Pages 2705–2738

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Contents

(*Continued on next page*)

Codification Guide

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

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Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of Defense

Effective upon publication in the FEDERAL REGISTER, subparagraph (34) is added to § 6.304(a) as set out below.

§ 6.304 Department of Defense.

(a) *Office of the Secretary.* * * *

(34) One Deputy Assistant Secretary of Education and Manpower Resources, Office of the Assistant Secretary of Defense (Manpower).

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 61-2849; Filed, Mar. 30, 1961; 8:50 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Peace Corps

Effective upon publication in the FEDERAL REGISTER, a new § 6.368, paragraph (a), is added to Part 6 as set out below.

§ 6.368 Peace Corps.

(a) One Assistant to the Director.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 61-2850; Filed, Mar. 30, 1961; 8:50 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

National Capital Transportation Agency

In Federal Register Document No. 61-2637 (26 F.R. 2548), § 6.366, which was added to Part 6, should have been designated as § 6.367.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 61-2851; Filed, Mar. 30, 1961; 8:50 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Veterans Administration

Effective upon publication in the FEDERAL REGISTER, paragraph (a)(9) of § 6.322 is amended as set out below.

§ 6.322 Veterans Administration.

(a) *Office of the Administrator.* * * *

(9) Chairman, Administrator's Advisory Council.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 61-2852; Filed, Mar. 30, 1961; 8:50 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

SUBCHAPTER A—GENERAL REGULATIONS

[FHA Instructions 430.1, 433.1]

PART 302—SUPERVISION AND YEAR-END ANALYSIS

PART 337—FARM AND HOME MANAGEMENT; YEAR-END SERVICING

Part 302 is added to Chapter III, Title 6, Code of Federal Regulations, which in part supersedes Part 337 of this chapter, and reads as follows:

Sec.
302.1 Supervision.
302.2 Determining needs for supervisory assistance.
302.3 Year-end analysis.

AUTHORITY: §§ 302.1 to 302.3 issued under R.S. 161, secs. 41, 6, 50 Stat. 528, as amended, 870, sec. 510, 63 Stat. 437, sec. 4, 64 Stat. 100, sec. 10, 68 Stat. 735; 5 U.S.C. 22, 7 U.S.C. 1015, 16 U.S.C. 590w, 42 U.S.C. 1480, 40 U.S.C. 442, 16 U.S.C. 590x-3; Order of Acting Sec. Agr., 19 F.R. 74, 22 F.R. 8188.

§ 302.1 Supervision.

(a) The Farmers Home Administration will provide supervision to each borrower to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government.

(b) The terms "supervision" and "supervisory assistance" as used by the Farmers Home Administration include the broad scope of management services available through the agency to families utilizing Farmers Home Administration credit. The primary objectives of supervision are to assist farm families in making profitable adjustments and improvements that are necessary to place their farming operations on a sound basis, to assist them in the wise use of adequate credit, to assist them to graduate to other sources of credit within a reasonable period of time, and to help protect the interests of the Government.

(c) In order for supervisory assistance to be effective, a thorough understanding must be reached with each applicant at the outset concerning the credit and supervisory assistance which is provided through the Farmers Home Administration, his responsibilities in properly carrying out the proposed farm and home operations, and his responsibilities in caring for and accounting for security property.

(d) The supervisory methods used by the Farmers Home Administration will include long-time farm and home planning, annual farm and home planning, farm family records, year-end analysis and subsequent farm and home planning, farm and home visits, and credit counseling.

§ 302.2 Determining needs for supervisory assistance.

The Farmers Home Administration County Supervisor will carefully analyze the need for supervision with each family and determine the extent of supervision that will be required to achieve the objectives of the loan and protect the Government's interest.

(a) *Intensive supervision.* Intensive supervision consists of long-time and annual farm and home planning, farm family records, an average of three to five effective farm and home visits per year with one visit perferably within 30 days after the loan is closed, and year-end analysis and subsequent farm and home planning each year. Families who will depend primarily upon farming for their livelihood and who will be making major adjustments and improvements in their farm and home operations ordinarily will receive intensive supervision at least during the first years of their loans. Intensive supervision may be discontinued and only limited supervision given a family which has completed the major adjustments and improvements needed, has adopted the necessary farm and home and money management practices, is meeting its debt payments and other financial obligations satisfactorily, and is otherwise making satisfactory progress. In addition, intensive supervision may be discontinued when a decision has been made to take liquidation action or it is clearly evident that the further extension of such supervision will not benefit the family.

(b) *Limited supervision.* Limited supervision consists of annual farm and home planning in connection with the making of the loan and for subsequent years, if needed; farm family records; at least one supervisory or inspection visit per year, depending upon the family's needs; and, when the loan is delinquent, making personal contacts for the purpose of collection and developing

specific written agreements for removing the delinquency. Families which will not be depending primarily on farming for their livelihoods, or will not be making major adjustments and improvements in their farm and home operations, ordinarily will receive only limited supervision. However, intensive supervision should be given such families when it is necessary to achieve the objectives of the loan and protect the Government's interest.

§ 302.3 Year-end analysis.

Borrowers from the Farmers Home Administration who are receiving intensive supervision as prescribed by § 302.2 of this part will, with the assistance of the County Supervisor, analyze their farm and home operations at the close of each year as a basis for improving those operations for the following year. This analysis will be made in the County Office or some other convenient meeting place selected by the County Supervisor in connection with the completion of the farm and home plan for the succeeding year. Such analysis is in fact an integral part of subsequent planning. The record book and inventory, Forms FHA–195 or FHA 432–1 and FHA–195A or FHA 432–2; the past year's Farm and Home Plan, Form FHA–14 or FHA 431–2; Form FHA 431–1, "Long-Time Farm and Home Plan"; and when available, Forms FHA 432–3 to 432–8, "Enterprise Analysis Sheets," will provide the basic sources of information for the analysis.

(a) *Purposes of year-end analysis.* The year-end analysis is a process by which the family, with the assistance of the County Supervisor, reviews and evaluates the past year's farm and home operations to determine those phases of their operations which were carried out successfully, as well as those which need further improvement. This involves an analysis of such factors as financial progress, production efficiency and effectiveness in carrying out improved management practices.

(b) *When to make the analysis.* Analysis of the past year's operations in conjunction with the completion of the farm and home plan for the next year will take place after the crop year is completed and will cover the full crop year, except when there are borrowers whose business for the year is sufficiently complete to permit an estimate of the year's income and expenses prior to the end of the year with sufficient accuracy to permit a meaningful analysis.

(c) *Preparation for the analysis.* Before the end of the crop year, the County Supervisor will send each family a notice of the date, time and place for meeting to make the year-end analysis and will furnish them with a new record book and, if required, a new five-year inventory. The County Supervisor also will instruct the family to prepare for the analysis by:

(1) Completing all business transactions and settling all accounts, so far as practicable, before closing the year's records.

(2) Completing all records and summaries in their past year's record book.

(3) Entering the inventory for the next year on Form FHA–195A or FHA 432–2 as of the end of the crop year.

(4) Entering the financial statement, Table A, of their next year's farm and home plan in the new record book.

(5) Completing the "Actual" columns of the past year's farm and home plan, Tables B to K, and lines 4 to 7 on page 1.

(6) Thinking through their farm and home operations and reaching tentative decisions concerning their plan for the next year. All families should be encouraged to make tentative entries in Tables B, C, and E of the farm and home plan for the next year and some families may also be asked to make entries in the budget tables F through K of the farm and home plan. Such entries should be made in pencil for possible revision during the analysis.

(d) *Making the analysis.* The analysis will consist of a review and evaluation by the family and County Supervisor of the strong and weak points in the farm and home operations. It is the responsibility of the County Supervisor to see that the family understands that the aim of the year-end analysis is to provide a basis for making further improvements in the organization of the farm and home business, increasing production efficiency, and improving money management. As decisions are reached during the analysis discussion, they will be recorded in the farm and home plan for the next crop year.

(e) *Completing next year's farm and home plan.* Since the chief purpose of the analysis is to improve the family's farm and home operations for the next year through better planning, completion of the next year's farm and home plan will be an integral part of the analysis. The year-end analysis provides the occasion for completing the continuous planning that has been carried on throughout the year by the family and supervisor. The long-time farm and home plan and the tentative entries made by the family on the next year's farm and home plan should be examined in the light of conclusions and decisions agreed upon during the analysis. The subsequent farm and home plan also will be completed.

Dated: March 24, 1961.

FLOYD F. HIGBEE,
Acting Administrator,
Farmers Home Administration.

[F.R. Doc. 61–2827; Filed, Mar. 30, 1961; 8:46 a.m.]

SUBCHAPTER D—SOIL AND WATER CONSERVATION LOANS

[FHA Instruction 442.1]

PART 351—POLICIES AND AUTHORITIES

Loan Approval Authority

Paragraph (g) in § 351.2, Title 6, Code of Federal Regulations (22 F.R. 4903), is revised to restrict the loan approval authority of State Office officials and to read as follows:

§ 351.2 Loans to individuals.

* * * * *

(g) *Loan approval authority.* The State Director is authorized to approve or disapprove Soil and Water Conservation loans in accordance with administrative requirements. However, no initial or subsequent Soil and Water Conservation loan may be approved by the State Director without prior concurrence of the National Office if the amount of the Soil and Water Conservation loan (including prior Water Facilities loans) plus the principal amount of any real estate liens of the applicant will exceed $50,000; or the proposed Soil and Water Conservation loan, together with the principal balance owed on other Farmers Home Administration loans, would cause the total indebtedness to Farmers Home Administration to exceed $50,000. The State Director may redelegate loan approval authority and restrict or revoke such delegated authority to:

(1) Qualified State Office employees other than Area Supervisors.

(2) Qualified County Supervisors or GS–7 Assistant County Supervisors, provided the borrower's principal indebtedness for Soil and Water Conservation loans (including prior Water Facilities loans) will not exceed $10,000.

(Sec. 6, 50 Stat. 870, sec. 10, 68 Stat. 735; 16 U.S.C. 590w, 590x–3; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188)

Dated: March 24, 1961.

FLOYD F. HIGBEE,
Acting Administrator,
Farmers Home Administration.

[F.R. Doc. 61–2828; Filed, Mar. 30, 1961; 8:47 a.m.]

[FHA Instruction 442.3]

PART 353—PROCESSING LOANS TO PARTICIPATE IN GROUP SERVICES

Part 353, Title 6, Code of Federal Regulations (20 F.R. 1971, 21 F.R. 3715) is revised to read as follows:

Sec.
353.1 General.
353.2 Operating agreement.
353.3 Ownership and other rights.
353.4 Approval or disapproval of loan dockets.
353.5 Loan closing.

AUTHORITY: §§ 353.1 to 353.5 issued under secs. 2, 5, 6, 50 Stat. 869, as amended, 870, secs. 9, 10, 68 Stat. 735, sec. 11, 72 Stat. 841; 16 U.S.C. 590s, 590v, 590w, 590x–2, 590x–3, 590x–4; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188.

§ 353.1 General.

Loans to individuals to participate in a group service will be processed in accordance with authorities applicable to Soil and Water Conservation loans to individuals except that plans and cost estimates will be based on the entire group service and loans to individuals to participate in the unincorporated group service will not be approved until the State Director has reviewed the preliminary plans and has concurred in the proposal to make Soil and Water Conservation loans to participate in the group service.

§ 353.2 Operating agreement.

An operating agreement will be prepared which will outline the decisions of the group regarding the conditions of ownership and use of the facility, the rights and responsibilities of the users, and any other details needed to guide the management and operation of the group service. A simple written agreement usually will be sufficient; however, if the group service involves a complex operation, an agreement approved by the Farmers Home Administration may be used.

§ 353.3 Ownership and other rights.

All property to be acquired by the group should be owned jointly by all members. Title will be obtained to sites for such structures as buildings, pumps, wells, and storage reservoirs or tanks owned, or to be owned, by the group whenever possible. When title to the sites for such structures cannot be obtained, an easement, permit, lease, franchise, or other appropriate tenure agreement which will permit continued use of the site for the period of the loan may be substituted for title. Easements conveying rights-of-way upon which other structures and pipelines or ditches will be located, will be obtained from the owners of land traversed by the facility. Partial releases or consent to easements, leases, permits, licenses, or other agreements will be obtained from the holders of outstanding liens on lands on which such rights will be acquired.

§ 353.4 Approval or disapproval of loan dockets.

(a) The group service docket, consisting of plans, cost estimates, a conformed copy of the operating agreement, an estimate of the individual Soil and Water Conservation loan funds that will be needed by the members of the group, and a statement regarding the property or rights owned or to be owned by the group, will be forwarded, with the County Supervisor's recommendations, to the State Director. The State Director will review the docket and:

(1) Refer any legal questions to the Office of the General Counsel.

(2) If the aggregate amount of all Soil and Water Conservation loans to participate in the group service, including the unpaid principal balance of any prior Water Facilities loans for that purpose, exceeds $50,000, the group service docket, together with the recommendations of the County Supervisor and the State Director, will be forwarded to the National Office for review.

(3) If the State Director approves the group service, he will prepare an approval memorandum, including his recommendations and approval conditions, and send it with the group service docket to the County Supervisor.

(b) Upon receipt of the group service approval memorandum, the County Supervisor will assemble the individual Soil and Water Conservation loan dockets for participating members who apply for Soil and Water Conservation loans. It will not be necessary to include in the loan dockets of individuals information on the group service that is included in the group service docket.

(c) The Soil and Water Conservation loans to participators in the group service will be approved or disapproved in accordance with authorities applicable to Soil and Water Conservation loans to individuals.

§ 353.5 Loan closing.

(a) The County Supervisor and the group service will follow the State Director's memorandum of approval and the instructions issued by the Office of the General Counsel for completing actions to be taken by the group service as a condition to the use of loan funds.

(b) Individual loans will be closed in accordance with the regulations applicable to Soil and Water Conservation loans to individuals including an opinion of title by the designated attorney if required by the Office of the General Counsel.

(c) The loan checks may be endorsed to one member of the group and deposited in a single supervised bank account subject to withdrawal on the signatures of the County Supervisor and a person designated by the group to sign checks.

Dated: March 24, 1961.

FLOYD F. HIGBEE,
Acting Administrator,
Farmers Home Administration.

[F.R. Doc. 61-2829; Filed, Mar. 30, 1961; 8:47 a.m.]

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATIONS

[FHA Instruction 465.1]

PART 372—REAL ESTATE SECURITY

Scheduled Payments and Payment of Delinquent Amounts

Subdivisions (iii) and (iv) of § 372.13 (c)(3), Title 6, Code of Federal Regulations (24 F.R. 2109), are revised to permit changes in repayment schedules and modification of requirement to pay delinquent amounts upon prior approval or authorization by the National Office and to read as follows:

§ 372.13 Transfer of loan accounts.

* * * * *

(c) *Transfer of loan accounts by Form FHA-97, "Assumption Agreement."* * * *

(3) *Transfer of insured loans to eligible applicants.* * * *

(iii) All obligations of the note (except any down payments made by the transferee) and the related mortage (including charges connected with the insurance of the loan) are assumed without change in the payment schedule of the note, except that the repayment schedule may be changed upon justification and prior approval of the National Office.

(iv) Unless otherwise authorized by the National Office, any delinquent amounts due the loan insurance account are paid at or prior to the transfer.

(Secs. 41, 6, 50 Stat. 528, as amended, 870, sec. 4, 64 Stat. 100, sec. 10, 68 Stat. 735; 7 U.S.C. 1015, 16 U.S.C. 590w, 40 U.S.C. 442, 16 U.S.C. 590x-3; Order of Acting Sec. of Agr. 19 F.R. 74, 22 F.R. 8188)

Dated: March 24, 1961.

FLOYD F. HIGBEE,
Acting Administrator,
Farmers Home Administration.

[F.R. Doc. 61-2830; Filed, Mar. 30, 1961; 8:47 a.m.]

Title 7—AGRICULTURE

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

[Milk Order Nos. 6 and 86]

PART 906—MILK IN OKLAHOMA METROPOLITAN MARKETING AREA

PART 986—MILK IN RED RIVER VALLEY MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the orders regulating the handling of milk in the Oklahoma Metropolitan and the Red River Valley marketing areas (7 CFR Parts 906 and 986), it is hereby found and determined that:

(a) The provision "Gilt Edge Dairy, Norman, Oklahoma" which appears in § 906.51(b) of the Oklahoma Metropolitan order and in § 986.51(b) of the Red River Valley order no longer tends to effectuate the declared policy of the Act.

(b) A notice of proposed suspension of the cited provision was issued by the Deputy Administrator on March 9, 1961 and duly published in the FEDERAL REGISTER on March 14, 1961. Three days from the date such notice was published in the FEDERAL REGISTER were allowed for the submission of written data, views and arguments with respect to the proposed suspension. No opposition to the proposed suspension was expressed.

(c) 30 days notice of effective date hereof is impractical unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension order was requested by the Central Oklahoma Milk Producers Association which represents a majority of all producers supplying handlers in both the Red River Valley marketing area and the Oklahoma Metropolitan marketing area.

(4) This suspension will delete Gilt Edge Dairy, Norman, Oklahoma from the list of plants whose prices paid to farmers for manufacturing milk are used in determining the Class II prices under these orders. This plant is now receiving only a small quantity of manufacturing grade milk from one farmer. Therefore, the plant can no longer be regarded as a receiver of manufacturing

grade milk and the price paid to its one dairy farmer for manufacturing grade milk is not appropriate for use in the pricing formulas used in the Oklahoma Metropolitan and Red River Valley milk marketing orders.

Therefore, good cause exists for making this order effective March 1, 1961.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended effective March 1, 1961.

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

Issued at Washington, D.C., March 27, 1961.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 61–2823; Filed, Mar. 30, 1961; 8:46 a.m.]

[Milk Order No. 32]

PART 932—MILK IN FORT WAYNE, IND., MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Fort Wayne, Indiana, marketing area (7 CFR Part 932), it is hereby found and determined that:

(a) The following provision of the order no longer tends to effectuate the declared policy of the Act:

(1) Section 932.51(a)(1).

(b) Notice of proposed rule making, public procedure thereon, and 30 days notice of effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) The question of the level of Class I pricing was considered at a public hearing held in Fort Wayne, Indiana, August 2–4, 1960. The recommended decision on this matter which was issued March 17, 1961, would eliminate seasonal pricing and provide a constant differential of $1.20 per hundredweight above the basic formula price. This suspension will provide a differential of $1.15 for the months of April and May instead of the 75 cents which would otherwise prevail.

(4) This suspension action was requested by representatives of more than 95 percent of the producers supplying the market and by handlers of a volume in excess of 90 percent of the milk handled under the order.

Therefore, good cause exists for making this order effective April 1, 1961.

It is therefore ordered, That the aforesaid provisions of the order is hereby suspended for the period of April 1, 1961, through May 31, 1961.

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

Issued at Washington, D.C., March 27, 1961.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 61–2824; Filed, Mar. 30, 1961; 8:46 a.m.]

PART 1022—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Expenses and Fixing of Rate of Assessment for 1960–61 Fiscal Period

Pursuant to the marketing agreement and Order No. 122 (7 CFR Part 1022), regulating the handling of sweet cherries grown in designated counties in Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the proposals submitted by the Washington Cherry Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that the expenses of said committee will amount to $9,596.

It is, therefore, ordered, That paragraph (a) of § 1022.205 *Expenses and rate of assessment for the 1960–61 fiscal period* (25 F.R. 7309) is hereby amended by deleting therefrom the amount $8,996 and substituting in lieu thereof the amount $9,596. As amended paragraph (a) of § 1022.205 reads as follows:

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Washington Cherry Marketing Committee, established pursuant to the provisions of the aforesaid marketing agreement and order, to enable such committee to perform its functions, in accordance with the provisions thereof, during the fiscal period beginning April 1, 1960, and ending March 31, 1961, will amount to $9,596.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in rule making procedure, and postpone the effective date of this amendatory order until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that: (1) The increase in the budget set forth above does not involve an increase in the rate of assessment heretofore established by the Secretary (25 F.R. 7309); (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable cherries from the beginning of such period and such rate of assessment shall be sufficient to provide funds for the payment of committee expenses; and (3) the said committee in the performance of its duties and functions has incurred expenses in excess of those previously thought likely to be incurred. Therefore, it is essential that this amendatory action be issued immediately so that said committee can meet its obligations.

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

Dated: March 28, 1961.

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

[F.R. Doc. 61–2825; Filed, Mar. 30, 1961; 8:46 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 74—SCABIES IN SHEEP

Interstate Movement

Pursuant to the provisions of sections 1 and 3 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, and sections 4 and 5 of the Act of May 29, 1884, as amended (21 U.S.C. 111–113, 120, 121, 123, 125), §§ 74.2 and 74.3 of Part 74, Subchapter C, Chapter I, Title 9, Code of Federal Regulations, as amended, are hereby amended in the following respects:

1. Subparagraph (2) of paragraph (a) of § 74.2 is amended to read:

(2) That portion of South Dakota west of the Missouri River except Fall River County.

2. Subparagraph (1) of paragraph (a) of § 74.3 is amended to read:

(1) That portion of South Dakota east of the Missouri River; and Fall River County in that portion of South Dakota west of the Missouri River.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1, 3, 33 Stat. 1264, as amended, 1265, as amended; 21 U.S.C. 111–113, 117, 120, 121, 123, 125. Interpret or apply secs. 6, 7, 23 Stat. 32, as amended, secs. 2, 4, 33 Stat. 1264, as amended, 1265, as amended; 21 U.S.C. 115, 117, 124, 126. 19 F.R. 74, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment deletes the County of Fall River in South Dakota from the free areas and adds such County to the infected areas and to the eradication areas, as sheep scabies is known to exist in such County. Hereafter, the restrictions pertaining to the interstate movement of sheep from, into, and through infected and eradication areas as contained in 9 CFR Part 74, as amended, will apply to this County.

The amendment imposes certain restrictions necessary to prevent the spread of scabies, a communicable disease of sheep, and must be made effective immediately in order to accomplish

its purpose in the public interest. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of March 1961.

M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 61-2826; Filed, Mar. 30, 1961; 8:46 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.464]

PART 21—FEES FOR SERVICES IN THE UNITED STATES

Schedule of Fees (Passport Office)

Pursuant to the authority vested in me by sec. 4, 63 Stat. 111 as amended; 5 U.S.C. 151c and sec. 501, 65 Stat. 290; 5 U.S.C. 140, I hereby amend Part 21 of Title 22, Code of Federal Regulations, Fees for Services in the United States as follows:

§ 21.4 **Schedule of fees (Passport Office).**

Item No.	Description of service	Fee
1	Granting of Exception under 22 CFR 53.3(h)	$25.00
2	Any passport service furnished upon request during non-regular duty hours. (This fee is in addition to any statutory fees or communication costs)	10.00

For the Secretary of State.

ROGER W. JONES,
Deputy Under Secretary for Administration.

MARCH 22, 1961.

[F.R. Doc. 61-2783; Filed, Mar. 30, 1961; 8:45 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter VII—Under Secretary of Commerce for Transportation, Department of Commerce

T-1—SHIPPING RESTRICTIONS; SUBGROUP A, HONG KONG, MACAO AND REPUBLIC OF THE CONGO

This order as amended is found necessary and appropriate to promote the national defense and is issued pursuant to the authority granted by section 101 of the Defense Production Act of 1950, as amended. Consultation with industry in advance of the issuance of this order has been rendered impracticable by the need for immediate issuance.

Transportation Order T-1 (15 F.R. 8777, Dec. 8, 1950) is hereby amended to read as follows:

Sec.
1. Prohibited transportation and discharge.
2. Applications for adjustment or exceptions.
3. Reports.
4. Records.
5. Defense against claims for damages.
6. Violations.

AUTHORITY: Secs. 1 to 6 issued under sec. 704, 64 Stat. 816, as amended; 50 U.S.C. App. 2154, as amended. Interpret or apply secs. 101, 705, 64 Stat. 799, as amended; 50 U.S.C. App. 2071; E.O. 10480, 18 F.R. 4939, 3 CFR, 1953 Supp.

SECTION 1. *Prohibited transportation and discharge.* (a) No person shall transport in any ship documented under the laws of the United States or in any aircraft registered under the laws of the United States any commodity at the time on the Positive List (as amended from time to time) of the Comprehensive Export Schedule of the Office of International Trade, Department of Commerce (15 CFR Parts 370–399), any article designated as arms, ammunition, and implements of war in the United States Munitions List (22 CFR Parts 121–128), or any commodity, including fissionable materials controlled for export under the Atomic Energy Act of 1946 (10 CFR Parts 40 and 50), to any destination at the time in Subgroup A of the Comprehensive Export Schedule (15 CFR 371.3(a)), to Hong Kong or to Macao, and no person shall discharge from any such ship or any such aircraft any such commodity or article at any such port or at any other port in transit to any such destination, unless a validated export license under the Export Control Act of 1949, as amended, or under section 414 of the Mutual Security Act of 1954, as amended, has been obtained for the shipment, or unless authorization for the shipment has been obtained from the Under Secretary for Transportation. This prohibition applies to the owner of the ship or aircraft, the master of the ship or aircraft, or any other officer, employee or agent of the owner of the ship or aircraft who participates in the transportation. The consular officers of the United States are furnished with current information as to commodities on the Positive List and will advise whether commodities are currently on that List.

(b) No person shall transport in any ship documented under the laws of the United States or in any aircraft registered under the laws of the United States any arms, ammunition or implements of war, aircraft, aircraft engines or parts, trucks, busses or jeeps of military design, or bayonets if he knows or has reason to believe that said commodity or article is destined directly or indirectly for the Republic of the Congo, and no person shall discharge from any such ship or any such aircraft any such commodity or article at any port or at any other port in transit to any such destination, or within the Republic of the Congo, unless a validated export license under the Export Control Act of 1949, as amended, or under section 414 of the Mutual Security Act of 1954, as amended, has been obtained for the shipment, or unless authorization for the shipment has been obtained from the Under Secretary for Transportation. This prohibition applies to the owner of the ship or aircraft, and any other officer, employee, or agent of the owner of the ship or aircraft who participates in the transportation.

SEC. 2. *Applications for adjustment or exceptions.* Any person affected by any provisions of this order may file an application for an adjustment or exception upon the ground that such provision works an exceptional hardship upon him, not suffered by others, or that its enforcement against him would not be in the interest of the national defense program. Such an application may be made by letter or telegram addressed to the Under Secretary for Transportation, Washington 25, D.C., reference T-1. If authorization is requested, any such application should specify in detail the material to be shipped, the name and address of the shipper and of the recipient of the shipment, the ports from which and to which the shipment is being made and the use to which the material shipped will be put. The application should also specify in detail the facts which support the applicant's claim for an exception.

SEC. 3. *Reports.* Persons subject to this order shall submit such reports to the Under Secretary for Transportation as he shall require, subject to the terms of the Federal Reports Act.

SEC. 4. *Records.* Each person participating in any transaction covered by this order shall retain in his possession, for at least two years, records of shipments in sufficient detail to permit an audit that determines for each transaction that the provisions of this order have been met. This does not specify any particular accounting method and does not require alteration of the system of records customarily maintained, provided such records supply an adequate basis for audit. Records may be retained in the form of microfilm or other photographic copies instead of the originals.

SEC. 5. *Defense against claims for damages.* No person shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from compliance with this order or any provision thereof, notwithstanding that this order or such provision shall thereafter be declared by judicial or other competent authority to be invalid.

SEC. 6. *Violations.* Any person who wilfully violates any provisions of this order or wilfully conceals a material fact or furnishes false information in the course of operation under this order is guilty of a crime and upon conviction may be punished by fine or imprisonment or both. In addition, administrative action may be taken against any such

person, denying him the privileges generally accorded under this order.

This order shall take effect on March 29, 1961.

EDWARD GUDEMAN,
Under Secretary of Commerce.

[F.R. Doc. 61-2927; Filed, Mar. 30, 1961; 12:13 p.m.]

Chapter XVIII—National Shipping Authority, Maritime Administration, Department of Commerce

[NSA Order No. 6 (INS-1, 7th Rev., Amdt. 3)]

INS-1—MARINE PROTECTION AND INDEMNITY INSURANCE INSTRUCTIONS UNDER GENERAL AGENCY AND BERTH AGENCY AGREEMENTS

Miscellaneous Amendments

Effective as of March 31, 1961, midnight, e.s.t., INS-1 is hereby amended as follows:

1. Amend section 1 *What this order does,* by changing the attachment date stated therein to read "March 31, 1961, midnight, e.s.t."

2. Amend section 2 *Insurer,* by changing the attachment and expiration dates stated therein to read "March 31, 1961, midnight, e.s.t.," and "March 31, 1962, midnight, e.s.t.," respectively.

3. Amend section 4 *Vessels insured and terms of insurance,* by changing the attachment date stated therein to read "March 31, 1961, midnight, e.s.t.," by changing the expiration date stated therein to read "March 31, 1962, midnight, e.s.t.," and by changing the annual rate stated therein to read "$5.45 per gross registered ton."

4. Amend paragraph (e) of section 5 *Assumption of risk by owner and attachment and cancellation dates of commercial insurance,* by changing the attachment date stated therein to read "March 31, 1961, midnight, e.s.t."

5. Amend paragraph (a) of section 7 *Insurance premiums* by changing the expiration date stated therein to read "March 31, 1962, midnight, e.s.t."

6. Amend paragraph (c) of section 9 *Settlement of claims,* by changing the attachment date stated therein to read "March 31, 1961, midnight, e.s.t."

7. Amend paragraph (b) of section 11 *Report of claims,* by changing the reporting date stated therein to read "December 31, 1961."

In accordance with the provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found to be impracticable and not in the public interest to delay the effective date thereof; therefore, the foregoing amendments shall be effective as aforesaid.

Approved: March 23, 1961.

WALTER C. FORD,
Deputy Maritime Administrator.

[F.R. Doc. 61-2853; Filed, Mar. 30, 1961; 8:50 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter 1—Federal Procurement Regulations

NONDISCRIMINATION IN EMPLOYMENT CONTRACT PROVISIONS

CROSS REFERENCE: In connection with inclusion of nondiscrimination in employment provisions in Government contracts (see Subparts 1-7.1, 1-16.1, and 1-16.4), attention is called to General Services Administration General Regulation No. 25, March 29, 1961 (F.R. Document 61-2898), appearing in the Notices section, *infra.*

Chapter 3—Department of Health, Education, and Welfare

PART 3-75—DELEGATIONS OF AUTHORITY

Miscellaneous Amendments

Part 3-75 of the Delegations of Authority for Public Contracts in the Department of Health, Education, and Welfare (24 F.R. 9427, 24 F.R. 10310, and 26 F.R. 1790) is hereby amended in the following respect:

§ 3-75.2 [Amendment]

1. In § 3-75.2 *Food and Drug Administration,* paragraph (b)(1)(i) is amended and (iii) is added and (c) is amended to read:

(i) Negotiate purchases or contracts under section 302(c) (6), (8), (9), (12), and (13) or to make advance payments under section 305.

* * * * *

(iii) Make the necessary determinations and decisions specified in section 302(c)(11) for contracts in excess of $25,000.

(c) Authority delegated in this section may be redelegated by the Commissioner and the Executive Officer in full or in part to officials of the Food and Drug Administration, except for negotiation under section 302(c)(11). However, such redelegation must be reported to the Office of Administration and shall not be effective until published in the FEDERAL REGISTER.

2. Section 3-75.7 *Social Security Administration,* is amended to read:

§ 3-75.7 Social Security Administration.

(a) Authority stated in § 3-75.1 (except as to section 302(c)(11)) is delegated to:

(1) Commissioner.
(2) Deputy Commissioner.
(3) Administrative Officer.
(4) Chief, Procurement and Property Section, Bureau of Old-Age and Survivors Insurance.
(5) Assistant Chief, Procurement and Property Section, BOASI.
(6) Chief, Purchasing Unit, BOASI.

(b) Authority stated in § 3-75.1 to negotiate contracts under Title III, section 302(c)(11), is delegated to:

(1) Commissioner.
(2) Deputy Commisioner.
(3) Administrative Officer.

(c) Authority delegated in this section is limited as follows:

(1) No authority is delegated to:

(i) Negotiate purchases or contracts under section 302(c) (6), (7), (8), (9), (12), (13), and (14) or to make advance payments under section 305.

(ii) Purchase or contract for administrative supplies, equipment, or services for headquarters offices which are obtained through the Procurement and Supply Management Branch, Division of General Services.

(iii) Make determinations and decisions specified in section 302(c)(11) for contracts in excess of $25,000.

(d) Authority delegated in this section may be redelegated by the Commissioner in full or in part to officials in the Social Security Administration, except for negotiation under section 302(c)(11). However, such redelegations must be reported to the Office of Administration and shall not be effective until published in the FEDERAL REGISTER.

Dated: March 23, 1961.

[SEAL] RUFUS E. MILES, Jr.,
Administrative Assistant Secretary.

[F.R. Doc. 61-2845; Filed, Mar. 30, 1961; 8:49 a.m.]

Title 44—PUBLIC PROPERTY AND WORKS

Chapter I—General Services Administration

NONDISCRIMINATION IN EMPLOYMENT CONTRACT PROVISIONS

CROSS REFERENCE: In connection with inclusion of nondiscrimination in employment provisions in Government contracts (see Parts 55, 60, 99, 101, and 102), attention is called to General Services Administration General Regulation No. 25, March 29, 1961 (F.R. Document 61-2898), appearing in the Notices section, *supra.*

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 13608; FCC 61-391]

PART 3—RADIO BROADCAST SERVICES

Table of Assignments for Certain Television Broadcast Stations in California

The Commission has before it for consideration the following matters:

(a) The proposal set out in the notice of proposed rule making, released June 27, 1960, in this proceeding (FCC 60-731) looking toward deintermixing television assignments at Bakersfield, California, to all UHF channels by deleting VHF Channel 10, utilized by Station KERO-TV, and assigning two additional UHF chan-

nels to supplement present UHF assignments—Channels 17, 29 and 39—at Bakersfield. UHF Channels 23 and 50 or 51 or Channels 45 and 51 were suggested. Except for Channel 45, the assignment of any of these UHF channels to Bakersfield requires the substitution of another UHF channel for Channel 37 (unused) at Delano, California.[1]

(b) Alternative proposals which were set out also in the above-mentioned notice for the disposition of Channel 10 if deleted from Bakersfield: (1) reserve for future decision where Channel 10 should be reassigned; (2) reserve Channel 10 at Bakersfield for noncommercial educational use; or (3) reassign Channel 10, alternatively, to Santa Barbara, Santa Maria, Lompoc-Santa Maria (on a hyphenated basis), or San Luis Obispo, California.

(c) The alternative proposals set out in the further notice of proposed rule making, released July 13, 1960, in this Docket (FCC 60–815) for the assignment of Channel 12,[2] alternatively, to Santa Barbara, Santa Maria, Lompoc-Santa Maria, or San Luis Obispo also.

(d) The timely comments, reply comments and alternative proposals submitted by interested parties in response to the above-cited notices, together with all comments filed in the Fresno proceeding (Docket No. 11759) in response to our March 24, 1960, notice of proposed rule making therein (FCC 60–279) on the alternative proposals for assignment of Channel 12 to one of the same cities mentioned in subparagraph (c) above.

(e) We also have before us additional comments tendered by Marietta Broadcasting, Inc., on October 17, 1960, together with a request for their acceptance and consideration even though filed subsequent to the expiration date for filing reply comments (September 21, 1960), and also an untimely "Supplement to Reply Comments" filed on October 20, 1960, by Arenze Broadcasters, licensee of standard broadcast station KCOY, Santa Maria. Kern County Broadcasting Co., Bakersfield (KLYD–TV), filed an opposition to the Marietta request, as did Key Television, Inc., Santa Barbara (KEYT), to the Arenze supplementary reply comments. These untimely comments call attention to happenings occurring after the expiration date for filing comments, which are germane to the proposals before us and upon which comments have been received. We believe they should be considered since they raise no new issues upon which there has not been an opportunity for parties to comment.

(f) Marietta has also filed in this proceeding and in Docket No. 13609 under date of December 29, 1960, a request that we defer consideration of the proposals herein for deintermixture of Bakersfield and the reallocation of Channel 10 at Bakersfield until after UHF Station KBAK–TV at Bakersfield commences operation at its new site adjacent to Marietta's VHF station (KERO–TV) on Breckenridge Mountain and it has had an opportunity to make comparative studies of VHF and UHF service from this mountain top under actual conditions. Arenze Broadcasters, licensee of standard broadcast station KCOY at Santa Maria, filed comments directed to this request on January 10, 1961. Oppositions thereto were filed on January 16, 1961, by Kern County Broadcasting Company and on January 18, 1961 by Bakersfield Broadcasting Company, the respective licensees of UHF stations KLYD–TV and KBAK–TV at Bakersfield. A reply to the opposition was filed by Marietta on January 27, 1961.[3] Marietta's request is denied for the reasons given in paragraphs 40 and 41 hereof.

BAKERSFIELD

2. Over the past four years we have given continuous study to the television situation in the San Joaquin Valley, and in its principal and largest population centers—Fresno and Bakersfield—particularly to the end of determining what, if any, changes should be made in television allocations to provide a more realistic opportunity for the public to have as many effective television outlets and services as possible. In the rule making proceeding begun in 1956 and concluded last July in Docket No. 11759, we gave intensive consideration to the alternative courses of action which might be desirable and possible to attain this objective. Available alternatives included the status quo of intermixed VHF and UHF assignments at Fresno and Bakersfield with UHF assignments in all the smaller cities in the Valley; deintermixing of Fresno or Bakersfield or both to all-UHF assignments by deleting the single VHF channel assigned to each city; or adding available VHF assignments to convert either or both cities to all-VHF service essentially.

3. Proposals and extensive comments favoring all three alternative courses of action for television allocation at both Fresno and Bakersfield were before us in Docket No. 11759. We ultimately decided in that proceeding that deintermixture to all-UHF assignments at Fresno offered the best opportunity for improving and expanding television service in the Fresno market and the San Joaquin Valley. We therefore decided to delete VHF Channel 12 from Fresno, upon which Triangle Publications, Inc. (Radio and Television Division), operates Station KFRE–TV. Such action was taken with the licensee's consent on July 7, 1960.[4] UHF Channel 30 was assigned in place of Channel 12 for Station KFRE–TV to use, with provision made for it to continue operation on Channel 12 until April 15, 1961. Since the basic reasons why we decided that all-UHF allocations for Fresno were in the public interest were similarly applicable to Bakersfield also, we instituted this proceeding to consider the desirability of making Bakersfield all-UHF.

4. The comments indicate that all the licensees of stations now operating in the San Joaquin Valley, except Marietta Broadcasting, favor UHF deintermixture for Bakersfield.[5] Further support for UHF-deintermixture of Bakersfield comes from parties who are interested in the assignment of Channels 10 and 12 in the Santa Barbara, Santa Maria, Lompoc or San Luis Obispo areas.[6] Other parties who advocate the reservation of Channel 10 at Bakersfield for noncommercial educational use and the similar assignment of Channel 12 at Fresno or Visalia for educational use directly or indirectly support the deletion of Channel 10 from commercial use at Bakersfield.[7] The American Broadcasting Company also urges that Bakersfield be deintermixed to all-UHF commercial assignments.

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[1] With the institution of this proceeding, the Commission also issued simultaneously and separately in Docket No. 13609 to Marietta Broadcasting, Inc., the licensee of Station KERO–TV on Channel 10 at Bakersfield, an order to show cause (FCC 60–732) why, in the event the Commission decides to place all commercial television stations at Bakersfield on UHF channels, its license for Station KERO–TV should not be modified to specify operation on either Channel 23 or 45 instead of Channel 10. In its response thereto, filed September 6, 1960, Marietta advises that it opposes the all–UHF deintermixture proposal for Bakersfield; that it does not consent to the proposed modification of its license for Station KERO–TV; and that it requests an evidentiary hearing in accordance with sections 303(f) and 316 of the Communications Act of 1934, as amended, if the Commission determines that such modification should issue.

[2] Channel 12 was deleted from Fresno, California, on July 7, 1960, effective August 12, 1960, in Docket 11759, and is available for reassignment.

[3] These pleadings were untimely filed and contain no matter which convinces us that they should nevertheless be accepted. Under section 1.13 of the Rules pleadings directed to Marietta's request were due 10 days after it was filed, and Marietta's reply to the oppositions 5 days after such oppositions were filed. Since the last day of this period fell on a Sunday, oppositions were due on Monday, January 9, 1961 under section 1.18(b). Marietta's reply to the oppositions filed was due no later than January 23, 1961. Section 1.18(d), which provides three additional days for responding to a pleading when service is required and made by mail, does not apply since Marietta's service by mail on December 29, 1960, of its request upon parties in this rule making proceeding was a matter of courtesy and not required by the rules. Even if section 1.18(d) were applicable, service is complete upon mailing (section 1.56(b)), and the 13 days for responding runs from the date of mailing and not the date when the pleading is received as Kern assumes.

[4] See Report and Order adopted July 7 and released July 8, 1960, in Docket No. 11759 (FCC 60–814). Also see Report and Order and Further Notice of Proposed Rule Making adopted March 24 and released March 25, 1960, in the same docket (FCC 60–279).

[5] Bakersfield Broadcasting Company (KBAK–TV, Ch. 29, Bakersfield); Kern County Broadcasting Company (KLYD–TV, Ch. 17, Bakersfield); Triangle Publications, Inc. (Radio and Television Div.) (Station KFRE–TV, Ch. 30, Fresno, Operation on Ch. 12 also authorized to April 15, 1961); O'Neil Broadcasting Company, Inc. (KJEO, Ch. 47, Fresno); McClatchy Newspapers, Inc. (KMJ–TV, Ch. 24, Fresno).

[6] Arenze Broadcasters (standard broadcast Station KCOY, Santa Maria); Channel City Television and Broadcasting Corp., Santa Barbara; Santa Barbara Television Association; Thomas B. Friedman, consulting radio engineer, Lompoc-Santa Maria; Sherrill C. Corwin, Lompoc-Santa Maria.

[7] The San Joaquin Valley Community Television Association, Inc., the Joint Council

5. Marietta Broadcasting, Inc., which would be required to operate Station KERO–TV at Bakersfield on a UHF channel instead of VHF Channel 10 under our UHF-deintermixture proposal, opposes the proposal. It takes the position that deintermixture of Bakersfield to all-UHF assignments is neither necessary nor desirable; that VHF-deintermixture through the assignment of Channels 8 and 12 to Bakersfield is preferable; but that there is no need for either UHF or VHF deintermixture of television assignments at Bakersfield. KFSD–TV, Inc. (KFSD–TV, Ch. 10, San Diego) directs its comments primarily in opposition to the proposals for the assignment of either or both Channels 10 or 12 to Santa Barbara or to locations north thereof but holds generally the same views as Marietta on the course of action which should be followed with respect to television assignments at Bakersfield. Key Television, Inc. (KEYT, Ch. 3, Santa Barbara) takes no position on the UHF-deintermixture proposal for Bakersfield but, if adopted, opposes the reassignment of Channels 10 or 12 to the Santa Barbara, Santa Maria, Lompoc and San Luis Obispo areas and favors their reservation for educational use at Bakersfield and at Fresno or Visalia. Alternatively, it favors the retention of Channel 10 at Bakersfield and the assignment of Channels 8 and 12 to Bakersfield. A number of individuals and organizations in California communities and areas now relying upon Station KERO–TV for service also have written to register opposition to the deletion of Channel 10 from Bakersfield.

6. Aided by the comments filed in this proceeding, we have reached a determination that it is manifestly desirable and necessary in the public interest that all television assignments at Bakersfield be in the UHF band. Since this requires changing the VHF Channel 10 facility at Bakersfield to a UHF operation, and the licensee, Marietta Broadcasting, Inc., has indicated in its comments herein and in response to the Order to Show Cause which it filed in Docket No. 13609 that it will not acquiesce to shifting from VHF to UHF operation on the basis of the decision we reach in this rule making proceeding, the adjudicatory proceeding which Marietta requests in Docket No. 13609 will be held to determine whether the outstanding license of Marietta for Station KERO–TV should be changed from VHF to UHF operation pursuant to the judgments reached herein.

7. The potential for the growth and development of multiple effective local outlets and services in the San Joaquin Valley would be much greater if all television assignments at Bakersfield were in the UHF band. With Bakersfield and Fresno, the two largest expanding population centers of the Valley located about 105 miles from each other, and with their trading and market areas extending into the Valley between them, where also are located a number of smaller cities where the chances for the establishment of local television outlets are promising it is inevitable, under the favorable terrain and propagation conditions in the Valley, that there is and will be an overlapping of services and a sharing of a common audience by all stations operating at Fresno and Bakersfield or in cities between them. It has been demonstrated that the relatively flat Valley floor presents unusually favorable conditions for propagation of television signals. Marietta itself pointed out in comments filed in Docket No. 11759 that the "unique character of the extremely flat and quite treeless San Joaquin Valley, which permits signals to be rolled down the corridor from Bakersfield toward Fresno and from Fresno toward Bakersfield in the manner of a bowling ball, exceeding substantially the normal propagation distances in other areas, is a phenomenon which cannot be ignored." By virtue of these circumstances, it is essential, we believe, that we make conditions conducive throughout the Valley for the growth and successful operation of local outlets by providing an equal opportunity for all Valley stations to complete effectively with compatible facilities.

8. It is our view that this requires all assignments in the Valley to be in the UHF band where this is sufficient spectrum space to meet any current or foreseeable future demand for television outlets. It could not be done by exclusive use of VHF channels, for there is not available now or in the foreseeable future sufficient VHF spectrum space even to replace existing UHF assignments which have been applied for or for which authorizations are outstanding in the Valley. Nor, in our judgment, can it be done by intermixed VHF–UHF assignments.

9. It has been demonstrated in a multitude of cities and areas throughout the country with intermixed VHF–UHF assignments that the ability of UHF to develop, survive, or provide an effective competitive service is markedly deterred when faced with competition from an available VHF service or services, however satisfactory a broadcast service UHF is able to provide. This is attributed to a host of familiar reasons, such as the demonstrated preference of advertisers and program sources for VHF outlets in VHF–UHF areas and the receiver conversion problems of UHF, which give VHF a decided competitive advantage in intermixed markets and pose a decided barrier to the utilization or the effective use of UHF assignments in intermixed markets on a comparable basis. In the Fresno area, we found that even under unusually favorable conditions for successful UHF operation in competition with one local VHF station, the two local UHF stations were unable to operate on a basis comparable with that of the competing VHF service, and that deintermixture of Fresno to all-UHF offered more opportunity for the growth and development of multiple effective television services at Fresno and in the smaller cities of the Valley than did either maintenance of the status quo or the assignment of additional VHF channels to Fresno.

10. With our action removing VHF Channel 12 from Fresno and shifting Station KFRE–TV on that channel to UHF operation, all television assignments and stations in the Valley are now in the UHF band with the exception of Station KERO–TV on Channel 10 at Bakersfield. At the present time only three stations are operating at Fresno and three at Bakersfield, but there is demand and promise that additional outlets will soon be established at Fresno, and at Tulare, Visalia and Hanford, which are located in the Valley between Fresno and Bakersfield.[8] The predicted Grade B signal of the VHF Channel 10 station at Bakersfield (KERO–TV) extends well beyond Tulare, Visalia, and Hanford where local UHF stations are now contemplated, penetrates the service areas of the Fresno UHF stations, and reaches to within 23 miles of Fresno. There can be no doubt, however, that under the excellent propagation conditions in the Valley, its signal penetrates even farther north in the Valley. The Nielsen Coverage survey for the spring of 1958 indicates that Station KERO–TV at Bakersfield reaches and is listened to in homes in Madera County, which is north of Fresno County and principally served by Fresno stations. The 1960 American Research Bureau, Inc., Television Coverage Study of California counties and stations indicates that about 96 percent of the television homes in both Tulare and Kings Counties (Tulare and Visalia are in Tulare County and Hanford in Kings County) and about

on Educational Television, and several hundred other persons and organizations, including teachers, school and governmental officials, educational, civic and social groups, members of Congress and the California Legislature, and Valley residents. Many parties endorsed the VHF educational proposals without comment on the Bakersfield UHF-deintermixture proposal and some, including the Governor of California's Advisory Committee on Education, endorsed them contingent on the deletion of Channels 10 and 12 from commercial use in the Valley. Others, including Salinas Valley Broadcasting Corporation (KSBY–TV, Ch. 6, San Luis Obispo) who question the wisdom of assigning additional VHF channels in the area reaching from Santa Barbara to San Luis Obispo, also believe that both Channels 10 and 12 should be retained for educational use in the Valley. Some parties urging the reservation of Ch. 10 at Bakersfield have recently requested withdrawal of their supporting comments. They inform that they are opposed to the removal of Ch. 10 from commercial use but supported the proposal for its reservation because of a mistaken belief that a decision had already been reached to delete it.

[8] An application, filed July 28, 1960, by G. L. Golden, Elbert H. Dean, and L. W. Fawns, a partnership, for a construction permit for a new station on Channel 53 at Fresno was granted December 7, 1960 (BPCT–2800).

Sierra Broadcasting, Inc., was also granted a construction permit for a new station on Channel 43 at Visalia, November 8, 1960 (BPCT–2732). It originally filed an application for Channel 27 at Tulare on Dec. 7, 1959, but amended its application to request Channel 43 at Visalia on September 27, 1960.

Applications filed by KCOK, Inc., on May 3, 1960, for Channel 27 at Tulare (BPCT–2773) and by Gann Television Enterprises (a limited partnership) on November 3, 1960, for Channel 21 at Hanford (BPCT-2825) are pending.

58 percent of the TV homes in Fresno County are able to receive Station KERO–TV and that Station KERO–TV's net weekly circulation (number of TV homes viewing Station KERO–TV at least once a week) in Tulare County is about 93 percent, in Kings County about 83 percent, and in Fresno County about 30 percent.

11. Although our removal of the single VHF outlet at Fresno puts all Fresno stations on a comparable competitive footing which we believe will increase the potential for the growth of healthy competitive services in the Fresno area, we cannot agree with Marietta that deintermixture of the Fresno market can be fully effective notwithstanding its VHF station at Bakersfield. With a VHF outlet at Fresno no longer dominating the Fresno market, there is considerable merit, we believe, to the claim of proponents for UHF-deintermixture of Bakersfield that Station KERO–TV, as the only VHF station in the Valley, would be in a position of conspicuous and unjustifiable dominance over all the competing UHF stations in the Valley. This factor and the extent to which Station KERO–TV's signal now penetrates beyond cities between Bakersfield and Fresno where the establishment of additional local UHF outlets is the most promising and into the service areas of the Fresno stations convincingly indicate that the presence of this VHF station in the adjacent Bakersfield market constitutes a significant deterrent to effective and comparable UHF competition in the Fresno market area and to the establishment of effective and beneficial new services, particularly in the smaller cities of the Valley. The deterrent would be compounded if Bakersfield were made principally all-VHF by the addition of two more VHF outlets, as Marietta suggests, and three Bakersfield VHF stations were to provide service in this now all-UHF area. Complete deintermixture of the entire San Joaquin Valley to UHF is, in our judgment, required for full development and expansion of effective competitive television service throughout the Valley.

12. Secondly, it is our view that the perpetuation of intermixed VHF–UHF assignments at Bakersfield, apart from the adverse impact of the Bakersfield VHF outlet upon the growth and development of healthy competitive services throughout the Valley, presents obstacles to the maximum growth and development of sound and effective local television services. These can best be eliminated by placing all assignments at Bakersfield in the UHF band.

13. Bakersfield, located in Kern County, is a sizeable and important population and commercial center in the San Joaquin Valley, ranking in size next to Fresno. The U.S. Census indicates that the population of the city increased from 34,784 in 1950 to 56,848 in 1960, and Kern County, its principal market area, increased in population from 228,309 in 1950 to 291,984 in 1960. Bakersfield was assigned two television channels in 1952: VHF Channel 10 and UHF Channel 29. Two additional UHF Channels, 17 and 39, were assigned in January of 1958. The first television station to go on the air at Bakersfield was Station KBAK–TV on Channel 29 in August of 1953. Station KERO–TV commenced operation on VHF Channel 10 in September of 1953. Station KLYD–TV has been operating on Channel 17 since November of 1959. Significantly, no station has even been established on Channel 39, although a construction permit was granted for its use in December of 1958 and deleted on September 23, 1960. Each of the Bakersfield stations is a basic outlet for a national network: Station KERO–TV for NBC; Station KBAK–TV for CBS; and Station KLYD–TV for ABC.

14. Station KERO–TV operates with power of 16 dbk (39.8 kw), directional antenna, and antenna height of 3,710 feet above average terrain from a transmitter site approximately 24 miles northeast of Bakersfield atop Mt. Breckenridge. The transmitter sites of the Bakersfield UHF stations were until recently near each other and about six miles north of Bakersfield. Station KLYD–TV operates on Channel 17 with power of 23.7 dbk (234 kw) and antenna height of 650 feet above average terrain. On January 25, 1961, Kern County Broadcasting Company filed an application to reduce the power of Station KLYD–TV to 12.99 dbk (19.9 kw) and to change the transmitter of the station. Kern simultaneously filed another application for a UHF booster station near Porterville, approximately 50 miles northeast of Bakersfield. Station KBAK–TV formerly operated with power of 12.9 dbk (19.5 kw) and antenna height of 630 feet above average terrain. It has now moved its antenna site to Breckenridge Mountain, a short distance from the KERO–TV site. It is authorized to operate at its new site with power of 20.7 dbk (117 kw) and antenna height of 3,690 feet above average terrain.[9]

15. Station KBAK–TV has demonstrated by its continued operation over a period of years that at least one UHF station can survive under the conditions existing in the Bakersfield market despite the presence of a local VHF outlet. Station KLYD–TV has not been in operation long enough to demonstrate with certainty that two UHF stations can. Even if it is assumed that two UHF outlets can survive in this intermixed market, it by no means follows that the public in the Bakersfield area is thereby assured of at least three comparable and equally effective local television outlets on the full potential of such services that the market can support. The removal of all possible obstacles to the achievement of this latter objective, rather than for mere survival, is desirable in the public interest. We are therefore not impressed with the arguments in the record that it is possible for UHF to survive in the Bakersfield market in the face of competition from one VHF station.

16. Neither UHF station in Bakersfield has been able to provide a competitive service to the Bakersfield market and outlying communities comparable to that of the local VHF outlet, for the relatively modest facilities they employed as compared to those of Station KERO–TV did not permit the wide-area coverage of the more favorable site and facilities employed by Station KERO–TV. This is typical of UHF in intermixed markets. With local VHF service available, it has been widely demonstrated that it is measurably more difficult for UHF to overcome the receiver conversion problem and to acquire a large enough UHF audience and economic base to support even a modest successful operation. In those few intermixed markets where UHF is able to survive, there is little indication that UHF operations can operate successfully except on a more limited scale, or that these markets can ever expect to have the number of services they are able to support.

17. Pending a more general or nationwide solution, the Commission is taking steps where possible and feasible to improve television allocations in individual communities and areas. Considering the period of years required to implement nationwide improvements in the allocations structure, we do not hold with Marietta's view that we should take no steps, such as proposed here for Bakersfield, to improve television allocations in individual communities pending further progress toward nationwide solutions. It is true, as Marietta points out, that one avenue of approach to a long-range solution of the television allocations problem—obtaining additional VHF spectrum space from Government services—appears to be unavailable at this time.[10] This, as we stated in the Fresno proceeding, underscores the need to look even more closely to the possibilities for improvement of the television service through greater utilization of the 70 channels in the UHF band, the 12 VHF channels available being inadequate to meet the requirements of a fully competitive and expanding television service. That inadequacy is amply demonstrated in the San Joaquin Valley.

18. Marietta makes much of the fact that the reconstruction of Station KBAK–TV with improved facilities on Mt. Breckenridge will enable it to operate on a scale more comparable to its VHF facility and to provide a much more effective and extensive local service whether or not Bakersfield remains an intermixed market. It ignores, however, the almost universal experience elsewhere which lends no assurance that UHF stations can operate successfully on a scale comparable to a VHF operation and demonstrates that the opportunities to do so are impaired by local

[9] Construction permit granted October 20, 1959 (BPCT–2699), as modified November 9, 1960 (BMPCT–5522). On February 16, 1961, Bakersfield Broadcasting filed an application for license (BLCT–1101) to cover BPCT–2699, as modified and requested program test authority. Program test authority for Station KBAK–TV at the Mt. Breckenridge site was granted February 17, 1961.

[10] The Public Notice (Mimeo No. 92830), released by the Commission on August 19, 1960, sets forth the position of the Department of Defense and the Office of Civil Defense Mobilization on the Commission's proposals to exchange spectrum space with the Government in order to obtain additional VHF channels for the television service.

VHF competition. This is of concern to us not because of any duty or desire to protect or improve the economic or competitive position of individual UHF licensees but because it clearly serves the public interest to remove, insofar as possible and feasible, obstacles resulting from television allocations which inhibit full and effective use of broadcast frequencies and stand in the way of the public reaping the benefits of more and better television service.

19. The UHF operators at Bakersfield have repeatedly urged that all local outlets should be in the same band in order to create a competitive climate conducive to the growth of multiple effective local television services. Kern County Broadcasting states that after nearly a year's experience with operating Station KLYD–TV in the Bakersfield market it has found that the belief it expressed prior to the time it went on the air that it could compete effectively as a UHF station with a dominant VHF station in the market has proved overly optimistic, to say the least, and that the UHF stations in Bakersfield suffer an inordinate and artificial disadvantage because of the existence of the single VHF station in this market which is harmful to the public interest and contrary to the establishment of a varied and competitive television service. In its pending application to reduce the power of Station KLYD–TV, it states that since it appears that a protracted period will elapse before deintermixture of the Bakersfield market may be achieved and create more favorable conditions for effective television, it must now cut its overall cost of operation by this means and by extending its overall coverage with a booster station near Porterville.

20. We are convinced that as long as this market remains intermixed, the public cannot depend with any certainty on UHF to furnish the full complement of effective local service which it needs and can support. The availability of long-established, wide-area local VHF service throughout the Bakersfield market and beyond, in our judgment, not only impedes the ability of existing UHF operations to acquire a larger audience where the potential for local UHF expansion exists and which is necessary to provide them with a base for sound operation and survival on any larger scale than at present but also discourages the establishment of new stations. We find no significant, enduring basis for Marietta's assumption that the size of the growing Bakersfield market precludes more than three local outlets irrespective of whether the market remains intermixed, or that the decision of the former permittee for Channel 39 not to construct was based solely on the economics of the market and its inability to support more than three stations. In light of the proposal of that permittee in the Fresno proceeding that Channel 10 be deleted from Bakersfield to make the area all-UHF, its request for additional time to complete construction on Channel 39 pending a decision as to whether Bakersfield was to be made an all-UHF market, and its statements in Docket No. 13595 that it considered deintermixture of Bakersfield altogether probable at the time it filed its application for Channel 39, it is more reasonable to accept that the presence of the VHF outlet in this market was a significant factor entering into its decision.

21. It is Marietta's position that, if we decide that all television outlets at Bakersfield should be in the same television band, this should be accomplished by assigning additional VHF channels and not by deintermixing Bakersfield to all-UHF assignments. It urges that Channels 8 and 12 are available; that they meet all technical requirements of the Rules for assignment to Bakersfield; and that they would enable the two existing UHF stations to operate on VHF channels, and thereby achieve the objective of three competitive television facilities in the Bakersfield market. Marietta's arguments on behalf of this VHF proposal are not persuasive. Two additional VHF stations at Bakersfield would, for the reasons we have heretofore stated, prove an even more formidable barrier to the growth and development of UHF throughout the greater part of the Valley to the north of Bakersfield than the single VHF outlet now at Bakersfield and would be most undesirable, in our opinion, as a measure to improve the potential for multiple, effective local television services throughout the Valley.

22. This VHF plan would also not provide the same opportunity for comparably competitive facilities and for expansion of television outlets in the Bakersfield market itself as would an all-UHF plan. There is no possibility that additional VHF channels could be made available to Bakersfield under present spacing requirements and almost no likelihood that UHF channels would be utilized if there were three local VHF outlets. Comments filed in the Fresno proceeding also convincingly demonstrate that there is considerable question of whether Channel 8 could be used at Bakersfield to provide either an effective service or a competitively comparable service with Channel 10 and 12 outlets in light of transmitter site restrictions necessitated by the co-channel stations at Las Vegas, Salinas-Monterey and San Diego and terrain problems. An all-UHF plan for Bakersfield suffers from no such drawbacks. There are sufficient UHF channels available to fulfill future television needs for expansion as they develop in this growing market and to afford adequate flexibility in the choice of suitable transmitter site locations.

23. We also disagree with Marietta's contention that there is a compelling advantage in the VHF plan arising from the fact that reception of additional VHF stations would entail little expense to the public whereas the public would be put to extra cost for UHF reception in areas now dependent upon VHF service if Bakersfield is deintermixed to all UHF assignments. This is offset in part, we believe, by the investments made by residents in the Bakersfield market for local UHF reception which would be lost if the present UHF outlets at Bakersfield were made VHF. The information submitted by Kern County Broadcasting on Kern County from the 1960 coverage study of the American Research Bureau indicates that there are 61,600 homes in Kern County equipped for UHF reception (79 percent of all television homes) which would be affected. In greater part, we believe, it is outweighed by what the public's further investment in UHF can be expected to produce—an overall gain in the number of effective television services and local television outlets available throughout the Valley. Nor do we find persuasive Marietta's argument that its VHF-plan could be implemented promptly and expeditiously without the adjudicatory proceedings entailed to accomplish UHF deintermixture of Bakersfield. Comments and pleadings filed by the UHF operators at Bakersfield would seem to dictate that adjudicatory proceedings would be required to determine to whom Channels 12 and 8 would be assigned.

24. In the third place, it is our conclusion from study and analysis of the relevant considerations which Marietta and others raise in opposition to UHF deintermixture of Bakersfield that none of them, singly or collectively, is of such merit as to outweigh the beneficial consequences flowing from operation of all television stations at Bakersfield in the UHF band.

25. One of Marietta's principal objections is that even with the deletion of Channel 10 from Bakersfield effective deintermixture could not be achieved because of the availability of VHF signals from other markets. It points out that the television sites of the seven VHF stations at Los Angeles, the VHF station at Santa Barbara, and the VHF station at San Luis Obispo are closer to Bakersfield than is Station KERO–TV's site on Mt. Breckenridge to Fresno; that the predicted Grade B contour of Station KEYT (Channel 3) at Santa Barbara encloses the entire metropolitan area of Bakersfield; that signal measurements contained in pleadings filed by the KEYT licensee in the Fresno proceeding indicate penetration of the area; and that the Grade B contour of the seven Los Angeles stations also penetrates the Bakersfield service area. It thus concludes that, although Fresno can be isolated as a UHF island by the deletion of Channel 12, Bakersfield cannot because of the penetration of competing signals from VHF facilities, impeding conversion for UHF reception by owners of VHF-only sets and restricting the dependence of the area solely upon UHF signals.

26. We note Marietta's recognition of the UHF conversion problem when competing VHF signals penetrate UHF areas. This argument can, however, be given little weight in light of the unfavorable terrain conditions which markedly restrict the coverage of the Santa Barbara, San Luis Obispo and Los Angeles VHF stations in the direction of Bakersfield and the absence of any showing that the limited reception of VHF signals from stations outside the Valley would significantly affect the ability of Bakersfield and other Valley UHF stations to thrive and to render a

highly satisfactory service to Valley residents.

27. The cities of Los Angeles, San Luis Obispo and Santa Barbara are situated in the coastal plain between the Coastal Ranges and the Pacific Ocean. This mountain barrier contains rugged terrain and forms a natural shield which limits the ability of VHF television stations operating in these cities from adequately serving Bakersfield or other cities in the San Joaquin Valley. Bakersfield Broadcasting Company stresses that the coverage of the Los Angeles and Santa Barbara VHF stations is substantially less than predicted by our rules, based on terrain from 2 to 10 miles from their transmitter sites, since Bakersfield lies more than 7,000 feet below any radio line-of-sight path from the Mt. Wilson transmitter sites of the Los Angeles stations and approximately 12,000 feet below radio line-of-sight from Station KEYT's transmitter site. It also points out that the measurements filed by KEYT indicate that its Grade B contour falls short of Bakersfield.

28. Marietta has also pointed out in the pleadings it addressed to Bakersfield Broadcasting's April 20, 1960, petition for rule making on our UHF deintermixture proposal herein that service from the Los Angeles stations is limited by the high terrain to the north since all have radiation centers less than 6,000 feet above sea level and there is a ridge to the north having peaks of 7,124, 8,023, 9,399, 10,064, and 8,911 feet above sea level, all within a total distance of thirty miles in an approximate east-west direction; and that service from the Los Angeles stations towards Bakersfield is further limited by the beam tilt needed for them to place a signal at the ground level in the Los Angeles area. Marietta assumed in that pleading that some service is available from some of the Los Angeles stations out to a distance of 60 miles to the north—this is some distance from the more densely populated market area of the Bakersfield stations—but claimed that even at the north base of the peaks mentioned above it provided a much better service. This would appear to be a reasonable conclusion.

29. Both the 1958 Neilsen Coverage Survey and the 1960 American Research Bureau's Coverage study on California stations indicate that the circulation of the Santa Barbara and San Luis Obispo VHF stations in Kern County and in the other counties east of the Coastal Ranges (Kings, Tulare, and Fresno) located within the principal television markets of both Bakersfield and Fresno stations, was too small to be noted in either study, and no evidence has been submitted in this proceeding which would indicate that they have any significant audience in the San Joaquin Valley. The Nielsen Survey also shows that four of the seven Los Angeles stations (Stations KNXT, KRCA, KHJ–TV, and KTLA) have some audience in Kern County but that the maximum estimated audience of none of them exceeds 15 percent of all TV homes. The 1960 ARB study shows that six Los Angeles stations can be received in Kern County in from 7 to 24 percent of all TV homes but that only one Los Angeles station (KNXT) has as much as a 20 percent net weekly circulation. From all indications the homes in Kern County now served by Los Angeles VHF stations are mainly in the southern fringes of the Bakersfield market which is also served by the Bakersfield VHF outlet and where there is little UHF reception or set conversion at this time.

30. It appears that with improved facilities, and particularly from the desirable transmitter location on Breckenridge Mountain, Bakersfield UHF stations could provide service to these fringe areas relatively comparable to that now furnished by Station KERO–TV. From experience, we know, however, that the extension of local UHF service into an area long dependent on local VHF service and on outside VHF television service for a choice of program fare may be difficult. Yet if all television service from Bakersfield were obtainable only in the UHF band and multiple UHF services from Bakersfield were available in these fringe areas, we have no doubt that it would provide the stimulus for conversion of receivers for UHF reception in order to obtain local service and that those in these fringe areas would look to local UHF stations for a choice of program fare rather than solely to VHF stations in cities outside the Valley having little in common with Bakersfield and the rest of the Valley. In any case, we find no basis in the record for concluding that the VHF fringe service from stations outside the Valley poses any significant deterrent to effective UHF deintermixture of the Bakersfield market.

31. Another objection raised to removing Channel 10 from Bakersfield by Marietta and numerous residents of areas and communities currently depending upon its VHF station for service is that UHF cannot provide an adequate substitute service in portions of Station KERO–TV's present service area and that it would deprive certain communities and areas of service. We are not impressed with this argument.

32. There is no evidence in the record which convincingly demonstrates that UHF would be unable to provide a dependable, high grade television service to the Bakersfield market and outlying areas. The technical data and engineering studies which we have examined and evaluated both in this and the Fresno proceeding demonstrate that UHF can provide satisfactory service in this area. Marietta has itself stated in an engineering statement filed in Docket No. 11759 that, from the standpoint of terrain, the Bakersfield-Fresno area poses a minimum of disadvantage to UHF in regard to propagation; that a proper UHF installation at a high elevation overlooking the flat valley can provide widely used service of a very high quality; that the validity of this premise has been demonstrated by the UHF stations at Fresno; and that with available sites, and the terrain of the more densely inhabited areas between Bakersfield and Fresno allowing unshadowed transmission paths to the major market areas to be served, for equal transmitter power, or equal radiated power to the service area, UHF signals will be equal or greater in strength than VHF signals.

33. In our judgment the ability of fringe and outlying communities and areas in the Bakersfield market to receive a direct satisfactory signal from the Bakersfield VHF station and not from the local UHF stations at this time does not stem from the difference in their operating frequencies but from the disparity in their antenna heights and powers and less desirable site locations for wide-area coverage. The transmitter site of Station KERO–TV on Mt. Breckenridge was chosen, as Marietta states, to enable it to serve not only the Bakersfield area but also the areas east of the Sierra Nevada Mountains, and it uses a directional array, designed in part to radiate a maximum lobe into the areas east and southeast of its site and east of the mountains. From this site, Marietta has pointed out that optical line of site extends many miles to the north and that the large area north of Los Angeles and east of the Sierra Nevada Mountains which now depends wholly or principally upon its VHF station for reception is, for the most part, not shielded by mountains higher than Station KERO–TV's antenna, 7,668 feet above sea level, with isolated peaks extending above this level but most of the high land to the east being below this level. Such terrain, in our opinion, poses no more significant problem for reception of UHF stations on Mt. Breckenridge than for VHF reception. If Station KERO–TV were to operate from Mt. Breckenridge with UHF facilities comparable to its VHF facilities, we are convinced that it would produce little difference in its coverage area and that residents of communities and areas presently receiving a satisfactory signal from Station KERO–TV would continue to be able to do so.

34. Marietta submits calculations, based on predicted Grade B contours computed in accordance with the rules, however, which indicate that if UHF Station KBAK–TV operates from Mt. Breckenridge pursuant to its outstanding construction permit, some 1,432 square miles with a 1950 population of 5,834 persons east of the Sierra Nevada Mountains and north of Los Angeles would not be within Station KBAK–TV's Grade B contour which are now within the Grade B contour of its VHF station. Its premise that this area and population would be "white area" without any television service rests on the assumption that its VHF station now provides service to all of this area and if changed to a UHF operation would employ UHF transmission facilities equivalent to or less than those of Station KBAK–TV's planned facilities at its mountain site rather than those necessary to provide a Grade B contour comparable to that of its VHF operation.

35. Marietta's suggestion that UHF conversion costs might force it to move Station KERO–TV to a less desirable site on the Valley floor where it could not provide the wide-area coverage in remotely located areas that it now does cannot be taken seriously. With Station KBAK–TV on Breckenridge Mountain and Station KLYD–TV also expand-

ing its UHF coverage in remotely located areas, as Kern County indicated in its comments it intends to do if the area is deintermixed, it appears most unlikely that Marietta would consider such a move prudent. Conversion of Station KERO–TV from VHF to UHF operation on Breckenridge Mountain will, of course, involve considerable cost. We are not persuaded, however, that it would be prohibitive, particularly in light of the costs of reconstruction at another site, the resale value of VHF equipment which cannot be used for UHF operation, and the existing facilities of Station KERO–TV, at its present site, such as buildings, tower, microwave and video equipment, living quarters, etc., which can be used for UHF as well as VHF operation. Certainly, as Bakersfield Broadcasting points out, the overall cost of conversion to UHF for Station KERO–TV would not approach those for reconstruction of Station KBAK–TV or for construction of other UHF stations on Breckenridge Mountain.

36. We have no fear but that when Bakersfield is made all UHF Marietta will find it feasible to continue operating Station KERO–TV from its transmitter site on Mt. Breckenridge. Even in the unlikely event that only Station KBAK–TV should operate from Mt. Breckenridge, we find no basis for concluding that any appreciable areas and populations would stand to lose service from the deletion of Channel 10 from Bakersfield. The area which lies outside of the Grade B contour of Station KBAK–TV's operation on Mt. Breckenridge and within the Grade B contour of Marietta's VHF operation, to the northeast of Bakersfield, and which Marietta assumes would be "white area" without service if its VHF operation is changed to a UHF operation, is outside of the basic Bakersfield and San Joaquin Valley market area and is not now dependent solely upon Station KERO–TV for service. Nor do we find any evidence in Marietta's comments evidencing that terrain conditions enable Station KERO–TV to now serve directly all of the area which it claims would become "white area."

37. Bakersfield Broadcasting has pointed out that most of the "white area" which Marietta claims contains some 1,432 square miles with a 1950 population of 5,834 persons is completely unpopulated, consisting of precipitous mountains and barren desert, and the few residents are concentrated in small towns and settlements located along the highways. There appear to be only four communities of any appreciable size in this area: Lone Pine, Keeler, Darwin and Trona. A UHF translator (K80AD) has been in operation at Lone Pine, a community about 105 miles northeast of Bakersfield with a 1950 population of 1,415 (the 1960 U.S. Census reports a population of 1,310) since May of 1957, providing service from Station KRCA, the Channel 4 station at Los Angeles, to Lone Pine and the surrounding area. Since both Stations KRCA and KERO–TV are NBC outlets, it appears doubtful that translator service would have been inaugurated in this area if Station KERO–TV could be satisfactorily received. The current issue of Television Factbook also indicates that a community antenna operation is providing 603 homes at Trona, a community about 70 miles south and east of Lone Pine (1950 population of 2,450; 1960 population 1,138), with service from four Los Angeles stations. Keller and Darwin, located in the area between Lone Pine and Trona, presumably are small communities with populations of less than 1,000, for neither are listed in the 1950 or 1960 Census reports.

38. At most, we can conclude that the number of people who would be without direct television service in this "white area" if Channel 10 is deleted would be well under the number claimed by Marietta. Unlike Marietta, we do not consider the problem of providing them with television service if Bakersfield is deintermixed to be unsolvable. We anticipate that the improved competitive conditions which will result from all stations in the Valley operating in the same band will enable and cause both Bakersfield and other Valley stations to expand their coverage by increased power and improved facilities, as well as by other measures such as translators, on-channel boosters or satellite operations, and that the possibility of more service to this area than at present will be enhanced. Kern County Broadcasting, for one, has stated in its comments that if Bakersfield is deintermixed, it intends to take advantage of the wide variety of types of authorizations provided by the Commission to aid small, isolated communities to receive television service and that it is presently considering a booster-translator program. Its pending application for a UHF booster operation near Porterville has already been noted. Marietta's belief that translators, boosters, satellites, or other means to provide service in this area would prove inadequate and economically unfeasible is not shared by us and is not borne out by experience in other areas, nor by the evidence in this record. Considering UHF translators alone, their use throughout the mountainous areas of the West and elsewhere, as well as in this general area,[11] under all types of conditions, to provide acceptable reception at low cost where direct reception of television signals is impossible, precludes our acceptance of Marietta's view that they would prove impracticable and undesirable in all instances in this area.

39. Marietta also takes the position that the "white area" created by the deletion of Channel 10 would be much greater than that indicated by the coverage contours of its VHF station and Station KBAK's planned operation in the area outside of the Valley and beyond the mountains to the east and to the south of Bakersfield. This is based on its presumption that the calculated VHF Grade B contour of Station KERO–TV represents actual service with greater reliability than the UHF Grade B contour of Station KBAK–TV with its improved facilities on Mt. Breckenridge and because a mail survey it has conducted indicates that the actual broadcast service provided by Station KERO–TV is much more extensive than indicated by its Grade B coverage contours. In order to test the validity of its position and to determine the actual "white areas" which will be created if Channel 10 is deleted, it has asked that we defer a determination as to whether Channel 10 should be deleted from Bakersfield until it has had an opportunity to make studies and submit data on the comparative service provided by its VHF station and Station KBAK–TV at its new site on Mt. Breckenridge.

40. We do not consider it necessary or desirable to postpone decision on the matter of television allocations at Bakersfield pending submission of such data by Marietta. The technical studies which we have conducted and the technical data and other material which we have examined in both this and the Fresno proceeding are sufficient to enable us to reach an informed decision on the capabilities of UHF in this area. We adhere to the conclusions we have hereinbefore reached. In passing, we observe that the fact that Marietta's mail survey demonstrates that its VHF signal is satisfactorily received by residents of communities and areas outside its Grade B contour is not unusual—a satisfactory signal may be received beyond the Grade B contour of most stations, whether VHF or UHF, to a greater or lesser extent, depending upon terrain, transmission facilities, and co-channel and adjacent channel separations—and it does not demonstrate that VHF service lost from deletion of Channel 10 cannot be substantially replaced by UHF service direct from Bakersfield or other Valley stations, as well as other means. In this connection, we note that residents of Independence, a community over 100 miles northeast of Bakersfield located in the mountain valley on the eastern side of the Sierra Nevada range and on the western side of the Inyo Mountain range, were among those replying to Marietta's mail survey. The exhibit attached to Marietta's pleadings and numerous letters and petitions to the Commission from residents of the Independence area indicate that Channel 10 at Bakersfield is received locally via a cable system and not directly. UHF stations on Mt. Breckenridge could, we believe, be similarly received and provide a choice of service. Further, the 1958 Nielsen and 1960 American Research Bureau TV coverage studies indicate that in the counties of Inyo and San Bernardino to the northeast and east of Kern County relatively few tele-

[11] In addition to the UHF translator at Lone Pine, two translators have been providing Bishop, California, about 145 miles northeast of Bakersfield, with service from the Channel 2 (KNXT) and 4 (KRCA) stations at Los Angeles and the Channel 8 (KSBW–TV) station at Salinas, California (K70AA and K73AA); a translator at Yosemite National Park has been in operation since 1957 translating signals from Station KBET–TV at Sacramento (K72AK), and a construction permit was granted in September of last year for a UHF translator at Daggett, California, which is in the Mojave Desert 115 miles southeast of Bakersfield, to translate signals from KNXT at Los Angeles.

vision homes receive Station KERO–TV as compared to Los Angeles stations.

41. While we would have been glad to consider any additional material timely submitted in this proceeding, we consider the possibility that Marietta's study would furnish grounds for changing our decision herein too remote to justify a substantial postponement. Comparative studies of signal strength made by Marietta on its VHF operation and Station KBAK–TV at its new site on Mt. Breckenridge could be expected to take considerable time. We know from experience that any meaningful study would be a long term project, requiring tens of thousands of measurements over a long period throughout the coverage areas of both stations to account for diurnal, seasonal and annual variations of signal strength and variations due to transmitter sites. Under the circumstances, we do not consider it in the public interest to grant this request.

42. Another objection raised to the deletion of Channel 10 from Bakersfield is the additional expense which the public in areas of little or no UHF saturation in fringe or outlying areas of the Bakersfield market would incur for conversion of receivers for UHF reception and for UHF antennas. This argument has weight. On balance, however, we cannot consider it controlling since conversion costs are a necessary concomitant to reception by the public of a choice of local programming from Bakersfield and other stations in the San Joaquin Valley whether or not the area is completely deintermixed or remains all-UHF except for the Channel 10 outlet at Bakersfield and since deletion of this VHF outlet is necessary, in our judgment, to enable Valley stations to compete effectively with each other and to provide an optimum choice of service to both Valley and outlying areas. We find no foundation in any market areas study for Marietta's claim that deletion of Channel 10 would entail UHF conversion costs for 110,000 or more VHF-only homes which rely upon it for service. The 1960 ARB studies indicate that of the approximately 181,200 homes able to receive Station KERO–TV, all except 3,700 homes are in Kern, Kings, Tulare and Fresno Counties. The ARB studies also indicate that approximately 204,500 of the 226,600 TV homes in these four counties are now equipped for UHF reception and that UHF saturation in each of these counties (79 percent of all TV homes in Kern County, 95 percent of all TV homes in Kings County, 89 percent of all TV homes in Tulare County and 99 percent of all TV homes in Fresno County are converted to UHF) is sufficiently high to make UHF-deintermixture of assignments at Bakersfield a practical measure to increase the potential for effective, multiple competitive outlets at Bakersfield and in the Valley even though it entails added costs for television reception in some areas of little or no UHF saturation at this time.

43. Our foregoing conclusions establish, in our opinion, that the net advantages attaching to UHF-deintermixture of television assignments at Bakersfield warrant the effectuation of such deintermixture at the earliest practicable date. In light of the outstanding license of Marietta for operation of Station KERO–TV on Channel 10, we cannot, however, implement our decision at this time, absent its consent, without holding an evidentiary hearing on the proposed modification of its license from VHF to UHF operation. Concurrently with the adoption of this decision, we are therefore taking appropriate action in Docket No. 13609 to designate the matter for hearing.

44. Marietta, while opposing a shift from Channel 10, states that if the market is deintermixed Channel 23 would be preferable to any of the other proposed additional UHF channels for Bakersfield even though it would require changing Channel 37 at Delano to another UHF Channel. Other parties have suggested Channels 45 and 51 for Bakersfield. Channel 45 could be assigned to Bakersfield without affecting other UHF assignments but Channel 51 would also require a change in the Delano assignment. Since Channel 37 at Delano is unoccupied and no applications are presently pending therefor, there is no problem in substituting an equally suitable UHF channel for the present Delano assignment. We have therefore decided that Channel 45 should be substituted for Channel 37 at Delano in order to permit the assignment of Channels 23 and 51 to Bakersfield. Channel 23 can be made available for use by Marietta in place of Channel 10 and Channel 51 will provide a frequency to meet any future need for an additional television outlet at Bakersfield.

Proposals for VHF Noncommercial Educational Assignments

45. We now turn to the proposals before us for the reservation of Channel 10 at Bakersfield for noncommercial educational use and for the assignment of Channel 12 to Fresno or Visalia for noncommercial educational use also.

46. There are presently no educational stations operating in the Valley, and only one noncommercial educational assignment, UHF Channel 18 at Fresno, for which no applications are pending. In the Fresno rule making proceeding, the San Joaquin Valley Community Television Association, Inc., a nonprofit California corporation organized in 1959 for the purpose of promoting the growth of educational television and the activation of educational television assignments in the Valley, filed comments in which it requested the reservation of Channel 12 at Fresno or, alternatively VHF Channel 7 or UHF Channel 18, for noncommercial educational use (Channel 18 was reserved at Fresno for educational use in 1952 when the television Table of Assignments was orginally established). In our final decision in the Fresno proceeding,[12] we rejected the Association's VHF proposals, concluding in paragraph 9 thereof as follows:

[12] Report and Order (FCC 60–814), adopted July 7 and released July 8, 1960, in Docket No. 11759.

> We are of the view that under the favorable conditions prevailing in the Fresno area for UHF operation, and with all commercial stations operating on UHF channels in that city, the continued reservation of Channel 18 at Fresno for educational use would serve the public interest and, at the same time, provide interested parties with ample opportunities for establishing an educational station at Fresno. Such a station would be operating in the same frequency band used by all other stations in the area, where antennas and receivers will undoubtedly be specially designed for reception of the UHF signals of the three commercial Fresno stations.

47. In this proceeding, the San Joaquin Valley Community Television Association has renewed its request for the assignment of Channel 12 to the Fresno area and also urges that Channel 10 be deleted from commercial use at Bakersfield and be retained there for noncommercial educational use. It evinces its intent to apply for both channels at an early date after they are made available for educational use and states that it contemplates using interconnected transmitters on Channels 12 and 10 to broadcast educational programming simultaneously, or sequentially, throughout the seven counties of Tulare, Kings, Fresno, Madera, Mariposa, Merced and Kern in the San Joaquin Valley. It anticipates that these channels will become a link in a statewide network for instructional television. A supporter of these VHF educational proposals, Central California Educational Television, Inc., which operates educational Station KVIE on Channel 6 at Sacramento, informs that the intercity microwave relay system which now connects Stations KVIE and Station KQED on Channel 9 at San Francisco, the only other educational television station now in operation in California, is designed to connect with a Fresno educational station, and that it would assist educational interests with their programming when an educational facilitiy at Fresno becomes a reality.

48. It is evident from the record that there is substantial public support and interest in these proposals for use of VHF channels for educational outlets in the Fresno and Bakersfield areas and in the development of educational television service throughout the Valley. We have no difficulty in agreeing with those interested in these proposals that there is an unsatisfied need and demand in the San Joaquin Valley for educational television. We are unable, however, to agree with them on how this need should be met.

49. Since all commercial assignments and stations in the Valley are to be in the UHF band, we believe it equally desirable to provide for the future development of educational television in the Valley in the UHF band also. Two VHF educational stations in this proposed otherwise all-UHF area would not, as the proponents urge, have the adverse competitive impact that VHF commercial stations have on UHF commercial stations in intermixed markets. The VHF educational stations would themselves, however, be faced with an incompatibility problem. With the public employing UHF antennas to receive all local commercial stations in the Valley, unless the public likewise maintains VHF antennas

in much of the market and especially in outlying areas for adequate reception of their VHF signals, the size of the VHF educational audience may be too small to enable the educational interests to establish and maintain VHF educational operations on the scale necessary to provide a wide-area educational service or to render a fully effective service throughout the entire Valley. There is also no need, in our judgment, to put the public in the Valley to the extra, and what we consider unnecessary, expense of maintaining both UHF and VHF antennas, for UHF can adequately meet present and future requirements for educational television service in the Valley. Indeed, the more plentiful UHF spectrum space provides much greater opportunity for educational assignments than possible with the limited VHF spectrum space to meet the variety of diverse and individual educational needs that exist and may develop in both small and large communities in the Valley and in outlying areas.

50. With due regard to the conclusions we have reached both in this and the Fresno proceeding on the coverage capabilities of UHF under the favorable terrain and propagation conditions extant in the Valley, there is no reason why an educational station operating on the present UHF educational assignment at Fresno and another educational station operating on a UHF frequency at Bakersfield could not function equally well as VHF operations in a statewide educational television network and provide satisfactory, wide area coverage essentially comparable to that of the VHF operations. Proponents argue that the initial UHF installation and operating costs may be somewhat more to achieve comparable coverage. We are not persuaded, however, that the cost differential is so great as to make wide-scale UHF educational operations impracticable. The cost differential, arising mainly because UHF may require greater effective radiated power to achieve comparable coverage, represents but a small percentage of the total investment and operating costs since many substantial items of cost, such as buildings, antenna supporting structure, land, personnel, programming, studio facilities, etc., are common to both VHF and UHF operation.

51. As for the problem of conversion of receivers for reception of UHF educational signals in the San Joaquin Valley, we find no basis in the comments of those supporting these VHF educational proposals for concluding that it would be any significant problem at the time the educational interests are ready to inaugurate educational television service in the Valley. With the San Joaquin Valley converted to all-UHF service most of the homes in the Valley and in fringe areas which depend upon Valley stations for television service will be equipped for UHF reception when Valley educational stations are ready to go on the air. While the Association assumes that at the time its contemplated UHF educational stations are established, the public in great part will be put to extra cost for additional "strip tuners" to receive its educational program service, we consider this improbable. Most all-channel sets and UHF converters today are made with continuous tuning dials covering the whole UHF band, and the overall savings in installing all-channel tuners over "strip tuners" when reception of numerous UHF stations is desired makes it more probable that all-channel tuners will be widely used in the Valley for both commercial and educational service and that UHF educational stations will have a ready audience available to them. It has also been contended that the lower cost of VHF receiving sets is an important consideration for schools. We are not persuaded that this argument has controlling merit. It has not been demonstrated that the saving, if any, would be more than slight and the experience of schools elsewhere using UHF frequencies for instruction amply demonstrates that UHF is both practical and effective for use in schools.

52. In sum, we find no basis for concluding from the comments filed on behalf of these proposals for VHF educational reservations, or from the considerations which led to our action in deintermixing television assignments at Fresno to all-UHF assignments and to the conclusions we have reached herein as to the necessity of similar action at Bakersfield to make the Valley essentially all-UHF, that the overall public interest would be served by reintroducing a VHF assignment in the Fresno area for educational purposes or adding a VHF assignment for educational use at Bakersfield. We adhere to our decision in the Fresno proceeding that the continued reservation of Channel 18 at Fresno provides ample opportunities for educational television in that area. We similarly are of the view that Channel 39 can adequately serve a like purpose in the Bakersfield area. We are therefore taking action to reserve it there for educational purposes.

Other Proposals for Disposition of Channels 10 and 12

53. There remain for consideration the various alternative proposals for the reallocation of either or both Channels 10 and 12 outside of the San Joaquin Valley in Santa Barbara County at Santa Barbara, Santa Maria or Lompoc-Santa Maria on a hyphenated basis or in San Luis Obispo County at San Luis Obispo. A number of parties have indicated an interest in applying for these channels if assigned in either the Santa Barbara or Santa Maria and Lompoc area.[14] Further support for the assignment of these channels in this coastal area comes from the UHF operators at Fresno and Bakersfield and residents of the area. Opposition to the assignment of either or both channels in the area comes from Key Television, Inc., the licensee of Station KEYT at Santa Barbara; KFSD, Inc., licensee of Station KFSD (Ch. 10) at San Diego; Salinas Valley Broadcasting Corporation, licensee of Station KSBY–TV at San Luis Obispo; and Marietta and others, including public officials, who urge that these channels should be retained at Fresno or Bakersfield for commercial or educational use.

54. The record establishes, in our judgment, that the public interest would be served by the assignment of an additional VHF channel in the general coastal area stretching from Santa Barbara northward to San Luis Obispo. For the reasons discussed below, we have decided that Channel 12 is preferable to Channel 10 for use in this area and that the channel should be assigned to Santa Maria. We do not, however, find such a compelling need for two additional VHF assignments in this area as to warrant the assignment of Channel 10 also, and these requests and proposals are therefore denied.

55. While Marietta and KFSD take the position that section 307(b) of the Communications Act requires us to withhold decision on the deletion of Channel 10 from Bakersfield pending a determination on where Channel 10 should be reallocated so that a comparative determination can be made as the relative need of Bakersfield and the other community for the channel, we do not find their position tenable. Section 307(b) of the Act requires us in the assignment of frequencies to make a fair, efficient and equitable distribution of radio services among the several states and communities. We have found herein that the deletion of Channel 10 from Bakersfield would foster the fairest, most efficient, and most equitable use of all television frequencies assigned at Bakersfield and throughout the Valley. It therefore is our clear statutory duty to remove the channel from Bakersfield irrespective of the separate question of where outside the Valley it may thereafter be reallocated. The matter of the reallocation of Channel 10 is not one of the circumstances which we have found calls for the deintermixture of Bakersfield, and we do not find it necessary or desirable in the public interest to decide that question in this proceeding.

56. The United States Census Reports for 1960 indicate that there has been considerable population growth in Santa Barbara and San Luis Obispo counties since 1950. The population of Santa Barbara County has increased from 98,220 in 1950 to 168,962 in 1960 and that of San Luis Obispo County from 51,417 in 1950 to 81,044 in 1960. The cities of Santa Barbara, Santa Maria and Lompoc and San Luis Obispo have also grown. Santa Barbara, with a 1950 population of 44,913, had a population of 58,768 in 1960. Santa Maria, approximately 57 miles northwest of Santa Barbara and 28 miles south of San Luis

[14] Santa Barbara Television Association, composed of local Santa Barbara businessmen and civic leaders, and Channel City Television and Broadcasting Corporation indicate they desire to apply for Channel 12 at Santa Barbara. Arenze Broadcasters (standard broadcast station KCOY, Santa Maria) and Kern County Broadcasting Co. (KLYD–TV, Bakersfield) evince an intent to apply for either Channel 10 or 12 if assigned in the Santa Maria and Lompoc area. Sherrill C. Corwin, who states that he has substantial business interests in the Lompoc-Santa Maria area, and Thomas B. Friedman, a consulting radio engineer, indicate that they plan to apply for Channel 10 if assigned to the Santa Maria-Lompoc area.

Obispo, increased in population from 10,440 in 1950 to 20,027 in 1960. Lompoc, approximately 24 miles south of Santa Maria and 45 miles northwest of Santa Barbara, increased in population from 5,520 in 1950 to 14,415 in 1960. San Luis Obispo, some 80 miles to the northwest of Santa Barbara, with a 1950 population of 14,180 had a population of 20,437 in 1960.

57. At the present time, there is one VHF television station operating in Santa Barbara County—Station KEYT on Channel 3 at Santa Barbara and one operating in San Luis Obispo County—Station KSBY–TV on Channel 6 at San Luis Obispo, a semi-satellite of Station KSBW–TV (Ch. 8) at Salinas-Monterey, Calif. There are no other VHF assignments in either county. While additional VHF service is received in the Santa Barbara area from the Los Angeles VHF stations, the area stretching from Santa Barbara to San Luis Obispo is largely dependent upon the Santa Barbara and San Luis Obispo VHF stations for service. None of the UHF assignments at Santa Barbara or Santa Maria have been utilized, and there is no UHF service in the area except from the two UHF translator stations at Vandenberg Air Force Base, approximately 20 miles south of Santa Maria and a few miles from Lompoc, which broadcast the programs of the Santa Barbara and San Luis Obispo stations in the base area. The comments also indicate that while community antenna operators have displayed an interest in the establishment of community antenna operations at Santa Maria, San Luis Obispo and Lompoc, none have as yet been established.

58. The record evinces a need for a third competitive television service in this area which can only be met at this time by an additional VHF assignment. Both the Santa Barbara and San Luis Obispo stations carry the programs of all three networks, and parties have noted that at times both stations carry the same network programs and afford no choice of network programming to those dependent upon them for service. A third station in this area would make it possible to satisfy the need of this area for a greater choice of network and local programming. The comments also indicate that the Santa Maria-Lompoc area is the principal center of population and activity between Santa Barbara and San Luis Obispo and that portions of this area, which is in a pocket of the coastal range, receive only a fringe signal from the Santa Barbara and San Luis Obispo stations. The fact that translators are being used to provide the Vandenberg Air Base area with service from the Santa Barbara and San Luis Obispo stations bears out that direct service from these stations is not wholly satisfactory in this area. Parties have also stressed that neither of these stations carries programs directed to the local needs and interests of the area concentrated around Santa Maria and Lompoc. A demand and interest has been shown in in the record for the establishment of a local station in this area, and we are convinced that the need of the Santa Maria area for a first local outlet is paramount to that of Santa Barbara or San Luis Obispo for a second local outlet. Further, a local station at Santa Maria would be equally or more capable than a new facility at either Santa Barbara or San Luis Obispo of providing the areas north of Santa Barbara and south of San Luis Obispo with an additional choice of television service.

59. Those opposing the assignment of an additional VHF channel to Santa Barbara or to the proposed communities to the north contend that this area cannot support more than the two existing stations at Santa Barbara and San Luis Obispo and that the advent of a third station anywhere in this area would jeopardize the continuation of existing services and possibly result in the demise of all stations in the area. While neither of the present VHF stations at Santa Barbara and San Luis Obispo, according to their respective licensees, has been able thus far to achieve a profitable operation, we find no basis for concluding that the present and potential audience and sources of revenues available in Santa Barbara and San Luis Obispo counties are inadequate for the ultimate successful operation of more than the two existing stations. We do believe, however, that in view of the present television situation in both Santa Barbara and San Luis Obispo, the size of these communities, and the multiple VHF services received in the Santa Barbara area from Los Angeles stations, particularly in the southern portion of the Santa Barbara market, a more favorable climate for the growth and development of a third station in this area exists in the Santa Maria area at this time. This is another reason for preferring Santa Maria over Santa Barbara and San Luis Obispo for a VHF assignment.

60. In addition to the practical advantage of being readily available for assignment and application, we believe that Channel 12 would constitute a more efficient assignment than Channel 10 in the Santa Maria area. Taking cognizance of the detailed and comprehensive engineering study submitted by KFSD, Inc., the licensee of the Channel 10 station at San Diego, and the engineering data filed by others, it appears that there are unusual propagation conditions along the southern coastal area of California which may cause considerable mutual interference to co-channel stations and reductions in their service areas. While no showing has been made which convinces us that the resulting service areas would be inadequate when the required 190-mile separation between co-channel stations in this zone are maintained, we do believe that it is desirable, whenever possible, to provide allocations which will provide greater separations and thus minimize the effect of such interference to co-channel stations. Since the nearest Channel 12 station to Santa Maria is at Tijuana, Baja California, Mexico, and the nearest Channel 10 station is at San Diego, a greater separation between co-channel stations would be afforded by assigning Channel 12 rather than Channel 10 to Santa Maria.

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

62. In view of the foregoing: *It is ordered,* effective May 1, 1961, That the Table of Assignments contained in § 3.606 of the Commission's rules and regulations is amended insofar as the communities named are concerned to read as follows:

City	Channel No.
Bakersfield, Calif.	10−, 17, 29, *39+, 51−
Delano, Calif.	45−
Santa Maria, Calif.	12+, 44

63. *It is further ordered,* That, with effect at the earlier of the following dates, the Table of Assignments contained in §3.606 of the Commission's rules and regulations is amended by the substitution of Channel 23- for Channel 10- at Bakersfield, California, formal codification to be accomplished by subsequent order:

(a) 3:00 a.m., eastern standard time, December 1, 1962 (concurrently with expiration of the outstanding license for Station KERO–TV on Channel 10- at Bakersfield), or—

(b) Such earlier date as Station KERO–TV may cease operation on Channel 10- at Bakersfield.

64. *It is further ordered,* That Marietta Broadcasting, Inc.'s request for authorization to file additional comments, submitted October 17, 1960 (see paragraph 1(e)) is granted; that Marietta's request to defer consideration of deintermixture proposals for Bakersfield herein (see paragraph 1(f)) is denied; and that all other proposals or requests or alternative relief sought herein which are inconsistent with the decisions reached and the actions taken in this proceeding 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: March 22, 1961.

Released: March 27, 1961.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61–2866; Filed, Mar. 30, 1961; 8:52 a.m.]

[1] Dissenting statement of Commissioner Cross filed as part of original document.

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 36]

FROZEN RAW BREADED SHRIMP

Definition and Standard of Identity

Notice is given that the National Fisheries Institute, Inc., 1614 Twentieth Street NW., Washington 9, D.C., and the National Shrimp Breaders Association, Inc., 624 South Michigan Avenue, Chicago 5, Illinois, representing members who are processors of breaded shrimp, have jointly filed a petition setting forth a proposed definition and standard of identity for frozen raw breaded shrimp (prawns).

Pursuant to the authority of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (25 F.R. 8625), all interested persons are hereby invited to present their views in writing regarding the proposal published below. Such views and comments should be submitted in quintuplicate, addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., prior to the sixtieth day following the date of publication of this notice in the FEDERAL REGISTER.

It is proposed that the following new section be added to Part 36:

§ 36.30 Frozen raw breaded shrimp (prawns); identity; label statement of optional ingredients.

(a) Frozen raw breaded shrimp (prawns) is the food prepared by coating one of the optional forms of shrimp material specified in paragraph (b) of this section with one or more of the optional forms of batter and one or more of the optional forms of breading specified in paragraph (c) of this section. It is frozen and it is maintained in a frozen state. The finished product contains not less than 50 percent by weight of shrimp material as determined by the method described in paragraph (d) of this section.

(b) The term "shrimp material" as used in this section means the headed, peeled, and deveined tail portion of a shrimp, with or without tail fin and the immediately adjacent shell segment. It may be prepared from any regular commercial species of shrimp. The shrimp material may be in any one of the following optional forms:

(1) Fantail or butterfly, for which the shrimp are headed, peeled, deveined, and split (butterflied); all shell segments are removed, except that the shell segment immediately adjacent to the tail fin may be left attached; the tail fin is left attached.

(2) Round or round fantail, for which the shrimp are headed, peeled, and deveined, but not split; all shell segments are removed, except that the shell segment immediately adjacent to the tail fin may be left attached; the tail fin is left attached.

(3) Butterfly, tail-off, for which the shrimp are headed, peeled, deveined, and split (butterflied); the tail fin and all shell segments are removed.

(4) Round, tail-off, for which the shrimp are headed, peeled, and deveined, but not split; the tail fin and all shell segments are removed.

(5) Tidbits, which consist of units each of which may be only a part of a tail portion of a shrimp; they are free of tail fin and shell segments.

(c) Each of the optional forms of batter and of breading used to coat the shrimp material consists of one or a combination of two or more of the optional ingredients specified in this paragraph. A batter is a fluid or semifluid mixture prepared from one or more of the optional ingredients and with or without water. A breading is a dry mixture prepared from one or more of the optional cereal ingredients, with or without one or more of the other optional ingredients. In the preparation of a batter or a breading, one of the ingredients or a combination of two or more ingredients may first be baked, roasted, toasted, or dehydrated before use or before combination with additional ingredients. The optional ingredients that may be used in the preparation of batter and breading are:

(1) Milk, skim milk, buttermilk, cheese whey or any of these in concentrated, evaporated, or dried forms.

(2) Whole eggs, egg whites, egg yolks in liquid, frozen, or dried forms.

(3) Wheat flour, whole wheat flour, farina, cracked wheat, crushed wheat, durum flour, semolina, corn flour, corn meal, corn grits, soya flour, soya grits, oat flour, oat grits, rice flour, rye flour, cottonseed flour, potato flour, wheat starch, cornstarch, potato starch, any of which ingredients may be wholly or in part dextrinized.

(4) Bread crumbs, prepared from bread, enriched bread, milk bread, or whole wheat bread as defined in §§ 17.1, 17.2, 17.3, and 17.5 of this chapter, or from breads prepared from mixtures of white flour and whole wheat flour.

(5) Sugar, dextrose, lactose, corn sirup, invert sugar, honey, which sweetening ingredients may be in sirup or dried form.

(6) Salt.

(7) Monosodium glutamate, hydrolyzed vegetable protein.

(8) Gum arabic, guar gum, carob bean, karaya gum, carboxymethylcellulose, chondrus, agar-agar, algin, sodium alginate, gelatin, pectins.

(9) Mayonnaise.

(10) Any suitable, harmless food flavoring or seasoning.

(11) Spices, spice oils, spice extracts.

(12) Shortening, in which or in conjunction with which lecithin may be used.

(13) Citric acid, propyl gallate, propylene glycol, butylated hydroxyanisole, butaylated hydroxytoluene, in amounts such that the total content of antioxidants is not over 0.02 percent of the fat or oil content of the food.

(14) Monocalcium phosphate, dicalcium phosphate, monosodium phosphate, disodium phosphate.

(15) Yeast.

(16) Lemon juice, concentrated lemon juice.

(d) For the purposes of this section, the percentage of shrimp material in the finished product is determined by the method prescribed in 50 CFR 262.21(i) (25 F.R. 8445; September 1, 1960).[1]

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[1] (i) *Percent of shrimp material.* "Percent of shrimp material" means the percent by weight of shrimp material in a sample as determined by the method described below or other methods giving equivalent result. Results are commonly expressed as percent of breading which is calculated by difference.

(1) *Equipment needed.* (i) Two-gallon container approximately nine inches in diameter;

(ii) Two vaned wooden paddle, each vane measuring approximately one and three-fourths inches by three and three-fourths inches;

(iii) Stirring device capable of rotating the wooden paddle at 120 rpm;

(iv) Balance accurate to 0.01 ounce (or 0.1 gram);

(v) U.S. standard sieve—ASTM—No. 20, twelve-inch diameter;

(vi) U.S. standard sieve—one-half inch sieve opening, twelve inch diameter;

(vii) Forceps, blunt points;

(viii) Shallow baking pan.

(2) *Procedure.* (i) Weigh sample to be debreaded. Fill container three-fourths full of water at 70–80 degrees Fahrenheit. Suspend the paddle in the container leaving a clearance of at least five inches below the paddle vanes, and adjust speed to 120 rpm. Add shrimp and stir for ten minutes. Stack the sieves, the one-half inch mesh over the No. 20, and pour contents of container onto them. Set the sieves under a faucet, preferably with spray attached, and rinse shrimp with no rubbing of flesh, being careful to keep all rinsings over the sieves and not having the stream of water hit the shrimp on the sieve directly. Lay the shrimp out singly on the sieve as rinsed, remove top sieve and drain on a slope for two minutes, then remove shrimp to weighing pan. Rinse contents of the No. 20 sieve onto a flat pan and collect any particles other than breading (flesh, tail fin or extraneous material) and add to shrimp on balance pan and weigh.

(ii) Calculate percent shrimp material:

$$\text{Percent shrimp material} = \frac{\text{weight of debreaded sample}}{\text{weight of sample}} \times 100 + 5^*$$

*A tentative correction factor of five percent is employed pending completion of definitive studies.

(iii) Calculate percent breading:

$$\text{Percent breading} = 100 - \text{percent shrimp material}$$

(e) The name of the frozen raw breaded shrimp prepared from each of the optional forms of shrimp material specified in paragraph (b) of this section is as follows:

(1) "Fantail breaded shrimp," "fantail breaded prawns," "butterfly breaded shrimp," or "butterfly breaded prawns," or any combination of the wording in these names.

(2) "Round breaded shrimp," "round breaded prawns," "round fantail breaded shrimp," or "round fantail breaded prawns," or any combination of the wording in these names.

(3) "Butterfly breaded shrimp, tailoff," "butterfly breaded prawns, tailoff," or any combination of the wording in these names.

(4) "Round breaded shrimp, tailoff," "round breaded prawns, tailoff," or any combination of the wording in these names.

(5) "Breaded shrimp tidbits," "breaded prawn tidbits," or any combination of the wording in these names.

(f) The label shall bear the name of the optional form of the food specified in paragraph (e) of this section and shall bear a statement listing the optional ingredients employed in preparation of the batter and breading. If a spice is used to impart a color, the label shall declare it as both a spice and a coloring. While the petition does not so provide, section 403(k) of the Federal Food, Drug, and Cosmetic Act requires that a food bearing or containing a chemical preservative bear labeling stating that fact.

Dated: March 24, 1961.

[SEAL] J. K. KIRK,
Assistant to the Commissioner of Food and Drugs.

[F.R. Doc. 61-2847; Filed, Mar. 30, 1961; 8:50 a.m.]

[21 CFR Part 37]

[Docket No. FDC-64]

CANNED TUNA FISH

Definition and Standard of Identity; Findings of Fact

In the matter of establishing a definition and standard of identity for canned tuna fish:

In the FEDERAL REGISTER of August 28, 1956 (21 F.R. 6492), there was published a notice of a proposal for establishing a definition and standard of identity and a standard of fill of container for canned tuna fish. An order was published in the FEDERAL REGISTER of February 13, 1957 (22 F.R. 892), adopting the proposals, with modifications. Subsequently, objections were filed, and a public hearing was requested on two of the labeling requirements in the identity standard: (1) The requirement that tuna darker than a prescribed level be labeled "dark", and (2) the requirement that for water-pack tuna the name on the label should include the words "in water." By an order published in the FEDERAL REGISTER of August 29, 1957 (22 F.R. 6961), notice was given that no objections had been filed to the fill of container standard or to the compositional requirements of the identity standard, and the effective date for these provisions, as set out in the order of February 13, 1957 (22 F.R. 892), as confirmed. In recognition of the objections to the labeling requirements of the identity standard, these requirements were stayed pending the outcome of the hearing on the issues raised by the objections.

Pursuant to a notice of hearing published in the FEDERAL REGISTER of December 28, 1957 (22 F.R. 10964), a public hearing was held to receive evidence on the issues raised by the objectors. On the basis of the evidence received at the hearing, and pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e)(3), 52 Stat. 1046, 1055 as amended 70 Stat. 919; 21 U.S.C. 341, 371(e)(3)) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), and after consideration of written arguments and suggested findings, which are adopted in part and rejected in part as is apparent from the detailed findings herein made, it is proposed that the following order be issued:

Findings of fact.[1] 1. By an order published in the FEDERAL REGISTER of February 13, 1957 (22 F.R. 892), a definition and standard of identity for canned tuna fish was promulgated. Objections were filed protesting those portions of the order requiring that tuna darker in color than Munsell value 5.3 be declared on the label as "dark tuna" and that the name on the label of canned tuna packed in water rather than in oil include the words "in water" as a part of the name of the food. Notices of the objections, the stay of the labeling requirements, and the announcement of the public hearing on the objections were published in the FEDERAL REGISTER on August 29, 1957 (22 F.R. 6961), and December 28, 1957 (22 F.R. 10964). (Ex. 2, 4, 5, 7, 23)

2. The only issue concerning the color of canned tuna to be determined on the basis of the evidence was raised in the objection filed by one packer, the operator of a cannery in Maine, who advocated changing the wording of § 37.1(d)(3) of the standard from:

(3) *Dark.* This color designation includes all tuna darker than Munsell value 5.3, to

(3) *Tuna.* This designation includes all tuna darker than Munsell value 5.3 canned from the light meat of tuna.

The objection did not make an issue of whether the method specified in the order was appropriate for making the differentiation between dark and light tuna; of whether the value for such differentiation was properly set at 5.3 on the Munsell scale; or of whether the standard should require the label designation for tuna darker than Munsell value 5.3 to be different from the label designation for tuna lighter than Munsell value 5.3. The sole issue was whether the standard should require cans containing tuna darker than Munsell value 5.3 to be labeled "dark tuna" rather than simply "tuna." (R. 9, 11–12, 14, 17, 38, 47, 54–55; Ex. 7)

3. The only witness who supported the objection to the label declaration "dark tuna" sometimes employed the phrase "light meat of tuna" to mean striated muscular tissue, as specified in § 37.1(c) of the standard, without regard to the color shade of such tissue. At other times, when referring to this same striated muscular tissue (as prepared from large blue-fin tuna and from Atlantic little tunny), the witness used the term "dark meat." Apparently, it was for this dark-colored, striated muscular tissue that he urged the change of the standard to provide for labeling it by the unmodified word "tuna" though he sometimes used the designation "dark meat" or "black meat" to mean non-striated tissue, which is an entirely different part of the fish and which the standard requires to be eliminated before canning. (R. 18, 33–34, 37, 43, 50, 66)

4. Several kinds of tuna have been caught in the Atlantic waters, but the only color determinations reported in the record are for the categories little tunny; large blue-fin tuna, exceeding 500 pounds in weight; and blue-fin tuna ranging in weight from 20 pounds to 104 pounds. These color determinations showed that little tunny and the large blue-fin tuna yield canned tuna of color darker than Munsell 5.3. The canned tuna prepared from the smaller blue-fin tuna (those not exceeding 104 pounds in weight) measured lighter than Munsell 5.3. (R. 10, 18, 29–30, 54, 58, 60, 74, 76; Ex. 8)

5. The canned article prepared from large blue-fin tuna, where the fish weighed in excess of 500 pounds each, not only was of a dark color but it was coarse in texture and had a distinctive taste, described as stronger, heartier, and more fishy. The opinion was expressed that this darker colored, stronger flavored article prepared from large blue-fin tuna would appeal to a limited segment of consumers. (R. 14, 33–35, 46–47, 58–59)

6. The responses to a questionnaire answered by more than 4,000 consumers showed an interest on the part of a substantial number of consumers in having labels show whether the meat in the can is light or dark. A consumer survey in which interviewers visited 252 households in which the homemaker used canned tuna showed that 65 percent of these homemakers regarded a color photograph of a can of tuna measuring 5.3 on the Munsell scale as dark tuna. Over two-thirds of the homemakers interviewed were interested in whether the tuna they serve is light or dark tuna, and substantially all wanted the label on the cans to show whether the tuna is light or dark. (R. 140–141, 162–164, 168, 172, 184–189, 202–204, 210–212, 273, 278–279, 281–282; Ex. 14, 17, 18, 24, 25, 26)

[1] The citations following each finding of fact refer to the pages of the transcript of testimony and the exhibits received in evidence at the hearing.

7. In households where canned tuna is used, one of the forms in which it is most frequently served is as a salad. For use as a salad the color of tuna is important to housewives and they wish to avoid dark tuna for salads. (R. 42, 168–169)

8. The other issue for the hearing arose from objections filed by distributors of water-pack tuna imported from Japan. These distributors objected to the requirement that the name on the label of such canned tuna should include the words "in water." They asserted: (a) That showing the words "in water" in the name would lead consumers to believe that water would be a major ingredient of the food and that cans so labeled would contain less fish than equal-sized cans of oil-pack tuna; (b) that consumers generally discard the oil from oil-pack canned tuna; (c) that by inference the provision concerning label declaration of the words "in water" requires that these words must follow the word "tuna" in the same line on labels. They declared that these assertions would be proved by consumer letters and consumer-survey data that would be produced at the hearing. (R. 86–87, 91, 98, 101, 106–107, 109, 111–114, 134–135; Ex. 23)

9. Historically, it has been conventional to use vegetable oil as the packing medium for canned tuna. Tuna canned in the United States, with the exception of tuna prepared for special dietary usage, has been packed in oil. Around 1951 or 1952 small quantities of imported canned tuna packed in water appeared on the United States markets. Since then, the volume of imported water-pack tuna has increased considerably but remains substantially below the total volume of oil-pack tuna on the market. (R. 108, 112, 121, 127, 145–146, 148–149, 173, 249–250; Ex. 15, 16)

10. The assertion that consumers usually discard the oil from oil-pack tuna was not supported by the evidence presented at the hearing. The results of a questionnaire-type survey submitted by the Food and Drug Administration showed that of more than 4,000 consumers who answered the questionnaire, 56.4 percent reported that when using oil-pack tuna they either always or sometimes use the oil. This percentage agrees well with data published by the Fish and Wildlife Service of the United States Department of the Interior, showing that of more than 1,900 homemakers interviewed in a 1956 survey, 38.7 percent reported that in using oil-pack tuna they always use the oil with the fish and 20.4 percent reported that they sometimes use the oil. (R. 109, 150, 278–279; Ex. 16, 24–26)

11. Consumers are concerned whether the canned tuna they purchase is the conventional oil-pack article or is tuna packed in water. Some labels on water-pack tuna have shown "no oil added" or "without added oil," but, in general, the declaration that the tuna is packed in water has been so subordinated on labels that consumers would be apt to overlook it under customary conditions of purchase. Housewives serve canned tuna in various ways; they make salads, sandwiches, casserole dishes, tuna-with-noodles, and use tuna in other cooked dishes. Generally, recipes for the cooked dishes, and frequently those for tuna in salads, call for using the oil from the can along with the tuna fish. The oil adds richness and significantly increases the caloric value of the dishes. When following such recipes, a housewife using water-pack tuna needs to add butter, margarine, or salad oil. It promotes her interests for the label declaration showing that the tuna is packed in water to be so displayed that under ordinary conditions of purchase she will note it.

Some distributors of imported water-pack tuna have sought in their promotions to appeal to those consumers who wish to avoid high-calorie foods. These promotions have emphasized that canned tuna where water has been substituted for oil as the packing medium is lower in caloric value than conventional oil-pack tuna. The interest of these consumers also is promoted by a prominent label declaration to show that the tuna is packed in water. (R. 120, 128, 134, 137, 138, 167–174; Ex. 12)

12. A consumer survey especially designed to elicit evidence from a fair sample of homemakers on the issues raised in the objections to the canned tuna order was carried out by an organization experienced in conducting such consumer interviews. In this survey homemakers were shown cans of water-pack tuna under conditions designed to simulate those she would experience in marketing for canned foods. For cans with commercial labels, fairly representative of the labels that have been used on water-pack tuna and showing "Packed in water" on side panels, two-thirds of the homemakers interviewed mistakenly thought that the tuna was packed in oil. (R. 79–83, 178–190, 200–202, 207–210, 219, 221–223, 237, 245, 255, 270–271; Ex. 17–22)

13. The evidence at the hearing did not support the assertion by the objectors that including the words "in water" in the name on labels of water-pack tuna would lead consumers to believe water to be a major ingredient and to believe that the cans so labeled would contain less fish than similar cans of oil-pack tuna. In the consumer survey described in Finding 12, the interviewers showed homemakers cans of water-pack tuna with labels specially printed to conform to the requirements of the standard. The names on the labels were:

LIGHT TUNA FLAKES
IN WATER

and

SOLID PACK
LIGHT TUNA IN WATER

The homemakers were asked whether they thought the cans of water-pack tuna would contain less fish, the same amount of fish, or more fish than cans of the same size where the tuna is packed in oil. Half the homemakers answered that the amount of fish would be the same and the others divided about equally between answering that there would be less fish or more fish in the cans of water-pack tuna. Two witnesses trained in statistically evaluating such data testified that these results do not support the claim that showing the words "in water" in the names on labels would lead consumers to believe the cans contain less tuna fish. (R. 87, 106–107, 111–112, 135, 204, 213–214, 251, 267–269, 274–275; Ex. 17–22)

14. The objectors to the labeling requirement for water-pack tuna failed to show that it would promote consumer interests to rescind the provision that the words "in water" be included in the name and to substitute a requirement that water be named on labels as an optional ingredient. One witness, supporting the objections, expressed approval of a suggestion that the words "in water" be shown on labels in type half as large, and on a line below, the other words in the name. A witness, trained and employed in the field of home economics, objected to the use of smaller type for the words "in water." She explained that women are accustomed to getting tuna packed in oil and for that reason when the tuna is packed in water the label should declare "in water" in easily legible type. She made no specific objection to the suggestion that these words be shown in a line immediately below other words in the name. (R. 97, 152, 154, 156, 165–168, 170, 173)

Conclusions. On the basis of the foregoing findings of fact, and taking into consideration the substantial evidence of the entire record, it is concluded that, for the purpose of promoting honesty and fair dealing in the interest of consumers, the definition and standard of identity for canned tuna should not be changed by rescinding the requirement that the word "dark" be included in the label designation of tuna darker than Munsell value 5.3 or the requirement that the words "in water" be included in the name of water-pack canned tuna.

Any interested person whose appearance was filed at the hearing may, within 30 days from the date of publication of this proposed order in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written exceptions thereto. Exceptions shall point out with particularity the alleged errors in the proposed order and shall contain specific references to the pages of the transcript of testimony or to the exhibits on which the exceptions are based. Exceptions may be accompanied by briefs in support thereof. Exceptions and accompanying briefs should be submitted in quintuplicate.

Dated: March 21, 1961.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 61-2836; Filed, Mar. 30, 1961; 8:48 a.m.]

[21 CFR Part 120]

RESIDUES OF SODIUM DEHYDROACETATE

Notice of Filing of Petition for Establishment of Tolerance

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec.

408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), the following notice is issued:

A petition has been filed by Dow Chemical Company, Midland, Michigan, proposing the establishment of a tolerance for residues of sodium dehydroacetate, expressed as dehydroacetic acid, in or on bananas from postharvest application at 30 parts per million, based upon total weight, of which not more than 10 parts per million should be on the edible portion.

The analytical method proposed in the petition for determining residues of sodium dehydroacetate is as follows:

The fruit sample is homogenized, acidified, extracted with chloroform, and the residue is removed from the chloroform solution with dilute sodium hydroxide solution. The alkaline solution is acidified and extracted with isooctane. The concentration of dehydroacetic acid in the solution is determined by measurement of its optical density at 311μ.

Dated: March 24, 1961.

[SEAL] ROBERT S. ROE,
Director, Bureau of Biological and Physical Sciences.

[F.R. Doc. 61-2837; Filed, Mar. 30, 1961; 8:48 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal, Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition has been filed by Emery Industries, Inc., 4300 Carew Tower, Cincinnati 2, Ohio, proposing the issuance of a regulation to provide for the safe use of methyl esters of higher fatty acids (C_{10}–C_{18} content) in animal feed.

Dated: March 20, 1961.

[SEAL] J. K. KIRK,
Assistant to the Commissioner of Food and Drugs.

[F.R. Doc. 61-2838; Filed, Mar. 30, 1961; 8:48 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by U.S. Vitamin and Pharmaceutical Corporation, 250 East Forty-third Street, New York 17, New York, proposing the issuance of a regulation to provide for the safe use of polysorbate 80 in oral vitamin products as a solubilizer excipient.

Dated: March 20, 1961.

[SEAL] J. K. KIRK,
Assistant to the Commissioner of Food and Drugs.

[F.R. Doc. 61-2839; Filed, Mar. 30, 1961; 8:48 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by Los Angeles Smoking and Curing Company, 778 Kohler Street, Los Angeles, California, proposing the issuance of a regulation to provide for the safe use of sodium nitrite in or on smoked, cured salmon and shad at a level of 200 parts per million (0.02 percent).

Dated: March 20, 1961.

[SEAL] J. K. KIRK,
Assistant to the Commissioner of Food and Drugs.

[F.R. Doc. 61-2840; Filed, Mar. 30, 1961; 8:48 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition has been filed by American Cyanamid Company, Post Office Box 383, Princeton, New Jersey, proposing the issuance of a regulation to establish tolerances for residues of hydrogen cyanide in foods fumigated with the gas, as follows:

100 parts per million (0.01 percent) in certain dried fruit.

90 parts per million (0.009 percent) in flour.

50 parts per million (0.005 percent) in confectionery, cereals, dried dates, dried currants, and meats.

Dated: March 20, 1961.

[SEAL] J. K. KIRK,
Assistant to the Commissioner of Food and Drugs.

[F.R. Doc. 61-2841; Filed, Mar. 30, 1961; 8:49 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition has been filed by American Cyanamid Company, 30 Rockefeller Plaza, New York 20, New York, proposing the issuance of a regulation to provide for the safe use of saligenin in the manufacture of rosin sizing used in the manufacture of paper and paperboard products intended for use in contact with food.

Dated: March 23, 1961.

[SEAL] J. K. KIRK,
Assistant to the Commissioner of Food and Drugs.

[F.R. Doc. 61-2842; Filed, Mar. 30, 1961; 8:49 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition has been filed by United States Movidyn Corporation, 363 North Orleans Street, Chicago, Illinois, proposing the issuance of a regulation to provide for the safe use of an ionic-colloidal complex of silver and protein which contains, before processing, not more than 5.0 percent silver nitrate, as a slimicide in the production of paper and paperboard for food packaging.

Dated: March 23, 1961.

[SEAL] J. K. KIRK,
Assistant to the Commissioner of Food and Drugs.

[F.R. Doc. 61-2843; Filed, Mar. 30, 1961; 8:49 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition has been filed by Dow Corning Corporation, Midland, Michigan, proposing the issuance of a regulation to provide for the safe use of stannous oleate as a catalyst and polyvinyl alcohol as an emulsifying agent in silicone antiadhesive coatings for paper and paperboard used in food packaging.

Dated: March 23, 1961.

[SEAL] J. K. KIRK,
Assistant to the Commissioner of Food and Drugs.

[F.R. Doc. 61-2844; Filed, Mar. 30, 1961; 8:49 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 3]

[Reg. Docket No. 704; Draft Release No. 61-5]

CONVERSION TO USE OF TURBOPROP ENGINES IN NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

Notice of Proposed Rule Making

Pursuant to the authority delegated to me by the Administrator (14 CFR 405.27), notice is hereby given that there is under consideration a proposal to amend Part 3 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washing-

ton 25, D.C. All communications received on or before June 1, 1961, will be considered by the Administrator before taking action upon the proposed rules. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, in the Docket Section, for examination by interested persons when the prescribed date for return of comments has expired.

Part 3 was amended, effective May 18, 1954, to clarify the scope and applicability of the regulations. The amendment included a requirement for application for a new type certificate for airplanes, previously certificated under Part 3, when they were modified, among other things, by a change to engines employing different principles of operation or propulsion. Simultaneously, the same requirement was incorporated into Part 4b.

Subsequently, notice was taken of interest shown within the aviation industry in the installation of turbopropeller engines on airplanes in the transport category which were equipped with reciprocating engines. It appeared that showing of compliance with all of the latest requirements might be burdensome, impractical, and not essential to safety. It was stated, however, that in accordance with § 4b.11(e)(2), such a change would require a showing of compliance with the latest airworthiness requirements of Part 4b. This results because reciprocating and turbopropeller engines employ different principles of operation. These engines are alike in that both drive propellers and employ, therefore, the same principle of propulsion.

To cope with this problem, Special Civil Air Regulation No. SR–423 was adopted on November 15, 1957. Notwithstanding the provisions of § 4b.11(e)(2), this Special Civil Air Regulation permits the certification of a turbopropeller-powered airplane, which previously was type certificated with the same number of reciprocating engines, if compliance is shown with the airworthiness provisions applicable to the airplane as type certificated with reciprocating engines, together with certain later provisions of the Civil Air Regulations in effect on the date of application for a supplemental or new type certificate which are applicable or related to the powerplant of the turbopropeller-powered version.

The Bureau of Flight Standards now notices the same interest in the installation of turboprop engines in normal, utility, and acrobatic category airplanes presently equipped with reciprocating engines. This includes airplanes previously certificated in accordance with earlier requirements, such as Part 4a or Bulletin 7A, as well as those certificated in accordance with Part 3. In consideration of the previous action taken with respect to transport category airplanes, the Bureau believes that it might be burdensome, impractical, and not essential to safety to show compliance with all of the latest airworthiness requirements of Part 3 upon conversion of an airplane to the use of turboprop engines. The Bureau does believe, however, that later airworthiness requirements which are applicable or related to the powerplant of the turboprop version should be those in effect on the date of application for a supplemental or new type certificate together with such other requirements as are found to be otherwise related to the changes made in the engines. With respect to airworthiness requirements earlier than those of Part 3, conversion to turboprop engines, in the case of airplanes previously certificated with reciprocating engines, should continue to be treated as a major change in accordance with applicable regulations.

It is proposed, therefore, to delete from § 3.11(e)(2) the word "operation," but retain the word "propulsion." Since reciprocating and turboprop engines employ the same principle of propulsion, conversion from reciprocating to turboprop engines would not be affected by the requirement for a new type certificate. On the other hand, reciprocating and turbojet engines employ different principles of propulsion, and conversion to the use of the latter engine would continue to require a new type certificate as in the past. The Bureau continues to believe it is necessary to retain the requirement for a new type certificate in the case of turbojet conversions.

In consideration of the foregoing, it is proposed to amend § 3.11(e)(2) of Part 3 of the Civil Air Regulations as follows:

§ 3.11 Designation of applicable regulations.

* * * * *

(e) * * *

(2) A change to engines employing different principles of propulsion.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

Issued in Washington, D.C., on March 23, 1961.

OSCAR BAKKE,
Director,
Bureau of Flight Standards.

[F.R. Doc. 61–2814; Filed, Mar. 30, 1961; 8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60–WA–271]

CONTROL AREA EXTENSIONS AND REPORTING POINTS

Designations and Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 and §§ 601.1233, 601.1234 and 601.5001 of the regulations of the Administrator, the substance of which is stated below.

The Key West, Fla., control area extension (§ 601.1233) is designated from the Key West, Fla., radio range station to the northern boundary of the Havana, Cuba, control area (24th parallel) extending 5 miles either side of a rhumb line between the Key West radio range station and the Santa Fe, Havana, Cuba, nondirectional radio beacon, excluding the portion below 2,000 feet MSL which lies outside the United States. The Federal Aviation Agency has under consideration the alteration of this control area extension to include the area bounded on the north by the Key West control area extension (§ 601.1319) and VOR Federal airway No. 35, on the east by a line 5 miles east of and parallel to a line bearing 187° True from the Key West radio range station, on the south by the Havana, Cuba, control area and on the west by a line 5 miles west of and parallel to the southwest course of the Key West radio range, excluding the portion below 2,000 feet MSL outside of the United States.

The Marathon, Fla., control area extension (§ 601.1234) is designated within 5 miles either side of a line bearing 219° True extending from the Marathon radio beacon to the northern boundary of the Havana, Cuba, control area, excluding the portion below 2,000 feet MSL between Amber Federal airway No. 7 and the Havana control area boundary, and within 5 miles either side of a direct line extending from the Marathon radio beacon to the Tamiami, Fla., radio beacon. The Federal Aviation Agency has under consideration the redesignation of this control area extension to include the area bounded on the north by VOR Federal airway No. 35, on the east by a line 5 miles east of and parallel to a line bearing 209° True from the Marathon, Fla., radio beacon, on the south by the Havana, Cuba, control area, and on the west by a line 5 miles west of and parallel to a line bearing 219° True from the Marathon radio beacon, excluding the portion below 2,000 feet MSL between Victor 35 and the Havana control area, and excluding the portion which would coincide with the Key West, Fla., Warning Area (W–465).

Also under consideration is the designation of a control area extension within 5 miles either side of a line bearing 186° True from the Marathon radio beacon, extending from the radio beacon to the Havana, Cuba, control area excluding the portion below 2,000 feet MSL and excluding the portion which would coincide with the Key West, Fla., Warning Area (W–465).

The altered control area extensions and the proposed new control area extension would provide protection for aircraft operating in accordance with instrument flight rule procedures on routes between Key West and Havana, and between Miami and Havana, and also direct between the Marathon radio beacon and the Varadero, Cuba, radio beacon. The portion of the Marathon control area extension (§ 601.1234) north of the Marathon radio beacon would be revoked as it would be included within the Miami control area extension (§ 601.1408) as proposed in Airspace Docket No. 60–WA–166.

Concurrently with this action, it is proposed to designate the following intersections as reporting points for flights at all altitudes.

1. Intersection of the southwest course of the Key West radio range with latitude 24°00'00" N.

2. Intersection of a line bearing 187° True from the Key West radio range station with latitude 24°00'00" N.

3. Intersection of a line bearing 209° True from the Marathon radio beacon with latitude 24°00'00" N.

4. Intersection of a line bearing 219° True from the Marathon radio beacon with latitude 24°00'00" N.

5. Intersection of a line bearing 186° True from the Marathon radio beacon with latitude 24°00'00" N.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on March 27, 1961.

J. R. BAILEY,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 61-2854; Filed, Mar. 30, 1961; 8:51 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 13860; RM-199, RM-225]

TABLE OF ASSIGNMENTS; TELEVISION BROADCAST STATIONS

Order Extending Time for Filing Reply Comments

In the matter of amendment of § 3.606 *Table of assignments,* Television Broadcast Stations, (Superior, Kearney, Albion, Nebraska and others).

1. The Commission has before it for consideration a petition filed on March 23, 1961, by the Committee on Education of The Legislative Council of the State of Kansas, requesting that the time for filing reply comments in the above-entitled proceeding be extended sixty days from March 27, 1961.

2. Petitioner states that on March 16, 1961, the Committee on Education introduced a bill in the Senate of the Kansas Legislature to create a Kansas Educational Television Authority, which Bill would make possible creation of the Kansas Educational Television Authority, whose purpose would be to establish a state-wide television network for educational purposes. Petitioner further points out that the Congress of the United States may enact into law at this session a Bill which would expedite utilization of television facilities for educational purposes in each of the several States, thus enabling the State of Kansas to benefit therefrom by submitting to the Commission its State plan for educational television. Petitioner urges that the Commission should therefore delay consideration of the rule making herein proposed so that such an educational plan may be considered herewith.

3. In view of the number of proposals to be considered in this proceeding, the many comments received, and the representations of the petitioner, the Commission believes that the public interest, convenience and necessity would be served by affording the additional time requested for filing replies.

4. *Accordingly, it is ordered,* This 27th day of March 1961, that the above-mentioned request of The Committee on Education of The Legislative Council of the State of Kansas for additional time to file reply comments is granted and that the time for filing reply comments in the above-mentioned proceeding is extended from March 27, 1961, to May 25, 1961.

Released: March 28, 1961.

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

[F.R. Doc. 61-2867; Filed, Mar. 30, 1961; 8:52 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[431.3]

METAL PARTS FOR ELECTRIC HOUSEHOLD UTENSILS AND ELECTRIC KITCHEN UTENSILS

Tariff Classification

MARCH 27, 1961.

The Bureau of Customs published in the FEDERAL REGISTER of January 12, 1961 (26 F.R. 230), notice that it had under review the existing practice of assessing duty on metal parts for electric household utensils and electric kitchen utensils such as coffee percolators, can openers, coffee grinders, pepper mills, juicers, portable sterilizers, hair dryers, hot plates, fryers, griddles, portable ovens, toasters, and battery-operated manicure kits, except those which are classifiable under paragraph 353 as articles having as an essential feature an electrical element or device, at the rate of 13¾ percent ad valorem, under paragraph 353, Tariff Act of 1930, as modified.

The Bureau, by letter dated March 27, 1961, addressed to the collector of customs, New York, New York, held that this merchandise is properly dutiable at the rate of 19 percent ad valorem, the rate applicable to articles, not specially provided for, manufactured, in chief value of metal, under paragraph 397, Tariff Act of 1930, as modified.

Inasmuch as this decision results in the assessment of duty at a rate higher than that which has been assessed under a uniform and established practice, it shall be applied only to such or similar merchandise entered, or withdrawn from warehouse, for consumption after 90 days after the date of publication of an abstract of this decision in the weekly Treasury Decisions.

[SEAL] PHILIP NICHOLS, JR.,
Commissioner of Customs.

[F.R. Doc. 61–2855; Filed, Mar. 30, 1961; 8:51 a.m.]

DEPARTMENT OF DEFENSE

Office of the Secretary

SECRETARIES OF ARMY, NAVY AND AIR FORCE

Delegation of Priorities and Allocations Authority; Rescheduling Deliveries

The following amended delegations of authority have been approved:

I. *Delegation of authority.* Pursuant to the delegation of priorities and allocations authority to the Assistant Secretary of Defense (Installations and Logistics) (formerly Supply and Logistics) in DOD Directive 4405.6, August 20, 1954, and in accordance with the Defense Production Act of 1950, as amended, and BDSA Delegation 1, authority is hereby delegated to the Secretaries of the Army, Navy, and Air Force (with power of redelegation) to reschedule deliveries of materials which are required in support of approved programs: To the Secretary of the Navy, for the Aircraft (A1) and the Ships (A3) programs; to the Secretary of the Army, for the Aircraft (A1) program and the Tank-Automotive (A4) program; and to the Secretary of the Air Force, for the Aircraft (A1) program and the Air Force portion of the Missiles (A2) program.

II. *Conditions and responsibilities for use of delegations.* A. The authority herein delegated is limited to rescheduling deliveries on rated orders or authorized controlled materials orders—

1. Bearing the designated program identification, and

2. Issued by or pursuant to the authority of the delegate, or, if not, that the rescheduling is requested or concurred in by the department or associated agency under whose authority they were issued.

B. Rescheduling of delivery may be directed only if it requires no change in the production schedule of the person making the delivery.

C. This authority is to be redelegated only to that activity within each department which is to act as its central delivery rescheduling unit for a program.

D. This rescheduling authority will be so exercised as to support decisions on relative urgencies reflected in the DOD Master Urgency List, DOD Instruction S–4410.3, based on realistic needs to meet approved schedules.

E. Rescheduling authorities in support of the Aircraft (A1) program shall be exercised jointly by procuring departments through a joint activity.

F. The exercise of this authority shall conform to the terms of the regulations and orders of the Business and Defense Services Administration and to such priorities and allocations policy directives and procedures as may be issued by the Assistant Secretary of Defense (Installations and Logistics) in the Priorities and Allocations Manual pursuant to DOD Instruction 4410.1.

G. The Assistant Secretary of Defense (Installations and Logistics) is responsible to the BDSA for assuring Department of Defense compliance with his delegations of rescheduling authority, with the policies and procedures in the Priorities and Allocations Manual, and with quantitive program determinations. The Secretary of each department shall be responsible for ensuring compliance by his delegates in the use of such rescheduling authority as is administered by his department.

H. The authority granted to each Secretary may be redelegated only within his department, except that the Navy may redelegate to the Coast Guard. Any other redelegation will require the prior written approval of the Assistant Secretary of Defense (Installations and Logistics).

Delegations of authority published at 17 F.R. 213 and 24 F.R. 6583 are hereby superseded and cancelled.

MAURICE W. ROCHE,
Administrative Secretary,
Office of the Secretary of Defense.

[F.R. Doc. 61–2832; Filed, Mar. 30, 1961; 8:47 a.m.]

SECRETARIES OF ARMY, NAVY AND AIR FORCE

Delegation of Priorities and Allocations Authority; DO Ratings and Allotments

The following delegations of authority have been approved:

I. *Delegation of authority.* Pursuant to the delegations of priorities and allocations of authority to the Assistant Secretary of Defense (Installations and Logistics) (formerly Supply and Logistics) in DOD Directive 4405.6, August 20, 1954, and in accordance with the Defense Production Act of 1950, as amended, and BDSA Delegation 1, authority is hereby delegated to the Secretaries of the Army, Navy, and Air Force (with power of redelegation):

A. To apply or assign to others the right to apply DO ratings to contracts and delivery orders to meet DOD programs authorized for priorities support by the Office of Civil and Defense Mobilization or designated OCDM as eligible for priorities support through the Department of Defense.

B. To assign the right to apply DO ratings to certain prime or subcontractors on orders for delivery of production equipment specifically required to support authorized programs of the Department of Defense or of such other specially designated programs.

C. To assign the right to apply DO ratings to certain contractors on orders for delivery of construction equipment for use on construction in Alaska, Hawaii, or outside of the United States.

D. To make allotments of controlled materials, and to apply or assign to others the right to apply allotment numbers to rateable contracts and delivery orders within the allotment jurisdiction of the Department of Defense.

II. *Conditions and responsibilities for use of delegations.* A. Authority shall be exercised within the limits of such allocation determinations or other quantitative restrictions as may be established, and in accordance with such instructions, conditions, record-keeping and reporting requirements, as may be issued from time to time by the Assistant Secretary of Defense (Installations and Logistics).

B. The exercise of this authority shall conform to the terms of the regulations and orders of the Business and Defense Services Administration and to such priorities and allocations policy directives and procedures as may be issued by the Assistant Secretary of Defense (Installations and Logistics) in the Priorities and Allocations Manual pursuant to DOD Instruction 4410.1.

C. The Assistant Secretary of Defense (Installations and Logistics) is responsible to the BDSA for assuring Department of Defense compliance with his delegations of priorities and allocations authority, with the policies and procedures in the Priorities and Allocations Manual, and with quantitative program determinations. The Secretary of each department shall be responsible for ensuring compliance by his delegates in the use of such priorities and allocations authority as is administered by his department.

D. The authority granted to each Secretary may be redelegated only within his department, except that the Navy may redelegate to the Coast Guard. Any other redelegation will require the prior written approval of the Assistant Secretary of Defense (Installations and Logistics).

E. Allotment authorities in support of the Aircraft (A1) program shall be exercised jointly by procuring departments through a joint activity.

MAURICE W. ROCHE,
Administrative Secretary,
Office of the Secretary of Defense.

[F.R. Doc. 61–2833; Filed, Mar. 30, 1961; 8:47 a.m.]

SECRETARIES OF ARMY, NAVY AND AIR FORCE

Delegation of Priorities and Allocations Authority; DX Ratings and Allotments

The following delegations of authority have been approved:

I. *Delegation of authority.* Pursuant to the delegation of priorities and allocations authority to the Assistant Secretary of Defense (Installations and Logistics) (formerly Supply and Logistics) in DOD Directive 4405.6, August 20, 1954, and in accordance with the Defense Production Act of 1950, as amended, and BDSA Delegation 1, authority is hereby delegated to the Secretaries of the Army, Navy, and Air Force (with power of redelegation) to apply or assign to others the right to apply DX ratings and allotment numbers to contracts and delivery orders for programs approved by the Office of Civil and Defense Mobilization as of the highest national priority.

II. *Conditions and responsibilities for use of delegations.* A. The DX program rating and allotment authority is limited to—

1. Contracts and orders identifiable to programs of the highest national priority as listed on the DOD Master Urgency List (Inclosure 1 to DOD Instruction S–4410.3).

2. Contracts and orders to which ratings and allotment numbers may be applied or assigned under DOD Instruction 4405.11.

B. Authority shall be exercised within the limits of such allocation determinations or other quantitative restrictions as may be established, and in accordance with such instructions, conditions, record-keeping and reporting requirements, as may be issued from time to time by the Assistant Secretary of Defense (Installations and Logistics).

C. The exercise of this authority shall conform to the terms of the regulations and orders of the Business and Defense Services Administration and to such priorities and allocations policy directives and procedures as may be issued by the Assistant Secretary of Defense (Installations and Logistics) in the Priorities and Allocations Manual pursuant to DOD Instruction 4410.1.

D. The Assistant Secretary of Defense (Installations and Logistics) is responsible to the BDSA for assuring Department of Defense compliance with his delegations of DX priorities and allocations authority, with the policies and procedures in the Priorities and Allocations Manual, and with quantitative program determinations. The Secretary of each department shall be responsible for ensuring compliance by his delegates in the use of such DX priorities and allocations authority as is administered by his department.

E. The authority granted to each Secretary may be redelegated only within his department, except that the Navy may redelegate to the Coast Guard. Any other redelegation will require the prior written approval of the Assistant Secretary of Defense (Installations and Logistics).

MAURICE W. ROCHE,
Administrative Secretary,
Office of the Secretary of Defense.

[F.R. Doc. 61–2834; Filed, Mar. 30, 1961; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

ARKANSAS

Designation of Area for Production Emergency Loans

For the purpose of making production emergency loans pursuant to section 2(a) of Public Law 38, 81st Congress (12 U.S.C. 1148a–2(a)), as amended, it has been determined that in the following counties in the State of Arkansas a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

ARKANSAS

Boone.	Marion.
Faulkner.	Perry.
Grant.	Searcy.
Johnson.	White.
Madison.	

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named counties after December 31, 1961, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 27th day of March 1961.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 61–2831; Filed, Mar. 30, 1961; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12787, 12790; FCC 61M–519]

WALTER L. FOLLMER AND INTERSTATE BROADCASTING CO., INC. (WQXR)

Order Continuing Hearing

In re applications of Walter L. Follmer, Hamilton, Ohio, Docket No. 12787, File No. BP–11323; Interstate Broadcasting Company, Inc. (WQXR), New York, N.Y., Docket No. 12790, File No. BP–11707; for construction permits.

The Hearing Examiner having under consideration the necessity for a continuance;

It appearing that it has already been agreed among counsel and the Hearing Examiner that the circumstances of the case made a continuance desirable from the currently established date of April 11;

It is Ordered, This 24th day of March 1961, on the Hearing Examiner's own motion, that the hearing is continued from April 11 to May 22, 1961.

Released: March 27, 1961.

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

[F.R. Doc. 61–2856; Filed, Mar. 30, 1961; 8:51 a.m.]

[Docket No. 13598 etc.; FCC 61M–520]

GILA BROADCASTING CO.

Order Continuing Hearing

In re applications of Gila Broadcasting Company, for renewal of licenses of Stations KCKY, Coolidge, Docket No. 13598, File No. BR–2128; KCLF, Clifton, Docket No. 13617, File No. BR–2441; KGLU, Safford, Docket No. 13618, File No. BR–970; KVNC, Winslow, Docket No. 13619, File No. BR–2731; KZOW, Globe, Docket No. 13620, File No. BR–973; and, KWJB–FM, Globe, Docket No. 13621, File No. BRH–851; all in Arizona.

A prehearing conference in the above-entitled matter having been held on March 16, 1961, and it appearing from the record made therein that certain agreements were reached which properly should be formalized by order;

It is ordered, This 24th day of March 1961 that:

(1) All exhibits to be offered in evidence in the presentation of the direct affirmative cases shall be exchanged among the parties and copies thereof supplied the Hearing Examiner on April 17, 1961;

(2) Request for additional information shall be made on or before April 24, 1961;

It is further ordered, On the Hearing Examiner's own motion, that the hearing herein presently scheduled for May 2, 1961, is continued to May 16, 1961, commencing at 10:00 a.m., in Phoenix, Arizona.

Released: March 27, 1961.

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

[F.R. Doc. 61-2857; Filed, Mar. 30, 1961; 8:51 a.m.]

[Docket No. 14004; FCC 61-383]

JACKSON BROADCASTING AND TELEVISION CORP. (WKHM)

Order Designating Application for Hearing on Stated Issues

In re application of Jackson Broadcasting and Television Corporation (WKHM), Jackson, Michigan, has: 970 kc, 1 kw, DA-2, U, requests: 970 kc, 1 kw, 5 kw-LS, DA-2, U, Docket No. 14004, File No. BP-13600; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 22d day of March 1961;

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

It appearing that except as indicated by the issues specified below, the instant applicant is legally, technically, financially, and otherwise qualified to construct and operate the instant proposal; and

It further appearing that the following matters are to be considered in connection with the aforementioned issues specified below:

1. The proposed operation will receive interference in excess of 10 percent population loss. The applicant has requested waiver of § 3.28(c)(3) of the rules.

2. By letter and engineering affidavit filed June 17, 1960, the licensee of Station WWJ, Detroit, Michigan, has protested interference which would be received from the instant proposal. Study of the subject proposal indicates that slight interference will be caused the existing operation of WWJ and, in view of the formal protest submitted, the licensee of that station is herein made a party respondent.

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

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the instant 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 may be expected to gain or lose primary service from the proposed operation of Station WKHM and the availability of other primary service to such areas and populations.

2. To determine whether the instant proposal of WKHM would cause objectionable interference to Station WWJ, Detroit, Michigan, 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 interference received from existing Stations WWJ, Detroit, Michigan and WREO, Ashtabula, Ohio would affect more than ten percent of the population within the normally protected primary service area of the instant proposal of WKHM, in contravention of § 3.28(c)(3) of the Commission rules, and, if so, whether circumstances exist which would warrant a waiver of said section.

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 furthed ordered, That, The Evening News Association, licensee of Station WWJ, Detroit, Michigan is made a party to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and party respondent herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: March 27, 1961.

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

[F.R. Doc. 61-2858; Filed, Mar. 30, 1961; 8:51 a.m.]

[Docket No. 13609; FCC 61-392]

MARIETTA BROADCASTING, INC.

Order Designating Matter for Hearing

In the matter of modification of license of Marietta Broadcasting, Inc., KERO-TV, Channel 10, Bakersfield, California, Docket No. 13609.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 22d day of March 1961;

The Commission having under consideration the "Response to Order to Show Cause" filed on September 6, 1960, by Marietta Broadcasting, Inc., licensee of Television Broadcast Station KERO-TV, Channel 10, Bakersfield, California; and

It appearing that upon the completion of rule making proceedings duly conducted in conformity with the requirements of law, including the Administrative Procedure Act, the Commission for the reasons stated in its Report and Order in Docket No. 13608 adopted this date, determined that the public interest, convenience and necessity would be served by making Bakersfield an all-UHF television market by removing the assignment of Channel 10— from Bakersfield and assigning additional UHF channels to Bakersfield; and

It further appearing that the public interest, convenience and necessity would be served by thus deintermixing Bakersfield with the least possible delay;

It is ordered, That pursuant to section 303(f) and 316 of the Communications Act of 1934, as amended, a hearing be held at the offices of the Commission in Washington, D.C., at a time to be specified in a subsequent order, before an examiner to be later designated, to determine whether the public interest, convenience and necessity would be promoted by the modification of the license issued to Marietta Broadcasting, Inc., for Television Broadcast Station KERO-TV, Bakersfield, California, to specify operation on Channel 23 instead of Channel 10, effective on the earliest practicable date prior to the expiration of the term of such license on December 1, 1962, and for the remainder of such term; and

It is further ordered, That the hearing in this proceeding be expedited; and

It is further ordered, That the Chief of the Broadcast Bureau is made a party to the proceeding; and

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission.

Released: March 27, 1961.

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

[F.R. Doc. 61-2859; Filed, Mar. 30, 1961; 8:51 a.m.]

[Docket Nos. 13991, 13992; FCC 61M-521]

BEN S. McGLASHAN (KGFJ) AND SUN STATE BROADCASTING SYSTEM, INC.

Order Scheduling Prehearing Conference

In re applications of Ben S. McGlashan (KGFJ), Los Angeles, California, Docket No. 13991, File No. BP-13123; Sun State Broadcasting System, Inc., San Fernando, California, Docket No. 13992, File No. BP-14056; for construction permits.

On the Hearing Examiner's own motion: *It is ordered,* This 24th day of March 1961, pursuant to 47 CFR 1.111 that the parties or their counsel in the above-entitled proceeding are directed to appear for a prehearing conference at the offices of the Commission, Washington, D.C., at 10 a.m., on April 12, 1961.

In order to conserve time counsel are requested to confer beforehand with a view to reaching advance agreement upon such routine details as the manner of presentation, dates for exchange of

[1] Dissenting statement of Commissioner Cross filed as part of original document.

exhibits and such other dates as may be deemed necessary. In view of the design of the prehearing conference procedure to encourage the formulation of agreements by the parties looking towards the elimination of unessentials, so that hearing may proceed with proper dispatch, it is requested that the parties or their counsel attend this conference prepared fully to discuss—and to agree upon—such matters as will conduce materially to the attainment of this objective.

Released: March 27, 1961.

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

[F.R. Doc. 61-2860; Filed, Mar. 30, 1961; 8:51 a.m.]

[Docket Nos. 13987, 13988; FCC 61M-517]

OLEAN BROADCASTING CORP. AND WIRY, INC.

Order Scheduling Prehearing Conference

In re applications of Olean Broadcasting Corporation, Plattsburg, New York, Docket No. 13987, File No. BP-13091; Wiry, Inc., Lake Placid, New York, Docket No. 13988, File No. BP-13345; for construction permits.

It is ordered, This 24th day of March 1961, on the Hearing Examiner's own motion that, pursuant to 47 CFR 1.111, the parties or their counsel in the above-entitled proceeding are directed to appear for a prehearing conference at the Offices of the Commission, Washington, D.C., at 9:00 a.m., on April 5, 1961.

Released: March 27, 1961.

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

[F.R. Doc. 61-2861; Filed, Mar. 30, 1961; 8:51 a.m.]

[Docket No. 14005; FCC 61-384]

PARKS ROBINSON (WISV)

Order Designating Application for Hearing on Stated Issues

In re application of Parks Robinson (WISV), Viroqua, Wisconsin, has: 1360 kc, 500 w, Day, requests: 1360 kc, 1 kw, Day, Docket No. 14005, File No. BP-13321; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 22d day of March 1961;

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

It appearing that, except as indicated by the issues specified below, the instant applicant is legally, technically, financially, and otherwise qualified to construct and operate the instant proposal; and

It further appearing that, in a prehearing letter dated November 4, 1960, and incorporated herein by reference, the Commission notified the applicant, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of the application would serve the public interest, convenience and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that, the applicant filed a timely reply to the aforementioned letter, which reply has not, however, entirely eliminated the grounds and reasons precluding a grant of the application and requiring an evidentiary hearing on the particular issues hereinafter specified; and

It further appearing that, data submitted by the applicant shows interference to Station KHAK, Cedar Rapids, Iowa (Class III), and that Station KHAK, by letter dated November 21, 1960, requested that the instant application be designated for hearing and that KHAK be made a party to the proceeding; and

It further appearing that, after consideration of the foregoing and the applicant's reply, the Commission is still unable to make the statutory finding that a grant of the application would serve the public interest, convenience, and necessity; and is of the opinion that the application must be designated for hearing on the issues specified below:

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the instant 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 may be expected to gain or lose primary service from the proposed operation of Station WISV and the availability of other primary service to such areas and populations.

2. To determine whether the instant proposal of WISV would cause objectionable interference to Station KHAK, Cedar Rapids, Iowa, 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, 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 Laird Broadcasting Company, Inc., licensee of Station KHAK, Cedar Rapids, Iowa, is made a party to the proceeding.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicant and party respondent herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: March 27, 1961.

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

[F.R. Doc. 61-2862; Filed, Mar. 30, 1961; 8:52 a.m.]

[Docket No. 13984; FCC 61M-516]

ROGER S. UNDERHILL

Order Scheduling Hearing

In the matter of revocation of license of Roger S. Underhill for Standard Broadcast Station WIOS, Tawas City-East Tawas, Michigan, Docket No. 13984.

It is ordered, This 24th day of March 1961, that Asher H. Ende, in lieu of David I. Kraushaar, will preside at the hearing in the above-entitled proceeding which has been scheduled to commence on May 22, 1961, in Washington, D.C.

Released: March 27, 1961.

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

[F.R. Doc. 61-2863; Filed, Mar. 30, 1961; 8:52 a.m.]

[Docket Nos. 13926, 13927; FCC 61M-503]

VALUE RADIO CORP. (WOSH) AND HOWARD MILLER ENTERPRISES AND CONSULTANTS, INC. (WGEZ)

Order Continuing Hearing

In re applications of Value Radio Corporation (WOSH), Oshkosh, Wisconsin, Docket No. 13926, File No. BP-13268; Howard Miller Enterprises and Consultants, Inc. (WGEZ), Beloit, Wisconsin, Docket No. 13927, File No. BP-13576; for construction permits.

On the Hearing Examiner's own motion: *It is ordered,* This 23d day of March 1951, that the hearing in the above-entitled proceeding now scheduled for April 5. 1961, is continued to a date to be determined at a pre-hearing conference to be held at 10:00 a.m., April 5, 1961.

Released: March 23, 1961.

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

[F.R. Doc. 61-2864; Filed, Mar. 30, 1961; 8:52 a.m.]

[Docket Nos. 13994, 13997; FCC 61M-512]

WAGNER BROADCASTING CO. ET AL.

Order Scheduling Prehearing Conference

In re applications of John Andrew Wagner, John Russell Wagner, Carrie Helen Wagner, d/b as Wagner Broadcasting Company, Woodland, California, Docket No. 13994, File No. BP-8555;

Elbert H. Dean and Richard E. Newman, Clovis, California, Docket No. 13995, File No. BP–12728; Reid W. Dennis tr/as Dennis Broadcasting, Reno, Nevada, Docket No. 13996, File No. BP–13548; Charles W. Jobbins, Grass Valley, California, Docket No. 13997, File No. BP–13964; for construction permits.

It is ordered, This 23d day of March 1961, that a prehearing conference, pursuant to § 1.111 of the Commission's rules, will be held in the above-entitled matter at 10:00 a.m., April 12, 1961, in the Commission's offices in Washington, D.C.

Released: March 24, 1961.

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

[F.R. Doc. 61–2865; Filed, Mar. 30, 1961; 8:52 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. RI61–402, RI61–403]

PAUL F. BARNHART ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates

MARCH 24, 1961.

On February 27, 1961, Paul F. Barnhart, et al.,[1] (Barnhart), tendered for filing proposed changes in rates for the co-owner interest of Paul F. Barnhart and Harry B. Barnhart, Jr., under fourteen rate schedules of Barnhart. The rate increases, from 10.096 cents to 17.2295 cents per Mcf at 14.65 psia, concern jurisdictional sales to El Paso Natural Gas Company from Spraberry field, Upton, Glasscock, Reagan, and Midland Counties, Texas. The filings containing the proposed rate changes are hereby designated Supplement No. 6 to each of Barnhart's FPC Gas Rate Schedules Nos. 1 through 12, Supplement No. 4 to Barnhart's FPC Gas Rate Schedule No. 14, and Supplement No. 4 to Barnhart's FPC Gas Rate Schedule No. 15. Previously Barnhart tendered proposed rate increases for filing in the above-referred to rate schedules on behalf of the co-owner interest of J. Ray McDermott and Company, Inc. (McDermott), and by order issued February 17, 1961, the supplements referring to McDermott's interest were suspended until July 19, 1961, in Docket No. RI61–359.

On February 27, 1961, Paul F. Barnhart[1] tendered for filing a proposed increased rate which is hereby designated as Supplement No. 3 to Paul F. Barnhart's FPC Gas Rate Schedule No. 13, which jurisdictional sales occur in the same areas as those of Barnhart's described above.

The increases proposed by Barnhart and Paul F. Barnhart amount to $18,728 annually and unless suspended, will become effective on April 1, 1961.

The increased rates and charges so proposed 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 several proposed changes and that the above designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending a hearing and decision thereon, the above-designated supplements are hereby suspended and the use thereof deferred until September 1, 1961, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) The supplements hereby suspended shall not be changed until these proceedings have been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Notices of intervention 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 and 1.37(f)) on or before May 16, 1961.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R Doc. 61–2815; Filed, Mar. 30, 1961; 8:45 a.m.]

[1] 1721 Tennessee Building, Houston 2, Tex.

[Docket No. RP61–21]

MISSISSIPPI RIVER FUEL CORP.

Order Suspending Proposed Tariff Sheet and Providing for Hearing

MARCH 24, 1961.

Mississippi River Fuel Corporation (Mississippi) on February 24, 1961, pursuant to section 4 of the Natural Gas Act and the Regulations thereunder, particularly Part 154 thereof, tendered for filing Sixth Revised Sheet No. 4 to its FPC Gas Tariff, Original Volume No. 1 proposing an annual increase in its rates of approximately $895,856 (2.7%) based on sales for the year 1960, over its present rates which became effective on August 13, 1960, by Commission order issued May 27, 1960, approving settlement of its rate proceedings in Docket Nos. G–15174 and RP60–7.

The proposed increased rates, among other things, reflect increases in operating expenses, claimed rate of return and primarily, higher costs of purchased gas from its principal supplier, United Gas Pipe Line Company (United). Since United's most recent rate increase has been suspended until June 15, 1961, by Commission order issued February 10, 1961, Mississippi requests that any suspension of the tendered filing be limited to a period ending not later than June 15, 1961.

The increased rates and charges contained in the above-designated revised tariff sheet tendered by Mississippi on February 24, 1961, may be unjust, unreasonable, unduly discriminatory and preferential, or otherwise unlawful. Two of Mississippi's customers, having commented on the increase proposed herein, oppose it. One other advised that it has no comments to make at this time.

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 rates, charges, classifications, and services contained in Mississippi's FPC Gas Tariff, Original Volume No. 1, proposed to be amended by Sixth Revised Sheet No. 4, and that said proposed tariff sheet be suspended and the use thereof deferred as hereinafter provided.

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 on a date to be hereafter fixed by notice from the Secretary concerning the lawfulness of the rates, charges, classifications, and services contained in Mississippi's FPC Gas Tariff, Original Volume No. 1 as proposed to be amended by the aforementioned revised tariff sheet tendered for filing by Mississippi on February 24, 1961.

(B) Pending such hearing and decision thereon, Mississippi's proposed revised tariff sheet hereby is suspended and its use deferred until June 15, 1961, and until such further time as it may be made effective in the manner prescribed by the Natural Gas Act.

(C) Notices of intervention 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 and 1.37(f)) on or before May 9, 1961.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61–2816; Filed, Mar. 30, 1961; 8:45 a.m.]

[Docket No. RI61–51 etc.]

PIONEER OIL AND GAS CO., INC., ET AL.

Orders Providing for Hearings on and Suspensions of Proposed Changes in Rates; Correction

MARCH 22, 1961.

Pioneer Oil and Gas Company, Inc. (Operator), et al., Docket Nos. RI61–51, et al.; Sinclair Oil & Gas Company, Docket No. RI61–56.

In the order providing for hearings on and suspension of proposed changes in rates, issued August 17, 1960, and published in the FEDERAL REGISTER on August 25, 1960 (F.R. Doc. 60–7910; 25 F.R. 8171): In chart, Docket No. RI61–56, under column headed "Proposed increased rate" change "9.37604" to read "9.34703".

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61–2817; Filed, Mar. 30, 1961; 8:45 a.m.]

[Project No. 2011]

SHOSHONE RIVER POWER, INC.

Notice of Application for Surrender of License (Major)

MARCH 27, 1961.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by Shoshone River Power, Inc., P.O. Box 780, Cody, Wyoming, licensee for Project No. 2011, for surrender of its license for the project situated on Republic Creek, Park County, Montana, and affecting lands of the United States within Gallatin National Forest.

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 of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is May 15, 1961. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61–2818; Filed, Mar. 30, 1961; 8:45 a.m.]

[Docket No. CP61–73]

TEXAS GAS TRANSMISSION CORP.

Notice of Application and Date of Hearing

MARCH 24, 1961.

Take notice that on September 9, 1960, as supplemented on February 24, 1961, Texas Gas Transmission Corporation (Applicant), 416 W. Third Street, Owensboro, Kentucky, filed in Docket No. CP61–73 an application for a certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline and compression facilities, during the 36-month period following the date of granting of such authorization, to enable Applicant to determine, by injecting and withdrawing certain volumes of natural gas, the capacity, deliverability and security of unspecified prospective gas storage reservoirs, all as more fully set forth in the application and supplement which are on file with the Commission and open to public inspection.

The total expenditures contemplated under this "budget-type" application are not to exceed $6,000,000 for the three-year period or $2,000,000 for any one-year period, and no single project under this application is to exceed a cost of $1,250,000. These costs include expenditures for leases, wells, field and other facilities, but not the cost of the gas to be used.

The total volumes of natural gas to be injected into the prospective underground storage projects during the three-year period are not to exceed 10,000,000 Mcf, with not more than 2,000,000 Mcf injected in any single project.

Only off-peak gas will be used for the testing purposes hereunder, and no storage field developed under this program will be utilized to render actual service without further authorization from the Commission.

This matter is one that should be 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 April 27, 1961, at 9:30 a.m., e.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 application: *Provided, however,* That the Commission may, after a non-contested 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 Applicant 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 April 17, 1961. 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.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61–2819; Filed, Mar. 30, 1961; 8:46 a.m.]

GENERAL SERVICES ADMINISTRATION

[Gen. Reg. 25]

NONDISCRIMINATION IN EMPLOYMENT CONTRACT PROVISIONS

MARCH 29, 1961.

1. *Purpose.* This regulation provides instructions for the modification of standard and other contract forms to include the nondiscrimination provisions prescribed by Executive Order 10925, dated March 6, 1961 (26 F.R. 1977).

2. *Nondiscrimination Provisions.* The following provisions are prescribed by section 301 of Executive Order 10925 for inclusion in every Government contract entered into on and after April 5, 1961, except contracts which may be exempted pursuant to section 303 thereof:

"In connection with the performance of work under this contract, the contractor agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order No. 10925 of March 6, 1961, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

"(5) The contractor will furnish all information and reports required by Executive Order No. 10925 of March 6, 1961, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 10925 of March 6, 1961, and such other sanctions may be imposed and remedies invoked as provided in the said Executive order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.

"(7) The contractor will include the provisions of the foregoing paragraphs (1) through (6) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to section 303 of Executive Order No. 10925 of March 6, 1961, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the contractor becomes involved in, or is threatened with, litigation with a subcon-

tractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

3. *Revision of contract forms.* a. In connection with contracts effective on and after April 5, except as otherwise provided in section 5 below, pending formal revision of standard contract forms, the contract provisions set forth in section 2 of this regulation shall be substituted for the nondiscrimination provisions now appearing in standard forms having nondiscrimination provisions, and shall be included as additional provisions in standard contract forms which have not heretofore contained nondiscrimination provisions.

b. Contracts entered into by Executive agencies on other than standard contract forms also are required by section 301 of the Executive order to contain the nondiscrimination provisions set forth in section 2 above.

4. *Pending transactions.* Invitations for bids and requests for proposals for which contract awards will be made on and after April 5 should be amended to include the required nondiscrimination provisions.

5. *Purchase orders and small contracts.* GSA Circular No. 100, dated February 3, 1955, deals with nondiscrimination provisions in purchase orders and contracts which do not exceed $5,000. As an interim measure, the provisions of that Circular may continue to be observed.

6. *Rescissions.* GSA General Regulation No. 16, dated October 13, 1954, and Supplement No. 1 thereto, dater February 3, 1955, are superseded as to contracts affected by this general regulation.

Dated: March 29, 1961.

JOHN L. MOORE,
Administrator of General Services.

[F.R. Doc. 61-2898; Filed, Mar. 30, 1961; 8:53 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 31-662]

INTERNATIONAL UTILITIES CORP.

Notice of Filing of Application for Exemption

MARCH 24, 1961.

Notice is hereby given that International Utilities Corporation ("International"), a Maryland corporation and a holding company and which, together with its then subsidiary companies as such, were exempted from the provisions of the Public Utility Holding Company Act of 1935 ("Act") by order issued December 7, 1960 (Holding Company Act Release No. 14328), has filed an application, and an amendment thereto, pursuant to section 3(a)(5) of the Act, for the modification of such exemption order so as to include therein additional direct and indirect public-utility subsidiary companies.

All interested persons are referred to the application as amended on file at the office of the Commission for a statement of the grounds upon which the application is based and the facts in support thereof, which are summarized as follows:

International is a holding company. It is qualified to carry on its business in Canada, and its principal executive office is in Toronto, Canada. On December 7, 1960, it had fifteen direct and indirect subsidiary companies (the names, nature of business, and percentage stock ownership of which are set forth in the aforesaid Holding Company Act Release No. 14328). Nine of such subsidiary companies are public-utility companies, three are non-utility companies, and all 12 are Canadian corporations, conduct their business in Canada, and have no interest in or affiliation with any company which is a public-utility company operating within the United States. Two other subsidiary companies are non-utility companies organized under the laws of, and transact their business in, the State of Pennsylvania. One subsidiary company is a Delaware corporation and a non-utility company transacting its business in the States of Ohio and Oklahoma. In January 1961, International organized a new subsidiary, I.U., Inc., under the laws of the State of New York, and transferred to it certain portfolio securities.

International also owns and operates an asphalt manufacturing plant in Pennsylvania. In addition, it and I.U., Inc., own portfolios of diversified marketable securities, in many instances representing more than 5 percent but less than 10 percent of the total voting securities, of various United States and Canadian corporations. At March 7, 1961, such investments of International were carried on its books at $12,862,809 and had a market value of $16,248,971. The investments of I.U., Inc., on that date were carried on its books at $10,795,440 and had a market value of $13,836,279.

At December 31, 1960, the system's consolidated assets, per books, amounted to $170,458,627; and for the year then ended, its consolidated revenues aggregated $40,132,834. Of the total consolidated revenues, 79.3 percent were from the sale of natural gas, 19.3 percent from the sale of electric energy, and 1.4 percent from other sources. At December 31, 1960, the International system's consolidated capitalization and surplus totalled $156,103,168, consisting of 40.5 percent long-term debt and 17.4 percent preferred stocks of and minority interest in subsidiary companies, 6.5 percent convertible preferred stock of the parent company, and 35.6 percent common stock and surplus. International's common and preferred stocks are listed on the New York Stock Exchange and other exchanges.

International will acquire, in exchange for shares of its convertible $25 par value preferred stock, not less than 51 percent of the voting securities of Northland Utilities Limited ("Northland") which is a Canadian corporation supplying electric service in Alberta, Saskatchewan, and the Northwest Territories, and gas service in Alberta and British Columbia, Canada. Northland has two subsidiary companies, Northland Utilities (B.C.) Limited, and Uranium City Power Co. Ltd., both of which are Canadian corporations and public-utility companies.

International's direct and indirect subsidiaries were increased in number from fifteen to sixteen through the acquisition, in January 1961, of I.U., Inc., as an additional subsidiary. If and when the exchange offer to Northland's stockholders is consummated, the number of International's direct and indirect subsidiaries will be increased from sixteen to nineteen.

Notice is further given that any interested person may, not later than April 11, 1961, request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date the Commission may grant the application, as amended, or as it may be further amended, or take such other action as it deems appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 61-2820; Filed, Mar. 30, 1961; 8:46 a.m.]

[File No. 70-3947]

WHEELING ELECTRIC CO. ET AL.

Notice of Proposed Intrasystem Sale and Acquisition of Utility Assets and Renewal by Subsidiary Company of Short-Term Notes to Banks

MARCH 24, 1961.

In the matter of Wheeling Electric Company (Wheeling, W. Va.), Ohio Power Company (Canton, Ohio), American Electric Power Company, Inc. (New York, N.Y.); File No. 70-3947.

Notice is hereby given that American Electric Power Company, Inc. ("American"), a registered holding company, and its public-utility subsidiary companies, Wheeling Electric Company ("Wheeling") and Ohio Power Company ("Ohio Power"), have filed a joint application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 12(d), 12(f), and 12(g) of the Act and Rules 43, 44, and 50(a)(2) thereunder as applicable to the proposed transactions. All interested persons are referred to the joint application-declaration on file in the office of the Commission for a statement of the proposed transactions which are summarized as follows:

Wheeling, a West Virginia corporation, proposes to sell its electric utility facilities and related properties located in the State of Ohio to Ohio Power for a cash consideration to be determined on the basis of the depreciated original cost

of such properties at the date of closing. As at December 31, 1960, the depreciated original cost of such property was $1,408,332. Wheeling purchases all of its electric energy requirements from Ohio Power whose service area almost surrounds Wheeling's service area in Ohio and which operates Wheeling's facilities in Ohio for that company's account. No increase in the rates paid by any of Wheeling's existing customers in Ohio will result as a consequence of the proposal.

Wheeling also seeks authority to extend to June 30, 1962, the time within which it may issue notes to banks in renewal of short-term notes maturing on June 23, 1961, and issued with Commission authorization by order dated September 23, 1960 (Holding Company Act Release No. 14288). The renewal notes in the aggregate amount of $4,250,000 will be issued and sold to the following banks:

Mellon National Bank & Trust Company, Pittsburgh, Pa.	$1,950,000
National City Bank of New York, New York, N.Y.	575,000
Manufacturers Trust Company, New York, N.Y.	575,000
Morgan Guaranty Trust Company New York, New York, N.Y.	575,000
Bankers Trust Company, New York, N.Y.	575,000
Total	4,250,000

Such renewal notes will become due not more than 270 days from the dates of issuance, will bear interest at the prime interest rate (presently 4½%) in effect at the respective dates of issuance, and will be prepayable from time to time, in whole or in part, without premium.

The only fees and expenses to be paid in connection with the proposed transactions are estimated to be $300 by Wheeling and $1,500 by Ohio Power.

Applications have been filed with the Public Service Commission of West Virginia and the Public Utilities Commission of Ohio for approval of the sale and purchase of the properties. A copy of the orders of said Commissions will be filed by amendment. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 10, 1961, at 5:30 p.m., request in writing that a hearing be held on the matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said joint application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, the joint application-declaration, as filed or as it may be amended, may be granted and permitted to become effective, as provided in Rule 23 of the rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rule 20(a) and 100, or take such other action as it may deem appropriate.

By the Commission.

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

[F.R. Doc. 61-2821; Filed, Mar. 30, 1961; 8:46 a.m.]

TARIFF COMMISSION

[AA1921—19]

PORTLAND CEMENT FROM BELGIUM

Notice of Hearing

Notice is hereby given that the United States Tariff Commission has ordered a public hearing in connection with the investigation instituted under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), with respect to Portland cement, other than white, non-staining Portland cement, from Belgium.

The hearing will be held in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C., beginning at 10 a.m., e.s.t., on April 28, 1961. Interested parties desiring to appear and to be heard at such hearing should notify the Secretary of the Commission, in writing, at least three days in advance of the date set for the hearing.

Notice of the institution of this investigation was published in the FEDERAL REGISTER on March 9, 1961 (26 F.R. 2064).

Issued: March 28, 1961.

By order of the Tariff Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 61-2846; Filed, Mar. 30, 1961; 8:50 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 28,1961.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 36988: *Sand—Arkansas, Missouri, and Oklahoma to Valparaiso, Ind.* Filed by Southwestern Freight Bureau, Agent (No. B-7989), for interested rail carriers. Rates on sand, as described in the application, in carloads, from Guion, Ark., Klondike, Ludwig, Pacific, Mo., Gate, Mill Creek, and Roff, Okla., to Valparaiso, Ind.

Grounds for relief: Market competition.

Tariff: Supplement 106 to Southwestern Freight Bureau tariff I.C.C. 4319.

FSA No. 36989: *Iron and steel pipe—Portsmouth and New Boston, Ohio, to the Southwest.* Filed by Southwestern Freight Bureau, Agent (No. B-7992), for interested rail carriers. Rates on iron and steel pipe and related articles, in carloads, as described in the application, from Portsmouth and New Boston, Ohio, to points in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

Grounds for relief: Short-line distance formula and grouping.

Tariff: Supplement 234 to Southwestern Freight Bureau tariff I.C.C. 4116.

FSA No. 36990: *Rock salt—Louisiana points to Louisville, Ky.* Filed by Southwestern Freight Bureau, Agent (No. B-7993), for interested rail carriers. Rates on rock salt, loose, in bulk, in carloads, from Avery Island, Jefferson Island, Weeks and Winnfield, La., to Louisville, Ky.

Grounds for relief: Carrier market competition at Louisville with Detroit, Mich.

Tariff: Supplement 36 to Southwestern Freight Bureau tariff I.C.C. 4263.

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 61-2822; Filed, Mar. 30, 1961; 8:46 a.m.]

CUMULATIVE CODIFICATION GUIDE—MARCH

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during March.

3 CFR

Page

PROCLAMATIONS:
- Feb. 1, 1936 — 1751
- 2416 — 2125, 2467
- 2761A — 1751
- 2764 — 1751
- 2769 — 1751
- 3105 — 1751
- 3108 — 1751
- 3140 — 1751
- 3390 — 1751
- 3394 — 1751
- 3395 — 1947
- 3396 — 2033
- 3397 — 2033
- 3398 — 2105
- 3399 — 2501

EXECUTIVE ORDERS:
- May 4, 1907 — 1832
- 1032 — 2467, 2617
- 1919½ — 1831
- 2242 — 1832
- 2446 — 2125
- 4391 — 2467
- 5339 — 2617
- 6957 — 2186
- 7128 — 2186
- 7448 — 1831
- 8102 — 1831
- 8116 — 2125
- 10096 — 2583
- 10479 — 1977
- 10482 — 1977
- 10557 — 1977
- 10590 — 1977
- 10673 — 2677
- 10704 — 2677
- 10722 — 1977
- 10728 — 2383
- 10733 — 1977
- 10740 — 2677
- 10785 — 2677
- 10802 — 2547
- 10891 — 2583
- 10893 — 1789
- 10919 — 2331
- 10924 — 1789
- 10925 — 1977
- 10926 — 2331
- 10927 — 2383
- 10928 — 2547
- 10929 — 2583
- 10930 — 2583
- 10931 — 2677

5 CFR

- 4 — 1948
- 6 — 1811, 1853, 1895, 2081, 2110, 2219, 2277, 2384, 2522, 2548, 2686, 2707
- 20 — 1811
- 24 — 1895
- 28 — 1948
- 29 — 2548
- 301 — 2277
- 325 — 2277

PROPOSED RULES:
- 88 — 2127

6 CFR

- 302 — 2707
- 306 — 2167
- 307 — 2584
- 337 — 2707
- 342 — 2167
- 351 — 2708

6 CFR—Continued

Page

- 353 — 2708
- 372 — 2709
- 421 — 1981, 1982, 2106
- 474 — 2384, 2686

7 CFR

- 7 — 2451
- 51 — 2217
- 301 — 2110, 2522
- 718 — 2552
- 719 — 1753, 2686
- 725 — 2277
- 728 — 2456
- 729 — 2523, 2557
- 842 — 2524
- 849 — 2525
- 873 — 2384
- 906 — 2709
- 909 — 1948
- 914 — 1895, 2111, 2278, 2385, 2558, 2588
- 922 — 2278, 2558, 2588
- 932 — 2710
- 933 — 2111, 2112
- 943 — 2332
- 949 — 2332
- 952 — 2333
- 953 — 1896, 1949, 2112, 2279, 2559
- 955 — 2113
- 965 — 1815
- 966 — 2334
- 986 — 2709
- 989 — 2385
- 994 — 2639
- 998 — 2335
- 1021 — 2589
- 1022 — 2710
- 1031 — 1853, 1896, 2279, 2335, 2336, 2559
- 1033 — 2169, 2456, 2560, 2589
- 1034 — 2590
- 1065 — 2590
- 1101 — 1822
- 1103 — 1897

PROPOSED RULES:
- 52 — 2085, 2088
- 55 — 1835
- 723 — 2483
- 725 — 2483
- 727 — 2483
- 728 — 2625
- 730 — 1837
- 903 — 2314
- 906 — 2152
- 913 — 1763, 2620
- 932 — 2469
- 936 — 2412
- 941 — 2314
- 943 — 1998
- 947 — 2152
- 949 — 1918
- 952 — 1918
- 953 — 2481
- 966 — 1998
- 967 — 2091
- 986 — 2152
- 989 — 2001
- 994 — 2315
- 997 — 2570
- 998 — 1918
- 1016 — 2044
- 1018 — 1920, 2646
- 1021 — 2153
- 1027 — 2317
- 1033 — 1920, 2053, 2483
- 1065 — 2154

8 CFR

Page

- 237 — 2113

9 CFR

- 27 — 2591
- 51 — 2548
- 71 — 1753
- 72 — 2640
- 74 — 2710
- 76 — 1753
- 131 — 2386
- 132 — 1898

PROPOSED RULES:
- 16 — 1763
- 74 — 2624
- 131 — 2319

10 CFR

PROPOSED RULES:
- 140 — 2647

12 CFR

- 217 — 2219
- 218 — 2456
- 545 — 1980

PROPOSED RULES:
- 204 — 1956

13 CFR

- 107 — 1854, 2145, 2247
- 108 — 1822
- 121 — 1983

14 CFR

- 241 — 2034, 2150
- 507 — 1754, 1854, 1907, 1982, 2081, 2114, 2115, 2247, 2285, 2343, 2457, 2525
- 514 — 2115
- 600 — 1754, 1755, 1855, 2034, 2081, 2082, 2219–2221, 2247, 2344, 2457, 2458, 2549, 2640, 2678, 2679.
- 601 — 1790, 1855, 1908, 2034, 2081–2083, 2219–2222, 2388, 2457, 2458, 2526, 2549, 2640, 2678, 2679.
- 602 — 2223, 2550, 2641
- 608 — 1755, 1855, 1909, 2169, 2221, 2223, 2285, 2458
- 609 — 1791, 1797, 1804, 2035, 2224, 2458, 2679
- 610 — 2388

PROPOSED RULES:
- 3 — 2725
- 600 — 1860, 2092, 2093, 2252, 2319, 2375, 2414, 2649, 2650
- 601 — 1860, 1861, 1921, 2054, 2092–2094, 2195, 2233, 2252, 2319, 2375, 2414, 2571, 2649, 2650, 2726
- 608 — 2002, 2528

15 CFR

- 206 — 2040
- 371 — 2310, 2311
- 373 — 2311

16 CFR

- 13 — 2248, 2344, 2345, 2591, 2592

17 CFR

- 230 — 1755
- 239 — 1756
- 240 — 2465
- 249 — 1756, 2465
- 250 — 2465, 2686
- 259 — 2465
- 270 — 2465
- 274 — 2465