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FEDERAL REGISTER

VOLUME 26 NUMBER 96

Washington, Friday, May 19, 1961

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Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3414

NATIONAL TRANSPORTATION WEEK, 1961

By the President of the United States of America

A Proclamation

WHEREAS transportation has been instrumental in the development of our natural resources and in the industrial and scientific achievements of the United States; and

WHEREAS our Nation's status as a world power necessarily requires that we have an efficient and coordinated land, air, and water transportation system which strengthens our national defense and promotes our domestic progress; and

WHEREAS the continuation of an efficient transportation system, under private ownership and management, is the combined responsibility of all our people—including management and labor, and Federal, State, and local governments; and

WHEREAS it is appropriate that we recognize the importance to the United States of the transportation industry by setting aside a week as a tribute to the men and women who move this Nation's goods and people; and

WHEREAS the Congress, by House Joint Resolution 143, approved May 16, 1961, has requested the President to proclaim the week in May of 1961 in which falls the third Friday of that month as National Transportation Week:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, do hereby designate the week beginning May 14, 1961, as National Transportation Week; and I urge all our people to join in appropriate activities and ceremonies with the various branches of the transportation industry and representatives of governmental agencies in such manner as will afford an opportunity for the people of each community to recognize the importance of a prosperous and efficient transportation system.

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

DONE at the City of Washington this sixteenth day of May in the year of our Lord nineteen hundred and [SEAL] sixty-one, and of the Independence of the United States of America the one hundred and eighty-fifth.

JOHN F. KENNEDY

By the President:

CHESTER BOWLES,
Acting Secretary of State.

[F.R. Doc. 61–4716; Filed, May 18, 1961; 10:25 a.m.]

Rules and Regulations

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

Subpart—United States Standards for Grades of Lettuce [1]

On September 8, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 8641) regarding a proposed revision of United States Standards for Lettuce.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following United States Standards for Grades of Lettuce are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (Secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

GRADES

Sec.

AUTHORITY: §§ 51.2510 to 51.2531 issued under Secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627.

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

GRADES

§ 51.2510 U.S. Fancy.

"U.S. Fancy" consists of heads of lettuce of similar varietal characteristics which are fresh and green, which are not soft, overgrown, burst or ribby, which are free from decay, russet spotting and doubles, and free from injury caused by tipburn, downy mildew, freezing and discoloration, and from damage caused by opening, seedstems, broken midribs, dirt, disease, insects, or mechanical or other means. Each head shall be fairly well trimmed unless specified as closely trimmed. In any lot of Iceberg type lettuce the percentages of firm and hard heads shall be specified separately in connection with the grade.

(a) When lettuce is specified as U.S. Fancy in the producing area the following information shall be reported as evidence that the lettuce had a core temperature of 35 degrees F. or less when loaded into a refrigerated conveyance or storage and was so loaded within 6 hours from the time cutting was started:

(1) Time cutting was started;

(2) If pre-cooled, time cooling was completed;

(3) Time loading was completed; and,

(4) Core temperature at time of loading.

(b) *Tolerances.* In order to allow for variations incident to proper grading and handling the following tolerances, by count, shall be permitted in any lot:

(1) *At shipping point.*[2] 8 percent for heads of lettuce which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than 4 percent shall be allowed for defects causing serious damage, including in this latter amount not more than 1 percent for heads which are affected by decay on any portion of the head exclusive of the wrapper leaves.

(2) *En route or at destination.* 12 percent for heads of lettuce which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 8 percent for heads having permanent defects; or,

(ii) 6 percent for heads which are seriously damaged, including therein not more than 4 percent for heads which are seriously damaged by permanent defects and not more than 3 percent for heads which are affected by decay on any portion of the head exclusive of the wrapper leaves. (See § 51.2514.)

[2] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

§ 51.2511 U.S. No. 1.

"U.S. No. 1" consists of heads of lettuce of similar varietal characteristics which are fresh and green, which are not soft or burst, and which are free from decay and doubles and from damage caused by tipburn, downy mildew, opening, seedstems, broken midribs, freezing, discoloration, dirt, disease, insects, or mechanical or other means. Each head shall be fairly well trimmed unless specified as closely trimmed. In any lot of Iceberg type lettuce the percentages of firm and hard heads shall be specified separately in connection with the grade.

(a) *Tolerances.* In order to allow for variations incident to proper grading and handling the following tolerances, by count, shall be permitted in any lot:

(1) *At shipping point.*[2] 8 percent for heads of lettuce which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than 4 percent shall be allowed for defects causing serious damage, including in this latter amount not more than 1 percent for heads which are affected by decay on any portion of the head exclusive of the wrapper leaves.

(2) *En route or at destination.* 12 percent for heads of lettuce which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 8 percent for heads having permanent defects; or,

(ii) 6 percent for heads which are seriously damaged, including therein not more than 4 percent for heads which are seriously damaged by permanent defects and not more than 3 percent for heads which are affected by decay on any portion of the head exclusive of the wrapper leaves. (See § 51.2514.)

§ 51.2512 U.S. No. 2.

"U.S. No. 2" consists of heads of lettuce of similar varietal characteristics which are not burst and which are free from decay, and from serious damage caused by wilting, tipburn, downy mildew, seedstems, freezing, discoloration, disease, insects, or mechanical or other means. There are no solidity requirements in this grade but heads of Iceberg type lettuce which are distinctly open and leafy with practically no head formation shall not be permitted.

(a) *Tolerances.* In order to allow for variations incident to proper grading and handling the following tolerances, by count, shall be permitted in any lot:

(1) *At shipping point.*[2] 8 percent for heads of lettuce which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than 1 percent shall be allowed for heads which are affected by decay on any portion of the head exclusive of the wrapper leaves.

(2) *En route or at destination.* 12 percent for heads of lettuce which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 8 percent for heads having permanent defects; or,

(ii) 3 percent for heads which are affected by decay on any portion of the head exclusive of the wrapper leaves. (See § 51.2514.)

UNCLASSIFIED

§ 51.2513 Unclassified.

"Unclassified" consists of heads of lettuce which have not been classified in accordance with any of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

APPLICATION OF TOLERANCES

§ 51.2514 Application of tolerances.

(a) In order to meet the requirements of a specified grade the average percentage of defective specimens in the lot, based on sample inspection, shall be within the tolerance specified, and the number of defective specimens in individual packages in the lot shall be within the limitations set forth in the following table:

TABLE I

Lot tolerance, percent	Maximum number of defective heads permitted in any package—Total number of heads in package			
	24	18	30	Over 30
1	1	1	2	2
3	3	2	3	4
4	3	3	4	4
6	4	3	5	6
8	5	4	6	7
12	6	5	7	9

TEMPERATURE

§ 51.2515 Temperature.

Temperature of head lettuce reported shall be the temperature taken near the center of the head with a thermometer which has previously been cooled to the approximate temperature of the lettuce.

STANDARD PACK

§ 51.2516 Standard pack.

(a) Heads of lettuce shall be fairly uniform in size and tightly but not excessively tightly packed in uniform layers in the containers according to the approved and recognized methods, except that in standard fiberboard containers a "bridge" of 6 heads may be used in a 2½ dozen pack; and in standard wooden crates a "bridge" may be used with sizes smaller than 5 dozen count.

(1) Fairly uniform in size means that not more than 10 percent, by count, of the heads in any container may vary appreciably in size from the standard size head for the count pack.

(i) The standard size head for a 2 dozen pack is that size head, having 4 wrapper leaves, which will pack tightly but not excessively tightly 3 rows with 4 heads of uniform size in each row in a layer in a standard fiberboard container. Heads having lesser or greater numbers of wrapper leaves which can be packed as specified herein are considered equivalent in size to a standard size head with 4 wrapper leaves.

(2) Excessively tightly packed means that heads are packed so tightly as to cause distortion or crushing of the heads or breaking of the midribs. The packing of 24 heads of 18 size in a standard fiberboard lettuce container would result in an excessively tight pack.

(3) Lettuce packed in standard fiberboard lettuce containers shall have a net weight of not less than 40 pounds and not more than 48 pounds.

(b) In order to allow for variations incident to proper packing, not more than a total of 10 percent of the containers in any lot may fail to meet the requirements for standard pack.

SOLIDITY CLASSIFICATION

§ 51.2517 Solidity classification.

(a) The following terms shall be used in describing the solidity of lettuce:

(1) *Hard.* "Hard" means that the head is compact and solid. This term represents the highest degree of solidity.

(2) *Firm.* "Firm" means that the head is compact, but may yield slightly to moderate pressure.

(3) *Fairly firm.* "Fairly firm" means that although the head is not firm, it is not soft and spongy, and has good head formation and edible content.

(4) *Soft.* "Soft" means that the head is easily compressed or spongy.

DEFINITIONS

§ 51.2518 Similar varietal characteristics.

"Similar varietal characteristics" means that the heads in any container have the same characteristic leaf growth. For example, lettuce of the Iceberg and Big Boston types shall not be mixed.

§ 51.2519 Fresh.

"Fresh" means that the head as a whole has normal succulence and the wrapper leaves and the outermost head leaves are not more than slightly wilted.

§ 51.2520 Green.

"Green" means that one-half or more of the exterior surface of the head, exclusive of the wrapper leaves, has at least a light green color.[3]

§ 51.2521 Overgrown.

"Overgrown" means that heads of lettuce are no longer young and succulent, are excessively hard, past the most desirable edible stage, and are readily subject to, but not necessarily affected by russet spotting, pink rib and other discoloration associated with aging.

§ 51.2522 Burst.

"Burst" means that the head is split or broken open.

§ 51.2523 Ribby.

"Ribby" means that the midribs of the head leaves are so prominent that they materially detract from the appearance of the head.

§ 51.2524 Doubles.

"Doubles" means two heads on the same stem.

§ 51.2525 Injury.

"Injury" means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which noticeably detracts from the appearance, or the edible or shipping quality of the lettuce. The following specific defects shall be considered as injury:

(a) Tipburn when more than 2 spots of tipburn occur anywhere in the compact portion of the head or:

(1) At shipping point when the aggregate area of discernible tipburn regardless of color exceeds that of a rectangle 1 inch in length and one-fourth inch in width; and,

(2) En route or at destination when the aggregate area of tipburn of a light buff[4] or darker color exceeds that of a rectangle 1 inch in length and one-fourth inch in width.

(b) Downy mildew:

(1) At shipping point[2] when apparent on any head leaf or wrapper leaf; and,

(2) En route or at destination when readily apparent on any head leaf or when discoloration associated with mildew is readily apparent on more than 2 wrapper leaves.

(c) Freezing when blistering, peeling, or other injury resulting from freezing, except discoloration, is readily apparent on any outer head leaf.

(d) Discoloration of any one of the following types or a combination of 2 or more types the seriousness of which exceeds the maximum allowed for any one type.

(1) Yellow or brown discoloration from any cause, affecting any portion of the leaf, when materially detracting from the appearance of the wrapper leaves;

(2) Yellow or brown discoloration from any cause when readily apparent on the compact portion of the head;

(3) Reddish discoloration following bruising when noticeably detracting from the appearance of more than 2 outer head leaves;

(4) Pink rib:

(i) At shipping point[2] when any pink rib is present on head leaves; and,

(ii) En route or at destination when the midribs of more than 2 head leaves show noticeable areas of pink color as viewed on the outer surface of the leaf, or when causing any head leaf to be excessively papery and tough.

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[2] See footnote on page 4352.

[3] The color referred to is illustrated by plate 5 GY 8/6 in the Munsell Book of Color. Individual plates of the above color may be purchased from the Munsell Color Co., 2441 North Calvert Street, Baltimore 18, Md.

[4] The color referred to is illustrated by plate 10 YR 8/4 in the Munsell Book of Color. Individual plates of the above color may be purchased from the Munsell Color Co., 2441 North Calvert Street, Baltimore 18, Md.

(5) Rib discoloration:

(i) At shipping point [2] when any rib discoloration is present on head leaves; and,

(ii) En route or at destination when distinct brown or black spots of rib discoloration are present on the outer surface of any head leaf.

§ 51.2526 Damage.

"Damage" means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or shipping quality of the lettuce. The following specific defects shall be considered as damage:

(a) Tipburn:

(1) At shipping point [2] when the aggregate area of discernible tipburn regardless of color occurring anywhere in the compact portion of the head exceeds that of a rectangle 1 inch in length and one-half inch in width; and,

(2) En route or at destination when the aggregate area of tipburn of a light buff [4] or darker color occurring anywhere in the compact portion of the head exceeds that of a rectangle 1 inch in length and one-half inch in width.

(b) Downy mildew:

(1) At shipping point [2] when readily apparent an any head leaf; when mildew not accompanied by discoloration is readily apparent on more than 2 wrapper leaves, or when discoloration associated with mildew is readily apparent on any wrapper leaf; and,

(2) En route or at destination when materially detracting from the appearance of any head leaf or when seriously detracting from the appearance of more than 2 wrapper leaves.

(c) Opening in a hard or firm head when one-fourth or more of the head is separated from the remainder, or any degree of opening in a fairly firm head;

(d) Seedstems when excessively long, excessively curved, tough or fibrous;

(e) Broken midribs when more than 2 head leaves have midribs broken in two due to abnormal growth;

(f) Freezing when blistering, peeling, or other injury resulting from freezing, except discoloration, materially detracts from the appearance or the edible quality of more than 2 outer head leaves;

(g) Discoloration of any one of the following types or a combination of 2 or more types the seriousness of which exceeds the maximum allowed for any one type;

(1) Yellow or brown discoloration from any cause, affecting any portion of the leaf, when seriously detracting from the appearance of the wrapper leaves;

(2) Yellow or brown discoloration from any cause when materially detracting from the appearance of the head exclusive of the wrapper leaves;

(3) Reddish discoloration following bruising when materially detracting from the appearance of more than 2 outer head leaves;

(4) Russet spotting:

(i) At shipping point [2] when any russet spotting is present; and,

(ii) En route or at destination, when present in any degree on more than 2 outer head leaves, or when the number, size, and color of the spots materially detracts from the appearance of any head leaf;

(5) Pink rib when the midribs of more than 2 head leaves show areas of deep pink color more than 2 inches in length as viewed on the outer surface of the leaf, or when causing more than 2 head leaves to be excessively papery and tough; and,

(6) Rib discoloration when the aggregate length of brown or black spots of rib discoloration on the outer surface of any head leaf exceeds 1 inch;

(h) Dirt when the compact portion of the head is smeared with mud, when the wrapper leaves are badly smeared with mud, or when the basal portion of the head is caked with mud or dry dirt; and,

(i) Insects when the compact portion of the head is infested, or the wrapper leaves are badly infested with aphids or other insects, or when there is insect feeding injury on the compact portion of the head.

§ 51.2527 Fairly well trimmed.

"Fairly well trimmed" means that the butt is trimmed off closely below the point of attachment of the outer leaves, and that on a head of Iceberg type lettuce, wrapper leaves do not exceed 6 in number, not more than 4 of which may be excessively large and coarse.

(a) "Wrapper leaves" means all leaves which do not fairly closely enfold the compact portion of the head.

§ 51.2528 Closely trimmed.

"Closely trimmed" means that the butt is trimmed off closely below the point of attachment of the outer leaves and that, on a head of Iceberg type lettuce, wrapper leaves do not exceed 3 in number, none of which may be excessively large and coarse.

§ 51.2529 Permanent defects.

"Permanent defects" means defects which are not subject to change during shipment or storage, including but not limited to soft, burst, open or poorly trimmed heads, seedstems or dirt.

§ 51.2530 Condition defects.

"Condition defects" means defects which are subject to change during shipment or storage, including but not limited to decay, tipburn, russet spotting, pink rib, rib discoloration, and freezing injury.

§ 51.2531 Serious damage.

"Serious damage" means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or shipping quality of the lettuce. The following specific defects shall be considered as serious damage:

(a) Tipburn:

(1) At shipping point [2] when the aggregate area of discernible tipburn regardless of color occurring anywhere in the compact portion of the head exceeds that of a rectangle 3 inches in length and 1 inch in width; and,

(2) En route or at destination when the aggregate area of tipburn of a light buff [4] or darker color occurring anywhere in the compact portion of the head exceeds that of a rectangle 3 inches in length and 1 inch in width.

(b) Downy mildew:

(1) At shipping point [2] when materially detracting from the appearance or shipping quality of any head leaf; when mildew not accompanied by discoloration is readily apparent on more than 3 wrapper leaves, or when discoloration associated with mildew is readily apparent on more than 2 wrapper leaves; and,

(2) En route or at destination when materially detracting from the appearance of more than 2 head leaves or when seriously detracting from the appearance of the wrapper leaves.

(c) Seedstems when causing the head to split or when protruding through the outer head leaves;

(d) Freezing when blistering, peeling, or other injury resulting from freezing, except discoloration, seriously detracts from the appearance or edible quality of more than 2 outer head leaves;

(e) Discoloration of any one of the following types, or a combination of two or more types the seriousness of which exceeds the maximum allowed for any type;

(1) Yellow or brown discoloration from any cause, affecting any portion of the leaf, when very seriously detracting from the appearance of the wrapper leaves;

(2) Yellow or brown discoloration from any cause when seriously detracting from the appearance of the head exclusive of the wrapper leaves;

(3) Reddish discoloration following bruising when seriously detracting from the appearance of more than 2 outer head leaves;

(4) Russet spotting:

(i) At shipping point [2] when any russet spotting is present,

(ii) En route or at destination when the number, size, and color of the spots seriously detracts from the appearance of 2 or more head leaves.

(5) Pink rib when areas of deep pink color, as viewed on the outer surface of the leaf, seriously detract from the appearance or the edible quality of more than 2 head leaves; and,

(6) Rib discoloration when seriously detracting from the appearance or the edible quality of more than 2 head leaves.

(f) Decay affecting any portion of the head including wrapper leaves.

The United States Standards for Grades of Lettuce contained in this subpart shall become effective July 1, 1961, and will thereupon supersede the United States Standards for Lettuce which have

[2] See footnote on page 4352.

[4] See footnote on page 4353.

been in effect since October 9, 1957 (7 CFR, §§ 51.2510 to 51.2524).

Dated: May 15, 1961.

ROY W. LENNARTSON,
Deputy Administrator, Marketing Services.

[F.R. Doc. 61-4633; Filed, May 18, 1961; 8:51 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 61-NY-6]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Revocation of Control Area Extension and Designation of Transition Area

On March 10, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 2093) stating that the Federal Aviation Agency proposed to revoke the Laconia, N.H., control area extension and designate in lieu thereof a transition area with a base of 700 feet above the surface.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, Part 601 (14 CFR 601) is amended as follows:

§ 601.1344 [Revocation]

1. Section 601.1344 Control area extension (Laconia, N.H.) is revoked.

2. Section 601.10404 is added to read:

§ 601.10404 Laconia, N.H. (Laconia Airport), transition area.

All that airspace extending upward from 700 feet above the surface within 5 miles N and 8 miles S of a line bearing 247° from the Laconia RBN, extending from the RBN to 17 miles SW; within 5 miles either side of a direct line extending from the Concord, N.H., VOR to the Laconia RBN; and within 5 miles either side of a line bearing 014° from the Laconia RBN, extending from the RBN to 12 miles N.

These amendments shall become effective 0001 e.s.t., July 27, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on May 12, 1961.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 61-4597; Filed, May 18, 1961; 8:45 a.m.]

[Airspace Docket No. 60-WA-188]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Alteration of Control Area Extension

On February 28, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 1732) stating that the Federal Aviation Agency proposed to alter the New Orleans, La., control area extension (§ 601.1447).

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

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following action is taken:

Section 601.1447 (14 CFR 601.1447) is amended to read:

§ 601.1447 Control area extension (New Orleans, La.).

That airspace within the area bounded by a line beginning at latitude 29°22'30" N., longitude 91°05'00" W.; to latitude 29°15'00" N., longitude 91°05'00" W.; to latitude 29°15'00" N., longitude 90°-36'15" W.; to latitude 28°15'00" N., longitude 91°17'45" W.; to latitude 28°-15'00" N., longitude 92°21'45" W.; to point of beginning, excluding the portion below 2,500 feet MSL.

This amendment shall become effective 0001 e.s.t., July 27, 1961.

(Secs. 307(a) and 1110, 72 Stat. 749 and 800; 49 U.S.C. 1348 and 1510, and Executive Order 10854, 24 F.R. 9565)

Issued in Washington, D.C., on May 12, 1961.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 61-4596; Filed, May 18, 1961; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 8127 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Armstrong Aluminum Window Co., Inc., and Leonard B. Paul

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices:* § 13.155-10 *Bait. Subpart*—Misrepresenting oneself and goods—Prices: § 13.1779 *Bait.* (Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Armstrong Aluminum Window Co., Inc., et al., West Springfield, Mass., Docket 8127, February 9, 1961]

In the Matter of Armstrong Aluminum Window Co., Inc., a Corporation, and Leonard B. Paul, Individually and as an Officer of the Above Corporation

Consent order requiring a West Springfield, Mass., distributor of aluminum siding, storm windows and doors, aluminum patios, etc., to cease making offers to sell in advertising in newspapers and other media which were not bona fide but were made to obtain leads to prospective buyers, whose purchases at the advertised prices they then discouraged and to whom they attempted to sell much higher priced products.

The order to cease and desist is as follows:

It is ordered, That respondents Armstrong Aluminum Window Co., Inc., and its officers, and Leonard B. Paul, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of aluminum siding, or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from: Representing, directly or indirectly, that certain merchandise is offered for sale when such offer is not a bona fide offer to sell the merchandise so offered.

By "Decision of the Commission", etc., report of compliance was required as follows:

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

Issued: February 9, 1961.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 61-4618; Filed, May 18, 1961; 8:48 a.m.]

[Docket 8156 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Herbert A. Atkinson and Sudbury Laboratory

Subpart—Advertising falsely or misleadingly: § 13.20 *Comparative data or merits;* § 13.170 *Qualities or properties of product or service;* § 13.170-30 *Durability or permanence;* § 13.170-68 *Preserving;* § 13.205 *Scientific or other relevant facts;* § 13.265 *Tests and investigations;* § 13.280 *Unique nature or advantages.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Herbert A. Atkinson, doing business as Sudbury Laboratory, Sudbury, Mass., Docket 8156, February 11, 1961]

In the Matter of Herbert A. Atkinson, Doing Business as Sudbury Laboratory

Consent order requiring a seller in Sudbury, Mass., to cease representing falsely in advertising the qualities of marine paint and metal coating products he sold, as in the order below indicated.

The order to cease and desist is as follows:

It is ordered, That respondent Herbert J. Atkinson doing business as Sudbury Laboratory or under any other trade name, his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of his products designated as "Sudbury 365 Bright Work Finish" and "Sudbury Galva-Coat" or any other product of substantially the same composition or properties whether sold under the same or any other name or similar products in commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from representing directly or by implication that:

1. Sudbury Bright Work Finish is not adversely affected by sun, salt water spray or cigarette burns;

2. Said product can be easily brushed or sprayed on at temperatures as low as zero or as high as 100°; or representing that said product can be brushed or sprayed at any temperature that is not in accordance with the facts;

3. Said product dries dust-free or is ready for additional coats, with or without sanding in any specific period of time unless it is stated that such periods will vary depending upon the temperature, humidity and sunlight;

4. It has no similarity to other coatings on the market;

5. Said product has undergone a three year test which proved that it eclipses any spar varnish now on the market; or has undergone any tests which prove its superiority in any manner, unless such is the fact;

6. Sudbury Galva-Coat protects metals to the same extent or in the same manner at Hot-Dip Galvanizing;

7. One pound of Sudbury Galva-Coat effectively covers 48 square feet of metal or effectively covers any other number of square feet that is not in accordance with the facts.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondent Herbert J. Atkinson (erroneously designated in the complaint as Herbert A. Atkinson), doing business as Sudbury Laboratory, shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Issued: February 10, 1961.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 61-4619; Filed, May 18, 1961; 8:48 a.m.]

[Dockets 7941, 7964, 8033, all c.o.]

PART 13—PROHIBITED TRADE PRACTICES

General Distributing Co., Inc., et al.

Subpart—Bribing customers' employees: § 13.315 Employees of private concerns.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist orders: General Distributing Company, Inc., et al., Baltimore, Md., Docket 7941, Nov. 9, 1960; Triumph Records, Inc., et al., New York, N.Y. Docket 7964, Nov. 3, 1960; and Jay Kay Distributing Co. et al., Detroit, Mich., Docket 8033, Nov. 10, 1960]

In the Matters of: General Distributing Company, Inc., a Corporation, and Henry Nathanson, Individually and as an Officer of Said Corporation; Triumph Records, Inc., a Corporation, and Herbert C. Abramson, Individually and as an Officer of Said Corporation; and Jay Kay Distributing Co., a Corporation, and John S. Kaplan, Marion Kaplan and Allen Kaplan, Individually and as Officers of Said Corporation

Consent orders requiring Baltimore and Detroit distributors and New York City manufacturers to cease giving concealed "payola" to disc jockeys and other personnel of radio and television programs to induce frequent playing of their records in order to increase sales.

Identical orders to cease and desist, combining respondents in the three proceedings, are as follows:

It is ordered, That respondents General Distributing Company, Inc., a corporation, and its officers, and Henry Nathanson, individually and as an officer of said corporation; Triumph Records, Inc., a corporation, and its officers, and Herbert C. Abramson, individually, and as an officer of said corporation; and Jay Kay Distributing Co., a corporation, and its officers, and John S. Kaplan and Marion Kaplan, individually and as officers of said corporation, and Allen Kaplan as an officer of said corporation; and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with phonograph records which have been distributed in commerce, or which are used by radio or television stations in broadcasting programs in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Giving or offering to give, without requiring public disclosure, any sum of money, or other material consideration, to any person, directly or indirectly, to induce that person to select, or participate in the selection of, and the broadcasting of, any such records in which respondents, or either of them, have a financial interest of any nature;

(2) Giving or offering to give, without requiring public disclosure, any sum of money, or other material consideration, to any person, directly or indirectly, as an inducement to influence any employee of a radio or television broadcasting station, or any other person, in any manner, to select, or participate in the selection of, and the broadcasting of, any such records in which respondents, or either of them, have a financial interest of any nature.

There shall be "public disclosure" within the meaning of this order, by any employee of a radio or television broadcasting station, or any other person, who selects or participates in the selection and broadcasting of a record when he shall disclose, or cause to have disclosed, to the listening public at the time the record is played, that his selection and broadcasting of such record are in consideration for compensation of some nature, directly or indirectly received by him or his employer.

The following additional order was included in Docket 8033:

It is further ordered, That the complaint be, and the same hereby is, dismissed as to Allen Kaplan in his individual capacity.

By "Decision of the Commission", etc., in each of the above cases, reports of compliance were required as follows (combining the respondents):

It is ordered, That respondents General Distributing Company, Inc., a corporation, and Henry Nathanson, individually and as an officer of said corporation; Triumph Records, Inc., a corporation, and Herbert C. Abramson, individually and as an officer of said corporation; and Jay Kay Distributing Co., a corporation, and John S. Kaplan and Marion Kaplan, individually, and as officers of said corporation, and Allen Kaplan as an officer of said corporation, shall, within sixty (60) days after service upon them of these orders, file with the Commission reports in writing, setting forth in detail the manner and form in which they have complied with the orders to cease and desist.

Issued: October 27, 1960 (D. 7941); October 28, 1960 (D. 8033); November 3, 1960 (D. 7964).

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 61-4621; Filed, May 18, 1961; 8:49 a.m.]

[Dockets 8091 c.o. and 8092 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Dennis Chicken Products Co., Inc., and Ball Brothers Co., Inc.

Subpart—Discriminating in price under Sec. 2, Clayton Act—Payment for services or facilities for processing or sale under 2(d): § 13.824 *Advertising expenses.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 2, 49 Stat. 1527; 15 U.S.C. 13) [Cease and desist orders: Dennis Chicken Products Co., Inc., Augusta, Ill., Docket 8091; and Ball Brothers Co., Inc., Muncie, Ind., Docket 8092; both Dec. 21, 1960]

In the Matters of: Dennis Chicken Products Company, Inc., a Corporation; and Ball Brothers Company, Inc., a Corporation

Consent orders requiring an Augusta, Ill., processor of food products including

chicken and turkey, and a Muncie, Ind., manufacturer of glass containers and closures and zinc products, to cease paying discriminatory allowances to favored purchasers, in violation of section 2(d) of the Clayton Act, by such practices as making annual payments of $150.00 to a retail grocery chain with headquarters in Burlington, Iowa, without making comparable allowances available to competitors of the chain.

Identical orders to cease and desist, combining the respondents in the two proceedings, are as follows:

It is ordered, That respondents Dennis Chicken Products Company, Inc., a corporation, and Ball Brothers Company, Inc., a corporation, and their officers, employees, agents and representatives, directly or through any corporate or other device, in or in connection with the offering for sale, sale or distribution of any of their products in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

Paying or contracting for the payment of anything of value to, or for the benefit of, any customer of respondents as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the offering for sale, sale of distribution of respondents' products, unless such payment or consideration is made available on proportionately equal terms to all other customers competing in the distribution of such products.

By "Decision of the Commission", etc., in each of these two proceedings, reports of compliance were required as follows (combining the respondents):

It is ordered, That respondents Dennis Chicken Products Company, Inc., a corporation, and Ball Brothers Company, Inc., a corporation, shall, within sixty (60) days after service upon them of these orders, file with the Commission reports in writing, setting forth in detail the manner and form in which they have complied with the orders to cease and desist.

Issued: December 21, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 61-4620; Filed, May 18, 1961; 8:49 a.m.]

[Docket 8048 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Joseph Luria and Luria's

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices:* § 13.155-40 *Exaggerated as regular and customary;* § 13.155-45 *Fictitious marking.* Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* § 13.1108-45 *Fur Products Labeling Act.* Subpart—Misbranding or mislabeling: § 13.1212 *Formal regulatory and statutory requirements:* § 13.1212-30 *Fur Products Labeling Act;* § 13.1280 *Price.* Subpart—Misrepresenting oneself and goods—Prices: § 13.1805 *Exaggerated as regular and customary;* § 13.1810 *Fictitious marking.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852-35 *Fur Products Labeling Act.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Joseph Luria trading as Luria's, Philadelphia, Penn., Docket 8048, February 9, 1961]

In the Matter of Joseph Luria, an Individual Trading as Luria's

Consent order requiring Philadelphia furriers to cease violating the Fur Products Labeling Act by affixing labels containing fictitious prices, represented falsely thereby as the regular retail selling price, and by failing to comply in other respects with advertising, invoicing, and labeling requirements.

The order to cease and desist is as follows:

It is ordered, That Joseph Luria, an individual trading as Luria's, or under any other trade name, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce of fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

A. Falsely or deceptively labeling or otherwise falsely or deceptively identifying any such product as to respondent's regular price thereof by any representation that respondent's regular or usual price of any such product is any amount in excess of the price at which respondent has usually and customarily sold such product in the recent regular course of business;

B. Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act;

C. Failing to set forth the information required under section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in the required sequence.

2. Falsely or deceptively invoicing fur products by:

A. Failing to furnish to purchasers of fur products invoices showing all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act;

B. Setting forth information required under section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

3. Falsely or deceptively advertising fur products, through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale or offering for sale of fur products, and which: Represents directly or by implication that respondent's regular or usual price of any fur product is any amount which is in excess of the price at which respondent has usually and customarily sold such product in the recent regular course of business.

4. Making claims and representations respecting prices and values of fur products unless respondent maintains full and adequate records disclosing the facts upon which such claims and representations are based.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondent Joseph Luria, an individual trading as Luria's, shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Issued: February 9, 1961.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 61-4622; Filed, May 18, 1961; 8:49 a.m.]

[Docket 8073 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Mary-Mac, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service:* § 13.170-74 *Reducing, non-fattening, low-calorie, etc.;* § 13.170-78 *Renewing, restoring.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Mary-Mac, Inc., et al., Dallas, Tex., Docket 8073, February 9, 1961]

In the Matter of Mary-Mac, Incorporated, a Corporation, and Harry H. McDaniel, H. J. McDaniel, and Mary McDaniel, Individually and as Officers of Said Corporation

Consent order requiring Dallas, Tex., distributors of its "Mary-Mac Relax-O-Motor Motorized" devices consisting of motor-driven cushions, tables, chairs, mattresses, and belts, to cease representing falsely in advertising that use of said devices would effect a general loss of body weight and a localized loss of weight to waist, hips, legs, and other body areas; would tone the muscles and result in a firmer figure.

The order to cease and desist is as follows:

It is ordered, That respondent Mary-Mac, Incorporated, a corporation, and its officers, and respondents Harry H. McDaniel, H. J. McDaniel, and Mary McDaniel, individually and as officers of said corporation, and respondents'

agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, distribution or rental of motor-driven mechanical vibrating equipment or furniture known as "Mary-Mac Relax-O-Motor Motorized", or any other device of substantially similar design or operation, do forthwith cease and desist from:

1. Disseminating or causing to be disseminated by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or by implication:

(a) That the use of said devices will be of value in effecting a general or localized reduction in body weight;

(b) That the use of said devices will tone the muscles or effect a firmer figure;

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said devices in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any representation prohibited in paragraph 1 hereof.

By "Decision of the Commission", etc., report of compliance was required as follows:

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

Issued: February 9, 1961.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 61-4623; Filed, May 18, 1961; 8:49 a.m.]

[Docket 7214 o.]

PART 13—PROHIBITED TRADE PRACTICES

Soma Advertising Agency et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* § 13.15–225 *Personnel or staff;* § 13.115 *Jobs and employment service;* § 13.170 *Qualities or properties of product or service;* § 13.170–35 *Educational, informative, training.* Subpart—Using misleading name—Vendor: § 13.2435 *Personnel or staff.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Soma Advertising Agency et al., Portland, Oreg., Docket 7214, February 14, 1961]

In the Matter of Soma Advertising Agency, a Corporation, and William A. Sawyer and Alice L. Sawyer, Individually and as Officers of Said Corporation, and as Copartners, Trading and Doing Business as Northwest Schools

Order requiring a Portland, Oreg., correspondence school and its affiliated advertising agency, engaged in selling Aviation Training Courses, to cease representing falsely, in newspaper advertising and through their commission sales agents, that positions were available to persons who completed their courses, that such persons were qualified for employment by major commercial airlines, and that their salesmen were "Registrars" or "Field Registrars".

The order to cease and desist, including provision requiring compliance therewith, is as follows:

It is ordered, That respondents, Northwest Schools, Inc., a corporation, and its officers; and Soma Advertising Agency, Inc., a corporation, and its officers; and William A. Sawyer, individually; and William A. Sawyer and Alice L. Sawyer, as officers of said corporations; and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of courses of study or instruction, do forthwith cease and desist from:

1. Representing directly or by implication:

(a) That employment is being offered when in fact the purpose is to obtain purchasers of such courses of study or instruction.

(b) That persons who complete their airline training course are thereby qualified for employment by major commercial airlines or any airline; or that persons completing any of their other courses of study or instruction are thereby qualified for employment in any job to which the course relates when all the qualifications for such job as established by the prospective employer or others, cannot be acquired through respondents' course.

2. Using the word "Registrar" or "Field Registrar" as descriptive of or in referring to any of respondents' salesmen.

It is further ordered, That the second and the fourth to seventh charges, inclusive, of the complaint as amended (subparagraphs 1, 3, 4, 5, and 6 of Paragraph Seven and Paragraph Eight) be, and they hereby are, dismissed.

It is further ordered, That the complaint be, and it hereby is, dismissed as to respondent Alice L. Sawyer in her individual capacity but not in her capacity as an officer of respondent corporations.

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

Issued: February 14, 1961.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 61-4624; Filed, May 18, 1961; 8:49 a.m.]

[Docket 8108 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Stern & Mann Co.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* § 13.1108–45 *Fur Products Labeling Act.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* § 13.1845–30 *Fur Products Labeling Act;* § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852–35 *Fur Products Labeling Act;* § 13.1865 *Manufacture or preparation:* § 13.1865–40 *Fur Products Labeling Act;* § 13.1900 *Source of origin:* § 13.1900–40 *Fur Products Labeling Act:* § 13.1900–40 (b) *Place.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, The Stern & Mann Co., Canton, Ohio, Docket 8108, February 9, 1961]

In the Matter of The Stern & Mann Co., a Corporation

Consent order requiring furriers in Canton, Ohio, to cease violating the Fur Products Labeling Act by failing to set forth "Dyed Mouton processed Lamb" and similar terms as required in invoicing and advertising; by failing, in advertising, to disclose the names of animals producing certain furs or the country of origin of imported furs or that some products contained artificially colored furs; and by failing in other respects to comply with invoicing and advertising requirements.

The order to cease and desist is as follows:

It is ordered, That The Stern & Mann Co., a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, transportation, or distribution, in commerce, of fur products, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce" "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively invoicing fur products by:

1. Failing to furnish to purchasers of fur products an invoice showing all the information required to be disclosed by each of the sub-sections of section 5(b)(1) of the Fur Products Labeling Act.

2. Setting forth information required to be disclosed under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form.

3. Failing to set forth the term "Persian Lamb" in the manner required where an election is made to use that term instead of lamb.

4. Failing to set forth the term "Dyed Mouton processed Lamb" in the manner

required where an election is made to use that term instead of Dyed Lamb.

5. Failing to set forth the term "Dyed Broadtail processed Lamb" in the manner required where an election is made to use that term instead of Dyed Lamb.

6. Failing to set forth on invoices the item number or mark assigned to a fur product.

B. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice, which is intended to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

1. Fails to disclose:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide, and as prescribed under the rules and regulations.

(b) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact.

(c) The name of the country of origin of any imported furs contained in a fur product.

2. Sets forth information required under section 5(a) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form.

3. Fails to set forth the term "Dyed Mouton processed Lamb" in the manner required where an election is made to use that term instead of Dyed Lamb.

By "Decision of the Commission", etc., report of compliance was required as follows:

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

Issued: February 9, 1961.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 61-4625; Filed, May 18, 1961; 8:50 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Animal Feed or Animal-Feed Supplements

Subpart D—Food Additives Permitted in Food for Human Consumption

TYLOSIN

1. The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Elanco Products Company, Division of Eli Lilly and Company, Indianapolis 6, Indiana, and other relevant material, has concluded that the following regulation should issue in conformance with section 409 of the Federal Food, Drug, and Cosmetic Act, with respect to the food additive tylosin in swine feed as an aid in stimulating the growth and improving the feed efficiency of swine. Therefore, pursuant to the provisions of the act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), Subpart C of the food additive regulations (21 CFR Part 121) is amended by adding thereto the following new section:

§ 121.217 Tylosin.

The food additive tylosin may be safely used in animal feed when incorporated therein in accordance with the following prescribed conditions:

(a) It is used or intended for use as an aid in stimulating the growth and improving the feed efficiency of swine whereby the tylosin is added as the phosphate salt and the quantities of tylosin activity to be used, in or on the finished swine feed are:

Animal weight in pounds:	*Grams of tylosin activity per ton of feed*
Up to 40	20—100
41 to 100	20—40
101 to market weight	10—20

(b) The antibiotic may be absorbed upon a suitable carrier vehicle.

(c) To assure safe use of the additive in animal feeds, the label and labeling of the additive or that of any intermediate premix prepared therefrom shall bear, in addition to the other information required by the act, the following:

(1) The name of the additive.

(2) A statement of the concentration or strength of the additive contained therein.

(3) Adequate mixing directions to provide a finished feed with the proper concentration of the additive, whether or not intermediate premixes are to be used.

(4) Adequate directions to provide a finished feed labeled as provided in paragraph (d) of this section.

(d) To assure safe use of the additive, the label and labeling of the finished feed shall bear, in addition to the other information required by the act, the following:

(1) The name of the additive.

(2) A statement that the finished feed is to be used solely as an aid in stimulating the growth and improving the feed efficiency of swine.

(3) A statement of the conditions of use as prescribed in paragraph (a) of this section.

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

2. Based upon an evaluation of the data before him, and proceeding under the authority of the act (sec. 409(c)(4), 72 Stat. 1786; 21 U.S.C. 348(c)(4)), the Commissioner of Food and Drugs has further concluded that a tolerance limitation is required in order to assure that the use of the food additive tylosin will not cause the edible tissues of swine which consume feed treated with the additive in accordance with § 121.217 to be unsafe. Therefore, the following tolerance is established, and Subpart D is amended by adding thereto the following new section:

§ 121.1049 Tylosin.

A tolerance of zero is established for residues of tylosin in or on the uncooked edible tissues of swine that have consumed the antibiotic in feed.

(Sec. 409(c)(4), 72 Stat. 1786; 21 U.S.C. 348(c)(4))

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

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

(Sec. 409(c)(1), (4), 72 Stat. 1786; 21 U.S.C. 348(c)(1), (4))

Dated: May 12, 1961.

[SEAL] JOHN L. HARVEY, *Deputy Commissioner of Food and Drugs.*

[F.R. Doc. 61-4636; Filed, May 18, 1961; 8:52 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

OXYSTEARIN

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by the Glidden Company, 900 Union Commerce Building, Cleveland 14, Ohio, and other relevant material, has concluded that the following amendment should issue in conformance with section 409 of the Federal Food, Drug, and Cosmetic Act, with respect to the food additive oxystearin for an additional use as a crystallization inhibitor in cooking oils (including frying oils). Therefore, pursuant to the provisions of the act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.1016 of the food additive regulations (21 CFR 121.1016 (25 F.R. 7184)) is amended as follows:

The section heading, the introduction to the section, and paragraphs (b) and (c) are changed to read as follows:

§ 121.1016 Oxystearin.

The food additive oxystearin may be safely used as a crystallization inhibitor in cottonseed and soybean cooking and salad oils in accordance with the following prescribed conditions:

* * * * *

(b) It is used or intended for use in cottonseed and soybean cooking and salad oils, whereby the additive does not exceed 0.125 percent of the combined weight of the oil plus the additive.

(c) To insure safe use of the additive, the label and labeling of the additive container shall bear, in addition to the other information required by the act:

(1) The name of the additive.

(2) Adequate directions to provide a final cooking or salad oil that complies with the limitation prescribed in paragraph (b) of this section.

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

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

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

Dated: May 12, 1961.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 61-4635; Filed, May 18, 1961; 8:52 a.m.]

SUBCHAPTER C—DRUGS

PART 147—ANTIBIOTICS INTENDED FOR USE IN THE LABORATORY DIAGNOSIS OF DISEASE

Antibiotic Sensitivity Discs

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended; 21 U.S.C. 357), and the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (25 F.R. 8625), the regulations for tests and methods of assay and certification of antibiotic sensitivity discs (21 CFR 147.1 (25 F.R. 9370, 10455; 26 F.R. 127, 2596); 21 CFR 147.2 (25 F.R. 9371; 26 F.R. 127)), are amended as follows:

1. Section 147.1 *Antibiotic sensitivity discs; tests and methods of assay; potency* is amended as follows:

a. Paragraph (a)(1) is amended to read:

(a) *Culture media*—(1) *If the discs contain penicillin, chloramphenicol, chlortetracycline, demethylchlortetracycline, tetracycline, or bacitracin.* Use the medium described under § 141a.1(b)(2) of this chapter for the base layer and the medium described under § 141a.1(b)(1) of this chapter for the seed layer.

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

(b) *Preparation of suspension* * * *

(3) *If chloramphenicol or chlortetracycline or demethylchlortetracycline or tetracycline is used.* Prepare a suspension as directed in § 141d.301(a)(5) of this chapter.

c. Paragraph (c)(2)(iv) is amended to read:

(c) *Preparation of plates* * * *

(2) *Seed layer* * * *

(iv) If it is chlortetracycline or demethylchlortetracycline or tetracycline: 1.5 milliliters of the inoculum prepared as directed in paragraph (b)(3) of this section.

d. Paragraph (d)(4) is amended to read:

(d) *Preparation of control discs.* * * *

(4) If it is chlortetracycline or demethylchlortetracycline or tetracycline: Use methyl alcohol and prepare standard solutions which contain 3.3, 6.3, 12.2, 23.4, and 45.0 μg per 0.02 milliliter.

2. Section 147.2 *Antibiotic sensitivity discs; certification procedure* is amended as follows:

a. Paragraph (a) is amended by changing the introduction to read:

(a) *Standards of identity, strength, quality, and purity.* Antibiotic sensitivity discs are paper or plastic discs or compressed tablets containing penicillin, streptomycin, dihydrostreptomycin, chlortetracycline, demethylchlortetracycline, tetracycline, chloramphenicol, or bacitracin. If they are tablets they may contain suitable lubricants, binders, and diluents, none of which shall affect the antibacterial spectrums of the antibiotics. Each disc shall have a uniform potency that is equivalent to that contained in a standard disc prepared with one of the following quantities of antibiotic compounds:

b. Paragraph (a) is further amended by adding thereto a new subparagraph (8), reading as follows:

(8) Demethylchlortetracycline: Not less than 5 μg or not more than 30 μg.

c. Paragraph (c)(1)(iii)(*c*) is amended to read:

(c) *Labeling* * * *

(1) * * *

(iii) * * *

(*c*) For streptomycin, dihydrostreptomycin, chlortetracycline, demethylchlortetracycline, tetracycline, and chloramphenicol: 24 months.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since the amendments are noncontroversial in nature and provide for certification of and necessary tests and methods of assay for sensitivity discs containing demethylchlortetracycline, deemed necessary for the protection of the public health.

Effective date. This order shall be effective 30 days from the date of its publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463 as amended; 21 U.S.C. 357)

Dated: May 12, 1961.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 61-4638; Filed, May 18, 1961; 8:53 a.m.]

PART 164—CERTIFICATION OF BATCHES OF DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

Fees

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 506(b), 55 Stat. 851; 21 U.S.C. 356(b)) and delegated to the Commissioner of Food and Drugs (25 F.R. 8625), the regulations for certification of batches of drugs composed wholly or partly of insulin (21 CFR 164.10) are amended by changing § 164.10(b)(7) to read as follows:

§ 164.10 Fees.

* * * * *

(b) * * *

(7) $12.00 for each package in the sample of the finished batch.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since the change in fee charges is necessary to provide, equip, and maintain adequate certification service for drugs composed wholly or partly of insulin.

Effective date. This order shall become effective July 1, 1961.

(Sec. 506(b), 55 Stat. 851; 21 U.S.C. 356(b))

Dated: May 12, 1961.

[SEAL] JOHN L. HARVEY,
Deputy Commisisoner of Food and Drugs.

[F.R. Doc. 61-4637; Filed, May 18, 1961; 8:52 a.m.]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER B—LAW AND ORDER

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

Professional Attorneys

The following amendment is made to Chapter I of Title 25 of the Code of Federal Regulations:

Sections 11.9 and 11.9CA are revoked.

STEWART L. UDALL,
Secretary of the Interior.

MAY 12, 1961.

[F.R. Doc. 61-4626; Filed, May 18, 1961; 8:50 a.m.]

SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

PART 252—TRADERS ON NAVAJO, ZUNI AND HOPI RESERVATIONS

Amusement Companies

On page 13239 of the FEDERAL REGISTER of December 22, 1960, there was published a notice of intention to amend § 252.27a of Title 25, Code of Federal Regulations. The purpose of this amendment is to eliminate the need for a tribe annually to request a waiver by the Secretary of the Interior of § 252.27a in order for a carnival company retained by the tribe under contract to provide facilities for tribal amusement and recreational programs.

Interested persons were given 30 days within which to submit written comments, suggestions or objections with respect to the proposed amendment. No written communications have been received, and the proposed amendment is hereby adopted without change and is set forth below. This amendment shall become effective at the beginning of the 30th calendar day following the date of this publication in the FEDERAL REGISTER.

STEWART L. UDALL,
Secretary of the Interior.

MAY 12, 1961.

Section 252.27a is amended to read as follows:

§ 252.27a Amusement companies.

(a) All carnival companies, circuses, theatrical companies, all persons, firms or companies conducting or operating portable dance pavilions, mechanical devices such as ferris wheels, carousels, or other devices for carrying passengers, and all persons operating games of skill, shall be considered traders and shall be required to obtain a license and to pay such fee as may be prescribed by the superintendent in charge of the jurisdiction, based on the number and class of devices or units to be operated (not less than $5.00 nor more than $25.00 per unit); and shall post a surety bond in an amount not exceeding $10,000 and a personal injury and property damage liability bond of not less than $500.00 nor more than $20,000 as may be required by the superintendent.

(b) The provisions of this section do not apply where a contract between the tribe and the amusement company provides for the payment of a fee to the tribe and for the protection of the public against personal injury and property damage in the amounts specified in paragraph (a) of this section.

[F.R. Doc. 61-4627; Filed, May 18, 1961; 8:50 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T.D. 6564]

PART 253—REMOVALS OF ALCOHOLIC LIQUORS, TOBACCO PRODUCTS, AND OTHER DOMESTIC ARTICLES TO FOREIGN-TRADE ZONES

PART 290—EXPORTATION OF TOBACCO MATERIALS, TOBACCO PRODUCTS, AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Deliveries to Foreign-Trade Zones

On March 22, 1961, a notice of proposed rule making with respect to regulations designated as Part 290 of Title 26 of the Code of Federal Regulations was published in the FEDERAL REGISTER (26 F.R. 2411). The purposes of the proposal were to revise and incorporate in 26 CFR Part 290 the regulations contained in 26 CFR Part 253 relating to the removal of tobacco products and cigarette papers and tubes to foreign-trade zones. Accordingly, the regulations remaining in 26 CFR (1954) Part 253 are superseded by the regulations in 26 CFR Part 290.

In accordance with the notice, interested persons were afforded an opportunity to submit written comments or suggestions pertaining thereto. No comments or suggestions were received during the period of 30 days prescribed in the notice and the regulations so published are hereby adopted.

This Treasury decision shall be effective on the first day of the first month which begins not less than 30 days following the date of publication in the FEDERAL REGISTER.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

Approved: May 16, 1961.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

1. A new section, designated § 290.30a, is added immediately following § 290.30.

§ 290.30a Foreign-trade zone.

"Foreign-trade zone" shall mean a foreign-trade zone established and operated pursuant to the Act of June 18, 1934, as amended.

(48 Stat. 998–1003, as amended; 19 U.S.C. 81a–81u)

2. A new section, designated § 290.54, is added immediately following § 290.53.

§ 290.54 Zone operator.

"Zone operator" shall mean the person to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted by the Foreign-Trade Zones Board created by the Act of June 18, 1934, as amended.

(48 Stat. 998–1003, as amended; 19 U.S.C. 81a–81u)

3. A new section, designated § 290.61a, is added immediately following § 290.61.

§ 290.61a Deliveries to foreign-trade zones—export status.

Tobacco products and cigarette papers and tubes may be removed from a factory or an export warehouse and cigars may be withdrawn from a customs warehouse, without payment of tax, for delivery to a foreign-trade zone for exportation or storage pending exportation in accordance with the provisions of this part. Such articles delivered to a foreign-trade zone under this part shall be considered to be exported for the purpose of the statutes and bonds under which removed and for the purposes of the internal revenue laws generally and the regulations thereunder. However, export status is not acquired until an application on zone Form D for admission of the articles into the zone with zone restricted status has been approved by the collector of customs pursuant to the appropriate provisions of 19 CFR Chapter I, and the required certificate of receipt of the articles in the zone has been made on Forms 2149 or 2150 as prescribed in this part.

(48 Stat. 999, as amended, 72 Stat. 1418; 19 U.S.C. 81c, 26 U.S.C. 5704)

4. A new section, designated § 290.196a, is added immediately following § 290.196.

§ 290.196a To a foreign-trade zone.

Where tobacco products and cigarette papers and tubes are removed from a factory or an export warehouse for delivery to a foreign-trade zone, under zone restricted status for the purpose of exportation or storage, the manufacturer or export warehouse proprietor shall consign the shipment to the Zone Operator in care of the customs officer in charge of the zone.

(48 Stat. 999, as amended, 72 Stat. 1418; 19 U.S.C. 81c, 26 U.S.C. 5704)

5. A new section, designated § 290.207a, is added immediately following § 290.207.

§ 290.207a To a foreign-trade zone.

Where tobacco products and cigarette papers and tubes are removed from a factory or an export warehouse for delivery to a foreign-trade zone, under zone restricted status for the purpose of exportation or storage, the manufacturer or export warehouse proprietor making the shipment shall forward two copies of the notice of removal, Form 2149 or 2150, to the customs officer in charge of the zone. Upon receipt of the shipment, the customs officer shall execute the certificate of receipt on each copy of the form, noting thereon any discrepancy, retain one copy for his records, and forward the other copy to the manufacturer or export warehouse

proprietor making the shipment for filing with his assistant regional commissioner.

(48 Stat. 999, as amended, 72 Stat. 1418; 19 U.S.C. 81c, 26 U.S.C. 5704)

§ 290.211 [Deletion]

6. Section 290.211 is deleted.

7. A new section, designated § 290.264a, is added immediately following § 290.264.

§ 290.264a To a foreign-trade zone.

Where cigars are withdrawn from a customs warehouse for delivery to a foreign-trade zone, under zone restricted status for the purpose of exportation or storage, the customs warehouse proprietor making the shipment shall forward two copies of the notice of removal, Form 2149, to the customs officer in charge of the zone. Upon receipt of the shipment, the customs officer shall execute the certificate of receipt on each copy of the form, noting thereon any discrepancy, retain one copy for his records, and forward the other copy to the customs warehouse proprietor making the shipment for filing with the appropriate assistant regional commissioner.

[F.R. Doc. 61-4648; Filed, May 18, 1961; 8:54 a.m.]

[T.D. 6563]

PART 296—MISCELLANEOUS REGULATIONS RELATING TO TOBACCO MATERIALS, TOBACCO PRODUCTS, AND CIGARETTE PAPERS AND TUBES

Semimonthly Return System for Taxpayment in Puerto Rico of Tobacco Products of Puerto Rican Manufacture Shipped to the United States

On March 15, 1961, a notice of proposed rule making to amend 26 CFR Part 296 was published in the FEDERAL REGISTER (26 F.R. 2191). The purpose of the proposal was to prescribe interim regulations, designated Subpart F of 26 CFR Part 296 (§§ 296.131 to 296.154), to provide a semimonthly return system in Puerto Rico for payment of the United States internal revenue taxes on tobacco products manufactured in Puerto Rico and shipped to the United States.

No data, views, or arguments pertaining to these regulations were received during the period of 30 days from the date of publication of the notice of proposed rule making. Accordingly, the regulations so published are hereby adopted with the changes set forth below:

1. Section 296.135 is changed by inserting in the first sentence, before the word "consignee", the words "name and address of the".

2. Section 296.136 is changed:

(A) By rewording the second sentence, which begins "The inspecting officer", to read "Such officer will then promptly distribute the certified Form 2987 by (a) mailing the original to the Officer-in-Charge; (b) mailing two copies to the collector of customs at the port of entry; (c) mailing one copy to the assistant regional commissioner, alcohol and tobacco tax, for the region wherein the customs collection headquarters is located; (d) returning two copies to the bonded manufacturer who will attach one copy to the bill of lading to accompany the shipment (in custody of the carrier) for presentation to the collector of customs at the port of entry; and (e) submitting one copy to the Supervisor-in-Charge, Alcohol and Tobacco Tax, Puerto Rico."

(B) By rewording the last sentence, which begins "The statement", to read "The statement, Form 2989, shall be affixed to the outer container used in the shipment of freight in bulk (crate, packing box, van, trailer, etc.) and not on the individual cartons, cases, etc., included in such outer container."

3. Section 296.137 is changed by rewording the third sentence, which begins "The bonded manufacturer", to read "The bonded manufacturer shall show on the return the serial numbers of all Forms 2987 certified during the return period, the kind, quantity, and tax class, if applicable, of the cigars, cigarettes, and manufactured tobacco upon which the tax has been computed during the semimonthly return period, and the tax due thereon, and shall execute the return under the penalties of perjury."

4. Section 296.142 is changed by striking in the fifth sentence the words "lost due to other causes" and inserting in lieu thereof the word "damaged".

5. Section 296.143 is changed by inserting after the words "New York, New York", the words "one copy will be furnished the consignee,".

This Treasury decision shall be effective on the first day of the first month which begins not less than 30 days following the date of publication in the FEDERAL REGISTER.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

Approved: May 15, 1961.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

Subpart F—Semimonthly Return System for Taxpayment in Puerto Rico of Tobacco Products of Puerto Rican Manufacture Shipped to the United States

AUTHORITY: §§ 296.131 to 296.154 issued under 68A Stat. 907, 917; 26 U.S.C. 7652, 7805. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 296.131 Scope of this subpart.

This subpart contains the regulations relating to the semimonthly return system for payment in Puerto Rico of the tax imposed by section 7652(a), I.R.C., on tobacco products of Puerto Rican manufacture coming into the United States. Notwithstanding the provisions of this subpart, such tax may be paid before shipment from Puerto Rico in accordance with § 296.110 or may be paid on arrival in the United States in the manner provided by § 296.109 prior to release by the collector of customs. This tax is equal to the internal revenue tax imposed by section 5701, I.R.C., on like tobacco products manufactured in the United States.

§ 296.132 Forms prescribed.

The Director is authorized to prescribe all forms required by this subpart. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this subpart.

DEFINITIONS

§ 296.133 Meaning of terms.

When used in this subpart and in forms prescribed under this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction of, a regional commissioner.

Bonded manufacturer. A manufacturer of tobacco products in Puerto Rico who has an approved bond, in accordance with the provisions of this subpart, authorizing him to defer the payment in Puerto Rico of the tax imposed on such products by section 7652(a), I.R.C., as provided in this subpart.

Business day. Every day except Saturday, Sunday, or a legal holiday of the District of Columbia or of the Commonwealth of Puerto Rico.

Cigar. Any roll of tobacco wrapped in tobacco.

Cigarette. Any roll of tobacco, wrapped in paper or any substance other than tobacco.

Collector of customs. The person having charge of a customs collection district, including assistant collector of customs, deputy collector of customs, and any person authorized by law, or by regulations approved by the Secretary of the Treasury, to perform the duties of a collector of customs.

Computation or computed. When used with respect to the tax on tobacco products of Puerto Rican manufacture, computation or computed shall mean that the bonded manufacturer has ascertained the quantity, kind, and class, if applicable, of tobacco products being shipped to the United States under this subpart, has calculated the tax imposed on such products by section 7652(a), I.R.C., and has executed an agreement to pay, as provided in this subpart, the tax which will become due with respect to such products, and that an internal revenue officer has executed a certification of such calculation.

Director. The Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C.

Internal revenue officer. An officer or employee of the Internal Revenue Service duly authorized to perform any function relating to the administration or enforcement of this subpart.

I.R.C. The Internal Revenue Code of 1954, as amended.

Manufactured tobacco. Tobacco (other than cigars and cigarettes) prepared, processed, manipulated, or packaged, for consumption by smoking or for use in the mouth or nose.

Officer-in-Charge. The principal revenue officer in Puerto Rico charged with the duty of collecting internal revenue taxes, in Puerto Rico, under the jurisdiction of the Director of the Office of International Operations, Internal Revenue Service, Treasury Department, Washington, D.C.

REQUIREMENTS FOR DEFERRAL OF TAXES

§ 296.134 Bond.

Where a manufacturer of tobacco products in Puerto Rico desires, under the provisions of this subpart, to defer payment in Puerto Rico of the tax imposed by section 7652(a), I.R.C., on tobacco products of Puerto Rican manufacture coming into the United States, he shall file a bond, Form 2986, with the Officer-in-Charge, in accordance with the provisions of this subpart. Such bond shall be conditioned on the payment, at the time and in the manner prescribed in this subpart, of the full amount of tax computed under the provisions of this subpart with respect to tobacco products which are released for shipment to the United States on computation of tax. All taxes which are computed under the provisions of this subpart shall be chargeable against the bond, until such taxes are paid, as provided in § 296.146. The bond shall show the location of the factory from which the tobacco products to which it relates are to be shipped.

TAXES

§ 296.135 Computation of tax and execution of agreement to pay tax.

Where tobacco products are to be shipped to the United States on computation of tax in Puerto Rico, payment of which is to be deferred under the provisions of this subpart, the bonded manufacturer shall calculate the tax and shall prepare Form 2987, in septuplicate, shall enter on such form, under the penalties of perjury, the kind, quantity, and class, if applicable, of the tobacco products to be shipped to the United States, the amount of tax to be paid on such products under the provisions of this subpart, the name and address of the consignee in the United States to whom such products are being shipped, and shall date and execute the agreement to pay the amount of tax computed on such products. The Form 2987 shall be serially numbered by the bonded manufacturer beginning with the number "1" on January 1 of each year. The bonded manufacturer shall then request the Supervisor-in-Charge, Alcohol and Tobacco Tax, Puerto Rico, to assign an internal revenue officer to inspect the tobacco products, verify the tax calculation with respect to such products, and release such products for shipment in accordance with § 296.136. The bonded manufacturer shall present all copies of the prepared Form 2987 to the internal revenue officer assigned. The date of certification of Form 2987 by the internal revenue officer shall be the date of computation of tax. Tobacco products may be released for shipment to the United States under the provisions of this subpart only after computation of tax in accordance with the provisions of this section.

§ 296.136 Inspection of shipment and certification by internal revenue officer.

On receipt of the original and six copies of the Form 2987 completed and executed by the bonded manufacturer in accordance with § 296.135, the internal revenue officer will inspect the tobacco products covered by the form, verify the tax calculation made with respect to such products, date and execute the certification on such form, and release the tobacco products for shipment to the United States. Such officer will then promptly distribute the certified Form 2987 by (a) mailing the original to the Officer-in-Charge; (b) mailing two copies to the collector of customs at the port of entry; (c) mailing one copy to the assistant regional commissioner, alcohol and tobacco tax, for the region wherein the customs collection headquarters is located; (d) returning two copies to the bonded manufacturer who will attach one copy to the bill of lading to accompany the shipment (in custody of the carrier) for presentation to the collector of customs at the port of entry; and (e) submitting one copy to the Supervisor-in-Charge, Alcohol and Tobacco Tax, Puerto Rico. Such officer will also prepare a statement on Form 2989, for each shipping container, that the tax on the tobacco products to be shipped to the United States has been computed and show the name and address of the bonded manufacturer, date of tax computation, and the kind of product, quantity, and class, if applicable. The bonded manufacturer shall affix the completed form to the outside of each shipping container in which the products are packed. The statement, Form 2989, shall be affixed to the outer container used in the shipment of freight in bulk (crate, packing box, van, trailer, etc.) and not on the individual cartons, cases, etc., included in such outer container.

§ 296.137 Semimonthly tax return.

The taxes imposed by section 7652(a), I.R.C., with respect to tobacco products manufactured in Puerto Rico which are to be paid in Puerto Rico under the provisions of this subpart shall be paid on the basis of a semimonthly tax return. The bonded manufacturer of such products shall file with the Officer-in-Charge a tax return, Form 2988, in triplicate, for each and every return period. The bonded manufacturer shall show on the return the serial numbers of all Forms 2987 certified during the return period, the kind, quantity, and tax class, if applicable, of the cigars, cigarettes, and manufactured tobacco upon which the tax has been computed during the semimonthly return period, and the tax due thereon, and shall execute the return under the penalties of perjury. He shall file such return at the time specified in § 296.139, regardless of whether tax is due for that return period: *Provided,* That where the Assistant Regional Commissioner, New York, New York, grants specific authorization, the bonded manufacturer need not file a tax return during the term of such authorization for any period in which tax liability was not incurred under the provisions of this subpart.

§ 296.138 Semimonthly tax return periods.

The periods to be covered in the semimonthly tax returns shall be from the 1st day of each month to the 15th day of that month, inclusive, and from the 16th day of each month to the last day of that month, inclusive.

§ 296.139 Time of filing semimonthly return.

Every semimonthly tax return under this subpart shall be filed by the bonded manufacturer not later than the third business day succeeding the last calendar day of the return period: *Provided,* That where the return and remittance are delivered by United States mail to the Officer-in-Charge, the date in the official postmark of the United States Post Office stamped on the cover in which the return and remittance were mailed shall be deemed to be the date of delivery. The Officer-in-Charge will transmit a receipted copy of the semimonthly tax return to the bonded manufacturer who filed the return and paid the tax, retain one copy, and forward one copy to the Assistant Regional Com-

missioner, Alcohol and Tobacco Tax, New York, New York.

§ 296.140 Remittance with return.

Remittance for the full amount of tax computed during the return period shall accompany the return. Such remittance may be in any form the Officer-in-Charge is authorized to accept under the provisions of § 301.6311–1 of this chapter (Procedure and Administration—Payment by check or money order) and which is acceptable to that officer. In paying the tax, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(68A Stat. 778; 26 U.S.C. 6313)

§ 296.141 Default.

Where a check or money order tendered with a semimonthly return for payment of tax under the provisions of this subpart is not paid on presentment, where a bonded manufacturer fails to remit with the semimonthly return the full amount of tax due thereunder, or where a bonded manufacturer is otherwise in default in payment of tax under the provisions of this subpart, he shall not ship tobacco products to the United States on computation of tax until the Officer-in-Charge finds that the revenue will not be jeopardized by deferred payment of tax under the provisions of this subpart.

PROCEDURE AT PORT OF ARRIVAL

§ 296.142 Inspection by collector of customs at port of arrival.

On receipt of the two copies of properly executed Form 2987 from the internal revenue officer in Puerto Rico who inspected the shipment, the collector of customs at the port of arrival shall inspect the shipment to determine whether the quantity specified on the Form 2987 is contained in the shipment. He will then execute his certificate on both copies of the Form 2987 and indicate on each copy any exceptions found at the time of release. The statement of exceptions should identify each shipping container which sustained a loss, the tobacco products reported shipped in such container, and the tobacco products lost from such container. Losses occurring as the result of missing packages, cases, or shipping containers should be listed separately from losses caused by damage. Where the statement is made on the basis of tobacco products missing or damaged, the kind, quantity, and class, if applicable, should be shown. If the collector of customs finds that the full amount of the tax due has not been computed, he will require the difference due to be paid to him prior to release of the tobacco products. When the inspection of the shipment has been effected, and any additional tax found to be due has been paid, the shipment may be released.

§ 296.143 Disposition of forms by collector of customs.

One copy of the Form 2987 will be forwarded to the Assistant Regional Commissioner, Alcohol and Tobacco Tax, New York, New York, one copy will be furnished the consignee, and one copy of this form will be retained by the collector of customs and be made available for inspection by internal revenue officers.

BONDS AND EXTENSIONS OF COVERAGE OF BONDS

§ 296.144 Corporate surety.

Surety bonds, required under the provisions of this subpart, may be given only with corporate sureties holding certificates of authority from the Secretary of the Treasury of the United States as acceptable sureties on Federal bonds. Power of attorney and other evidence of appointment of agents and officers to execute bonds on behalf of such corporate sureties shall be filed with, and passed upon by, the Surety Bonds Branch, Division of Deposits and Investments, Bureau of Accounts, Treasury Department. Limitations concerning corporate sureties are prescribed by the Secretary in Treasury Department Circular No. 570, as revised. The surety shall have no interest whatever in the business covered by the bond.

(61 Stat. 648; 6 U.S.C. 6)

§ 296.145 Deposit of securities in lieu of corporate surety.

In lieu of corporate surety, the manufacturer of tobacco products in Puerto Rico may pledge and deposit, as surety for his bond, securities which are transferable and are guaranteed both as to interest and as to principal by the United States, in accordance with the provisions of 31 CFR Part 225.

(61 Stat. 650; 6 U.S.C. 15)

§ 296.146 Amount of bond.

Before tobacco products may be shipped to the United States on computation of tax under the provisions of this subpart, the total amount of the bond or bonds shall be in an amount not less than the amount of unpaid tax chargeable at any one time against the bond: *Provided,* That the amount of any such bond need not exceed $250,000 but shall in no case be less than $1,000. Where the amount of a bonded manufacturer's bond is less than the maximum prescribed, the bonded manufacturer shall maintain a running account accurately reflecting all outstanding taxes with which his bond is chargeable. He shall charge such account with the amount of tax he agreed to pay on Forms 2987 and shall credit the account for the amount he paid with his return, Form 2988, at the time he files such return.

§ 296.147 Strengthening bond.

Where the amount of any bond becomes insufficient, the bonded manufacturer shall immediately file a strengthening bond in an appropriate amount with the same surety as that on the bond already in effect, unless a superseding bond to cover the full tax liability is filed pursuant to § 296.148. A strengthening bond will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of either bond to less than its full amount.

§ 296.148 Superseding bond.

A bonded manufacturer shall immediately file a new bond to supersede his current bond when (a) the corporate surety on the current bond becomes insolvent, (b) the Officer-in-Charge approves a request from the surety on the current bond to terminate his liability under the bond, (c) the payment of any liability under a bond is made by the surety thereon, (d) the amount of the bond becomes insufficient and a strengthening bond has not been filed, or (e) the Officer-in-Charge considers a superseding bond necessary for the protection of the revenue.

§ 296.149 Extension of coverage of bond.

An extension of the coverage of any bond filed under this subpart shall be required in the case of any change in the individual, trade, or corporate name of the bonded manufacturer and in the case of any change in the location of the factory as set forth in the bond. Such extension of coverage of the bond shall be manifested on Form 2105 by the bonded manufacturer and by the surety on the bond with the same formality and proof of authority as required for the execution of the bond.

§ 296.150 Approval of bond and extension of coverage of bond.

The Officer-in-Charge is authorized to approve all bonds and extensions of coverage of bonds filed under this subpart. No manufacturer of tobacco products in Puerto Rico shall defer taxes under this subpart until he receives from the Officer-in-Charge notice of approval of the bond or of an appropriate extension of coverage of the bond required under this subpart. Upon receipt of the duplicate copy of an approved bond or extension of coverage of bond from the Officer-in-Charge, such copy of the bond or extension of coverage of bond shall be retained by the bonded manufacturer and shall be made available for inspection by any internal revenue officer upon his request, while such document is in force.

§ 296.151 Termination of bond.

Any bond given under the provisions of this subpart may be terminated as to future transactions, by the Officer-in-Charge, (a) pursuant to application of surety as provided in § 296.152; (b) on approval of a superseding bond; (c) on notification by the bonded manufacturer to the Officer-in-Charge that he has discontinued the deferral of taxes under the bond; or (d) on notification by the bonded manufacturer to the Officer-in-Charge that he has discontinued business. When any bond is terminated, the Officer-in-Charge shall notify both the bonded manufacturer and surety on such bond, in writing, of such action.

§ 296.152 Application of surety for relief from bond.

A surety on any bond given under the provisions of this subpart may at any

time in writing notify the bonded manufacturer and the Officer-in-Charge that he desires, after a date named, to be relieved of liability under said bond. Such date shall be not less than 10 days after the date the notice is received by the Officer-in-Charge. The surety shall also file with the Officer-in-Charge an acknowledgment or other proof of service on the bonded manufacturer. If such notice is not thereafter in writing withdrawn, the rights of the bonded manufacturer as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved from liability to the extent set forth in § 296.153.

§ 296.153 Relief of surety from bond.

Where the surety on a bond given under the provisions of this subpart has filed application for relief from liability, as provided in § 296.152, the surety shall be relieved from liability for transactions occurring wholly subsequent to the date specified in the notice, or the effective date of a new bond, if one is given.

§ 296.154 Release of pledged securities.

Securities of the United States, pledged and deposited as provided in § 296.145, shall be released only in accordance with the provisions of 31 CFR Part 225. Such securities will not be released by the Officer-in-Charge until the liability under the bond for which they were pledged has been terminated. When the Officer-in-Charge is satisfied that they may be released, he shall fix the date or dates on which a part or all of such securities may be released. At any time prior to the release of such securities, the Officer-in-Charge may extend the date of release for such additional length of time as he deems necessary.

(61 Stat. 650; 6 U.S.C. 15)

[F.R. Doc. 61-4647; Filed, May 18, 1961; 8:54 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Determination of Permanent Need for Regular Aid and Attendance and "Permanently Bedridden"

In § 3.352, the headnote and paragraph (a) are amended to read as follows:

§ 3.352 Determination of permanent need for regular aid and attendance and "permanently bedridden".

(a) *Basic criteria.* The following will be accorded consideration in determining the need for regular aid and attendance: Inability of claimant to dress or undress himself, or to keep himself ordinarily clean and presentable; frequent need of adjustment of any special prosthetic or orthopedic appliances which by reason of the particular disability cannot be done without aid (this will not include the adjustment of appliances which normal persons would be unable to adjust without aid, such as supports, belts, lacing at the back, etc.); inability of claimant to feed himself through loss of coordination of upper extremities or through extreme weakness; inability to attend to the wants of nature; or incapacity, physical or mental, which requires care or assistance on a regular basis to protect the claimant from hazards or dangers incident to his daily environment. "Total blindness" as well as "bedridden", will be a proper basis for the determination. For the purpose of this section "bedridden" will be that condition which, through its essential character, actually requires that the claimant remain in bed. The fact that claimant has voluntarily taken to bed or that a physician has prescribed rest in bed for the greater or lesser part of the day to promote convalescense or cure will not suffice. It is not required that all of the disabling conditions enumerated in this paragraph be found to exist before a favorable rating may be made. The particular personal functions which the veteran is unable to perform should be considered in connection with his condition as a whole. It is only necessary that the evidence establish that the veteran is so helpless as to need regular aid and attendance, not that there be a constant need. Determinations that the veteran is so helpless, solely by reason of service-connected compensable disease or injuries (38 U.S.C. 310 and 331) or without regard to service connection (38 U.S.C. 511 and 512) as to be in need of regular aid and attendance will not be based solely upon an opinion that the claimant's condition is such as would require him to be in bed. They must be based on the actual requirement of personal assistance from others. If the claimant is able to be out of bed and can walk around entirely unassisted by others, he cannot generally be regarded as meeting the requirements of the law and Veterans Administration regulations; however, the other enumerated types of personal assistance must be considered.

(72 Stat. 1114; 38 U.S.C. 210)

This regulation is effective May 19, 1961.

[SEAL] W. J. DRIVER,
Deputy Administrator.

[F.R. Doc. 61-4644; Filed, May 18, 1961; 8:54 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 3—NATIONAL CAPITAL PARKS REGULATIONS

Discrimination in Using Park Areas

On page 2469 of the FEDERAL REGISTER of March 23, 1961, there was published a notice and text of a proposed amendment to § 3.46 of Title 36, Code of Federal Regulations. The purpose of this amendment is to conform to present policy requirements of the Federal Government that persons entering into contracts with the United States for the use of public property shall not maintain discriminatory employment practices with respect to race, color, creed, ancestry, or national origin.

Interested persons were given thirty days within which to submit written comments, suggestions or objections with respect to the proposed amendment. As the result of comments received within the 30-day period, which were carefully considered, the proposed regulation is hereby adopted with the following changes and is set forth below.

1. In paragraph (a) the word "ancestry" is inserted between the words "color" and "or".
2. In paragraph (b) the word "ancestry" is inserted between the words "color" and "or".
3. In paragraph (c) the word "ancestry" is inserted between the words "color" and "or".

This amendment shall become effective at the beginning of the 30th calendar day following the date of this publication in the FEDERAL REGISTER.

(Sec. 3, 39 Stat. 535; 16 U.S.C. 3)

Section 3.46 is amended to read as follows:

§ 3.46 Discrimination in furnishing public accommodations, in using park areas, and employment practices in park areas.

The operator of any public facility or accommodation in a park area and its employees, including, but not limited to, the District of Columbia Recreation Board and its personnel, the District of Columbia Armory Board and its personnel, and any subcontractor or sublessee, while using park areas are prohibited from (a) publicizing the facilities, accommodations or any activity conducted therein in any manner that would directly or inferentially reflect upon or question the acceptability of any person or persons because of race, creed, color, ancestry, or national origin; (b) discriminating by segregation or otherwise against any person or persons because of race, creed, color, ancestry, or national origin by refusing to furnish such person or persons any accommodation, facility, service or privilege offered to or enjoyed by the general public; and (c) discriminating against any employee or applicant for employment because of race, creed, color, ancestry, or national origin in connection with any activity provided for or permitted by its contract, subcontract, lease, sublease, or permit. The aforesaid provision (c) shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

STEWART L. UDALL,
Secretary of the Interior.

MAY 15, 1961.

[F.R. Doc. 61-4628; Filed, May 18, 1961; 8:50 a.m.]

Proposed Rule Making

FEDERAL AVIATION AGENCY

[14 CFR Parts 600, 601]

[Airspace Docket No. 60–NY–140]

FEDERAL AIRWAYS AND CONTROLLED AIRSPACE

Alteration of Federal Airways and Associated Control Areas

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 amendments to §§ 600.6140, 600.6155, 601.6140, and 601.6155 of the regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 140 extends in part from Casanova, Va., to Washington, D.C. VOR Federal airway No. 155 extends in part from Gordonsville, Va., to Casanova, Va. The Federal Aviation Agency has under consideration the following alterations to these airway segments.

1. Redesignate the segment of Victor 140 from the Casanova VOR to the Washington VOR via the intersection of the Casanova VOR 079° and the Washington VOR 187° True radials, excluding the portion of this airway which would coincide with the Quantico, Va., Restricted Area (R–6608).

2. Extend Victor 155 from the Casanova VOR to the Washington VOR via the intersection of the Casanova VOR 066° and the Washington VOR 317° True radials, excluding the portion of this airway which would coincide with the Washington Prohibited Area (P–56).

This redesignation of Victor 140 and the extension of Victor 155 would facilitate air traffic management by aligning these airway segments to coincide with the standard departure routes utilized for aircraft departing the Washington Terminal Area to the southwest.

In addition, to implement in part, Civil Air Regulations, Part 60, Air Traffic Rules, Amendment 60–21 (26 F.R. 570), the Federal Aviation Agency is considering the designation of the control areas associated with these airway segments to extend upwards from 1,200 feet above the surface or, if appropriate, 500 feet below the Instrument Flight Rules minimum enroute altitude when established.

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 Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. 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 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 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 May 12, 1961.

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

[F.R. Doc. 61–4602; Filed, May 18, 1961; 8:46 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 61–HO–6]

FEDERAL AIRWAYS, CONTROLLED AIRSPACE AND REPORTING POINTS

Revocation of Federal Airways, Associated Control Areas and Reporting Points

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 amendments to Parts 600 and 601 of the regulations of the Administrator, the substance of which is stated below.

Amber Federal airway No. 11 extends from the intersection of the south course of the Maui radio range and the west course of the Hilo, Hawaii, radio range via the Maui, Hawaii, radio range to the intersection of the north course of the Maui radio range and a point 38 statute miles north of the Maui radio range. The Federal Aviation Agency has under consideration the revocation of this airway.

The Federal Aviation Agency IFR peak-day airway traffic survey for the period July 1, 1959, through June 30, 1960, shows a maximum of nine aircraft movements between any two reporting points on Amber 11. Therefore, it appears that the retention of this airway is unjustified as an assignment of airspace. Accordingly, the Federal Aviation Agency proposes to revoke Amber 11 and its associated control areas. Adoption of this proposal would not necessarily result in discontinuance of the low frequency navigational aids associated with Amber 11. Any proposals to discontinue one or more of these aids would be processed in accordance with current Agency procedures. These procedures afford interested persons an opportunity to comment on such action. In addition, § 601.4111 relating to reporting points associated with Amber 11 would be revoked.

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 4009, Honolulu 12, Hawaii. 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 May 12, 1961.

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

[F.R. Doc. 61–4601; Filed, May 18, 1961; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 61–LA–16]

CONTROLLED AIRSPACE

Alteration of Control Zone, Revocation of Control Area Extension, and Designation of Transition Area

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 amendments to Part 601 and § 601.2043 of the regulations of the Administrator, the substance of which is stated below.

The Casper, Wyo., control zone is designated within a 5-mile radius of Casper Air Terminal, within 2 miles either side of the west and east courses of the Casper radio range extending from the 5-mile radius zone to the Parkerton fan marker and within 2 miles either side of a line bearing 269° True from the Casper ILS localizer extending from the Casper Air Terminal to a point 10 miles west of the ILS outer marker. The Federal Aviation Agency is considering the redesignation of this control zone within a 5-mile radius of Casper Air Terminal (latitude 42°54'25" N., longitude 106°-27'50" W.), within 2 miles either side of the Casper VORTAC 216° True radial extending from the 5-mile radius zone to the Casper VORTAC, within 2 miles either side of the Casper ILS localizer east course extending from the 5-mile radius zone to the Henning fan marker (the site of the Casper radio range) and within 2 miles either side of the Casper ILS localizer west course extending from the 5-mile radius zone to 12 miles west of the ILS outer marker (latitude 42°-54'10", longitude 106°34'10"). This would provide protection for aircraft executing the prescribed instrument approach procedures at Casper Air Terminal and would result in a reduction in the overall size of the control zone.

The Casper Control area extension (§ 601.1098) is designated within a 25-mile radius of the Casper radio range station extending clockwise from the south course to the east course of the radio range, within 5 miles either side of the ILS localizer west course extending from the localizer to 25 miles west of the airport and within 5 miles either side of the Casper VORTAC 085° True radial extending from the VOR to low altitude VOR Federal airway No. 247. To implement in part, Civil Air Regulations, Part 60, Air Traffic Rules, Amendment 60-21 (26 F.R. 570), the Federal Aviation Agency is considering the revocation of this control area extension and the designation of a transition area in lieu thereof.

The Casper transition area would be designated within a 25-mile radius of the Casper radio beacon (the site of the Casper radio range) extending clockwise from the western boundary of low altitude VOR Federal airway No. 85 to a line 5 miles south of and parallel to the ILS localizer east course, including the area within 5 miles either side of the ILS localizer west course extending from the 25-mile radius area to 15 miles west of the ILS outer marker and including the area within 5 miles either side of the Casper VORTAC 036° True radial extending from the 25-mile radius area to 30 miles northeast of the VORTAC. This transition area would extend upward from 1,200 feet above the surface to the base of the continental control area. The designation of this transition area would provide protection for aircraft arriving and departing the Casper Air Terminal during Instrument Flight Rules weather conditions. The transition area would be slightly larger than the present control area extension to provide protection for jet aircraft penetrations from the north.

The Casper control zone and control area extension are presently based in part on the Casper radio range station. This facility is no longer utilized for en-route navigation. The instrument approach procedures at Casper Air Terminal based on the radio range have been revised to utilize the Casper radio beacon, to be installed at the site of the radio range. Since the radio range is no longer required for Instrument Flight Rules weather navigation, the Federal Aviation Agency has scheduled this facility for conversion to a transcribed weather broadcasting station.

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, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. 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 May 12, 1961.

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

[F.R. Doc. 61-4599; Filed, May 18, 1961; 8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 61-LA-26]

CONTROLLED AIRSPACE

Revocation of Control Area Extension and Alteration of Control Zone

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 amendments to Part 601 and § 601.2280 of the regulations of the Administrator, the substance of which is stated below.

The Hobbs, N. Mex., control area extension (§ 601.1110) is designated within 5 miles either side of the north course of the Hobbs radio range extending from the radio range station to 25 miles north. The Federal Aviation Agency is considering the revocation of this control area extension.

The Hobbs control zone is designated within a 5 mile radius of Lea County Airport, within 2 miles either side of the south course of the Hobbs radio range extending from the 5-mile radius zone to the radio range station and within 2 miles either side of the 225° True radial of the Hobbs VOR extending from the 5-mile radius zone to the VOR. The Federal Aviation Agency is considering the redesignation of this control zone within a 5-mile radius of Lea County Airport (latitude 32°41'19" N., longitude 103°13'01" W.), within a 2-mile radius of Hobbs Municipal Airport (latitude 32°46'05" N., longitude 103°12'50" W.) and within 2 miles either side of the Hobbs VOR 225° True radial extending from the 5-mile radius zone to the VOR.

A utilization study of the Hobbs radio range has disclosed that very little use is made of the facility for the execution of L/MF instrument approach procedures at Lea County Airport. The Hobbs VOR, a more modern navigational facility, is available to provide adequate navigational aid to terminal traffic. In view of these facts it appears that the L/MF instrument approach procedure at Lea County Airport can be cancelled and the Hobbs control area extension and the north extension of the Hobbs control zone revoked. However, it is proposed to retain the Hobbs Municipal Airport within the control zone to provide protection for aircraft maneuvering in the vicinity of both Lea County and Hobbs Municipal Airports during periods of low ceiling and visibility.

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, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. 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 May 12, 1961.

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

[F.R. Doc. 61-4600; Filed, May 18, 1961; 8:46 a.m.]

[14 CFR Part 602]

[Airspace Docket No. 61-WA-61]

CODED JET ROUTES

Designation of Jet Route and Associated Jet Advisory Area

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 602 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency is considering the designation of a jet route between the Pembina, N. Dak., radio range and the United States/Canadian border via the direct course between the Pembina radio range and the Winnipeg, Manitoba, VOR. This proposed jet route would complement an extension of High Level airway HL-515 planned by the Canadian Department of Transport from the Langruth, Manitoba, VOR via the Winnipeg VOR to the United States/Canadian border north of the Pembina radio range. The proposed route would be designated VOR/VORTAC jet route No. 515 and would facilitate air traffic management and flight planning by providing a route for jet aircraft operating between Pembina and Winnipeg. The proposed jet route would not traverse any high altitude refueling areas.

Concurrently with this action it is proposed to designate a Radar Jet Advisory Area to be associated with this proposed jet route. The provision for designation of Radar Jet Advisory Areas within the continental control area from Flight level 240 to Flight level 390 inclusive is being proposed in Airspace Docket No. 60-WA-34, published as a notice of proposed rule making in the FEDERAL REGISTER on April 13, 1961 (26 F.R. 3157). The basis for such designations is contained in Special Civil Air Regulation No. 444 (26 F.R. 292). VOR/VORTAC jet route No. 515 jet advisory area (Radar) would be designated within 16 miles either side of the centerline of the proposed jet route No. 515 from the Pembina radio range to the United States/Canadian border via the direct course between the Pembina radio range and the Winnipeg VOR.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. All communications received within thirty 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 Chief, Airspace Utilization Division. 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.

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 May 12, 1961.

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

[F.R. Doc. 61-4598; Filed, May 18, 1961; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 46]

PERISHABLE AGRICULTURAL COMMODITIES

Suitable Shipping Condition; Tolerance for Lettuce

Notice is hereby given that the United States Department of Agriculture is considering a revision of the existing regulations, other than rules of practice (7 CFR 46.1-46.41) effective under the Perishable Agricultural Commodities Act, 1930 (46 Stat. 531, et seq., as amended; 7 U.S.C. 499a et seq.).

The revision is intended to (1) modify the definition of suitable shipping conditions, § 46.41(j), in order that "good delivery standards" may be established for specific commodities; and (2) set forth proposed tolerances for lettuce which will be used in determining good delivery at destination under f.o.b. contracts.

All persons who desire to submit written data, views, or comments concerning the proposed revisions should file the same with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, South Building, Washington 25, D.C., not later than August 15, 1961.

The proposed revisions are as follows:

1. In § 46.41 amend paragraph (j) to read as follows:

(j) "Suitable shipping condition", in relation to direct shipments, means that the commodity, at time of billing, is in a condition which, if the shipment is handled under normal transportation service and conditions, will assure delivery without abnormal deterioration at the contract destination agreed upon between the parties. If a good delivery standard for a commodity is set forth in § 46.42 of the regulations of this part, and that commodity at the contract destination contains deterioration in excess of any tolerance provided therein, it will be considered abnormally deteriorated. The seller has no responsibility for any deterioration in transit if there is no contract destination agreed upon between the parties.

2. Add the following new section after § 46.41:

GOOD DELIVERY STANDARDS

§ 46.42 Good Delivery.

Unless otherwise agreed to between the contracting parties, "Good Delivery" in connection with f.o.b. contracts of purchase and sale means that the commodity meets the requirements of the contract at time of loading or sale and, if the shipment is handled under normal transportation service and conditions, will meet the following additional requirements on delivery at the contract destination:

(a) *Lettuce.* (1) If the contract specifies a U.S. grade, the lettuce may contain an average of not more than 3 percent condition defects, including not more than 2 percent decay affecting any portion of the head exclusive of wrapper leaves in excess of the destination tolerances provided for the applicable grade in the U.S. Standards for Grades of Lettuce. (For example, the U.S. No. 1 grade provides a 12 percent tolerance for damage at destination. If a lot contains 5 percent damage by permanent grade factors, 7 percent of the tolerance can be applied to damage by condition factors. The additional 3 percent Good Delivery tolerance would then allow a total of 10 percent damage by condition factors in this shipment at destination.)

(2) If the contract does not specify a U.S. grade or percentage of condition defects, the lettuce at destination may contain a maximum of 15 percent, by count, of the heads in any lot which are damaged by condition defects, including therein not more than 9 percent serious damage of which not more than 5 percent may be decay affecting any portion of the head exclusive of wrapper leaves.

(3) If the contract specifies a percentage of individual or combined condition defects, the lettuce may contain not more than one and one-half times the specified percentages at destination: *Provided,* That a minimum of 5 percent serious damage by condition defects will be allowed at destination.

(4) If the contract clearly indicates by descriptive terms that the lettuce is of inferior quality, larger allowances for damage by condition defects than those specified above will be applied.

(5) If the buyer and the seller agree to percentages for defects at destination, higher or lower than those specified

above, such percentages will determine whether good delivery is made.

Done at Washington, D.C., this 12th day of May 1961.

S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F.R. Doc. 61-4632; Filed, May 18, 1961; 8:51 a.m.]

[7 CFR Part 969]

HANDLING OF AVOCADOS GROWN IN SOUTH FLORIDA

Notice of Proposed Rule Making

Consideration is being given to the following proposals of the Avocado Administrative Committee established under the marketing agreement and Order No. 69, as amended (7 CFR Part 969), regulating the handling of avocados grown in south Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof.

(a) That no avocados of the varieties listed in Column 1 of the following Table I shall be handled prior to 12:01 a.m., e.s.t., of the date listed for the respective variety in Column 2 of such table and thereafter each such variety shall be handled only in conformance with paragraphs (b), (c), (d), and (g) hereof.

TABLE I

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Pollock	7-10-61	16 oz.	8-14-61				
		3 8/16 in.					
Simmonds	7-17-61	14 oz.	8-14-61				
		3 7/16 in.					
Hardee	7- 3-61	16 oz.	8-14-61				
		3 9/16 in.					
Nadir	7-24-61	12 oz.	8-21-61				
		3 3/16 in.					
Trapp	8-14-61	12 oz.	9-11-61				
		3 7/16 in.					
Waldin	8-14-61	16 oz.	8-28-61	14 oz.	9-26-61		
		3 9/16 in.		3 5/16 in.			
Peterson	8-21-61	12 oz.	9-18-61				
		3 9/16 in.					
Pinelli	8-28-61	16 oz.	9-18-61				
Tonnage	8-28-61	14 oz.	9- 4-61	12 oz.	9-11-61	10 oz.	9-18-61
		3 5/16 in.		3 3/16 in.		2 11/16 in.	
Booth 8	9-11-61	16 oz.	10- 2-61	13 oz.	10-23-61		
		3 7/16 in.		3 5/16 in.			
Simpson	10- 9-61	16 oz.	10-30-61				
B. Prince	10- 2-61	16 oz.	10-23-61				
Lula	10- 2-61	18 oz.	10-16-61	14 oz.	11-6-61		
		3 19/16 in.		3 3/16 in.			
Booth 7	10- 2-61	16 oz.	10-23-61				
		3 19/16 in.					
Vaca	10- 9-61	16 oz.	10-30-61				
		3 9/16 in.					
Hickson	10- 9-61	15 oz.	10-30-61				
		3 9/16 in.					
Collinson	10- 2-61	16 oz.	10-30-61				
		3 11/16 in.					
Avon	10-16-61	15 oz.	11- 6-61				
		3 19/16 in.					
Booth 5	10- 9-61	16 oz.	10-30-61				
		3 11/16 in.					
Blair	10- 2-61	14 oz.	10-23-61				
Winslowson	10-16-61	18 oz.	11- 6-61				
		3 11/16 in.					
Monroe	10-23-61	24 oz.	11-20-61				
Hall	10-16-61	20 oz.	10-30-61				
		3 9/16 in.					
Herman	10-23-61	16 oz.	11-20-61				
		3 9/16 in.					
Booth 10	10- 2-61	16 oz.	10-23-61				
		3 19/16 in.					
Booth 11	10-16-61	16 oz.	11- 6-61				
Ajax (B. 7B)	10-30-61	18 oz.	11-20-61				
		3 13/16 in.					
Booth 3	10-30-61	16 oz.	11-20-61				
		3 9/16 in.					
Booth 1	10-30-61	16 oz.	11-20-61				
		3 11/16 in.					
Taylor	10-30-61	14 oz.	11-20-61				
		3 5/16 in.					
Choquette	10-23-61	24 oz.	11-20-61				
Linda	11-20-61	18 oz.	12-11-61				
Byars	11-20-61	16 oz.	12-11-61				
Nabal	11-20-61	14 oz.	12-11-61				
Wagner	12-11-61	12 oz.	1- 2-62				
Schmidt	1-22-62						
Itzamna	2-19-62						

(b) During the period from 12:01 a.m., e.s.t., of the date listed for the respective variety in Column 2 of Table I and 12:01 a.m., e.s.t., of the date listed for the respective variety in Column 4 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 3 of such table or is of at least the diameter specified for such variety in said Column 3;

(c) During the period from 12:01 a.m., e.s.t., of the date listed for the respective variety in Column 4 of Table I and 12:01 a.m., e.s.t., of the date listed for the respective variety in Column 6 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 5 of such table or is of at least the diameter specified for such variety in said Column 5;

(d) During the period from 12:01 a.m., e.s.t., of the date listed for the respective variety in Column 6 of Table I and 12:01 a.m., e.s.t., of the date listed for the respective variety in Column 8 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 7 of such table or is of at least the diameter specified for such variety in said Column 7;

(e) That varieties of the West Indian type of avocados not listed in Avocado Order 23 (§ 969.323; 26 F.R. 3691) or in Table I shall not be handled except in accordance with the following terms and conditions:

(1) Such avocados shall not be handled prior to 12:01 a.m., e.s.t., June 19, 1961.

(2) During the period beginning at 12:01 a.m., e.s.t., June 19, 1961, and ending at 12:01 a.m., e.s.t., July 3, 1961, the individual fruit in each lot of such avocados shall weigh at least 16 ounces.

(3) During the period beginning at 12:01 a.m., e.s.t., July 3, 1961, and ending at 12:01 a.m., e.s.t., July 24, 1961, the individual fruit in each lot of such avocados shall weigh at least 14 ounces.

(4) During the period beginning at 12:01 a.m., e.s.t., July 24, 1961, and ending at 12:01 a.m., e.s.t., September 18, 1961, the individual fruit in each lot of such avocados shall weigh at least 12 ounces.

(5) Any lot of such avocados may be handled without regard to the minimum weight requirements of this paragraph (e) if the exterior seed-coat of the individual fruit is of a brown color characteristic of a mature avocado, or if such avocados, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(f) That varieties of avocados not covered by paragraphs (a) through (e) of this section shall not be handled except in accordance with the following terms and conditions:

(1) Such avocados shall not be handled prior to 12:01 a.m., e.s.t., September 18, 1961.

(2) During the period beginning at 12:01 a.m., e.s.t., September 18, 1961, and ending at 12:01 a.m., e.s.t., October 16, 1961, the individual fruit in each lot of such avocados shall weigh at least 15 ounces.

(3) During the period beginning at 12:01 a.m., e.s.t., October 16, 1961, and ending at 12:01 a.m., e.s.t., December 18, 1961, the individual fruit in each lot of such avocados shall weigh at least 13 ounces.

(4) Any lot of such avocados may be handled without regard to the minimum weight requirements of this paragraph (f) if the exterior seed-coat of the individual fruit is of a brown color characteristic of a mature avocado, or if such

avocados, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(g) Notwithstanding the provisions of paragraphs (a) through (f) of this section regarding the minimum weight or diameter for individual fruit, up to 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified weight and be less than the minimum specified diameter: *Provided,* That such avocados weigh not more than two ounces less than the applicable specified weight for the particular variety as prescribed in Columns 3, 5, or 7 of Table I or in paragraphs (e) and (f). Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

All persons who desire to submit written data, views, or arguments for consideration in connection with the foregoing should do so by forwarding the same to the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Room 2077, South Building, Washington 25, D.C., not later than May 25, 1961.

Dated: May 16, 1961.

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

[F.R. Doc. 61-4653; Filed, May 18, 1961; 8:55 a.m.]

[7 CFR Part 1067]

AVOCADOS

Grade and Maturity Restrictions on Imports

Notice is hereby given that the Department is giving consideration to the quality and maturity requirements that should be made applicable to the importation of avocados into the United States, pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and to requiring inspection and certification of each such import by the Federal or Federal-State Inspection Service pursuant to the provisions of § 1060.4 of the general regulations (7 CFR Part 1060) applicable to the importation of certain listed commodities (including avocados).

The requirements under consideration are as follows and are designed to impose grade and maturity restrictions on imports of avocados that are comparable to those being made applicable to the handling of Florida avocados pursuant to the marketing agreement, as amended, and Order No. 69, as amended (7 CFR Part 969), regulating the handling of avocados grown in south Florida.

(a) All avocados imported shall meet the requirements of the U.S. No. 2 grade.

(b) Avocados of the Pollock variety shall not be imported (1) prior to 12:01 a.m., e.s.t., July 10, 1961, and (2) during the period beginning at 12:01 a.m., e.s.t., July 10, 1961, and ending at 12:01 a.m., e.s.t., August 14, 1961, unless the individual fruit in each lot of such avocados weigh at least 16 ounces or measure at least $3\frac{8}{16}$ inches in diameter.

(c) Avocados of the Catalina variety shall not be imported (1) prior to 12:01 a.m., e.s.t., July 10, 1961; and (2) during the period beginning at 12:01 a.m., e.s.t., July 10, 1961, and ending at 12:01 a.m., e.s.t., August 14, 1961, unless the individual fruit in each lot of such avocados weigh at least 18 ounces.

(d) Avocados of the Trapp variety shall not be imported (1) prior to 12:01 a.m., e.s.t., August 14, 1961; and (2) during the period beginning at 12:01 a.m., e.s.t., August 14, 1961, and ending at 12:01 a.m., e.s.t., September 11, 1961, unless the individual fruit in each lot of such avocados weigh at least 12 ounces or measure at least $3\frac{7}{16}$ inches in diameter.

(e) Avocados of any variety not specified in paragraphs (b) through (d) hereof shall not be imported (1) prior to June 19, 1961; and (2) during the period beginning at 12:01 a.m., e.s.t., June 19, 1961, and ending at 12:01 a.m., e.s.t., July 3, 1961, unless the individual fruit in each lot of such avocados weigh at least 16 ounces; (3) during the period beginning at 12:01 a.m., e.s.t., July 3, 1961, and ending at 12:01 a.m., e.s.t., July 24, 1961, unless the individual fruit in each lot of such avacados weigh at least 14 ounces; and (4) during the period beginning at 12:01 a.m., e.s.t., July 24, 1961, and ending at 12:01 a.m., e.s.t., September 18, 1961, unless the individual fruit in each lot of such avocados weigh at least 12 ounces: *Provided,* That any lot of such avocados may be imported without regard to the minimum weight requirements of this paragraph if the exterior seed-coat of the individual fruit is of a brown color characteristic of a mature avocado, or if such avocados, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(f) Notwithstanding the provisions of paragraphs (b) through (e) hereof regarding the minimum weight or diameter for individual fruit, not to exceed 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified weight and be less than the minimum specified diameter: *Provided,* That such avocados weigh not more than 2 ounces less than the applicable specified weight for the particular variety prescribed in such paragraphs. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(g) As used herein, the term "U.S. No. 2 grade" shall have the same meaning as set forth in the United States Standards for Florida Avocados (7 CFR 51.-3050–51.3069).

All persons who desire to submit written data, views, or arguments for consideration in connection with the foregoing should do so by forwarding the same to the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Room 2077, South Building, Washington 25, D.C., not later than May 26, 1961.

Dated: May 16, 1961.

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

[F.R. Doc. 61-4654; Filed, May 18, 1961; 8:55 a.m.]

Commodity Stabilization Service

[7 CFR Part 975]

[Docket No. AO-179-A21]

MILK IN NORTHEASTERN OHIO MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the office of the Market Administrator, 7503 Brookpark Road, Cleveland 29, Ohio, beginning at 10:00 a.m., e.d.t., on June 13, 1961, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Northeastern Ohio marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposal relative to a redefinition of the marketing area raises the issue whether the provisions of the present order would tend to effecuate the declared policy of the Act, if they are applied to the marketing area as proposed to be redefined, and, if not, what modifications of the provisions of the order would be appropriate.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by the Smith Dairy Products Company:

Proposal No. 1. Amend § 975.5 to include the city of Wooster in Wayne County, Ohio.

Proposed by The Borden Company:

Proposal No. 2. Amend § 975.5 by extending the marketing area to include all the territory within the boundary of Tuscarawas County and the city of Coshocton in Coshocton County.

Proposed by the Akron Milk Producers, Inc.:

Proposal No. 3. Delete § 975.8(b) and renumber subsequent paragraphs.

Proposal No. 4. Delete § 975.8(d) and substitute:

(d) A plant located less than 40 miles from the Public Square in Cleveland, Ohio, or less than 27.5 miles from the

nearer of the City Hall in Akron, Ohio, or the City Hall in Canton, Ohio, operated by a cooperative association, or associations, if fifty percent (50%) or more of the milk (exclusive of that received at pool plants described in paragraphs (b) and (c) of this section) delivered during the immediately preceding six-month period by producers who are members of such association(s) was received at, or transferred to, the pool plants of other handlers;

Proposed by The Northeastern Ohio Milk Market Survey Committee:

Proposal No. 5. Amend § 975.12 and such other related provisions as may be necessary to provide that the definition of fluid milk products does not include the skim milk equivalent weight of products used for solids fortification.

Proposed by The Borden Company:

Proposal No. 6. Amend § 975.12 by excluding dietary milk products from the definition of fluid milk products.

Proposal No. 7. Amend § 975.41(e) by including dietary milk products with other items classified as Class III.

Proposed by the Fairmont Foods Company:

Proposal No. 8. Delete § 975.41(b) and include such items now in this section in § 975.41(c); amend such other related sections of the order as may be necessary.

Proposed by The Milk Producers Federation of Cleveland, The Northwestern Cooperative Sales Association and the Stark County Milk Producers Association:

Proposal No. 9. Amend § 975.43 to provide for allocation of transfers and diversions to nonpool plants to Class I, where Class I disposition from the nonpool plant exceeds its regular supply from dairy farmers.

Proposed by The Northeastern Ohio Milk Market Survey Committee:

Proposal No. 10. Amend § 975.51 and make other necessary conforming changes to provide the same Class I differential over the basic price for each month of the year.

Proposal No. 11. Amend § 975.71 and make other necessary conforming changes to provide for a fall pay-back plan in the computation of the uniform price by deducting 35 cents per hundredweight from the uniform price for April, May, June and July and by adding the resulting amount in the percentages indicated for the following months:

	Percent
September	20
October	30
November	30
December	20

Proposed by Reiter Harter, Chestnut Ridge, the Borden Company, and the Smith Dairy Products Company:

Proposal No. 12. Amend either § 975.50 or § 975.51 and make other necessary conforming changes to provide that the basic formula price for the preceding month be used in determining the Class I price for the current month.

Proposed by Reiter Harter, Chestnut Ridge, and the Smith Dairy Products Company:

Proposal No. 13. Amend § 975.53 so that the minimum price per hundredweight to be paid by each handler for producer milk of 3.5 percent butterfat content and which is classified as Class III shall be the butter-powder formula price computed pursuant to § 975.50.

Proposed by M. C. Dickey, a producer:

Proposal No. 14. Amend § 975.53 to read as follows:

The minimum price per hundredweight to be paid by each handler f.o.b. his plant for producer milk of 3.5 percent butterfat content received from producers or from a cooperative association during the month, which is classified as Class III utilization shall be the basic formula price plus 10 cents as computed pursuant to § 975.50.

Proposed by Akron Milk Producers, Inc.:

Proposal No. 15. Amend § 975.53 by deleting the period at the end of the paragraph and adding the following: plus 15 cents ($0.15).

Proposed by the United Dairy Company:

Proposal No. 16. Amend § 975.53 by adding the following provisio: *Provided,* That at no time shall the Class III price exceed by more than 10 cents per hundredweight the value computed pursuant to § 975.50(b).

Proposed by the Ashtabula County Farmers Union, Crawford County (Pa.) Farmers Union, and Mercer County (Pa.) Farmers Union:

Proposal No. 17. Amend § 975.53 by adding "plus 10 cents".

Proposed by the Milk Producers Federation of Cleveland, Northwestern Cooperative Sales Association and the Stark County Milk Producers Association:

Proposal No. 18. Amend § 975.55 by adding after the words "or the City Hall in Canton, Ohio," the following: "or the City Hall in Ashtabula, Ohio," and provide for a similar change in § 975.81 which would eliminate any producer location adjustment in the Ashtabula, Ohio, area.

Proposal No. 19. Amend the location differential schedules in § 975.55 and § 975.81 by reducing the rate of adjustment 6 cents per hundredweight beginning at the 60.1 mile zone and expanding the zone to 30 miles distance from that point.

Proposed by J. J. Lindholm, a producer:

Proposal No. 20. Amend the necessary provisions of Order No. 75 to provide for the pricing of producer milk f.o.b. the farm rather than f.o.b. the market as now provided.

Proposed by the Milk Marketing Orders Division, Commodity Stabilization Service:

Proposal No. 21. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, W. W. Hurwitz, P.O. Box 7266, Cleveland 29, Ohio, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Issued at Washington, D.C., May 16, 1961.

ROBERT G. LEWIS,
Deputy Administrator, Price Support, Commodity Stabilization Service.

[F.R. Doc. 61-4655; Filed, May 18, 1961; 8:55 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Withdrawal of Petitions

The petitions (FAP 218, 219), of Harry Miller Corporation, Fourth and Bristol Streets, Philadelphia 40, Pennsylvania, published in the FEDERAL REGISTER of October 21, 1960 (25 F.R. 10064), requested regulations to provide for the use of an ethylene oxide condensate, and for the use of a mixture of caustic soda and ethylene glycol monobutyl ether as a continuous felt cleaner on paper-making machines. The petitions have been withdrawn by the petitioner.

Dated: May 11, 1961.

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

[F.R. Doc. 61-4634; Filed, May 18, 1961; 8:51 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 1, 3]

[Docket No. 13961]

BROADCAST APPLICATION FORMS

Statement of Program Service; Order Extending Time for Filing Comments

In the matter of amendment of Section IV (Statement of Program Service), of Broadcast Application Forms 301, 303, 314, and 315.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 11th day of May 1961;

It appearing, that the public interest would be served by the issuance of a further notice of proposed rule making setting forth certain revisions of the Commission's proposals; and

It further appearing, that such further notice will be issued shortly and that no useful purpose would be served in permitting interested parties to expend time and effort with respect to the proposals presently outstanding;

It is ordered, That the time for filing comments in the above-captioned pro-

ceeding is extended without date until further order of the Commission.

Released: May 12, 1961.

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

[F.R. Doc. 61-4612; Filed, May 18, 1961; 8:47 a.m.]

[47 CFR Part 3]

INTERFERENCE RATIO PERTAINING TO STATIONS 20 KC APART

[Docket No. 14037]

Elimination; Order Extending Time for Filing Comments

In the matter of amendment of § 3.182 (w) of the Commission's rules to eliminate the interference ratio pertaining to stations 20 kc apart.

1. The Commission has before it for consideration a petition filed May 12, 1961, by the Association of Federal Communications Consulting Engineers (AFCCE) requesting that the time for filing comments in Docket No. 14037 be extended for a period of 60 days from May 15, 1961, the date on which comments are presently due.

2. The petition states that AFCCE has circularized all its members requesting comments and that it desires that it have the opportunity to discuss the comments in detail at its annual membership meeting on May 28, 1961.

3. Petitioner further states that it hopes, after such discussion, that comments can be prepared which will be helpful to the Commission in reaching its decision in this matter.

4. Upon consideration of the view expressed, the Commission believes the public interest would be served by granting the request in part and extending the time for filing comments to June 15, 1961.

5. *Accordingly, it is ordered,* This 12th day of May 1961, that the time for filing comments herein is extended from May 15, 1961, until June 15, 1961; and that the time for filing reply comments is extended from May 25, 1961, to June 26, 1961.

Released: May 15, 1961.

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

[F.R. Doc. 61-4614; Filed, May 18, 1961; 8:48 a.m.]

[47 CFR Part 3]

[Docket Nos. 13858, 13859]

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS

Certain Cities in New York and Pennsylvania; Order Extending Time for Filing Reply Comments

In the matter of amendment of § 3.606, Table of Assignments, Television Broadcast Stations, (Syracuse, Rochester, Elmira, Binghamton, and Corning, New York and Williamsport, Pennsylvania) Docket No. 13858; and amendment of § 3.606, Table of Assignments, Television Broadcast Stations (Rochester, New York), Docket No. 13859.

1. Rollins Telecasting, Inc., permittee of Station WPTZ, North Pole, New York, in a letter received by the Commission on May 10, 1961, has requested that the time for filing reply comments in the above-entitled proceedings be extended to and including May 26, 1961.

2. By order released April 26, 1961, the time for filing reply comments in these proceedings was extended to May 12, 1961. This extension was the result of a petition filed in Docket No. 13858 by Meredith Syracuse Television Corporation, licensee of Station WHEN-TV, Syracuse, New York. The petition was joined in by Rollins Telecasting, Inc.

3. Rollins states that it was contemplated that representatives of Meredith and Rollins would consult with each other in an effort to avoid the conflict presented by reason of their comments herein, but that the parties have been unable to complete their discussions and their consulting engineers have been unable to complete engineering studies necessary. They further state that it is hoped that progress may be made toward a resolution of the difficulties within a short time.

4. In view of the circumstances, we believe that it is in the public interest to extend the time for filing reply comments in these proceedings.

5. *Accordingly, it is ordered,* This 10th day of May 1961, That the aforementioned request of Rollins Telecasting, Inc., for an extension of time is granted, and that the time for filing reply comments in Docket Nos. 13858 and 13859 is extended from May 12, 1961, to and including May 26, 1961.

Released: May 12, 1961.

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

[F.R. Doc. 61-4613; Filed, May 18, 1961; 8:47 a.m.]

Notices

CIVIL AERONAUTICS BOARD

[Docket 10582; Order No. E-16815]

DELTA AIR LINES, INC.

Application for Amendment of Certificate of Public Convenience and Necessity; Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of May 1961.

In the matter of the application of Delta Air Lines, Inc., Docket 10582; for amendment of its certificate of public convenience and necessity pursuant to section 401 of the Federal Aviation Act of 1958, as amended.

On June 5, 1959, Delta Air Lines, Inc. (Delta), filed an application requesting an amendment of its certificate of public convenience and necessity for route 24 with respect to restriction No. (5) [1] to add New Orleans, La., as an alternate mandatory stop. The present restriction requires that all flights serving Dallas or Fort Worth, Texas, on the one hand, and Washington, D.C., Baltimore, Md., Philadelphia, Pa., New York, N.Y., or Newark, N.J., on the other, shall also serve Atlanta, Ga.

On November 21, 1955,[2] Delta was authorized to provide service from Atlanta to the northeast as an extension of its route 24 beyond Atlanta to New York/Newark via Charlotte, N.C., Washington, D.C., Baltimore, Md., and Philadelphia, Pa. However, to assure priority of opportunity for Braniff Airways, Inc. (Braniff), in Dallas/Fort Worth-northeast markets, and to limit Delta's competitive opportunity in these markets without seriously impeding its one-carrier service to the northeast from Mississippi and northern Louisiana cities on its route 24, a mandatory stop at Atlanta was imposed on Delta's authority.

The Board has reviewed the request of Delta and has found that the distance between Fort Worth and New York via Atlanta is 1,493 miles and that the distance between Fort Worth and New York via New Orleans is 1,631 miles, as compared with the nonstop distance of 1,395 miles which can be operated by either Braniff or American Airlines, Inc. (American). Since the purpose of the restriction was to limit Delta's competitive opportunity in the Fort Worth/Dallas-northeast markets, the addition of New Orleans as an alternate mandatory stop on its through-plane service between these points would continue the present competitive status of the service which Delta could provide.

Further, it appears that an operation between Dallas/Fort Worth and New Orleans of the same flight which operates nonstop between New Orleans and the northeast points will permit more effective utilization of aircraft over Delta's system. Desirable economies should result from such operations, without negating the purpose of the original service restriction.

Upon consideration of the foregoing, we tentatively find and conclude that restriction No. (5) in Delta's certificate for route 24 should be so modified as to provide that all flights serving Dallas or Fort Worth, Texas, on the one hand, and Washington, D.C., Baltimore, Md., Philadelphia, Pa., New York, N.Y., or Newark, N.J., on the other, shall also serve either Atlanta, Ga. or New Orleans, La., accordingly: *It is ordered:*

1. That all interested persons show cause why the Board should not issue an order making final the findings and conclusions stated herein, amending the certificate of public convenience and necessity of Delta Air Lines, Inc., for Route 24 with respect to restriction No. (5) by adding New Orleans, Louisiana, as an alternate mandatory stop on all flights serving Dallas or Fort Worth, Texas, on the one hand, and Washington, D.C., Baltimore, Md., Philadelphia, Pa., New York, N.Y., and Newark, N.J., on the other;

2. That any interested person having objection to the issuance of an order making final the findings and conclusions herein, shall, within 15 days from the date hereof, file with the Board and serve upon all persons hereafter made parties written notice of objection;

3. That if no objections are filed, further procedural steps shall be deemed waived and the matter submitted to the Board for issuance of a final order;

4. That if objections are filed, further consideration will be accorded any matters or issues raised by the objections before further action is taken by the Board;

5. That copies of this order be served on American Airlines, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., the City and Chamber of Commerce of Dallas, Texas, the City and Chamber of Commerce of Fort Worth, Texas, and the City and Chamber of Commerce of Atlanta, Georgia, all hereby made parties to the proceeding in Docket 10582; and

6. That this order be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] JAMES L. DEEGAN,
Acting Secretary.

[F.R. Doc. 61-4652; Filed, May 18, 1961; 8:55 a.m.]

[1] Delta's application requests modification of restriction No. (4), which was designated restriction No. (5) subsequent to the original filing, Order E-15133, April 21, 1960.

[2] Southwest-Northeast Service Case, Docket 2355 et al., 22 CAB 52.

FEDERAL AVIATION AGENCY

[OE Docket No. 61-AN-1]

CONSTRUCTION OF RADIO ANTENNA STRUCTURE

Notice of No Airspace Objection

The Federal Aviation Agency has circularized the following proposal to interested persons for aeronautical comment and has conducted a study to determine its effect upon the utilization of airspace:

The U.S. Coast Guard proposes to erect a radio antenna structure near Point Spencer, Alaska, at latitude 65°14.8′ north, longitude 166°52.5′ west. The overall height of the structure would be 1362 feet above mean sea level (1350 feet above ground).

No aeronautical objections were made in response to the circularization or at the Regional Informal Airspace Meeting. The aeronautical study conducted to date by this Agency revealed that the proposed structure would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes. The Coast Guard has advised that there is an immediate military requirement for this tower and that the current construction season at Point Spencer, Alaska, is limited. For these reasons, I have determined that this study should not include review of the proposal at a Washington Informal Airspace Meeting.

Therefore, I find that the proposed structure, at the location and mean sea level elevation specified herein would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes and conclude that no objection thereto from an airspace utilization standpoint be interposed by this Agency, provided that the structure be obstruction marked and lighted in accordance with applicable standards.

This finding will be effective upon publication in the FEDERAL REGISTER.

Issued in Washington, D.C., on May 12, 1961.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 61-4594; Filed, May 18, 1961; 8:45 a.m.]

[OE Docket No. 61-FW-32]

CONSTRUCTION OF STANDARD BROADCAST TOWER

Notice of No Airspace Objection

The Federal Aviation Agency has circularized the following proposal to the aviation industry for comment and has conducted an aeronautical study to determine its effect upon the utilization of airspace:

Radio Donalsonville proposes to erect a radio antenna structure near Donalsonville, Georgia, at latitude 31°04'26" north, longitude 84°52'47" west. The overall height of the structure would be 490 feet above mean sea level (330 feet above ground).

No aeronautical objections were made in response to the circularization. The aeronautical study by the Agency revealed that the proposed structure would be located approximately 4 miles from the Donalsonville, Georgia, Airport reference point and would exceed the criteria contained in TSO–N18, paragraph B.2 as applied to this airport by 60 feet. However, the study disclosed that there would be no substantial adverse effect upon aeronautical operations, procedures or minimum flight altitudes.

Therefore, I find that this proposed structure at the location and mean sea level elevation specified herein, would have no substantial adverse effect upon aeronautical operations, procedures or minimum flight altitudes and conclude that no objection thereto from an airspace utilization standpoint be interposed by the Agency, provided that the structure be obstruction marked and lighted in accordance with applicable rules and standards.

This finding will be effective upon publication in the FEDERAL REGISTER.

Issued in Washington, D.C., on May 12, 1961.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 61–4595; Filed, May 18, 1961; 8:45 a.m.]

GENERAL SERVICES ADMINISTRATION

Defense Materials Service

REPORT OF PURCHASES UNDER ACTIVE PURCHASE REGULATIONS

MARCH 31, 1961.

Regulation	Termination date	Unit	Limitation (quantity)	Purchases[1] during quarter		Cumulative purchases through end of quarter[1]	
				Quantity	Amount	Quantity	Amount
Public Law 206, 83d Cong.							
Beryl	June 30, 1962	Short dry tons, beryl ore	4,500	79	$45,404	2,799	$1,555,966
Mica	June 30, 1962	Short tons, hand-cobbed mica or equivalent	25,000	446	696,211	22,304	22,712,891

[1] Quantities represent deliveries.

JOHN L. MOORE,
Administrator.

MAY 15, 1961.

[F.R. Doc. 61–4650; Filed, May 18, 1961; 8:55 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12769 etc.; FCC 61–621]

STANLEY BLUMENTHAL ET AL.

Memorandum Opinion and Order

In the matter of Stanley Blumenthal, 215 Cozine Avenue, Brooklyn 7, New York, Docket No. 12769; application for renewal of Radiotelegraph Second Class Operator License No. T2–2–1626; Stanley M. Hauser, 27 West 84th Street, New York 24, New York, Docket No. 12881; application for renewal of Radiotelegraph and Radiotelephone First Class Operator Licenses Nos. T1–2–1093; P1–2–6990; Rudolph William Jones, 115 Ashland Place, Brooklyn 1, New York, Docket No. 12903; application for renewal of Radiotelegraph Second-Class Operator License No. T2–2–1586.

1. The Commission has before it for consideration (1) a Joint Motion to Consolidate, filed April 10, 1961, by Stanley Blumenthal, Stanley M. Hauser, and Rudolph William Jones, requesting that the Commission Orders designating each of their applications for hearing be amended to afford consolidation of their respective applications into one hearing, and (2) a Supporting Statement filed jointly by the Office of the General Counsel and the Field Engineering and Monitoring Bureau on April 11, 1961.

2. By Order released February 24, 1959 (FCC 59–121; Mimeo No. 68570), the Commission designated the application of Stanley Blumenthal for renewal of his Second Class Operator License for hearing pursuant to section 303(1) of the Communications Act of 1934, for failing to answer lawful questions with respect to his qualifications to be a licensee. Two other applications were designated for hearing for the same reason: that of Rudolph William Jones (Docket No. 12903) for a Second Class Operator License, by Order released July 20, 1959 (FCC 59–720; Mimeo No. 75530); and that of Stanley M. Hauser (Docket No. 12881) applying for a First Class Operator License, by Order released July 20, 1959 (FCC 59–719; Mimeo No. 75529).

3. In support of their request, petitioners assert that there are no issues of fact in any of these cases and that petitioners intend to enter a stipulation of facts with counsel for the Commission; that the issues of law in all three cases are identical; that all petitioners are represented by the same attorney; and that a consolidation of these cases will eliminate the necessity of three separate hearings. Commission counsel concur with petitioners' request and assert that "a consolidation of the proceedings will lend itself to an orderly and efficient method of dispatching the matters under consideration." Petitioners waive any rights with respect to the Hearing Examiner already appointed and all agree to the designation of another Hearing Examiner to hear the matter if consolidated.

4. The Commission agrees with the parties that the consolidation of the petitioners' applications would expedite the Commission's processes, and that, under the circumstances presented, nothing is to be gained by holding separate hearings.

Accordingly, it is ordered, That the Joint Motion to Consolidate, filed April 10, 1961, by Stanley Blumenthal (Docket No. 12769), Rudolph William Jones (Docket No. 12903), and Stanley M. Hauser (Docket No. 12881) is granted;

It is further ordered, That the above-captioned proceedings are consolidated for hearing.

Adopted: May 11, 1961.

Released: May 12, 1961.

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

[F.R. Doc. 61–4603; Filed, May 18, 1961; 8:46 a.m.]

[Docket Nos. 14113, 14114; FCC 61–628]

EBONY ENTERPRISES, INC., AND WILLIAM NORMAN PEAL

Order Designating Applications for Consolidating Hearing on Stated Issues

In re applications of Ebony Enterprises, Inc., Chadbourn, North Carolina, requests: 1590 kc, 1 kw, Day, Docket No. 14113, File No. BP–13683; William Norman Peal, Chadbourn, North Carolina, requests: 1590 kc, 500 w, Day, Docket No. 14114, File No. BP–13776; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 11th day of May 1961;

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

It appearing that, except as indicated by the issues specified below, William Norman Peal is legally, technically, financially, and otherwise qualified to construct and operate his instant proposal, and that Ebony Enterprises, Inc., is legally, technically and otherwise qualified but cannot be found to be financially qualified as indicated below; and

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

1. The proposals are mutually exclusive.

2. Upon the basis of information thus far submitted by Ebony Enterprises, Inc., it cannot be determined that said applicant is financially qualified. Since the applicant does not indicate that any deferred credit is available, it must be assumed that all expenditures will be met with cash. Funds required will include $9,525 estimated as cost of construction, plus $6,000 initial working capital for three months, for a total of $15,525. Although $16,660 in capital stock has been subscribed, an analysis of the balance sheets of six (of 14) subscribers fails to indicate sufficient quick assets with which to meet their respective commitments. These subscribers and the amounts of cash shown in the personal balance sheets of each are: Alfred Singletary, $500; Dr. G. W. Carnes, $100; Chester Graham, $200; S. M. Lennon, no liquid assets; Fred Williams, $500; and Willie Hines, Jr., $700. It is therefore necessary that each of the above subscribers indicate how it is proposed to meet the balance of his subscription of $1,190 to capital stock.

3. Each of the subject proposals appears to cause interference to the existing operation of WLSC, Loris, South Carolina.

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

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

1. To determine the areas and populations which would receive primary service from each of the proposed operations and the availability of other primary service to such areas and populations.

2. To determine whether each of the subject proposals would cause objectionable interference to Station WLSC, Loris, South Carolina, 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 Ebony Enterprises, Inc. is financially qualified to construct and operate its proposed station.

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

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

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

(c) The programming service proposed in each of the said applications.

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

It is further ordered, That Pee Dee Broadcasting Company, licensee of Station WLSC, Loris, South Carolina, is made a party to the proceeding.

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

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing, either individually or, if feasible, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.362(c) of the rules.

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

Released: May 15, 1961.

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

[F.R. Doc. 61-4605; Filed, May 18, 1961; 8:46 a.m.]

[Docket No. 14117; FCC 61-631]

LINTON D. HARGREAVES

Order Designating Hearing

In re application of Linton D. Hargreaves, Duluth, Minnesota, requests: 1390 kc, 500 w, Day, Docket No. 14117, File No. BP-13591; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 11th day of May 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 and otherwise qualified to construct and operate the proposed station but has failed to submit sufficient information to support a finding that the applicant is financially qualified inasmuch as the applicant has not shown that he has sufficient cash, liquid assets or credits available to meet the costs of construction and initial operation of the proposed station; and

It further appearing that the proposed operation would not provide a minimum field intensity of 25 mv/m over all the main business area of Duluth as required by § 3.188(b)(1) of the Commission rules; and

It further appearing that by letter of March 25, 1960, the Commission was advised that the Federal Aviation Agency and the City of Duluth Airport Manager objected to the construction of the antenna at the proposed location; and

It further appearing that, in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject 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 would receive primary service from the proposed operation and the availability of other primary service to such areas and populations.

2. To determine whether the instant applicant is financially qualified to construct and operate its proposed station.

3. To determine whether there is a reasonable possibility that the tower height and location proposed by the instant applicant would constitute a menace to air navigation.

4. To determine whether the instant proposal would provide the coverage of the main business areas of Duluth as required by § 3.188(b)(1) of the Commission rules and, if not, to determine, in the light of the evidence adduced pursuant to Issue 1, whether circumstances exist which would warrant a waiver of § 3.188(b)(1).

5. 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, the Federal Aviation Agency 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.

It is further ordered, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.362(c) of the rules.

Released: May 15, 1961.

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

[F.R. Doc. 61-4606; Filed, May 18, 1961; 8:46 a.m.]

[Docket No. 14110; FCC 61-608]

JAMES LINCOLN HARTLEY

Order Designating Application for Hearing on Stated Issues

In the matter of James Lincoln Hartley, 2800 Holden Street, Seattle 8, Washington, Docket No. 14110; application for renewal of Amateur Radio Operator and Station License K7AUU.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 11th day of May 1961;

The Commission having under consideration the application of James Lincoln Hartley for renewal of his amateur radio operator and station license K7AUU; and

It appearing that the Commission, pursuant to its authority under section 303(1) of the Communications Act of 1934, as amended, to issue radio operator licenses to such citizens of the United States as it finds qualified, and its authority under sections 308 and 309 of the Communications Act,[1] directed James Lincoln Hartley to supplement his application for renewal of his amateur radio operator and station licenses by furnishing answers to certain specified questions, under oath; and

It further appearing that because of his failure and refusal to answer the questions, the Commission is unable to determine that James Lincoln Hartley possesses the requisite qualifications to hold an amateur radio operator and station license.

It is ordered, Pursuant to sections 303 (1) and 309(b) of the Communications Act of 1934, as amended,[1] and § 1.549 of the Commission's rules that the above-entitled application is hereby designated for hearing at the Commission offices in Washington, D.C., at a time and before an Examiner to be specified by subsequent order,[2] upon the following issues to which such hearing shall be confined:

(1) To determine whether James Lincoln Hartley failed to answer lawful questions, with respect to his qualifications to be a licensee, which the Commission had directed him to answer under oath;

(2) To determine in the light of the evidence adduced under Issue 1 whether James Lincoln Hartley possesses the necessary qualifications to hold an amateur radio operator and station license.

Released: May 15, 1961.

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

[F.R. Doc. 61-4607; Filed, May 18, 1961; 8:47 a.m.]

[Docket No. 14118; FFC 61-636]

HOLLY SPRINGS BROADCASTING CO.

Order Designating Application for Hearing on Stated Issues

In re application of Aaron B. Robinson, tr/as Holly Springs Broadcasting Company, Holly Springs, Mississippi, Requests: 1500 kc, 1 kw Day, Docket No. 14118, File No. BP-13681; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 11th day of May, 1961;

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

It appearing that no questions exist as to the qualifications of the instant applicant except as to matters involved in the issues set forth below; and

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

1. The applicant, Aaron B. Robinson, owns a controlling interest in standard broadcast Stations WDXE, Lawrenceburg, Tennessee; WCMA, Corinth, Mississippi; WDXN, Clarksville, Tennessee; WENK, Union City, Tennessee; WTPR, Paris, Tennessee; and WDXI, Jackson, Tennessee. The stations in question, as well as the instant proposal, are concentrated in western Tennessee and northern Mississippi and provide service to a large part of the population residing in the region in question.

2. The applicant also controls WDXI-TV, Channel 7, Jackson, Tennessee, the only television station in the city of Jackson.

3. The applicant, according to published data, conducts a business known as The Dixie Network. It appears that this network is composed of the standard broadcast stations set out in subparagraph 1, above, and WDXL, Lexington, Tennessee; that the rates for all member stations are the same; that so-called "Network Discounts" are given advertisers buying two or more "network" stations; and that all member stations are located in western Tennessee and northern Mississippi.

4. In the event the instant application is granted, the applicant will become the sole owner of the only standard broadcast station at Holly Springs and will control WTPR, WENK, and WDXE, the only standard broadcast outlets for Paris, Union City, and Lawrenceburg, Tennessee. The applicant also controls standard broadcast stations in Corinth, Mississippi, and Jackson and Clarksville, Tennessee, where competition is limited to one other station (Corinth and Clarksville) and to two other stations in Jackson. A question is also raised, in view of the relationship between WDXL, Lexington, and Mr. Robinson's network, as set forth in the preceding paragraph, as to whether Mr. Robinson has an "indirect interest" in WDXL within the meaning of § 3.35 of the rules. It also appears that there are few means of mass communication available for the expression of divergent views in the communities in question.

5. All of the communities and stations mentioned above, including WDXL, are relatively close to one another, the most distant facility being WDXN, Clarksville, Tennessee, approximately 165 miles from the proposed station at Holly Springs. The other stations controlled by this applicant are from 53 to 122 miles from Holly Springs. Three of the stations are Class II stations; two are Class III, and two are Class IV. WDXL is also a Class IV station. All of the Class IV stations mentioned have outstanding construction permits for increased daytime power to 1 kilowatt. Moreover, the instant proposal and the operating stations controlled by the applicant will or do occupy frequencies from 540 kilocycles to 1500 kilocycles; and it appears that it may be difficult to establish other standard broadcast stations in this area both from a technical and competitive standpoint.

6. In view of the foregoing considerations, it appears that a grant of the instant application may result in a concentration of control of standard broadcasting in a manner inconsistent with the public interest, convenience, or necessity, or otherwise contravene the provisions of § 3.35(b) of the Commission's rules.

7. In reaching a determination on the question of law raised by the § 3.35(b) issue, it will be important to consider, among other things, the size, extent and location of areas served, the number of people served, classes of stations involved, the extent of other competitive

[1] Prior to the 1960 Amendments—Public Law 86-752, September 13, 1960.

[2] If it is not possible for respondent to appear for hearing in the proceeding to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order.

service in the area in question, the extent to which the stations rely on the same revenue and program sources, the nature of the programs presented by each station with particular reference to meeting local needs, the advertising practices of the stations and The Dixie Network, the use of joint advertising rates and joint discounts and the effect of the same on competition.

8. Applicant's response to Section IV, Paragraph 2(b), of the application provides for 1 percent educational and 1 percent discussion programs. However, no apparent provision is made for education or discussion programs in the program schedule submitted as Exhibit Number "3". In addition, only 2 percent of the applicant's proposed program time is classified as "Live" at section IV, paragraph 4(b) of the application. Ninety-eight percent of the proposed programs are classified as "Recorded" and "Wire". Further, the applicant will occupy a channel available for the establishment of a first local service in Holly Springs and has not shown that the programming proposed will meet the needs of the community sought to be served.

It further appearing that, in view of the foregoing, 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 whether a grant of the instant proposal would be in contravention of § 3.35(b) of the Commission rules.

2. To determine the type and character of program service which would be broadcast by the instant applicant and whether the program service would meet the needs of the area sought to be served.

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 to avail himself of the opportunity to be heard, the applicant, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.362(c) of the rules.

Released: May 15, 1961.

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

[F.R. Doc. 61-4608; Filed, May 18, 1961; 8:47 a.m.]

[Docket No. 13010 etc.; FCC 61-617]

MID-AMERICA BROADCASTING SYSTEM, INC., ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of Mid-America Broadcasting System, Inc., Highland Park, Illinois, Docket No. 13010, File No. BP-11689; North Suburban Radio, Inc., Highland Park, Illinois, Docket No. 13024, File No. BP-12318; J. Richard Sutter, Joseph E. McNaughton, William D. McNaughton, General Partners and John T. McNaughton, Limited Partner, d/b as Elgin Broadcasting Company (WRMN), Elgin, Illinois, et al., Docket No. 13043 et al., File No. BP-12778; for construction permits.

1. The Commission has before it for consideration (1) the petition for conditional grant, filed January 31, 1961, by North Suburban Radio, Inc.; (2) the motion to clarify or enlarge issues, filed February 17, 1961, by Elgin Broadcasting Company (WRMN); (3) the motion to strike, filed April 18, 1961, by North Suburban Radio, Inc.; and (4) pleadings filed in response thereto.

2. By Order released August 12, 1959 (FCC 59-816), as amended by an Order released July 13, 1960 (FCC 60-806), the applications of North Suburban Radio, Inc., and of Elgin Broadcasting Company were designated for hearing in the multiparty Highland Park, Illinois, standard broadcast proceeding. North Suburban is an applicant for a construction permit for a new Class III station at Highland Park, Illinois, proposing to operate on the frequency of 1430 kilocycles daytime only with power of one kilowatt utilizing a directional antenna (1430 kc, 1 kw, DA-D). Elgin Broadcasting Company, which now operates Class III daytime Station WRMN (1410 kc, 500 w, D) in Elgin, Illinois, is an applicant for a construction permit to increase power to 1 kw. The second of the Commission's designation Orders specified an issue as to the interference which would be caused by the North Suburban proposal to the existing operation of Station WRMN and to Class IV Station WHFC, Cicero, Illinois; the latter's application for an increase in power was subsequently granted without hearing (FCC 61-190). The second of the designation Orders also specified an issue as to the interference which would be caused by the Elgin Broadcasting proposal to Stations WRJN, Racine, Wisconsin, and WGES in Chicago, and to a newly authorized station in Lafayette, Indiana, subsequently licensed as WAZY (1410 kc, 1 kw, D). Also specified by the second of the two Orders is an issue (Issue 8) as to whether overlap of the 2 mv/m and 25 mv/m contours would occur between the proposals of Elgin Broadcasting, North Suburban and of Mid-America Broadcasting System, Inc. (which proposed a new station at Highland Park, Illinois, to operate on 1430 kc, 1 kw, DA-D), and whether circumstances exist which would warrant a waiver of § 3.37 of the rules. In a Memorandum Opinion and Order released September 25, 1959 (FCC 59M-1245), the Hearing Examiner granted North Suburban's petition for leave to amend its application to reflect a merger of North Suburban and Mid-America; the latter also filed a petition to dismiss its application, which petition the Examiner proposed to consider in his Initial Decision in accordance with § 1.363(b) of the rules as it existed at the time the Order was released. The subject applications are, for hearing purposes, a part of Group II-A of the applications in this multiparty proceeding. The hearing of this group of applications has been concluded.

3. Citing the need of Highland Park for a first local service, North Suburban requests a conditional grant of its application in accordance with § 1.362(d) of our rules. North Suburban submits that it is highly unlikely that Elgin Broadcasting's proposal would prevail over its own. It points out that its proposal will provide a first local service and provide a new primary service to more than one million persons. Elgin Broadcasting's proposal, on the other hand, would, according to North Suburban, provide a new service to no more than fifty thousand persons, even if all other proposals with which the Elgin Broadcasting proposal is in conflict are denied. North Suburban argues that its request for a conditional grant will make possible the early establishment of a first local service for Highland Park, and would, at the same time, serve to preserve Elgin Broadcasting's rights. North Suburban points out that Elgin Broadcasting made no direct showing at the hearing concerning the interference its existing operation would receive from the North Suburban proposal, and that interference in the amount involved has in other instances been considered to be of little decisional significance. North Suburban also submits that the findings concerning its merger agreement with Mid-America can be made on the facts of record without requiring their consideration in an Initial Decision.

4. The Commission is in agreement with the Broadcast Bureau and Elgin Broadcasting that North Suburban's request for conditional grant should be denied. Upon consideration of Elgin Broadcasting's request as to clarifica-

tion and enlargement of the issues as to overlap, and the pleadings filed in response thereto, the Commission will, on its own motion amend the present overlap issue to require a determination of whether there is an overlap of Station WRMN's existing 2 mv/m contour with the 25 mv/m contour of North Suburban's proposal. While North Suburban, on the one hand, and the Broadcast Bureau and Elgin Broadcasting, on the other hand, are in sharp disagreement as to the possibility of such overlap, the Commission is not disposed to resolve the question on the basis of interlocutory pleadings, and it is of the view that it is better procedure to resolve the question on the basis of an evidentiary record. North Suburban's request for conditional grant implicitly rests, in part, upon the premise that there is no overlap problem with the existing operation of Station WRMN, and, in view of our order amending the issues to require a determination of this question, North Suburban's request for a conditional grant will be denied.

5. North Suburban requests that the Commission strike certain portions of Elgin Broadcasting's reply to its opposition in which Elgin Broadcasting made certain assertions concerning a 309(b) letter requesting measurement data on the WRMN signal over a 75 degree radial path. Elgin Broadcasting opposes the motion on procedural grounds. We believe that Elgin Broadcasting has given the matter of the 75 degree radial request undue weight and we will grant the motion to strike.

Accordingly, it is ordered, This 11th day of May 1961, that the petition for conditional grant, filed January 31, 1961, by North Suburban Radio, Inc., is denied; that the motion to clarify or enlarge issues, filed February 17, 1961, by Elgin Broadcasting Company (WRMN), is denied; and that the motion to strike, filed April 18, 1961, by North Suburban Radio, Inc., is granted and the objectionable material stricken, and

It is further ordered, On the Commission's own motion, that the record in this proceeding be reopened for the purpose of taking further evidence in response to Issue 8 in this proceeding which is hereby amended to read as follows:

(8) To determine whether overlap of the 2 mv/m and 25 mv/m contours would occur between the instant proposal of Seaway Broadcasting Co., Inc. (BP–11872) and the existing and proposed operations of WHFC, Cicero, Illinois, and between the existing and proposed operations of WRMN, Elgin, Illinois, and the instant proposals of North Suburban Radio, Inc. (BP–12318) and Mid-America Broadcasting System, Inc. (BP–11689).

Released: May 15, 1961.

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

[F.R. Doc. 61–4609; Filed, May 18, 1961; 8:47 a.m.]

[Docket No. 14112; FCC 61–626]

ANTHONY C. MORICI ET AL.

Order Designating Application for Hearing on Stated Issues

In re application of Anthony C. Morici, Alfred A. Morici, Carol McNamee, Marianne Aiassa and Abraham R. Ellman (Transferors), Capitol Broadcasting Co. (Transferee), Docket No. 14112, File No. BTC–3622; for transfer of control of KGMS, Inc., Licensee of Station KGMS, Sacramento, California.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 11th day of May 1961;

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

It appearing that, except as indicated by the issues specified below, no questions exist as to the qualifications of the above-named parties; and

It further appearing that, the Commission, in prehearing letters dated January 24, 1961, March 1, 1961, and April 7, 1961, incorporated herein by reference, notified the transferors and transferee of the grounds and reasons for the Commission's inability to make a finding that a grant of their application would serve the public interest, convenience, and necessity; and

It further appearing that the instant applicants filed timely replies to the aforementioned letters, which replies have not, however, eliminated the grounds and reasons precluding a grant of said application and requiring an evidentiary hearing on the issues hereinafter specified; and

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

1. Capitol Broadcasting Co., through its officers, directors, and stockholders, operates or controls standard broadcast stations KFAX and KFIV in San Francisco and Modesto, California. The primary service contours of these stations presently overlap. The licensee of KFAX, Argonaut Broadcasting Company, holds an outstanding construction permit to increase daytime power to 50 kilowatts. Operating as proposed, the overlap of the service contours of KFAX and KFIV will encompass a substantially larger area.

2. KGMS is licensed to KGMS, Inc., and is located in Sacramento, California. It is proposed to transfer all of the capital stock of the licensee corporation to Capitol Broadcasting Co. In the event the Commission consents to the transfer of said stock, Capitol Broadcasting Co., through its officers, directors, and stockholders will operate and control the three named standard broadcast stations. There will result a further extension of the overlap situation, involving duplication of service areas of each of the stations within the primary service areas of one another.

3. The cities of San Francisco, Sacramento, and Modesto are all located in the State of California. San Francisco is approximately 80 miles from Modesto. Modesto is approximately 60 miles from Sacramento; and Sacramento is approximately 70 miles from San Francisco. The stations which would be under common control are concentrated in a relatively small area; and, consequently, a substantial portion of the primary service area of each station will receive primary service from one or more of the stations under common control.

4. In view of the foregoing considerations, it appears that a grant of the instant application would contravene the provisions of section 3.35 of the Commission's Rules, since the applicants have not shown that the public interest, convenience and necessity will be served through such multiple ownership situation.

5. In reaching a determination on the question of law raised by the § 3.35 issue, it will be important to consider, among other things, the size, extent and locations of the overlapping service areas of KFAX, KFIV and KGMS; the populations residing in the overlapping service areas; the classes and power of the stations involved; the extent of other competitive service to the areas in question; the distribution of population within the overlapping service areas; the location of trade areas, metropolitan districts, and political boundaries; the areas and populations to which the service of each station is directed; the manner in which the business affairs of the stations are conducted, including any plans the transferee may have for the use of joint rates or discounts for multiple use of the stations under common control; the program plans of the proposed transferee for each station, with respect to, among other things, diversification of presentations, prospective use of similar or identical programs for broadcast by the stations under common control; a comparison of the program plans of the transferee for KGMS as compared with the existing programming of the station; coverage claims made or which the transferee anticipates will be made with respect to the joint operation of KFAX, KFIV, and KGMS; statistical data on the audience preferences for other standard broadcast stations operating in the area, with a view toward establishing the percentage of the population in the overlap area that will rely on the service of the stations under common control; the planned location of main and secondary studios; factors relating to the use of local talent, program sources, broadcast of local news, and availability of facilities for local public service programs; and the transferee's plans for management (personnel) for each of the stations involved.

It further appearing that in view of the foregoing and the applicants' replies, the Commission is still 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(b) of the Communications Act of 1934, as it read prior to the 1960

amendments, 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 whether a grant of the instant proposal would be in contravention of § 3.35(a) of the Commission's rules.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, whether a grant of the instant application would serve the public interest, convenience and necessity.

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

Released: May 15, 1961.

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

[F.R. Doc. 61-4604; Filed, May 18, 1961; 8:46 a.m.]

[Docket Nos. 14115, 14116; FCC 61-629]

RADIO QUESTS, INC., AND WHOT, INC. (WHOT)

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Radio Quests, Inc., Willoughby, Ohio, req: 1330 kc, 500 w, DA-D, Docket No. 14115, File No. BP-12691; WHOT, Inc. (WHOT), Campbell, Ohio, has: 1570 kc, 1 kw, DA-D, req: 1330 kc, 1 kw, 500 w-LS, DA-2, U, Docket No. 14116, File No. BP-14037; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 11th day of May 1961;

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

It appearing that, except as indicated by the issues specified below, WHOT, Inc., is legally, technically, financially, and otherwise qualified to construct and operate its instant proposal, and Radio Quests, Inc. is legally, technically, and otherwise qualified but cannot be found to be financially qualified to construct and operate its instant proposal; and

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

1. The proposed operation of Radio Quests, Inc., will cause interference to the proposed operation of WHOT and the existing operation of Station WADC, Akron, Ohio.

2. Interference to the proposed operation of WHOT from existing operations and the proposed operation of Radio Quests, Inc. will exceed 10 percent population loss, daytime (approximately 12.5 percent). WHOT, Inc. has requested a waiver of § 3.28(c)(3) with respect to its daytime operation and it will be necessary to determine, in hearing, whether circumstances warrant a waiver of the rule.

3. A substantial question exists as to whether the proposal of Radio Quests, Inc., represents sound engineering practice since the city to be served, (Willoughby, Ohio), is located in the area of maximum signal suppression and the main lobes of radiation are directed away from the city.

4. Upon the basis of information now available to the Commission, it cannot be determined that Radio Quests, Inc., is financially qualified to construct and operate its proposed station. Notes signed by the stockholders in 1958, agreeing to pay substantial balances due for stock subscribed, have expired by their own terms. Balance sheets of the stockholders are similarly, too old to allow determination of their abilities to meet commitments to purchase stock. Additionally, five of the stockholders in Radio Quests, Inc., are also stockholders and are committed to purchase additional stock in Quests, Inc., applicant for new station at Ashtabula, Ohio. These commitments and purchases are not reflected in the Radio Quests application.

5. WHOT has not submitted an adequate nighttime study which would indicate existing limitations to the nighttime service area of pertinent existing stations. As a result, a question exists as to whether the proposed operation of WHOT will cause nighttime interference to Stations WHAZ, WEVD, WPOW, WFBC and WTRX. A study of this application also indicates that the proposed operation would raise the nighttime RSS limitation of WJPS from 6.25 to 7.11 mv/m.

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

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

1. To determine the areas and populations which would receive primary service from the proposed operation of Radio Quests, Inc., and the availability of other primary service to such areas and populations.

2. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station WHOT and the availability of other primary service to such areas and populations.

3. To determine the nature and extent of the interference, if any, that each of the instant proposals would cause to and receive from each other and the interference that each of the instant proposals would receive from all other existing standard broadcast stations, the areas and populations affected thereby, and the availability of other primary service to the areas and populations affected by interference from any of the instant proposals.

4. To determine whether the instant proposal of WHOT, Inc. would cause objectionable interference to the nighttime operation of Stations WJPS, Evansville, Indiana; WHAZ, Troy, New York; WEVD, New York, New York; WPOW, New York, New York; WFBC, Greenville, South Carolina; and WTRX, Flint, 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.

5. To determine whether the instant proposal of Radio Quests, Inc., would cause objectionable interference to Station WADC, Akron, Ohio, 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.

6. To determine, with respect to the proposed daytime operation of WHOT, whether a waiver of § 3.28(c)(3) of the Commission rules is justified.

7. To determine whether the city of Willoughby, Ohio (sought to be served by Radio Quests, Inc.) is in an area of maximum signal suppression, and, if so, whether the proposed directional antenna system represents good engineering practice, especially in view of the normally expected wide variations in signal strength occurring in null areas of directional patterns.

8. To determine whether Radio Quests, Inc., is financially qualified to construct and operate its proposed stations.

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

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

It is further ordered, That Debs Memorial Radio Fund, Incorporated; WMRC, Inc.; Rensselaer Polytechnic Institute; WJPS, Inc.; WPOW, Inc.; Booth Broadcasting Company; and Allen T. Simmons, Inc., licensees of Stations WEVD, WFBC, WHAZ, WJPS, WPOW, WTRX and WADC, respectively, are made parties to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the respondents, 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.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing, either individually or, if feasible,

jointly within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.362(c) of the rules.

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

Released: May 15, 1961.

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

[F.R. Doc. 61-4610; Filed, May 18, 1961; 8:47 a.m.]

[Docket No. 13944; FCC 61M-838]

UNITED TELEVISION COMPANY OF NEW HAMPSHIRE (WMUR-TV)

Order Continuing Hearing

In re application of United Television Company of New Hampshire (WMUR-TV), Manchester, New Hampshire, Docket No. 13944, File No. BPCT-2770; for construction permit to change existing facilities (Channel 9).

The Hearing Examiner having under consideration a written "Request for Extension of Time" (treated herein as a formal motion), filed May 10, 1961, by the applicant in the above-entitled matter, and

It appearing that the request seeks the extension of the present hearing date from May 16, 1961, to June 14, 1961, and

It further appearing that all parties have agreed to the granting of the request and to immediate consideration thereof, and

It further appearing that good cause for granting of the relief requested has been shown,

It is ordered, This 11th day of May 1961, that the aforesaid motion be and it hereby is granted and that, accordingly, the date for the hearing is changed from May 16, 1961, to June 14, 1961, at 10:00 a.m., in the Commission's offices in Washington, D.C.

Released: May 12, 1961.

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

[F.R. Doc. 61-4611; Filed, May 18, 1961; 8:47 a.m.]

[Docket No. 13976; FCC 61M-850]

ASPEN BROADCASTING CO.

Order Continuing Hearing

In re application of Myron J. Kammeyer, Edward L. Vestal, and Theodore B. Gazarian, d/b as Aspen Broadcasting Co., Aspen, Colorado, Docket No. 13976, File No. BP-13082; for construction permit.

The Hearing Examiner having under consideration petition for continuance filed May 12, 1961, by Aspen Broadcasting Company;

It appearing, that counsel for the Commission's Broadcast Bureau, the only other party to the proceeding, has consented to immediate consideration and grant of the petition;

It is ordered, This 12th day of May 1961, that the above petition for continuance is granted; and the date for the exchange of exhibits is continued from May 15 to May 29, 1961.

Released: May 15, 1961.

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

[F.R. Doc. 61-4656; Filed, May 18, 1961; 8:55 a.m.]

[Docket Nos. 13491-13497; FCC 61M-853]

BOOTH BROADCASTING CO. (WIOU) ET AL.

Order Reopening Record and Scheduling Hearing

In re applications of Booth Broadcasting Company (WIOU), Kokomo, Indiana, Docket No. 13491, File No. BP-12036; Clinton Broadcasting Corporation (KROS) Clinton, Iowa, Docket No. 13492, File No. BP-12665; Truth Radio Corporation (WTRC), Elkhart, Indiana, Docket No. 13493, File No. BP-12842; Illinois Broadcasting Company (WSOY), Decatur, Illinois, Docket No. 13494, File No. BP-12916; WJOL, Inc. (WJOL), Joliet, Illinois, Docket No. 13495, File No. BP-13054; Tri-City Radio Corporation (WLBC), Muncie, Indiana, Docket No. 13496, File No. BP-13102; Radio Milwaukee, Inc. (WRIT), Milwaukee, Wisconsin, Docket No. 13497, File No. BP-13158; for construction permits.

The Hearing Examiner having under consideration (1) the Commission's Memorandum Opinion and Order in the above-entitled proceeding (FCC 61-620), released May 12, 1961, denying a "Joint Petition for Reconsideration and Grant Without Further Hearing" filed by the Commission's Broadcast Bureau and all the applicants; (2) the order of the hearing examiner released January 26, 1961 (FCC 61M-126) closing the record and deferring further proceedings before the Examiner until the Commission resolved item (1); and (3) all the proceedings heretofore had herein;

It appearing that it is desirable that the record be reopened so that the parties may be sounded out with respect to their views as to the need, if any, for the presentation of further evidence in light of the Commission's Memorandum Opinion and Order, and with regard to the matter of filing proposed findings of fact and conclusions of law and the reestablishment of deadlines therefor;

It appearing further, that the Examiner desires to be briefed explicitly upon the factual impact upon their present operations should the applications of applicants KROS and WJOL be denied for violations of 47 CFR 3.37 if the other applications were to be granted;

It is ordered, This 15th day of May 1961, that the record in the above-entitled proceeding is hereby reopened and a hearing conference to consider the matters mentioned hereinabove is scheduled for 9:00 a.m., Tuesday, May 23, 1961, at the Commission's offices, Washington, D.C.

Released: May 15, 1961.

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

[F.R. Doc. 61-4658; Filed, May 18, 1961; 8:56 a.m.]

[Docket Nos. 12769 etc.; FCC 61M-852]

STANLEY BLUMENTHAL ET AL.

Order Scheduling Hearing

In the matter of Stanley Blumenthal, 215 Cozine Avenue, Brooklyn 7, New York, Docket No. 12769, application for renewal of Radiotelegraph Second Class Operator License No. T2-2-1626; Stanley M. Hauser, 27 West 84th Street, New York 24, New York, Docket No. 12881, application for renewal of Radiotelegraph and Radiotelephone First Class Operator Licenses Nos. T1-2-1093; P1-2-6990; Rudolph William Jones, 115 Ashland Place, Brooklyn 1, New York, Docket No. 12903, application for renewal of Radiotelegraph Second-Class Operator License No. T2-2-1586.

It is ordered, This 15th day of May 1961, pursuant to the Commission's Memorandum Opinion and Order released May 12, 1961 (FCC 61-621; Mimeo No. 3902), consolidating the above-captioned applications for hearing in one proceeding, that Millard F. French will serve as presiding officer in the said proceeding, and that the order of the Chief Hearing Examiner released November 17, 1960 (FCC 60M-1960; Mimeo No. 96558), appointing David I. Kraushaar as presiding officer in the hearing with reference to the application of Stanley Blumenthal (Docket 12769), is hereby rescinded: *And it is further ordered,* That hearings in this consolidated proceeding shall commence June 15, 1961, in the Offices of the Commission, Washington, D.C.

Released: May 15, 1961.

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

[F.R. Doc. 61-4657; Filed, May 18, 1961; 8:55 a.m.]

[Docket Nos. 13931-13933; FCC 61M-854]

BURLINGTON BROADCASTING CO. ET AL.

Order

In re applications of William S. Halpern and Louis N. Seltzer, d/b as Burlington Broadcasting Company, Burlington, New Jersey, Docket No. 13931, File

No. BP-12580; Burlington County Broadcasting Company, Mount Holly, New Jersey, Docket No. 13932, File No. BP-13871; John J. Farina, tr/as Mount Holly-Burlington Broadcasting Company, Mount Holly, New Jersey, Docket No. 13933, File No. BP-13952; for construction permits.

It is ordered, This 15th day of May 1961, that the proceedings heretofore scheduled by the presiding Hearing Examiner for this date, relative to the pending petition to amend the application of Mount Holly-Burlington Broadcasting Company, are hereby continued to May 19, 1961, and will be held in the offices of the Commission, Washington, D.C., commencing at 2:00 p.m.

Released: May 15, 1961.

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

[F.R. Doc. 61-4659; Filed, May 18, 1961; 8:56 a.m.]

[Docket No. 13688; FCC 61M-845]

CENTRAL WISCONSIN TELEVISION, INC.

Order Continuing Hearing

In re application of Central Wisconsin Television, Inc., Wausau, Wisconsin, Docket No. 13688, File No. BPCT-2738; for construction permit for new television broadcast station (Channel 9).

The Hearing Examiner having under consideration a petition filed May 11, 1961 on behalf of the Chief of the Broadcast Bureau, requesting that the hearing in the above-entitled proceeding, presently scheduled to commence on May 15, 1961, be continued to June 14, 1961; and

It appearing that necessary approval of applicant's proposed new transmitter site by the Washington Office of the Federal Aviation Agency is still outstanding; and

It further appearing that counsel for the applicant supports the request for continuance and waives the provisions of 47 CFR 1.43, and that a grant of the petition will conduce to the orderly dispatch of the Commission's business;

It is ordered, This 12th day of May 1961, that the subject petition is granted, and that the hearing in this proceeding, now scheduled to be commenced on May 15, 1961, is continued to 10:00 a.m., June 14, 1961.

Released: May 15, 1961.

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

[F.R. Doc. 61-4660; Filed, May 18, 1961; 8:56 a.m.]

[Docket No. 14093]

H. HALL MONTAGUE

Order To Show Cause

In the matter of H. Hall Montague, 5 Brown Street, Harrington, Delaware, Docket No. 14093, order to show cause why there should not be revoked the license for Radio Station WD-3383 Abroad the Vessel "Bill Davey".

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned radio station;

It appearing that pursuant to § 1.61 (now § 1.76) of the Commission's rules, written notice of violation (FCC Form No. 793) was sent to the licensee on July 18, 1960, charging that on June 29, 1960, the referenced Ship radio station was observed in violation of § 8.156 of the Commission's rules and regulations Governing Radio Stations on Shipboard in that no radio operator's authorization was posted or otherwise available for inspection; and in violation of § 8.368(a) of the same chapter in that a radiotelephone log was not being maintained; and

It further appearing that the only acknowledgment of the Official Notice of Violation received by the Commission from the licensee was his return of the duplicate copy of that Notice with his name and operator license number typed on the face thereof indicating that the licensee was the radio operator on duty at the time the violations occurred, and that he did not explain the violations, state what corrective action had been taken, or submit a satisfactory response to this notice; and

It further appearing that, by letter dated August 30, 1960, the Commission specifically requested that the licensee advise of the action he had taken to correct the two violations brought to his attention by the Official Notice dated July 18, 1960, and that no reply was made to the Commission's letter; and

It further appearing that, by letter (FCC Form 794) dated September 21, 1960, and sent by Certified Mail—return receipt requested (Cert. No. 991685), the Commission again brought this matter to the attention of the licensee and requested that he respond in writing within fifteen days, stating the action which had been or was to be taken to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that failure to respond to that letter might result in the institution of proceedings for the revocation of the radio station license; that receipt of that letter on September 22, 1960, is evidenced by the signature of the licensee's agent, Kathleen Montague, to a Post Office Department Return Receipt Card; and that no reply was made thereto; and

It further appearing that the Commission sent another letter dated November 8, 1960, to the above-named licensee by Certified Mail—return receipt requested (Cert. No. 752647) again requesting that written reply to the Official Notice of Violation be submitted within fifteen days; that the licensee replied by letter dated November 18, 1960, but his reply failed to describe any corrective action taken or to be taken to rectify the violations delineated in the Official Notice of Violation of July 18, 1960; and

It further appearing that by letter dated November 21, 1960, the Commission advised the licensee that his reply was unsatisfactory and delineated the type of information which would be considered to constitute a satisfactory reply, and that the licensee did not answer that letter; and

It further appearing that on December 20, 1960, the Commission sent a further letter to the licensee, again requesting a statement concerning corrective action taken and again explaining what information was desired, and that no reply has been received thereto; and

It further appearing that this matter once more was called to the attention of the licensee by the Commission's letter dated February 8, 1961, and sent by Certified Mail—return receipt requested (Cert. No. 97229); that this letter was received on February 16, 1961, as evidenced by the signature of the licensee's agent, Kathleen Montague, to a Post Office Department return receipt card; and that no reply thereto has been received; and

It further appearing that in view of the foregoing, the licensee has repeatedly violated § 1.61 (now § 1.76) of the Commission's rules;

It is ordered, This 15th day of May 1961, pursuant to section 0.291(b)(8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by a subsequent order; and

It is further ordered, That the Secretary send a copy of this Order by Certified Mail, Return Receipt Requested to the said licensee.

Released: May 16, 1961.

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

[F.R. Doc. 61-4661; Filed, May 18, 1961; 8:56 a.m.]

[Docket No. 13919; FCC 61M-846]

PURITAN BROADCAST SERVICE, INC.

Order Continuing Hearing

In re application of Puritan Broadcast Service, Inc., Lynn, Massachusetts, Docket No. 13919, File No. BPH-3185, for construction permit.

The Hearing Examiner having under consideration the informal request for continuance of hearing filed in the above-entitled proceeding on May 11, 1961, by Puritan Broadcast Service, Inc.;

It appearing that counsel for the Commission's Broadcast Bureau has consented to immediate consideration and grant of the said request and good cause for a grant thereof is shown;

It is ordered, This 12th day of May 1961 that the said request is granted and the hearing herein presently scheduled

to commence on May 15, 1961, is continued to June 26, 1961.

Released: May 15, 1961.

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

[F.R. Doc. 61-4662; Filed, May 18, 1961; 8:56 a.m.]

[Docket Nos. 12991, 12992; FCC 61M-849]

SUBURBAN BROADCASTING CO., INC., AND CAMDEN BROADCASTING CO.

Order Continuing Hearing Conference

In re applications of Suburban Broadcasting Company, Inc., Mount Kisco, New York, Docket No. 12991, File No. BPH-2620; Donald Jerome Lewis, tr/as Camden Broadcasting Co., Newark, New Jersey, Docket No. 12992, File No. BPH-2624; for construction permits for new FM Broadcast Stations.

By agreement of all the parties herein:

It is ordered, This 12th day of May 1961, that the further prehearing conference presently scheduled for May 12, 1961 at 9:30 a.m., be, and the same is, hereby continued to June 1, 1961, at 9:30 a.m.

Released: May 15, 1961.

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

[F.R. Doc. 61-4663; Filed, May 18, 1961; 8:56 a.m.]

[Docket Nos. 14044 etc.; FCC 61M-847]

WGRY, INC., ET AL.

Order After Prehearing Conference

In re applications of WGRY, Inc. (WGRY), Gary, Indiana, Docket No. 14044, File No. BP-13163; Telegraph Herald (KDTH), Dubuque, Iowa, Docket No. 14046, File No. BP-13862; Prairie Radio Corporation (WPRC), Lincoln, Illinois, Docket No. 14047, File No. BP-14206; Central Wisconsin Broadcasting, Inc. (WCCN), Neillsville, Wisconsin, Docket No. 14048, File No. BP-14299; for construction permits.

The Hearing Examiner having under consideration the agreements and understandings reached by the parties, and his approval thereof, during prehearing conference held May 12, 1961;

It is ordered, This 12th day of May 1961, that the following deadline dates are established:

May 31, 1961—Joint motion for severance to be filed by applicants KDTH and WCCN;

June 8, 1961—Notification concerning the taking of measurements by any party to its adversaries;

June 22, 1961—Exchange of all exhibits in final form among counsel with one copy of each to be provided the Examiner;

June 29, 1961—Notification concerning the production of witnesses for cross-examination;

It is ordered further, That the hearing shall commence on July 6, 1961, as already established by order of the Chief Hearing Examiner, and that the transcript of the proceedings at the prehearing conference is hereby incorporated by reference with respect to all agreements and understandings reached therein and shall govern the future conduct of this proceeding.

Released: May 15, 1961.

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

[F.R. Doc. 61-4664; Filed, May 18, 1961; 8:56 a.m.]

[Docket Nos. 13963, 13964; FCC 61M-855]

YOAKUM COUNTY BROADCASTING CO. AND ECHOLS BROADCASTING CO.

Order Continuing Hearing

In re applications of Claude Calvin McAdams tr/as Yoakum County Broadcasting Company, Denver City, Texas, Docket No. 13963, File No. BP-13531; Odis L. Echols, Sr., Odis L. Echols, Jr., and Elphin Rinn d/b as Echols Broadcasting Company, Hobbs, New Mexico, Docket No. 13964, File No. BP-13603; for construction permits.

It appearing that on May 12, 1961, applicant Echols Broadcasting Company filed a petition for dismissal without prejudice of its above-captioned application; and

It further appearing that, if the aforementioned petition of Echols receives favorable consideration, the issues specified for hearing in this proceeding could be mooted and the evidentiary hearing heretofore scheduled on June 1, 1961 for both applications, obviated; and

It further appearing that under the circumstances mentioned above, it is appropriate to postpone indefinitely the prehearing exchange of applicants' exhibits heretofore scheduled for May 15, 1961, pending action on the Echols' dismissal petition;

Accordingly, it is ordered, On the Hearing Examiner's own motion, this 15th day of May, 1961, that the exchange of applicants' exhibits heretofore scheduled for this same date, is hereby postponed indefinitely pending action on the petition of Echols Broadcasting Company for dismissal of its application.

Released: May 15, 1961.

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

[F.R. Doc. 61-4665; Filed, May 18, 1961; 8:56 a.m.]

FEDERAL POWER COMMISSION

NEW YORK STATE NATURAL GAS CORP.

[Docket No. G-19087]

Correction

MAY 10, 1961.

In the order for hearing, suspending proposed tariff sheets, and allowing tariff sheets to become effective upon filing of motion and undertaking to assure refund of excess charges, issued April 28, 1961, and published in the FEDERAL REGISTER on May 5, 1961 (F.R. Doc. 61-4124; 25 F.R. 3942): Change "New York Natural Gas Corporation", in the caption of the order, to read "New York State Natural Gas Corporation".

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-4615; Filed, May 18, 1961; 8:48 a.m.]

[Docket No. RI61-422]

REPUBLIC NATURAL GAS CO.

Order Granting Motion, in Part and Amending Order

MAY 12, 1961.

On March 10, 1961, Republic Natural Gas Company (Republic Natural) submitted a statement of release, a letter dated February 1, 1961, and a Notice of Change, executed March 1, 1961, increasing the level of rate from 14.0273 cents per Mcf to 15.00 cents per Mcf at 14.65 psia for gas produced in Guymon-Hugoton Field, Texas County, Oklahoma, and sold to Cities Service Gas Company and thereby increasing the annual cost of gas to Cities Service by approximately $165,000. The aforementioned increased rate which is inclusive of 2.0 cents per Mcf for gathering and transportation services is subject to a downward BTU price adjustment applicable to gas below 975 BTU from a base of 1,000 BTU. By order issued April 7, 1961, herein said submittals were designated as Supplement Nos. 8, 9, and 10, respectively to Republic Natural's FPC Gas Rate Schedule No. 11, and were suspended until September 10, 1961, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

By tender filed April 14, 1961, Republic filed a Request for Rehearing of Order Suspending Proposed Change in Rate, herein considered as a Motion for Reconsideration of Order issued April 7, 1961, wherein Republic Natural requests the Commission reconsider the aforementioned order and (1) accept without suspension the increased gathering charge, (2) accept without suspension Republic's settlement agreement relating to alleged overpayments under the Oklahoma minimum price order and (3) correct certain inadvertent errors contained in said April 7, 1961 order and "suspend only the agreement containing the existing 13 cent wellhead price * * *".

A review of Republic Natural's FPC Gas Rate Schedule No. 11 and the aforementioned March 10, 1961, rate filings indicates that said order issued April 7, 1961, incorrectly states certain facts with respect to the situs of the sale and to the BTU price adjustment provisions. It is in the public interest that, as a matter of record, these be properly stated and for that reason they are hereinbefore correctly detailed.

Under the release (Supplement No. 8), Republic Natural agrees to pay Cities Service Gas Company (Cities Service) the sum of $850,000 in full settlement of

alleged overpayments under the Oklahoma minimum price order as made by Cities Service. Since Republic Natural now states that the release stands independently, even though negotiated as a part of an overall settlement,[1] and therefore it should be accepted for filing without suspension. Based on the foregoing, it would appear appropriate and in the public interest to accept Supplement No. 8 for filing to be effective without suspension as hereinafter ordered.

Supplement No. 9 provides that the existing base price shall continue unchanged for the five-year period commencing March 1, 1961. Since this base price is currently in effect subject to refund in Docket No. G–13062, it is appropriate that the same level of rate for the extended period shall continue subject to suspension proceedings.

Supplement No. 10 provides for an increase in rate due to an increase in the gathering charge. Republic Natural requests reconsideration of the order as to Supplement No. 10 stating that this charge is a separate rate and classification of service. The Commission has consistently considered gathering and other similar service charges, as part of the producer's total rate. This concept is reflected in the Commission's Statement of General Policy No. 61–1,[2] which was issued as recently as September 28, 1961. To permit certain increments of a rate to be effective without suspension and to suspend others composing the same rate would require fractionalization of the rate and such would be contrary to the aforementioned concepts.

The Commission finds: The motion for reconsideration filed by Republic Natural on April 14, 1961, should be granted in part and the order issued April 7, 1961, in this proceeding should be amended as hereinafter provided.

The Commission orders:

(A) Paragraph (B) of the aforementioned order issued April 7, 1961, is hereby amended to read as follows:

(B) Pending hearing and decision thereon, Supplement Nos. 9 and 10 to Republic Natural's FPC Gas Rate Schedule No. 11 are hereby suspended and the use thereof deferred until September 10, 1961, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(B) Supplement No. 8 to Republic Natural's FPC Gas Rate Schedule No. 11 is hereby accepted for filing to be effective, without suspension, as provided by the Natural Gas Act.

(C) Docket No. RI61–422 is hereby terminated as of the date of this order insofar as it pertains to the aforementioned Supplement No. 8.

(D) In all other respects, the order issued April 7, 1961, in this proceeding shall remain in full force and effect.

(E) Except as herein provided, Republic Natural's motion for reconsideration is hereby denied.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61–4616; Filed, May 18, 1961; 8:48 a.m.]

[1] The subject Supplement Nos. 8, 9, and 10 to Republic Natural's FPC Gas Rate Schedule No. 11, a certificate application (Docket No. CI61–1327) and a related contract for a new service from the deeper formation underlying the same acreage were filed on March 10, 1961, as part of the overall settlement of differences between Republic Natural and Cities Service.

[2] 18 CFR 2.56; 25 F.R. 13969; 26 F.R. 3066.

[Docket No. 18078 etc.]

TEXACO, INC., ET AL.

Order Granting Motion for Severance; Granting Reaffirmance of Order Granting Certificates in Specified Instances and Approving Motion for Shortened Procedure

MAY 11, 1961.

Texaco Inc., Docket No. G–18078, etc.; South Texas Natural Gas Gathering Company, Docket No. G–18907; Coastal States Gas Producing Company and Southern Coast Corporation, Docket No. G–19016; Slick Oil Corporation, Docket No. CI60–206; Sun Oil Company, Docket No. CI60–349; Sunray Mid-Continent Oil Company, Docket No. CI60–428; Katz Oil Company, et al., Docket No. CI60–464; Coastal States Gas Producing Company, Docket No. CI60–491; Billy Bridewell, et al., Docket No. CI60–507; Woods Exploration and Producing Company, Docket No. CI60–600; Mokeen Oil Company, et al., Docket No. CI60–789; Nichols Petroleum Limited Partnership, et al., Docket No. CI60–793; Harkins and Company, Docket No. CI61–38; Tex-Star Oil & Gas Corp., et al., Docket No. CI61–43; Prado Oil and Gas Company, Docket No. CI61–77; Prado Oil and Gas Company, Docket No. CI61–79; Coastal States Gas Producing Company, Docket No. CI61–123; George H. Coates, Docket No. CI61–178; W. E. Bakke, Docket No. CI61–257; W. E. Bakke, et al., Docket No. CI61–258; Coastal States Gas Producing Company, Docket No. CI61–471; Coastal States Gas Producing Company, Docket No. CI61–472; George H. Coates, et al., Docket No. CI61–510; H. R. Billingsley, Trustee, Docket No. CI61–515; Russell Maguire, et al., Docket No. CI61–530; Coastal States Gas Producing Company, Docket No. CI61–539; Coastal States Gas Producing Company, Docket No. CI61–566; Katz Oil Company, Operator, Docket No. CI61–627; Morgan Minerals Corporation, Docket No. CI61–648; American Petrofina Company of Texas, Operator, et al., Docket No. CI61–775; H. J. Porter, et al., Docket No. CI61–831; Delbert Wallace, Operator, et al., Docket No. CI61–871; Jake L. Hamon, Docket No. CI61–922; Jake L. Hamon, Docket No. CI61–930; Sun Oil Company, Docket No. CI61–956; Texaco Inc., Docket No. CI61–961; Carter & Carter, Docket No. CI61–1116; Lab Oil Company, Docket No. CI61–1159.

Transcontinental Gas Pipe Line Corporation (Transco) on April 25, 1961, filed a motion to sever from the above-entitled proceedings the 52 independent producer dockets identified in Appendices A and B hereto.

Transco's motion further requested that the Commission reaffirm the certificates issued in the producer dockets listed in Appendix A hereto. These producers were parties to the original proceedings. This motion also requests that the producer dockets shown in Appendix B hereto be set down for hearing under the shortened procedure.

As was indicated in Transco's motion no issue was raised as to the initial contract prices proposed by the independent producers in the dockets identified in Appendices A and B. Both our own staff and the interveners who participated in the original proceedings did not take issue with the level of prices reflected within Appendices A and B either in their briefs or other motions filed with this Commission after the conclusion of formal hearings in the original proceedings. Further the prices reflected in these Appendices are well within the limits proscribed by our Statement of General Policy No. 61–1.

The Commission finds:

(1) That the severing of those dockets listed in Appendices A and B hereto will expedite the determination of the above-entitled proceeding and that the public convenience and necessity requires that they be severed.

(2) That those dockets listed in Appendix B hereto should be heard under the shortened procedure, but that such a hearing should be noticed under a separate order.

(3) That no reason exists for not reaffirming the certificates issued in those dockets in Appendix A hereto by this Commission on November 22, 1960; hence, the public convenience and necessity demands their reaffirmance.

The Commission orders:

(A) That all dockets listed in Appendices A and B hereto be severed from the above-entitled proceedings.

(B) That those certificates issued in connection with those dockets listed in Appendix A by this Commission on November 22, 1960, are hereby reaffirmed.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

APPENDIX A

Producer Applications involving initial prices of 14.6 cents per Mcf (at 14.65 psia) or less in which final certificates were issued by FPC order of November 22, 1960:

Applicant, Docket No., and Initial Price

Texaco Inc., G–18078, 12.12268 cents; Harry L. Martin, Operator, et al., G–18548, 14.0 cents; C. C. Winn, Operator, G–18601, 12.122 cents; G–18602, 12.122 cents; G–18603, 12.122 cents; Horizon Oil & Gas Company, G–18607, 12.12268 cents; Bright & Schiff, G–18608, 13.5 cents; G–18622, 14.5 cents; Producing Properties, Inc., G–18612, 12.12268 cents; American Petrofina Company of Texas, G–18628, 14.0 cents; Roy H. Bettis and G. Frederick Shepherd, G–18646, 14.0 cents; W. L. Moody III, et al., d/b/a Moody Properties, Operator, et al., G–18758, 14.5 cents; Appell Petroleum Corporation, et al., G–18761, 14.5 cents; Tennessee Gas Transmission Company, G–19084, 12.122 cents; Harrell Drilling Company, et al., G–18790, 14.0 cents; W. L. Pickens, et al.,

G–18821, 14.0 cents; Richard King, Inc., et al., G–18828, 13.5 cents; Engeo Oil & Gas Company, G–18865, 10.5 cents; Tex-Star Oil & Gas Corporation, Operator, et al., G–18904, 12.122 cents; John W. Pace, Operator, et al., G–18982, 14.0 cents; Seas Oil Corporation, et al., G–19019, 14.5 cents; L. B. Horn, Operator, et al., G–19034, 12.122 cents; G–20387, 12.122 cents; G. L. Rowsey, et al., G–19185, 12.12268 cents; Brooks Gathering Company, G–19290, 12.5 cents; Santex Oil Company, Operator, et al., G–19295, 14.5 cents; C. F. Falley, Operator, et al., G–15401, 9.0 cents; Geode Petroleum, Inc., Operator, et al., G–19298, 12.122 cents; H. J. Porter, G–19415, 12.122 cents; Gulf Coast Minerals Management Corp., Operator, G–19617, 12.122 cents; Kirkwood & Morgan, Inc., Operator, et al., G–20143, 14.0 cents; Fred Whitaker, Operator, G–20384, 14.5 cents; Mesa Development Company, G–20469, 14.0 cents; Northern Pump Company, G–20507, 12.122 cents; Valley Industrial Gas Company, CI60–63, 14.5 cents; Coastal States Gas Producing Company, CI60–64, 10.0 cents; H. M. Harrell, Jr., et al., CI60–67, 13.5 cents; CI60–68, 14.5 cents; Carter and Carter, CI60–124, 14.5 cents.

APPENDIX B

Producer Applications involving initial prices of 14.6 cents per Mcf (at 14.65 psia) or less which were first noticed for hearing by FPC order of March 13, 1961:

Applicant, Docket No., and Initial Price

Delhi-Taylor Oil Corp. and Mayfair Minerals, G–19128, 13.5 cents; Billy Bridewell, et al., CI60–507, 14.5 cents; Sun Oil Company, CI60–349, 13.5 cents; Nichols Petroleum Limited, CI60–793, 14.0 cents; H. R. Billingsley, Trustee, CI61–515, 10.5 cents; Carter & Carter, CI61–1116, 14.5 cents; Katz Oil Company, et al., CI60–464, 12.122 cents; Coastal States Gas Producing Company, CI60–491, 12.122 cents; Harkins and Company, CI61–38, 12.122 cents; American Petrofina Company of Texas, CI61–775, 12.2384 cents; H. J. Porter, et al., CI61–831, 12.122 cents; James W. Porter, et al., CI61–871, 12.122 cents; Lab Oil Company, CI61–1159, 12.122 cents.

[F.R. Doc. 61–4617; Filed, May 18, 1961; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812–1407]

STATE STREET INVESTMENT CORP.

Filing of Application for Exemption

MAY 12, 1961.

Notice is hereby given that State Street Investment Corporation, Boston, Mass. ("State Street"), a registered open-end investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting from the provisions of section 22(d) of the Act the proposed issuance of its shares at net asset value for substantially all of the cash and securities of McLain Inc. ("McLain").

Shares of State Street, a Massachusetts corporation, are not offered to the public on a continuous basis. As of March 31, 1961, the net assets of State Street amounted to $218,713,473.

McLain, a Pennsylvania corporation, is a personal holding company with two stockholders which has engaged in the business of investing and reinvesting its funds since 1954 and prior to that date engaged in the manufacture and sale of refractory products. McLain is exempt from registration under the Act by reason of the provisions of section 3(c)(1) thereof. Pursuant to an agreement between State Street and McLain, substantially all of the cash and securities of McLain with a total value of $2,037,795 as of March 31, 1961, will be transferred to State Street in exchange for shares of stock of State Street. The shares acquired by McLain are to be distributed immediately to its shareholders, who intend to take such shares for investment with no present intention of distribution or redemption. The number of shares of State Street to be delivered to McLain will be determined by dividing the net asset value per share of State Street in effect at the closing time into the value of the McLain assets to be exchanged (with certain adjustments as set forth below).

Since the exchange will be tax free for McLain and its shareholders, State Street's cost basis for tax purposes on the assets acquired from McLain will be the same as for McLain, rather than the price actually paid by State Street for the assets. Of the assets to be acquired from McLain, State Street intends to retain in its portfolio, subject to changes in investment conditions and considerations, securities having a value as of March 31, 1961, of $1,476,865, including unrealized appreciation of $446,218. State Street intends to sell shortly after acquisition, securities having a market value of $468,620 including unrealized appreciation of $6,915. As of March 31, 1961, State Street had unrealized appreciation of $82,104,539 and undistributed realized gains of $4,756,792, of which approximately $698,545 and $43,910, respectively, would have become applicable to the shares of State Street issued to McLain if the proposed acquisition of McLain's assets had occurred on that date.

Because State Street may acquire securities from McLain at a tax-cost basis less than the price actually paid therefor, their sale after acquisition could result in artificial capital gains and consequent tax liability thereon to the present shareholders of State Street. Thus an adjustment is to be made to the value of the McLain assets which takes into account possible tax consequences of the exchange in accordance with the following formula:

(1) With respect to the securities of McLain that State Street presently intends to sell subsequent to acquisition, and the resulting capital gain thereon, there shall be computed the difference between the net unrealized taxable capital gain on said securities and the portion of the realized but undistributed taxable long-term capital gain of State Street allocable to the aggregate shares of State Street to be issued to McLain. (As of March 31, 1961, the difference amounted to a negative amount of $36,995.)

(2) With respect to the securities of McLain that State Street presently intends to retain, there shall be computed the difference between the net unrealized taxable capital gain on said securities and the portion of State Street's unrealized appreciation allocable to the aggregate shares of State Street to be issued to McLain, determined on a pro forma basis giving effect to the acquisition of the assets of McLain. (As of March 31, 1961, the difference amounted to a negative amount of $252,327.)

(3) The amount computed under (1) shall be increased by the amount if positive or decreased by 50 percent of the amount, if negative, computed under (2) and 12½ percent of the resulting amount which is the adjustment for excess unrealized appreciation of McLain shall be applied to reduce the value of the assets of McLain to be acquired. If the valuation had taken place on March 31, 1961, no adjustment to the market value of the assets of McLain would be required.

The rate of 12½ percent applied to the excess unrealized appreciation of McLain is used as an estimated measure of the average tax rate payable on capital gains by State Street shareholders.

Applicant points out that the proposed acquisition is in the best interests of its shareholders because the resulting increase in its assets will tend to reduce per share expenses, since it is furnished investment advisory service at a reduced fee on assets in excess of $200,000,000.

The application recites that the terms of the entire transaction were arrived at through arm's length bargaining between State Street and McLain. The application further states that there is no affiliation of any kind between the officers and directors of State Street and the officers, directors, and stockholders of McLain.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current offering price described in the prospectus, with certain exceptions not applicable here. Under the terms of the Agreement, however, the shares of State Street are to be issued to McLain at a price other than the public offering price, since State Street does not presently offer its shares.

Section 6(c) of the Act authorizes the Commission by order upon application to exempt, conditionally or unconditionally, any transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 29, 1961, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after

said date, as provided by Rule O–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

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

[F.R. Doc. 61–4629; Filed, May 18, 1961; 8:50 a.m.]

[File No. 1–4252]

UNITED INDUSTRIAL CORP.

Order Summarily Suspending Trading

MAY 15, 1961.

The Common Stock, $1 par value of United Industrial Corporation (Delaware) being listed and registered on the New York Stock Exchange and the Pacific Coast Stock Exchange, and admitted to unlisted trading privileges on the Detroit Stock Exchange; and

The Series A Convertible Preferred Stock $8.50 par value of United Industrial Corporation (Delaware) being listed and registered on the New York Stock Exchange and the Pacific Coast Stock Exchange; and

The Warrants to Purchase Common Stock of United Industrial Corporation (Delaware) being listed and registered on the American Stock Exchange and the Pacific Coast Stock Exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in each such security on such Exchanges and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspensions are necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2–2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of any of such securities, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934 that trading in said securities on the American Stock Exchange, the New York Stock Exchange, the Detroit Stock Exchange and the Pacific Coast Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, May 16, 1961, to May 25, 1961, both dates inclusive.

By the Commission.

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

[F.R. Doc. 61–4630; Filed, May 18, 1961; 8:50 a.m.]

TARIFF COMMISSION

[337–L–27]

TRANSFER VALVES

Complaint Withdrawn and Preliminary Inquiry Terminated

On May 11, 1961, the United States Tariff Commission, at the conclusion of a preliminary inquiry into a complaint under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), filed by the Modern Faucet Manufacturing Company of Los Angeles, California, relating to certain transfer valves, granted the request of the complainant for permission to withdraw the complaint without prejudice. Notice of the receipt of the complaint and of the institution of the preliminary inquiry was published in 25 F.R. 11018.

Issued: May 16, 1961.

By order of the Commission.

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

[F.R. Doc. 61–4651; Filed, May 18, 1961; 8:55 a.m.]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

RALPH F. BOVIER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) Pennsylvania Electric Co., Vice President (previously listed); Saxton Nuclear Experimental Corporation, Vice President (as of March 30, 1961).

(2) General Public Utilities Corp. (previously listed); Investors Mutual Co. (previously listed); Glickman Co.; Standard Pressed Steel Co.; Lone Star Steel Co.

(3) None.

(4) None.

This statement is made as of April 26, 1961.

Dated: April 26, 1961.

RALPH F. BOVIER.

[F.R. Doc. 61–4645; Filed, May 18, 1961; 8:54 a.m.]

LEMORE W. CLARK

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) None.

(2) None.

(3) None.

(4) None.

This statement is made as of April 26, 1961.

Dated: April 26, 1961.

LEMORE W. CLARK.

[F.R. Doc. 61–4646; Filed, May 18, 1961; 8:54 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

HELENA KRAWCZYK ET AL.

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property and Location

Helena Krawczyk, Gizalki and Prosna, Poczta Szymanowice, Powiat Pleszew, Woj. Poznanskie, Poland; Claim No. 41602; $373.05 in the Treasury of the United States.

Regina Mazurek, Post Office Szymanowice & Prosna, Powiat Pleszew, Woj. Poznanskie, Poland; Claim No. 41603; $373.05 in the Treasury of the United States.

Voluntary Turnover.

Executed at Washington, D.C., on May 16, 1961.

For the Attorney General.

[SEAL] PAUL V. MYRON, *Acting Director, Office of Alien Property.*

[F.R. Doc. 61–4649; Filed, May 18, 1961; 8:54 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

MEMBER LINES OF CALCUTTA/U.S.A. CONFERENCE

Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 6500–14, between the member lines of the Calcutta/U.S.A. Conference, modifies the basic agreement of that conference (No. 6500, as amended), in the trade from Calcutta to U.S. Atlantic ports in the range from Portland to Hampton Roads inclusive, and other U.S. points and possessions outside this range by transhipment or direct as required by the trade. The purpose of this modification is to limit

the scope of the conference to the trade from Calcutta to U.S. Atlantic ports in the Portland to Hampton Roads range.

Interested parties may inspect this agreement and obtain copies thereof at the Office of Regulations, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to this agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: May 15, 1961.

By order of the Federal Maritime Board.

THOMAS LISI,
Secretary.

[F.R. Doc. 61-4631; Filed, May 18, 1961; 8:51 a.m.]

Office of the Secretary

GEORGE A. SANDS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the past six months.

A. Deletions: No change.
B. Additions: No change.

This statement is made as of May 8, 1961.

GEORGE A. SANDS.

MAY 9, 1961.

[F.R. Doc. 61-4640; Filed, May 18, 1961; 8:53 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 496]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 16, 1961.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's Special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 64088. By order of May 12, 1961, the Transfer Board approved the transfer to Bruce W. Skjonsby, Fargo, N. Dak., of Certificate No. MC 103602, issued December 10, 1956, to E. Verl Maxwell, doing business as G. & M. Transfer, Fargo, N. Dak., authorizing the transportation, over irregular routes, of heavy farm machinery, the transportation of which requires special equipment, and parts therefor; and heavy construction equipment, between points in North Dakota, on the one hand, and, on the other, points in South Dakota and Minnesota. Alan Foss, First National Bank Building, Fargo, N. Dak., attorney for applicants.

No. MC-FC 64153. By order of May 12, 1961, the Transfer Board approved the transfer to New Hope Motor Service, Inc., New Hope, Pa., of Certificate No. MC 114493 Sub 1, issued April 26, 1960, to Peter Pascuzzo, doing business as New Hope Transportation Co., New Hope, Pa., authorizing the transportation of: Sand, gravel, and stone, between points in Mercer, Burlington, Hunterdon, Camden, and Salem Counties, N.J., on the one hand, and, on the other, points in Bucks, Montgomery, and Philadelphia Counties, Pa. Isadore H. Schwartz, 200 Penn Square Building, Juniper and Filbert Streets, Philadelphia 7, Pa., attorney for applicants.

No. MC-FC 64159. By order of May 12, 1961, the Transfer Board approved the transfer to J. M. Steffen Company, a corporation, Philadelphia, Pa., of Certificate No. MC 44152, issued November 5, 1942, to John M. Steffen, doing business as J. M. Steffen Company, Philadelphia, Pa., authorizing the transportation of: Passengers and their baggage, in charter operations, limited to the transportation of not more than six passengers in any one vehicle, but not including the driver thereof and not including children under ten years of age who do not occupy a seat or seats, restricted to traffic beginning and ending at the point or in the territory indicated, over irregular routes, from Philadelphia, Pa., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Virginia, and the District of Columbia; from points in the Philadelphia, Pa., commercial zone, other than Philadelphia, to points in Delaware and New Jersey and those in the New York, N.Y., commercial zone, and return; corpses and undertakers' supplies and equipment, in the same vehicle with passengers or in a separate vehicle, over irregular routes, between points in Philadelphia, Pa., commercial zone, on the one hand, and, on the other, points in Delaware, New Jersey and those in the New York, N.Y. Commercial Zone. J. D. Morelli, 1900 Land Title Building, Philadelphia, Pa., attorney for applicants.

No. MC-FC 64177. By order of May 11, 1961, the Transfer Board approved the transfer to Clifford Snodgrass, P.O. Box 167, Grants Pass, Oregon, of Certificates Nos. MC 115399 and MC 115399 Sub 1, issued October 31, 1956 and August 20, 1957, to J. J. Gentry, 3560 Rogue River Highway, Grants Pass, Oregon, authorizing the transportation, over irregular routes, of lumber, other than plywood, veneer, shingles, and box shook, from points in Josephine County, Oreg., to points in California; and plywood, from Merlin, Oreg., to Riverside and San Bernardino, Calif., and points in Alameda, Contra Costa, Los Angeles, Marin, Orange, Ventura, Santa Barbara, Santa Clara, San Francisco, and San Mateo Counties, Calif.

No. MC-FC 64183. By order of May 12, 1961, the Transfer Board approved the transfer to Carmen Danella and Nicholas Danella, a partnership, doing business as Danella Brothers, Norristown, Pa., of a portion of Certificate No. MC 9100, issued May 19, 1960, to Edwin W. Greenlee, doing business as Greenlee & Son, Morrisville, Pa., authorizing the transportation of such bulk commodities as are transported in dump trucks, from Morrisville, Pa., to points in Ocean, Camden, and Burlington Counties, lying south of a point beginning at Point Pleasant, extending in a southwesterly angle over New Jersey Highways 35, 70, Spur 549, 549, 526, 527, 528, 539, back to 70, 73, and 534, to the point where route intersects with the eastern Gloucester County line, thence to the Delaware River, including all points on said routes; and all points in Atlantic County, N.J. Paul F. Barnes, Suite 601, 226 South 16th Street, Philadelphia 2, Pa., attorney for applicants.

No. MC-FC 64192. By order of May 12, 1961, the Transfer Board approved the transfer to Kenneth L. Olson, doing business as K. L. Olson Trucking, Ettrick, Wis., of Certificates Nos. MC 69230, MC 69230 Sub 1, and MC 69230 Sub 2, issued June 9, 1941, June 26, 1942, and June 26, 1942, respectively, to Henry J. Solberg, Ettrick, Wis., authorizing the transportation of general commodities, excluding household goods and commodities in bulk, over irregular routes, between points in the Towns of Gale, Ettrick, Arcadia, Preston, and Caledonia, Trempealeau County, Wis., and Franklin, Jackson County, Wis., not including the incorporated municipalities of Arcadia, Galesville, Trempealeau, and Blair, on the one hand, and, on the other, Winona and Lanesboro, Minn., and points in Minnesota within 35 miles of Lanesboro; brick, building block, and sand, over irregular routes, from Winona, Minn., to Arcadia, Blair, Black River Falls, Trempealeau, and Galesville, Wis.; general commodities, excluding household goods, over irregular routes, between points within 10 miles of Ettrick, Wis., including Ettrick; and lumber and building materials, over irregular routes, between Ettrick, Wis., and points within 10 miles of Ettrick, on the one hand, and, on the other, Arcadia, Whitehall, and Taylor, Wis. LaVern G. Kostner, Arcadia, Wis., attorney for transferor.

No. MC-FC 64195. By order of May 12, 1961, the Transfer Board approved the transfer to W. H. Fitzgerald, Inc., Youngsville, Pa., of Permits Nos. MC 64446 and MC 64446 Sub 1, issued June 26, 1941, and October 6, 1949, respectively, to W. H. Fitzgerald, Youngsville, Pa., authorizing the transportation of forgings and crankshafts, over irregular routes, from Irvine, Pa., to Youngstown, Ohio, and points in New York; returned or damaged forgings and crankshafts, from Youngstown and points in New York to Irvine; electrodes, high carbon, manganese, and electric furnace supplies, from Niagara Falls, N.Y., to Irvine; such

commodities as are processed and manufactured by manufacturers of forgings, machinery, and ordnance, from Irvine, Pa., to points in New York, New Jersey, Delaware, Virginia, Ohio, West Virginia, Alabama, and the District of Columbia; equipment materials, and supplies used in the manufacture and processing of the commodities described above, from the above-specified destination points to Irvine, Pa. Christian V. Graf, 407 North Front Street, Harrisburg, Pa., attorney for applicants.

No. MC–FC 63998. By order of May 15, 1961, the Transfer Board approved the transfer to Clarence Shaw, 317 North 9th St., Sabetha, Kans., of Certificate No. MC 61152 issued September 23, 1957, to Clarence Shaw and Bernard F. Wiltz, doing business as Shaw & Wiltz, 317 North 9th St., Sabetha, Kans., authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between Oneida, Kans., and points within 10 miles thereof, on the one hand, and, on the other, St. Joseph, Mo.; livestock, farm machinery, farm machinery parts, agricultural commodities, and feed, between Oneida, Kans., and points within ten miles thereof, on the one hand, and, on the other, Kansas City, Kans., and Kansas City, Mo.; and livestock, between Oneida, Kans., and points within 10 miles thereof, on the one hand, and, on the other, Omaha, Nebr.

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

[F.R. Doc. 61–4642; Filed, May 18, 1961; 8:53 a.m.]

[Section 5a, Application No. 3]

EASTERN RAILROADS

Application for Approval of Amendments to Agreement

MAY 16, 1961.

The Commission is in receipt of an application in the above entitled and numbered proceeding for approval of amendments to the agreement therein approved under the provisions of section 5a of the Interstate Commerce Act.

Filed: May 9, 1961, by E. V. Hill, Chairman, One Park Avenue, New York 16, N.Y.

Amendments involved: Change the agreement (1) by abolishing the Freight Traffic Committee—Trunk Line Territory Railroads and the Freight Traffic Committee—Central Territory Railroads and making such other incidental changes as are necessary in this connection, and (2) to provide for the disposition of emergency proposals without public hearing.

The application may be inspected at the office of the Commission in Washington, D.C.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 20 days from the date of this notice. As provided by the general rules of practice of the Commission, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, division 2.

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

[F.R. Doc. 61–4643; Filed, May 18, 1961; 8:54 a.m.]

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