rules invalid as an illegal abdication by the Commission of its statutory duty and responsibility to determine whether the public interest would be served by the grant of an application * * *" and that there can be no "basis for the claim of any legally valid interest" in the application of Sanford L. Hirschberg and Gerald R. McGuire by the licensees of Stations WPOW and WEVD; and

It further appearing that by letter of May 20, 1958, the licensee of Station WPOW expressed an intention of appearing at a hearing on the application; and

It further appearing that Stations WHAZ, WPOW and WEVD are operating under authorizations issued in accordance with the Commission's rules; that the Commission is of the opinion that the grant of a proposal which affects the ability of share-time stations to operate other hours, pursuant to mutual agreement under the provisions of §§ 3.74 and 3.77 of the Commission rules, is a factor to be considered in determining whether the grant of such application would be in the public interest; and that, therefore, the licensees of Stations WPOW and WEVD, as parties to said share-time agreement, should be heard, in the proceeding ordered below; and

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

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

1. To determine the areas and populations which would receive primary service from the proposed operation and the availability of other primary service to such areas and populations.

2. To determine whether the proposed operation would cause interference to Station WRSA, Saratoga Springs, New York, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine whether a grant of the application would affect the flexibility of Stations WHAZ, Troy, New York, WPOW, New York, New York, and WEVD, New York, New York, to operate other hours than those presently agreed upon in the existing share-time agreement, if mutually agreed upon in accordance with the provisions of §§ 3.74 and 3.77 of the Commission's rules.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the instant application would serve the public interest, convenience and necessity.

It is further ordered, That Radio Station WRSA, Inc., the Rensselaer Polytechnic Institute, Tele-Broadcasters of N. Y., Inc., and Debs Memorial Radio Fund, Incorporated, licensees of Stations WRSA, WHAZ, WPOW and WEVD, respectively, are made parties to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and parties respondent herein, pursuant to § 1.140 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 fixed for the hearing and present evidence on the issues specified in this order.

Released: August 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6420; Filed, Aug. 8, 1958; 8:51 a. m.]

AMERICAN TELEPHONE AND TELEGRAPH CO.

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATIONS FOR HEARING ON STATED ISSUES

In the matter of the applications of American Telephone and Telegraph Company, Docket No. 12569, File Nos. 1055-C1-ML-56, 1056-C1-ML-56, 1057-C1-ML-56, 1058-C1-L-56, 1645-C1-L-56, 1646-C1-6-56; for modification of its point-to-point microwave radio station licenses KCB 81, Portland, Maine; KCB 82, Brunswick, Maine; KCB 83, Liberty, Maine; KCC 85, King's Mountain, Maine; KCC 86, Franklin, Maine; and KCC 92, Cooper Hill, Maine, for facilities connecting with the trans-Atlantic telephone cable system, to authorize the furnishing of an alternate voice and digital data transmission service to the United States Air Force.

1. The Commission has before it for consideration (a) a Protest and request for reconsideration timely filed on July 7, 1958, pursuant to section 309 (c) of the Communications Act of 1934, as amended (Act), and §§ 1.191 and 1.193 of the Commission's rules, by The Western Union Telegraph Company (WU) protesting the Commission's action of June 5, 1958, granting without a hearing the above-entitled applications of American Telephone and Telegraph Company (AT&T) for modification of the subject microwave station licenses to permit the subject facilities to be used for the alternate transmission of voice and digital data for the United States Air Force; (b) a "Protest" timely filed on June 30, 1958, purported to be pursuant to section 309 (c) of the Act, by American Cable and Radio Corporation (AC&R) and its operating subsidiaries, All America Cables & Radio, Inc., The Commercial Cable Company and Mackay Radio and Telegraph Company, Inc., also protesting the Commission's action of June 5, 1958, and requesting an informal conference relative to the subject applications; (c) a letter dated July 2, 1958, from RCA Communications, Inc. (RCAC) expressing disagreement with the Commission's action of June 5, 1958; and (d) an Opposition filed on July 17, 1958, by American Telephone and Telegraph Company to the foregoing Protest of WU.

2. *Preliminary statement.* On March 11, 1958, AT&T filed applications requesting modification of licenses for its microwave relay facilities between Portland, Maine, and the Canadian border connecting with the trans-Atlantic telephone cable system (TAT) so as to provide a telephone channel in such cable to be used alternately for voice communication and digital data processing for the United States Air Force between New York, N. Y., and London, England. Informal objections to a grant of the applications without a hearing were received from AC&R, RCAC and WU and a letter from the Office of Defense Mobilization (ODM) was received supporting the applications. The applications were granted without a hearing on June 5, 1958, after considering all relevant information available to the Commission at the time. Basically, the objections of AC&R, RCAC and WU as stated in their above protests and letter under consideration, are the same as set forth in their informal objections prior to the grant of June 5, 1958.

3. *WU protest.* Protestant WU claims standing as a "party in interest" within the meaning of section 309 (c) of the act on the basis of its status as a competitor with other carriers in international communication services, including the furnishing of private wire services to the public as well as to various governmental agencies. It asserts that the rendering of telegraph service by AT&T has grave financial implications for it and the other international telegraph carriers, as well as for the Commission. It refers to past correspondence between the Commission and AT&T beginning in 1953 at the time the TAT cable and associated microwave relay facilities were first proposed, wherein, in reply to a Commission inquiry relative to the possible use of the TAT cable for telegraph service, AT&T stated, among other things, "* * * The American Telephone and Telegraph Company has no thought of entering the field of international telegraph communications and would lease telegraph circuits in the cable for Government department use only, upon express order from a Government department to do so * * *" The protestant alleges that in the instant case there has been neither evidence, nor claim, the subject service was being supplied "upon express Order * * * to do so." The protestant further alleges the Commission, in arriving at its Order of June 5, 1958, did not require the Government department to justify the authorization granted. The protestant also refers to the policy statement of the United States delegation (including representatives of this Commission) at the informal discussions with the United Kingdom representatives in 1956 relative to the use of the TAT cable for telegraph services at which conference the United States delegation adopted the following policy:

> United States policy is against the use of TAT except in case of national emergency or where the Federal Communications Commission determines, in the public interest, that adequate facilities at reasonable rates are not available via telegraph carriers. In the latter instance, telegraph service should be provided by existing telegraph carriers which would lease channels in TAT upon Commission authorization on equitable and non-discriminatory terms.

The protestant alleges that in the instant case there has been no showing (a) that a national emergency exists or (b) that adequate facilities at reasonable rates are not available via telegraph carriers or (c) that any reason exists why the telegraph service in question should not be provided by the existing telegraph carriers leasing channels in the TAT cable. The protestant alleges that in granting the subject applications without a hearing the Commission has not taken all the steps available to it to determine whether the existing telegraph carriers cannot by means of leasing channels in the TAT cable upon Commission authorization, provide services which in certain respects meet more closely what the Air Force requires, by way of telegraph service, than by the means suggested or acquiesced in by AT&T. Thee protestant further alleges that there is no basis for AT&T's conclusion that the furnishing of the proposed service by a single carrier is the most efficient and economical way to meet the Air Force requirements and that there would be additional burdens imposed upon the telegraph using public if a telegraph carrier participated in furnishing the service via the TAT cable. In view of all of the foregoing, WU requests the Commission to (a) reconsider its order of June 5, 1958, and deny the subject applications and (b) amend the order to authorize the rendition of telegraphic service required by the United States Air Force by an international communications carrier other than AT&T and such other relief as in the premises may seem just and proper.

4. *AC&R protest.* AC&R's protest was similar to WU's but not as detailed. It states it is a "party in interest" in that it is in competition with other carriers in the furnishing of international communication services. Like WU, it also alleges the Commission's action of June 5, 1958, is not in the public interest and improperly made because (a) the action ignores the United States Government policy statement in 1956 relative to the use of the TAT cable for telegraph purposes; (b) that there would be no appreciable difference as to the interposition of another carrier in this case as there is in the case in other leased circuit situations where the international carriers lease from Bell System companies; (c) granting the subject applications might be construed as a precedent extremely serious to the international telegraph carriers; and (d) granting the subject applications puts AT&T in the international telegraph business. AC&R states specifically that it does not request a hearing relative to the subject applications but thinks all interested parties should be given the privilege of an informal conference relative thereto.

5. *RCAC letter.* RCAC expressed disagreement with the Commission's action granting the subject applications and enumerated its reasons therefor briefly which are similar to those expressed by WU and AC&R. It referred to previous correspondence relative to the subject applications where it alleged the dangers of irreparable harm to the international telegraph carriers and the public in-

terest which would result from authorizing the entrance of AT&T directly into the international telegraph field. However, RCAC stated that under the circumstances herein and in view of the fact that the authorization is to provide a channel only for the United States Air Force, it was not filing a formal protest, based on the assumption that the instant order will not serve as a pronouncement of Commission policy to justify any future expansion by AT&T into the international telegraph field. It concluded that its statements are without prejudice to its right to participate in any additional formal or informal proceedings the Commission should designate in this matter.

6. *AT&T reply.* On July 17, 1958, AT&T filed an opposition to the WU protest. In brief, it urges that the relief requested by WU should be denied because, among other things, the protest states no material facts and makes no points that were not before the Commission when its order of June 5, 1958, was issued. It states the same is true of the AC&R protest, and that the Commission has given full consideration to these arguments and to the material facts and that no further consideration is called for. It emphasizes that the subject telephone channel is for both clear-text and encrypted speech, as well as for data transmission with voice co-ordination thereof. The opposition further states that AT&T is presently furnishing the service to the Air Force; that such service was begun upon representations that it was required in order to serve urgent national defense needs; that AT&T knows of no changed circumstances in the needs of national defense that would permit the termination of the service; that the needs of national defense today would seem to make it even more imperative that the service be continued; and finally that the Commission's authorization to use the radio stations is necssary to the maintenance of the subject service and the public interest requires that the authorization remain in effect.

7. *Disposition of protests.* In considering a protest pursuant to the provisions of section 309 (c) of our act, attention must be given, among other things, to two primary factors: (a) The allegations of fact which show the protestant to be a party in interest, and (b) the facts specified with particularity which are relied upon by protestant to show that a grant was (i) improperly made or (ii) would otherwise not be in the public interest.

8. In view of the fact that Protestant WU is engaged in the furnishing of international telegraph services, competing with other international telegraph carriers for international communication services, including the furnishing of private wire services to the public as well as to various governmental agencies, we find it to be a "party in interest" within the meaning of section 309 (c) of the act. We further find that the protestant, in alleging, among other things, that the grant to AT&T may pose a threat to the economic security of the international telegraph industry, has presented allegations which suffice, in a case involving communications common carriers, as a basis for hearing under the provisions of section 309 (c) of the act. The protestant suggested no issues. However, in the light of our above-stated conclusions, and in order to carry out the intent of Congress with respect to section 309 (c) of our act, as interpreted by the U. S. Court of Appeals, District of Columbia Circuit in Clarksburg Publishing Co. *v.* FCC, Case No. 12441 (12 RR 2024), we shall designate this matter for hearing upon issues presented in the pleadings under consideration which we deem appropriate and which are set forth later herein.

9. Standing on their own merits, both the AC&R protest and the RCAC statement relative to the Commission's action of June 5, 1958, could be dismissed on the basis that neither fully meets the requirements of section 309 (c) of the act. The RCAC letter indicates that it is not a formal protest. The AC&R Protest, although purported to be pursuant to section 309 (c), does not request the hearing provided by such Section but, instead, an informal conference with respect thereto is requested, which procedure is not provided for in such section. Thus, both the AC&R and RCAC pleadings are deficient in that they do not meet the statutory requirements of section 309 (c). However, in view of the fact that both AC&R and its operating subsidiaries and RCAC are in fact parties in interest within the meaning of such Section, and further, since the bases of their objections to a grant of the subject applications are similar to those of the WU Protest, which we have allowed, we believe that in order for the Commission to have all the relavant facts before it in considering this matter, that both AC&R and its operating subsidiaries and RCAC should be named as parties to the proceedings provided for herein. In view of these conclusions, it will not be necessary to discuss the merits of the allegations in the AC&R protest and the RCAC letter.

10. We now turn to the question of whether we should stay the effective date of our grant of the subject applications until a decision in this matter after hearing. Section 309 (c) of the act, insofar as is relevant hereto, provides that "* * * the effective date of the Commission's action to which protest is made shall be postponed * * * unless the authorization involved is necessary to the maintenance or conduct of an existing service, or unless the Commission affirmatively finds for reasons set forth in the decision that the public interest requires that the grant remain in effect, in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing." As previously indicated in paragraph 6 above, AT&T states the subject service is already being furnished the U. S. Air Force. AT&T also stated the subject service was instituted upon representations that it was required in order to meet urgent national defense needs and the needs of national defense today would seem to make it more imperative that the service be continued. In view of AT&T's allegations in this respect, and of ODM's concurrence in supporting the applications, as well as the current situation, we find that, for the limited purposes of determining whether or not to terminate AT&T's grant at this time (and subject to final determination upon the hearing record herein), that the public interest requires that the grant herein remain in effect pending our decision after hearing, and we authorize the applicant to continue the rendition of the subject combination voice and digital data transmission service to the United States Air Force pending final determination herein.

11. *Accordingly, it is ordered,* This 31st day of July 1958, That the applicant may furnish the subject alternate voice and digital data transmission service to the United States Air Force via the subject microwave facilities connecting with the TAT cable authorized by the Commission's action of June 5, 1958, pending the Commission's decision after the evidentiary hearing hereinafter provided; and

12. *It is further ordered,* That the above-entitled applications for modification of licenses are designated for hearing at the Commission's Office at Washington, D. C., at a time to be specified by subsequent order, upon the issues set forth below. Because the protestant did not set forth specific issues in this matter with particularity, the Commission has drafted these issues which appear to cover the protestant's objections to the grant of the subject applications:

(a) To determine insofar as consistent with the security of the United States, the nature and extent of the service required by the United States Air Force;

(b) To determine whether the proposed data transmission service can be provided over facilities of any international telegraph carrier with the required quality, speed and reliability of transmission;

(c) To determine, in the light of the evidence adduced, whether the public interest, convenience and necessity would better be served by (1) the grant of the subject applications of AT&T or (2) whether the proposed combination voice and data transmission service should be furnished in some other manner.

13. *It is further ordered,* That American Telephone and Telegraph Company, The Western Union Telegraph Company, RCA Communications, Inc., The American Cable and Radio Corporation and its operating subsidiaries, All America Cables and Radio, Inc., The Commercial Cable Company and Mackay Radio and Telegraph Company, Inc., and the Chief, Common Carrier Bureau are made parties to the proceedings herein;

14. *It is further ordered,* That the burden of proof in the proceedings herein provided shall be upon the protestant Western Union Telegraph Company, and any other party or parties supporting the contentions of the protestant;

15. *It is further ordered,* That the Department of Defense and the Office of

Civil and Defense Mobilization may intervene and participate fully herein.

Released: August 6, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6421; Filed, Aug. 8, 1958; 8:51 a. m.]

[Docket No. 12570; FCC 58-787]

CENTRAL FREIGHT LINES, INC.

ORDER DESIGNATING APPLICATIONS FOR HEARING ON STATED ISSUES

In re applications of Central Freight Lines, Inc., Dallas, Texas, Docket No. 12570, File No. 5133/34-G6-J; for authorizations in the Motor Carrier Radio Service at Dallas and Fort Worth, Texas.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 31st day of July 1958;

The Commission having under consideration the above-captioned applications of Central Freight Lines, Inc., for authorizations in the Motor Carrier Radio Service; and

It appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-named applicant was advised by letters dated June 20, 1955, and June 3, 1958, that in view of the considerations set forth therein, including a question of consistency with § 16.253 (a) of the Commission's rules, it could not be determined that a grant of said applications would serve the public interest, convenience and necessity; and

It further appearing that upon due consideration of the applicant's replies to such letters, dated, respectively, July 20, 1955, and June 30, 1958, the Commission is still unable to make such a determination; and

It further appearing that applicant has requested, in the alternative, if it is determined that its applications do not meet the requirements of § 16.253 (a) of the rules, a waiver of the requirements of said § 16.253 (a) to permit a grant of its applications on a developmental basis; and that the Commission is unable to determine, at this time, that the public interest, convenience and necessity would be served by a grant of the said request for waiver; and

It further appearing that by communications filed March 1 and April 14, 1955, respectively, Southwestern Bell Telephone Company and The Western Union Telegraph Company stated their concern regarding the effect of a grant of the instant applications upon common carrier communications service furnished by them in view of the alleged adequacy of such facilities to meet the communications requirements of the applicant herein;

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

1. To determine the purpose of the proposed radio system and the manner in which it would be operated.

2. To determine whether a grant of the above-entitled applications would be consistent with § 16.253 (a) of the Commission's rules.

3. To determine (if a grant of the above-entitled applications would not be consistent) whether the public interest would be served by a waiver of said § 16.253 (a).

4. To determine whether the public interest would be served by a grant of the above-entitled applications in view of the Commission proceeding in Docket No. 11866.

5. To determine whether, in light of the evidence adduced on the foregoing issues, the public interest, convenience, and necessity would be served by the grant of the Central Freight Lines applications.

It is further ordered, That Southwestern Bell Telephone Company and The Western Union Telegraph Company are hereby made parties to the above-hearing;

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and the parties named herein, pursuant to § 1.140 (c) and (e) of the Commission's rules, in person or by attorney, shall within twenty (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.

Released: August 6, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6422; Filed, Aug. 8, 1958; 8:51 a. m.]

[Docket No. 12575; FCC 58-780]

INTERLAKE BROADCASTING CORP. AND MESABI WESTERN CORP.

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Interlake Broadcasting Corporation, (Assignor), and Mesabi Western Corporation, (Assignee), Docket No. 12575, File No. BAL-3039; for consent to assignment of license of Station KLAN, Renton, Washington.

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 30th day of July 1958;

The Commission having under consideration (1) the above-entitled application; (2) the Commission's letter of July 23, 1958, sent to the above-named applicants pursuant to section 309 (b) of the Communications Act of 1934, as amended; and (3) the reply to said letter filed on July 29, 1958 by the applicants; and

It appearing that 80 percent of the stock of Mesabi Western Corporation is held in trust by the Pacific National Bank of Seattle (Pacific) for beneficiaries under a deed of trust; that one of the directors and minority stockholders of Pacific is the controlling stockholder and president of the licensee of standard broadcast station KING in Seattle, Washington, while another director of Pacific holds a minority stockholder's interest in standard broadcast station KIRO in Seattle; that said stations KLAN, KING and KIRO serve the cities of Renton and Seattle; and that said stations also compete for advertising in the Renton-Seattle area; and

It further appearing that in its letter of July 23, 1958, to the above-named applicants, the Commission notified them that their application raised the question whether a grant thereof would violate the long-standing policy of the Commission promulgated under § 3.35 (a) of the Commission's rules against permitting any degree of cross-interest, direct or indirect, in two or more stations in the same broadcast service serving substantially the same area; that said policy was adopted for the purpose of insuring open, arms-length competition among broadcast stations serving substantially the same area; that the Commission found no justification for a waiver of or deviation from such well-established policy; that accordingly, the Commission was unable to determine that a grant of said application would serve the public interest; that, therefore, a hearing on the application was required; and that the applicants were being afforded 30 days in which to file a reply; and

It further appearing that on July 29, 1958, the above applicants filed a reply to the Commission's letter of July 23, 1958; and that in said reply, the applicants requested reconsideration of the Commission's action of July 23, 1958, and a grant of the above-entitled application; and

It further appearing that upon due consideration of the above-entitled application, the Commission's letter of July 23, 1958, and the applicants' reply thereto of July 29, 1958, no facts or arguments have been submitted which warrant the reconsideration requested by the applicants herein; that the Commission finds that it is unable to determine at this time that a grant of the above-entitled application would be in the public interest; that a hearing thereon is required; and that no questions of qualifications exist with respect to the above applicants except as to the matters raised by the issues set forth below:

It is ordered, That, the applicants' request for reconsideration by the Commission of its action of July 23, 1958, is denied;

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

(1) To determine, in light of the interests of the Pacific National Bank of Seattle and its directors in Mesabi Western Corporation and in Station KING and KIRO, Seattle, whether a grant of the above-entitled application would be consistent with the provisions of § 3.35

of the Commission's rules and its policies promulgated thereunder, particularly with respect to its policy of requiring open, arms-length competition among broadcast stations in the same broadcast service serving substantially the same area; and

(2) To determine, in light of the evidence adduced with respect to the foregoing issue, whether a grant of the above-entitled application would serve the public interest, convenience or necessity.

Released: August 6, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6423; Filed, Aug. 8, 1958; 8:51 a. m.]

FEDERAL RESERVE SYSTEM

FIRST BANK STOCK CORP.

ORDER DENYING APPLICATION FOR ACQUISITION OF VOTING SHARES OF FIRST EASTERN HEIGHTS STATE BANK OF SAINT PAUL

In the matter of the application of First Bank Stock Corporation for approval of acquisition of voting shares of First Eastern Heights State Bank of Saint Paul, St. Paul, Minnesota.

The above matter having come before the Board on the application of First Bank Stock Corporation, Minneapolis, Minnesota, dated December 30, 1957, filed pursuant to the provisions of section 3 (a) (2) of the Bank Holding Company Act of 1956, for prior approval of the acquisition of 1,190 of the 1,250 voting shares proposed to be issued by a proposed new bank, First Eastern Heights State Bank of Saint Paul, St. Paul, Minnesota, and it appearing after due consideration thereof pursuant to the requirements of the Bank Holding Company Act of 1956 that such application should be denied.

It is ordered, That the said application of First Bank Stock Corporation under section 3 (a) (2) of the Bank Holding Company Act of 1956 for the Board's prior approval of the acquisition by First Bank Stock Corporation of 1,190 of the 1,250 shares of First Eastern Heights State Bank of Saint Paul, is hereby denied.

This 5th day of August 1958.

By order of the Board of Governors.[1]

[SEAL] KENNETH A. KENYON,
Assistant Secretary.

[F. R. Doc. 58-6363; Filed, Aug. 8, 1958; 8:46 a. m.]

GENERAL SERVICES ADMINISTRATION

[Delegation of Authority 350]

SECRETARY OF THE INTERIOR

DELEGATION OF AUTHORITY TO NEGOTIATE CONTRACTS FOR PROFESSIONAL SERVICES

1. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, herein called the act, authority is hereby delegated for the period ending August 31, 1959, to the Secretary of the Interior to negotiate, without advertising, under section 302 (c) (4) of the act, contracts for the services of architectural and engineering firms in connection with the construction activities under the Alaska Public Works Program authorized by the act of August 24, 1949 (63 Stat. 627), as amended by the act of July 15, 1954 (68 Stat. 483).

2. This delegation of authority shall be subject to all provisions of Title III of the act with respect to negotiated contracts, and to all other provisions of law.

3. The authority herein delegated may be redelegated to any officer or official of the Department of the Interior.

4. This delegation shall be effective as of September 1, 1958.

Dated: August 5, 1958.

FRANKLIN FLOETE,
Administrator.

[F. R. Doc. 58-6374; Filed, Aug. 8, 1958; 8:47 a. m.]

TARIFF COMMISSION

[Investigation 35]

IRON ORE

INSTITUTION OF INVESTIGATION

Pursuant to a resolution adopted July 29, 1958, by the Committee on Finance, United States Senate, the United States Tariff Commission, on the 4th day of August 1958, instituted an investigation under the provisions of section 332 of the Tariff Act of 1930, as amended, of the conditions of competition in the United States between iron ore produced in the United States and in foreign countries.

The Committee resolution provides that in its report to the Committee of the results of the investigation "the Commission shall set forth a summary of the facts obtained in the investigation, including a description of the domestic industry, domestic production, foreign production, imports (including sources of imports), consumption, channels of distribution, United States exports, prices of domestic and imported ore, and the United States customs treatment (including trade-agreement obligations with respect to such treatment) since 1930."

The Committee resolution authorizes the Tariff Commission to hold such hearing or hearings in connection with the investigation as it deems necessary or desirable. Announcement regarding any hearing that may be scheduled in connection with this investigation will be made at a future date.

Issued August 5, 1958.

By order of the Commission.

[SEAL] DONN N. BENT,
Secretary.

[F. R. Doc. 58-6367; Filed, Aug. 8, 1958; 8:46 a. m.]

[Investigation 36]

SPRING CLOTHESPINS

INSTITUTION OF INVESTIGATION

Pursuant to a resolution adopted July 30, 1958, by the Committee on Finance, United States Senate, the United States Tariff Commission, on the 4th day of August 1958, instituted an investigation under the provisions of section 332 of the Tariff Act of 1930, as amended, of the conditions of competition in the United States between spring clothespins produced in the United States and in foreign countries.

The Tariff Commission, on September 10, 1957, made a report to the President of the results of an "escape clause" investigation under section 7 of the Trade Agreements Extension Act of 1951, as amended, which resulted in a Presidential proclamation, effective December 10, 1957, increasing the duty on spring clothespins from 10 cents to 20 cents per gross. The instant investigation is not a new "escape clause" investigation, and the Commission's report to the Finance Committee, which is required to be made on or before November 1, 1958, will not include any recommendations for changes in existing import restrictions on spring clothespins; the report will be limited to a summary of the facts regarding developments in conditions of competition in the United States between imported and domestic spring clothespins since the increase in duty on December 10, 1957.

Issued August 5, 1958.

By order of the Commission.

[SEAL] DONN N. BENT,
Secretary.

[F. R. Doc. 58-6368; Filed, Aug. 8, 1958; 8:46 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-12792, G-12887]

PACIFIC NORTHWEST PIPELINE CORP. ET AL.

NOTICE OF APPLICATIONS AND DATE OF HEARING

AUGUST 4, 1958.

In the matters of Pacific Northwest Pipeline Corporation, Docket No. G-12792; Beehive Uranium Corporation and Standard Uranium Corporation, Operator, Docket No. G-12887.

Take notice that on June 25, 1957, Pacific Northwest Pipeline Corporation (Pacific Northwest) filed in Docket No. G-12792 an application, pursuant to section 7 (c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of a main line tap to be installed at a point on Pacific Northwest's existing 26-inch main transmission pipeline in Garfield County, Colorado, in order to purchase and receive natural gas produced in the Gar Mesa Area in Garfield County by Beehive Uranium Corporation and Standard Uranium Corporation, Operator (Beehive and Standard), all as more fully set forth in the application which

[1] Voting against this action: Vice Chairman Balderston and Governors Vardaman and Mills.

is on file with the Commission and open to public inspection.

On July 15, 1957, Beehive and Standard filed in Docket No. G–12887 a joint application for a certificate of public convenience and necessity authorizing the above sale of gas to Pacific Northwest to be made pursuant to a 20-year gas sales contract dated March 12, 1957, executed by and between Pacific Northwest and Beehive and Standard. Each producer has a 50 per cent interest in the sale of gas covered by said contract.

The estimated total cost of Pacific Northwest's proposed tap is $1,000, to be financed from current funds. The facilities of Beehive and Standard consist of customary lease equipment.

Acreage controlled totals approximately 1,488 acres in the area, upon which two gas wells to be operated by Standard have been completed.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on September 10, 1958, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 22, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

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

[F. R. Doc. 58-6356; Filed, Aug. 8, 1958; 8:45 a. m.]

[Docket No. E-6836]

ALABAMA POWER CO. ET AL.

ORDER QUESTIONING ACCOUNT ENTRIES, PROVIDING FOR HEARING, AND DIRECTING HOLDING OF PREHEARING CONFERENCE

AUGUST 1, 1958.

In the matters of Alabama Power Company, Arizona Public Service Company, Arkansas Missouri Power Company, Arkansas Power & Light Company, Blackstone Valley Gas & Electric Company, Boston Edison Company, Carolina Power & Light Company, Central Hudson Gas & Electric Corporation, Central Illinois Public Service Company, Central Louisiana Electric Company, Inc., Delaware Power & Light Company, Duquesne Light Company, El Paso Electric Company, Empire District Electric Company, Fitchburg Gas & Electric Light Company, Georgia Power Company, Gulf Power Company, Gulf States Utilities Company, The Hartford Electric Light Company, Holyoke Water Power Company, Idaho Power Company, Interstate Power Company, Iowa Public Service Company, Jersey Central Power & Light Company, Kansas Gas & Electric Company, Lake Superior District Power Company, Louisiana Power & Light Company, The Marietta Electric Company, Merrimack-Essex Electric Company, Metropolitan Edison Company, Minnesota Power & Light Company, Mississippi Power Company, Mississippi Power & Light Company, Mississippi Valley Public Service Company, Missouri Edison Company, Missouri Power & Light Company, Monongahela Power Company, The Montana Power Company, Monterey Utilities Corporation, The Narragansett Electric Company, New Jersey Power & Light Company, New Orleans Public Service, Inc., New York State Electric & Gas Corporation, Northern States Power Company of Minnesota, Northern States Power Company of Wisconsin, Northern Virginia Power Company, Ohio Edison Company, Oklahoma Gas & Electric Company, Orange and Rockland Utilities, Inc., Pacific Gas & Electric Company, Pacific Power & Light Company, Pennsylvania Electric Company, Pennsylvania Power Company, Pennsylvania Power & Light Company, Philadelphia Electric Company, The Potomac Edison Company, Potomac Electric Power Company, Potomac Light & Power Company, Public Service Company of Indiana, Inc., Puget Sound Power & Light Company, Rockland Electric Company, South Carolina Electric & Gas Company, South Penn Power Company, Southwestern Gas & Electric Company, Southwestern Public Service Company, Suburban Electric Company, Superior Water, Light and Power Company, Union Electric Company, Utah Power & Light Company, Virginia Electric & Power Company, The Washington Water Power Company, The West Maryland Power Company, West Penn Power Company, West Texas Utilities Company, Western Massachusetts Electric Company, Worcester County Electric Company; Docket No. E–6836.

The question herein before the Commission relates to the propriety, under the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees, of the accounting treatment accorded by the above named Companies with respect to certain expenditures which each Company incurred during the calendar year 1957 as a participant in the "Electric Companies Advertising Program"[1] under the sponsorship of "America's Independent Electric Light and Power Companies."

[1] That program is hereinafter referred to as the "1957 E. C. A. P. Program".

The specific accounting entries herein questioned are as shown by individual Companies in Columns (1), (2), and (3) of Table A set forth below. They are questioned insofar as they include the dollar amounts shown in Column (5) of that Table. Available data indicate that the amounts in Column (5) represent the proportionate cost to each of the Companies for certain of the copy placed in numerous national publications under the 1957 E. C. A. P. Program.

The particular copy referred to is captioned as follows:

POWER COMPANIES BUILD FOR YOUR NEW ELECTRIC LIVING

Are you aware of this strange use of your tax money?
Where do your taxes go?
Why do customers of this power dam have to help pay electric bills for customers of this one?
This trick's on you!
The case of the Missing Millions
Would you call this fair play? (hurdlers)
Can you answer these questions about taxes?
Would you call this fair play?[2] (basketball players)

The reported total cost of the above-listed copy is $863,130.15 or 43.25 percent of the reported cost of all copy placed under the 1957 E. C. A. P. Program totalling $1,995,661.14. The total amount contributed by each of the Table A-named Companies to the 1957 E. C. A. P. Program appear in Column (4) of Table A. In the aggregate, those amounts total $1,286,083.15. To ascertain the proportion of each Company's contribution attributable to the cost of the above-listed copy, the staff applied the aforementioned percentage of 43.25 to the individual contribution of each Company. The resulting amounts are as shown in Column (5) of Table A.

In accounting for their respective contributions totalling $1,286,083.15, 53 of the Table A-named Companies charged an aggregate of $731,070.72 to F. P. C. Account No. 787, Demonstration, Advertising and Other Sales Expenses and 29 charged an aggregate of $555,012.43 to Account No. 801, Miscellaneous General Expenses. With the exception of three of the Table A-named Companies which split their respective charges between the above operating expense accounts, each Company reported its accounting for this transaction involved the use of only one of those accounts.

The Commission staff proposes that these charges be reclassified, in part, for the reason that the expenditures involved are, in part, of a type and character not within the scope of Account Nos. 787 and 801. The instructions set forth in the Uniform System of Accounts regarding the use of those accounts are as follows:

(1) 787. Demonstration, Advertising, and Other Sales Expenses.

A 787.1 Demonstration. This account shall include the cost of labor and materials used and expenses incurred in

[2] Reproductions of this copy appear in Table B marked as to the places of publication and the dates of publication. Table B is filed as part of the original document.

demonstrating the use of appliances or other equipment.

NOTE: Do not include in this account demonstration expense incurred in connection with merchandise or appliance sales.

Items:

1. Employees: (a) Demonstrators, (b) Instructors, (c) Typists and Clerks.
2. Expenses: (a) Building service (not including rent), (b) Communication service, (c) Demonstration supplies, (d) Electric service, (e) Transportation.

A 787.2 Advertising. This account shall include the cost of labor and materials used and expenses incurred in connection with advertising for the purpose of promoting the sales of electricity.

NOTE. Do not include in this account advertising in connection with merchandise or appliance sales.

Items:

1. Advertising in newspapers, periodicals, etc.
2. Advertising manager and assistants.
3. Clerks.
4. Materials and expenses in preparing: (a) Advertisements, (b) Booklets, (c) Bulletins, (d) Dodgers, (e) Posters.
5. Stenographers and typists.

A 787.3 Miscellaneous sales expenses. This account shall include the cost of labor and materials used and expenses incurred in soliciting new business, except amounts chargeable to the foregoing accounts.

NOTE. Do not include in this account expenses incurred in connection with merchandise or appliance sales.

(2) 801. *Miscellaneous general expenses.* This account shall include such items of expense applicable to the electric department as the cost of publishing and distributing annual reports to stockholders; advertising notice of stockholders' meetings; dividend and other corporate and financial notices of a general character; association dues; contributions for conventions and meetings of the industry; cost of research and experimental work conducted for the benefit of the electric department or the industry or for the improvement of electric service (except such amounts as may be properly chargeable to other accounts); fees of transfer agents, registrars of stock, and fiscal agents; director's fees; and any other miscellaneous expenses connected with the general management and not otherwise provided for.

The staff recommends the reclassification of the amounts shown in Column (5) of the attached Table A to Account No. 533, Miscellaneous Income Deductions, for the reason that the expenditures involved relate to the matter of private versus public ownership of electric facilities, a subject of political controversy, and the above-listed copy is of an argumentative character or nature in that controversy. The instructions set forth in the Uniform System of Accounts regarding the use of Account 538 are as follows:

538. Miscellaneous income deductions. This account shall include miscellaneous debits to income, not provided for elsewhere.

Items:

1. Decline in value of investments. (See Balance sheet instruction 4.)
2. Donations.
3. Expenditures for associated companies for which the utility will not be reimbursed.

By separate letters of the Commission dated February 27, 1958, each of the above Companies was advised that in the opinion of this Commission expenditures involving the presentation of argument in matters of political controversy are not properly includible in any of the 700 or 800 Series of Accounts of the Commission's Uniform System of Accounts but rather should be classified in Account No. 538.

Available data indicate that each above-entitled Company is a licensee and/or public utility under the Federal Power Act and therefore subject, as such, to the requirements of the Commission's Uniform System of Accounts. The respective principal places of business of the above-entitled Companies and the States in which those Companies operate are as follows:

Name of Company; Operating in State(s); Principal Place of Business

Alabama Power Co.; Alabama; Birmingham, Ala.
Arizona Public Service Co.; Arizona; Phoenix, Ariz.
Arkansas Missouri Power Co.; Arkansas, Missouri; Blytheville, Ark.
Arkansas Power & Light Co.; Arkansas; Pine Bluff, Ark.
Blackstone Valley Gas & Electric Co.; Rhode Island; Pawtucket, R. I.
Boston Edison Co.; Massachusetts; Boston, Mass.
Carolina Power & Light Co.; North Carolina, South Carolina; Raleigh, N. C.
Central Hudson Gas & Electric Corp.; New York; Poughkeepsie, N. Y.
Central Illinois Public Service Co.; Illinois; Springfield, Ill.
Central Louisiana Electric Co., Inc.; Louisiana; Lafayette, La.
Delaware Power & Light Co.; Delaware; Wilmington, Del.
Duquesne Light Co.; Pennsylvania; Pittsburgh, Pa.
El Paso Electric Co.; New Mexico, Texas; El Paso, Tex.
Empire District Electric Co.; Kansas, Missouri, Arkansas, Oklahoma; Joplin, Mo.
Fitchburg Gas & Electric Light Co.; Massachusetts; Fitchburg, Mass.
Georgia Power Co.; Georgia; Atlanta, Ga.
Gulf Power Co.; Florida; Pensacola, Fla.
Gulf States Utilities Co.; Louisiana, Texas; Beaumont, Tex.
Hartford Electric Light Co., The; Connecticut; Hartford, Conn.
Holyoke Water Power Co.; Massachusetts; Holyoke, Mass.
Idaho Power Co.; Idaho, Nevada, Oregon; Boise, Idaho.
Interstate Power Co.; Illinois, Iowa, Minnesota, South Dakota; Dubuque, Iowa.
Iowa Public Service Co.; Iowa, South Dakota, Nebraska; Sioux City, Iowa.
Jersey Central Power & Light Co.; New Jersey; Asbury Park, N. J.
Kansas Gas & Electric Co.; Kansas; Wichita, Kans.
Lake Superior District Power Co.; Michigan, Wisconsin; Ashland, Wis.
Louisiana Power & Light Co.; Louisiana; New Orleans, La.
Marietta Electric Co., The; Ohio; Fairmont, W. Va.
Merrimack-Essex Electric Co.; Massachusetts; Salem, Mass.
Metropolitan Edison Co.; Pennsylvania; Muhlenberg Township, Berks County, Pa.
Minnesota Power & Light Co.; Minnesota; Duluth, Minn.
Mississippi Power Co.; Mississippi; Gulfport, Miss.
Mississippi Power & Light Co.; Mississippi; Jackson, Miss.
Mississippi Valley Public Service Co.; Minnesota, Wisconsin; Winona, Minn.
Missouri Edison Co.; Missouri; Louisiana, Mo.
Missouri Power & Light Co.; Missouri; Jefferson City, Mo.
Monongahela Power Co.; West Virginia; Fairmont, W. Va.
Montana Power Co., The; Montana, Idaho; Butte, Mont.
Monterey Utilities Corp.; Virginia; Fairmont, W. Va.
Narragansett Electric Co., The; Rhode Island; Providence, R. I.
New Jersey Power & Light Co.; New Jersey; Denville, N. J.
New Orleans Public Service, Inc.; Louisiana; New Orleans, La.
New York State Electric & Gas Corp.; New York; Ithaca, N. Y.
Northern States Power Co. of Minnesota; Minnesota, North Dakota, South Dakota; Minneapolis, Minn.
Northern States Power Co. of Wisconsin; Wisconsin, Minnesota; Eau Claire, Wis.
Northern Virgina Power Co.; Virginia; Winchester, Va.
Ohio Edison Co.; Ohio; Akron, Ohio.
Oklahoma Gas & Electric Co.; Oklahoma, Arkansas; Oklahoma City, Okla.
Orange and Rockland Utilities, Inc.; New York; Nyack, N. Y.
Pacific Gas & Electric Co.; California; San Francisco, Calif.
Pacific Power & Light Co.; Oregon, Washington, Idaho, Montana, Wyoming; Portland, Oreg.
Pennsylvania Electric Co.; Pennsylvania, New York; Johnstown, Pa.
Pennsylvania Power Co.; Pennsylvania; New Castle, Pa.
Pennsylvania Power & Light Co.; Pennsylvania; Allentown, Pa.
Philadelphia Electric Co.; Pennsylvania; Philadelphia, Pa.
Potomac Edison Co., The; Maryland, Frederick, Md.
Potomac Electric Power Co.; District of Columbia, Maryland, Virginia; Washington, D. C.
Potomac Light & Power Co.; West Virginia; Martinsburg, W. Va.
Public Service Co. of Indiana, Inc.; Indiana; Plainfield, Ind.
Puget Sound Power & Light Co.; Washington; Seattle, Wash.
Rockland Electric Co.; New Jersey; Nyack, N. Y.
South Carolina Electric & Gas Co.; South Carolina; Columbia, S. C.
South Penn Power Co.; Pennsylvania; Waynesboro, Pa.
Southwestern Gas & Electric Co.; Louisiana, Texas, Arkansas, Oklahoma; Shreveport, La.
Southwestern Public Service Co.; Texas, Oklahoma, New Mexico, Kansas; Dallas, Tex.
Suburban Electric Co.; Massachusetts; Malden, Mass.
Superior Water, Light and Power Co.; Wisconsin; Superior, Wis.
Union Electric Co.; Missouri, Illinois, Iowa; St. Louis, Mo.
Utah Power & Light Co.; Utah, Idaho, Wyoming; Salt Lake City, Utah.
Virginia Electric & Power Co.; Virginia, North Carolina, West Virginia; Richmond, Va.
Washington Water Power Co., The; Washington, Idaho, Montana; Spokane, Wash.
West Maryland Power Co., The; Maryland; Fairmont, W. Va.

West Penn Power Co.; Pennsylvania; Greensburg, Pa.
West Texas Utilities Co.; Texas; Abilene, Tex.
Western Massachusetts Electric Co.; Massachusetts; Greenfield, Mass.
Worcester County Electric Co.; Massachusetts; Worcester, Mass.

In view of the foregoing it appears that the accounting treatment accorded by each of the Table A-named companies with respect to the dollar amounts shown in Column (5) of the Table A may, in each instance, involve a violation of the Commission's Uniform System of Accounts and each of the accounting entries there involved should be questioned. Accordingly, it appears necessary and appropriate for the purposes of the Federal Power Act (particularly sections 3, 4, 301, 302, 304, 307, 308 and 309), and the Uniform System of Accounts and Regulations prescribed thereunder, that those entries be questioned and that a hearing be held with respect thereto all as hereinafter provided.

The Commission orders:

(A) The accounting entry or entries of each of the Table A-named companies shown in Columns (2) and (3) of the Table A are hereby questioned to the extent of the inclusion therein of the dollar amounts shown in Column (5) of that table.

(B) A public hearing be held in the Commission's Hearing Rooms, 441 G Street NW., Washington 25, D. C., commencing at 10:00 a. m., e. d. s. t., October 7, 1958, with respect to the compliance of the accounting entries questioned in Paragraph (A) above, with the requirements of the Commission's Uniform System of Accounts.

(C) A prehearing conference, pursuant to the provisions of § 1.18 of the Commission's rules of practice and procedure (18 CFR 1.18) be held in this case at the Commission's offices, 441 G Street NW., Washington 25, D. C., commencing at 10:00 a. m., e. d. s. t., September 9, 1958; such conference to be presided over by the presiding examiner assigned to this case.

(D) At the hearing ordered herein each of the above-entitled Companies shall present any justification there may be for its (or indicated predecessor), respective accounting entry or entries herein questioned; and shall show cause, if any there be, why it should not, by an appropriate memorandum accounting entry reclassify to Account 538, the respective dollar amount shown in Column (5) of Table A opposite its (or indicated predecessor) corporate name.

(E) Interested State Commissions may participate in this proceeding as provided in §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

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

TABLE A

Column (1) Company	Column (2) FPC Account No. Debited Account 787, Demonstration, Advertising and Other Sales Expenses	Column (3) FPC Account No. Debited Account 801, Miscellaneous General Expenses	Column (4) Total contribution to E. C. A. P. for 1957	Column (5) Portion of total contribution classified by Staff in Income Account 538, Miscellaneous Income Deductions (43.25 percent)
Alabama Power Co.	$40,956.25		$40,956.25	$17,713.58
Arizona Public Service Co.	13,181.31		13,181.31	5,701.35
Arkansas Missouri Power Co.	3,890.60		3,890.60	1,682.68
Arkansas Power & Light Co.		$23,477.07	23,477.07	10,153.83
Blackstone Valley Gas & Electric Co.	6,699.50		6,699.50	2,897.53
Boston Edison Co.	35,713.27		35,713.27	15,445.09
Carolina Power & Light Co.	10,791.80	20,041.92	30,833.72	13,335.58
Central Hudson Gas & Electric Corp.		11,366.38	11,366.38	4,915.96
Central Illinois Public Service Co.	20,289.97		20,289.97	8,775.41
Central Louisiana Electric Co., Inc.	8,210.50		8,210.50	3,551.04
Delaware Power & Light Co.		9,590.70	9,590.70	4,147.98
Duquesne Light Co.		34,695.44	34,695.44	15,005.78
El Paso Electric Co.	7,376.20		7,376.20	3,190.21
Empire District Electric Co.	6,378.80		6,378.80	2,758.83
Fitchburg Gas & Electric Light Co.		1,829.70	1,829.70	791.35
Georgia Power Co.	41,676.97		41,676.97	18,025.29
Gulf Power Co.	7,537.99		7,537.99	3,260.14
Gulf States Utilities Co.	22,162.33		22,162.33	9,585.21
Hartford Electric Light Co., The; Connecticut Power Co., The [1]		10,398.56 10,096.90	10,398.56 10,096.90	4,497.38 4,366.91
Holyoke Water Power Co.	2,500.00		2,500.00	1,081.25
Idaho Power Co.		11,934.77	11,934.77	5,161.79
Interstate Power Co.	9,538.90		9,538.90	4,125.57
Iowa Public Service Co.		11,816.02	11,816.02	5,110.43
Jersey Central Power & Light Co.		19,683.28	19,683.28	8,513.02
Kansas Gas & Electric Co.		14,619.84	14,619.84	6,323.08
Lake Superior District Power Co.		2,836.20	2,836.20	1,226.66
Louisiana Power & Light Co.	18,306.63		18,306.63	7,917.62
Marietta Electric Co., The	1,451.60		1,451.60	627.82
Merrimack-Essex Electric Co.:				
Lawrence Electric Co.[1]	4,170.40		4,170.40	1,803.79
Lowell Electric Light Corp., The [1]	4,627.20		4,627.20	2,001.26
Metropolitan Edison Co.	20,994.10		20,994.10	9,079.95
Minnesota Power & Light Co.		7,396.10	7,396.10	3,198.81
Mississippi Power Co.	9,569.80		9,569.80	4,138.94
Mississippi Power & Light Co.		15,420.92	15,420.92	6,669.55
Mississippi Valley Public Service Co.		1,636.30	1,636.30	707.79
Missouri Edison Co.	1,402.50		1,402.50	606.58
Missouri Power & Light Co.	6,313.80		6,313.80	2,730.72
Monongahela Power Co.	17,582.94		17,582.94	7,604.42
Montana Power Co., The		12,977.64	12,977.64	5,612.83
Monterey Utilities Corp.	64.90		64.90	28.07
Narragansett Electric Co., The	17,893.02		17,893.02	7,738.73
New Jersey Power & Light Co.		9,593.30	9,593.30	4,149.19
New Orleans Public Service, Inc.	[2] 15,917.78		15,917.78	6,884.44
New York State Electric & Gas Corp.		33,410.80	33,410.80	14,450.17
Northern States Power Co. of Wisconsin	5,963.68		[3] 5,963.68	2,579.29
Northern States Power Co. of Minnesota	37,457.40		37,457.40	16,200.33
Northern Virginia Power Co.	2,616.60		2,616.60	1,131.68
Ohio Edison Co.	22,308.47	16,154.41	38,462.88	16,635.29
Oklahoma Gas & Electric Co.	26,228.90		26,228.90	11,344.03
Orange and Rockland Utilities, Inc.:				
Orange and Rockland Electric Co., The [1]	1,789.00		1,789.00	773.74
Rockland Light & Power Co.[1]	5,059.70		5,059.70	2,188.32
Pacific Gas & Electric Co.		55,000.00	55,000.00	23,787.50
Pacific Power & Light Co.	25,265.99		25,265.99	10,927.54
Pennsylvania Electric Co.	31,135.00		31,135.00	13,465.89
Pennsylvania Power Co.	4,591.10	3,324.60	7,915.70	3,423.54
Pennsylvania Power & Light Co.		46,544.84	46,544.84	20,130.64
Philadelphia Electric Co.		55,000.00	55,000.00	23,787.50
Potomac Edison Co., The	7,348.30		7,348.30	3,178.14
Potomac Electric Power Co.	26,731.86		26,731.86	11,561.53
Potomac Light & Power Co.	3,281.50		3,281.50	1,419.25
Public Service Co. of Indiana, Inc.		28,953.59	28,953.59	12,522.43
Puget Sound Power & Light Co.		17,126.01	17,126.01	7,407.09
Rockland Electric Co.	1,887.70		1,887.70	816.43
South Carolina Electric & Gas Co.	15,269.32		15,269.32	6,603.98
South Penn Power Co.	1,637.90		1,637.90	708.39
Southwestern Gas & Electric Co.		16,847.01	16,847.01	7,286.33
Southwestern Public Service Co.	15,676.05		15,676.05	6,779.89
Suburban Electric Co.	7,913.40		7,913.40	3,422.55
Superior Water, Light and Power Co.	1,095.70		1,095.70	473.89
Union Electric Co.		40,471.15	40,471.15	17,503.77
Utah Power & Light Co.	16,993.55		16,993.55	7,349.71
Virginia Electric & Power Co.	45,187.44		45,187.44	19,543.57
Washington Water Power Co., The		12,768.98	12,768.98	5,522.58
West Maryland Power Co., The	329.00		329.00	142.55
West Penn Power Co.	29,243.81		29,243.81	12,647.95
West Texas Utilities Co.	10,126.40		10,126.40	4,379.67
Western Massachusetts Electric Co.	12,588.00		12,588.00	5,444.31
Worcester County Electric Co.	18,145.38		18,145.38	7,847.88
	731,070.72	555,012.43	1,286,083.15	557,645.82

[1] Predecessor merged corporation.
[2] Reported by non-FPC Account as Account 176-1, General Publicity Advertising.
[3] Contribution made through parent company, Northern States Power Company of Minnesota.

[F. R. Doc. 58-6321; Filed, Aug. 8, 1958; 8:45 a. m.]

[Docket No. G-13862 etc.]

EL PASO NATURAL GAS CO. ET AL.

NOTICE OF HEARING

AUGUST 4, 1958.

In the matters of El Paso Natural Gas Company, Docket No. G-13862; Shell Oil Company, Docket No. G-13876; Aztec Oil & Gas Company, Docket No. G-13946; Phillips Petroleum Company, Docket No. G-13963; Western Natural Gas Company, Docket No. G-13964; The Pure Oil Company, Docket No. G-14156; General Petroleum Corporation, Docket No. G-14245; Davis Oil Company, Docket No. G-14361; The Carter Oil Company, Docket No. G-14369; Continental Oil Company, Docket No. G-14396; Sun Oil Company, Docket No. G-14403; The Ohio Oil Company, Docket No. G-14441; Pan American Petroleum Corporation, Docket No. G-14640; Three States Natural Gas Company, Docket No. G-14800; Reynolds Mining Corporation, Docket No. G-14834; Petro-Atlas Corporation, Docket No. G-15081; The Texas Company, Docket No. G-15153.

The hearing heretofore scheduled to commence on July 25, 1958, was postponed by a notice of the Secretary of the Commission issued on July 22, 1958, to a date to be fixed by further notice of the Secretary of the Commission.

Take notice that the hearing in these proceedings, heretofore scheduled for July 25, 1958, will be convened on September 10, 1958, at 10:00 a. m., e. d. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C.

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

[F. R. Doc. 58-6357; Filed, Aug. 8, 1958; 8:45 a. m.]

[Docket No. G-15795]

GENERAL AMERICAN OIL COMPANY OF TEXAS

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

AUGUST 4, 1958.

General American Oil Company of Texas (General American) on July 7, 1958, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated June 18, 1958.

Purchaser: West Lake Natural Gas Company.

Rate schedule designation: Supplement No. 1 to General American's FPC Gas Rate Schedule No. 27.

Effective date: August 7, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed periodic rate increase, General American cites the circumstances under which the increased rate is submitted and the pricing provision in the basic contract. In addition, General American states that the schedule of periodic price escalations is common in long-term gas sales contracts and enables buyer to receive assured reserves for long periods and to receive initial deliveries at a low price when his unamortized capital investment is high, and affords seller progressively higher returns contemporaneously with increases in production, development, operating and maintenance costs.

The increased rate and charge so proposed has not been shown to be justified, and 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 lawfulness of the said proposed change, and that Supplement No. 1 to General American's FPC Gas Rate Schedule No. 27, 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 theref, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 1 to General American's FPC Gas Rate Schedule No. 27.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until August 8, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Kline and Hussey dissenting).

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

[F. R. Doc. 58-6358; Filed, Aug. 8, 1958; 8:45 a. m.]

[Docket No. G-15796]

LE CUNO OIL CORP. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

AUGUST 4, 1958.

Le Cuno Oil Corporation (Operator) et al. (Le Cuno) on July 7, 1958, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated June 26, 1958.

Purchaser: Mississippi River Fuel Corporation.

Rate schedule designation: Supplement No. 7 to Le Cuno's FPC Gas Rate Schedule No. 2.

Effective date: August 7, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed periodic rate increase, Le Cuno states that the contract containing the price increase provisions resulted from arm's length negotiations, the increase provisions were a material inducement to seller to enter into the long-term contract and denial of the increase would be unjust, unwise and confiscatory. Le Cuno states further that the proposed price does not constitute an increase in rate but is an integral part of the price schedule in the original contract and is beneficial to both buyer and seller in providing a low rate while purchaser's costs are high, such price increasing as buyer's costs are recovered and seller's volumes and pressures decline. Le Cuno also states the increased price is necessary to encourage further development and exploration and provide seller a fair and reasonable return.

The increased rate and charge so proposed has not been shown to be justified, and 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 lawfulness of the said proposed change, and that Supplement No. 7 to Le Cuno's FPC Gas Rate Schedule No. 2 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), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 7 to Le Cuno's FPC Gas Rate Schedule No. 2.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until January 7, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of

practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Kline and Hussey dissenting).

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

[F. R. Doc. 58-5359; Filed, Aug. 8, 1958; 8:45 a. m.]

[Docket No. G-15798]

PURE OIL CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

AUGUST 4, 1958.

The Pure Oil Company et al. (Pure Oil) on July 7, 1958, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, undated.
Purchaser: West Lake Natural Gas Company.
Rate schedule designation: Supplement No. 5 to Pure Oil's FPC Gas Rate Schedule No. 41.
Effective date: August 7, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed periodic rate increase, Pure Oil cites the circumstances under which the increased rate is submitted and the pricing provision in the basic contract. In addition, Pure Oil cites the level of the proposed rate in relation to the informally established 10.0 cents per Mcf ceiling increased rate for Permian Basin gas.

The increased rate and charge so proposed has not been shown to be justified, and 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 lawfulness of the said proposed change, and that Supplement No. 5 to Pure Oil's FPC Gas Rate Schedule No. 41 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), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 5 to Pure Oil's FPC Gas Rate Schedule No. 41.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until August 8, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Kline and Hussey dissenting).

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

[F. R. Doc. 58-6360; Filed, Aug. 8, 1958; 8:45 a. m.]

INTERSTATE COMMERCE COMMISSION

[No. 32463]

MISSOURI INTRASTATE FREIGHT RATES AND CHARGES

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D. C., on the 28th day of July A. D. 1958.

It appearing that by petition dated June 20, 1958, and filed on June 23, 1958, on behalf of the Atchison, Topeka and Santa Fe Railway Company and other common carriers by railroad operating to, from, and between points in the State of Missouri, it is averred that in Ex Parte No. 206, Increased Freight Rates and Charges, Eastern, Western and Southern Territories, 1956, 229 I. C. C. 429, 299 I. C. C. 557, and 300 I. C. C. 622, this Commission authorized certain increases in interstate rates and charges throughout the United States, and that the Missouri Public Service Commission has refused to authorize or permit said petitioners to apply to the transportation of sand and gravel (Commodity Group 327), broken, ground, and crushed stone and rock (Commodity Group 329), and cinders, in carloads, in open-top cars not protected by tarpaulin or other protective coverings; clay and bentonite (Commodity Group 323), in carloads; fertilizer compounds, N. O. I. B. N., dry (manufactured fertilizer), in carloads; and bituminous coal, line-haul rates, in carloads, moving intrastate by railroad in Missouri, increases in freight rates and charges corresponding to those approved for interstate application in Ex Parte No. 206, supra;

It further appearing that said petitioners allege that the intrastate rates and charges which they are required to maintain for the transportation of property as aforesaid, moving intrastate by railroad in Missouri, as a result of such refusal by the Missouri Public Service Commission, cause undue and unreasonable advantage, preference, and prejudice as between persons and localities in intrastate commerce, on the one hand, and interstate and foreign commerce, on the other hand, and undue, unreasonable, and unjust discrimination against interstate commerce in violation of section 13 of the Interstate Commerce Act, and request that an investigation of the lawfulness of such rates be instituted;

And it further appearing that the said petition brings in issue freight rates and charges made or imposed by authority of the State of Missouri;

It is ordered, That in response to the said petition, an investigation be, and it is hereby, instituted, and that a hearing be held therein for the purpose of receiving evidence from the respondents hereinafter designated and any other interested parties to determine whether the aforesaid rates and charges of the common carriers by railroad, or any of them, operating in the State of Missouri, for the intrastate transportation of property, made or imposed by authority of the State of Missouri, cause or will cause, by reason of the failure of such rates and charges to include increases corresponding to those permitted by this Commission for interstate traffic in Ex Parte No. 206, supra, any undue or unreasonable advantage, preference, or prejudice, as between persons or localities in intrastate commerce, on the one hand, and interstate or foreign commerce, on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce in violation of section 13 of the Interstate Commerce Act, and to determine what rates and charges, if any, or what maximum or minimum, or maximum and minimum, rates and charges shall be prescribed to remove the unlawful advantage, preference, prejudice, or discrimination, if any, that may be found to exist;

It is further ordered, That all common carriers by railroad operating within the State of Missouri, which are subject to the jurisdiction of this Commission, be, and they are hereby, made respondents to this proceeding; that a copy of this order be served upon each of the said respondents, and that the State of Missouri be notified of the proceeding by sending copies of this order and of said petition by registered mail to the Governor of the said State, and to the Missouri Public Service Commission at Jefferson City, Mo.;

It is further ordered, That notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D. C., for public inspection, and by filing a copy with the Director, Division of the Federal Register, Washington, D. C.;

And it is further ordered, That this proceeding be assigned for hearing at such time and place as the Commission may hereafter designate.

By the Commission, Division 2.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F. R. Doc. 58-6365; Filed, Aug. 8, 1958; 8:46 a. m.]

[Notice 12]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 6, 1958.

Synopses of orders entered pursuant to section 212 (b) of the Interstate Com-

merce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice, any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17 (8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC 61310. By order of July 31, 1958, the Transfer Board approved the transfer to Benson Transit Company, Inc., Benson, North Carolina, of Permit No. MC 114700 Sub 1, issued February 16, 1956, to A. W. Johnson and Z. V. Stephenson, Jr., a Partnership, doing business as A. W. Johnson & Company, authorizing the transportation of fertilizer and fertilizer products, from Armour & Company, at Navassa, North Carolina, to points in nine specified counties in South Carolina.

No. MC–FC 61314. By order of July 31, 1958, the Transfer Board approved the transfer to Peter J. Petrizzo & Son, Inc., of Certificates Nos. MC 16827 and MC 16827 Sub 1, issued June 5, 1941, and May 15, 1942, respectively, to Theodore Diebold, authorizing the transportation of specified commodities between points in Connecticut, Rhode Island, Massachusetts, Delaware, Maryland, New Jersey, New York, and Pennsylvania, within 200 miles of Newark, N. J. John M. Zachara, P. O. Box 2860, Paterson 28, N. J., for applicants.

No. MC–FC 61315. By order of July 31, 1958, the Transfer Board approved the transfer to Harold E. Christensen and Terry Dean Jorgensen, a partnership, doing business as Christensen and Jorgensen, Brayton, Iowa, of Certificate No. MC 9327, issued January 31, 1958, to Harold E. Christensen, Brayton, Iowa, authorizing the transportation of *Livestock*, over irregular routes, from points within 15 miles of Brayton, Iowa, to Omaha, Nebr.: and *Feed, seed, tankage,* and *hay*, over irregular routes, from Omaha, Nebr., to points within 15 miles of Brayton, Iowa.

No. MC–FC 61389. By order of July 31, 1958, the Transfer Board approved the transfer to Mollie E. Berman, Clarence O. Berman, and Richard O. Berman, a Partnership, doing business as Berman & Sons Moving and Storage, of Certificate No. MC 78075, issued April 10, 1943, to O. Berman, Mollie E. Berman, Clarence O. Berman, and Richard C. Berman, a Partnership, doing business as Berman & Sons Moving and Storage, authorizing the transportation of household goods, between points in Cuyahoga County, Ohio, on the one hand, and on the other, points in Connecticut, Illinois, Indiana, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, Wisconsin, and the District of Columbia. Edwin C. Reminger, Standard Building, Cleveland 13, Ohio, for applicants.

No. MC–FC 61390. By order of July 31, 1958, the Transfer Board approved the transfer to Clarence O. Berman and Richard C. Berman, a Partnership, doing business as Berman & Sons Moving and Storage, of Certificate No. MC 78075, issued April 10, 1943, to O. Berman, Mollie E. Berman, Clarence O. Berman, and Richard C. Berman, a Partnership, doing business as Berman & Sons Moving and Storage, authorizing the transportation of household goods, between points in Cuyahoga County, Ohio, on the one hand, and, on the other, points in Connecticut, Illinois, Indiana, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, Wisconsin, and the District of Columbia. Edwin C. Reminger, Standard Building, Cleveland 13, Ohio, for applicants.

No. MC–FC 61419. By order of July 31, 1958, the Transfer Board approved the transfer to John M. Kocak, doing business as Kocak Trucking Company, Binghamton, N. Y., of a portion of Certificate No. MC 87852, issued April 24, 1953, to Gerald K. Potter, doing business as Brown's Transfer, Binghamton, N. Y., authorizing the transportation of *household goods* as defined by the Commission, over irregular routes, between points in Broome County, N. Y., on the one hand, and, on the other, points in Pennsylvania and New Jersey. Carl R. Gitlitz, 38 Hawley Street, Binghamton, N. Y., for applicants.

[SEAL] HAROLD D. McCOY,
Secretary.

[F. R. Doc. 58-6366; Filed, Aug. 8, 1958; 8:46 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

[Vesting Order SA-261]

NATIONAL OF BULGARIA

In re property owned indirectly by a national of Bulgaria; F–11–234, F–27–6440.

Under the authority of Title II of the International Claims Settlement Act of 1949, as amended (69 Stat. 562), Executive Order 10644, November 7, 1955 (20 F. R. 8363), Department of Justice Order No. 106–55, November 23, 1955 (20 F. R. 8993), and pursuant to law, after investigation, it is hereby found and determined:

1. That the property described as follows: That certain debt or other obligation of The Hanover Bank, New York 15, New York, arising out of an account entitled, "Banque de Paris et des Pays-Bas, Amsterdam, Holland, Blocked Account," maintained at the aforesaid bank, more fully identified in a letter from The Hanover Bank to the Office of Alien Property dated June 24, 1958, with enclosure, together with any and all rights to demand, enforce and collect the same,

is property within the United States which was blocked in accordance with Executive Order 8389, as amended, and remained blocked on August 9, 1955, and which is, and as of September 15, 1947, was, owned indirectly by a national of Bulgaria as defined in Executive Order 8389, as amended.

2. That the property described herein is not owned directly by a natural person.

There is hereby vested in the Attorney General of the United States the property described above, to be administered, sold, or otherwise liquidated, in accordance with the provisions of Title II of the International Claims Settlement Act of 1949, as amended.

It is hereby required that the property described above be paid, conveyed, transferred, assigned and delivered to or for the account of the Attorney General of the United States in accordance with directions and instructions issued by or for the Assistant Attorney General, Director, Office of Alien Property, Department of Justice.

The foregoing requirement and any supplement thereto shall be deemed instructions or directions issued under Title II of the International Claims Settlement Act of 1949, as amended. Attention is directed to section 205 of said Title II (69 Stat. 562) which provides that:

> Any payment, conveyance, transfer, assignment, or delivery of property made to the President or his designee pursuant to this title, or any rule, regulation, instruction, or direction issued under this title, shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect of any such payment, conveyance, transfer, assignment, or delivery made in good faith in pursuance of and in reliance on the provisions of this title, or of any rule, regulation, instruction, or direction issued thereunder.

Executed at Washington, D. C., on July 30, 1958.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 58-6369; Filed, Aug. 8, 1958; 8:46 a. m.]