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Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3430

DEATH OF DAG HAMMARSKJOLD

By the President of the United States
of America

A Proclamation

WHEREAS the world has suffered a grievous loss in the untimely death of Dag Hammarskjöld; and

WHEREAS this eminent statesman was a leader in the eternal struggle of man to achieve a peaceful world; and

WHEREAS, as Secretary General of the United Nations since 1953, by his courage, his wisdom, his statesmanship, and his personal dedication to the fulfillment of the never-ceasing quest for peace and justice, he earned the respect and gratitude of all men of good will throughout the world; and

WHEREAS his life was an example for all of us and his death will require that our efforts and sacrifices in the cause of peace be redoubled:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, in honor and tribute to this great statesman of the world, do hereby direct that the appropriate officials arrange for the display of the National Flag at half-staff on all Government buildings of the United States until the body of Dag Hammarskjöld is laid to rest. I also direct that, for the same length of time, the representatives of the United States in foreign countries shall make similar arrangements for the display of the Flag at half-staff over all embassies, legations, consular offices, and military facilities.

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 nineteenth day of September, in the year of our Lord nineteen hundred [SEAL] and sixty-one, and of the Independence of the United States of America the one hundred and eighty-sixth.

JOHN F. KENNEDY

By the President:

CHESTER BOWLES,
Acting Secretary of State.

[F.R. Doc. 61-9127; Filed, Sept. 20, 1961;
11:10 a.m.]

Rules and Regulations

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[1961 C.C.C. Cotton Bulletin 1, Amdt. 2]

PART 427—COTTON

Subpart—1961 Cotton Loan Program Regulations

ELIGIBILITY OF SPECIAL CONDITION UPLAND COTTON

In order to make 1961-crop upland cotton which is reduced in grade because of the presence of extraneous matter or because of spindle twist and 1961-crop upland cotton which is designated as "wasty" eligible for loans and to establish loan rates for this special condition cotton, the regulations issued by Commodity Credit Corporation published in 26 F.R. 5200 and containing the instructions and requirements with respect to the 1961 Cotton Loan Program are hereby amended as follows:

1. Section 427.1207(c) is hereby amended to read as follows:

§ 427.1207 Eligible cotton.

(c) Such cotton must not be false-packed, water-packed, mixed-packed, reginned, or repacked; upland cotton must not be reduced more than two grades because of preparation; extra long staple cotton must have been ginned on a roller gin, shall be of normal character, and must not have been designated as "wasty" or reduced in grade for any reason.

2. Section 427.1210(b) is hereby amended to read as follows:

§ 427.1210 Weight and rate.

(b) The base loan rate for Middling 1-inch upland cotton (except for the special condition upland cotton provided for hereinbelow) at each approved warehouse will be shown in the Schedule of Base Loan Rates for Upland Cotton. This schedule will be available at county offices. The premium or discount applicable to each other eligible grade and staple length of upland cotton is shown in § 427.1229. The loan rate for upland cotton for which the classification memorandum shows a reduction in grade because of the presence of extraneous matter or because of spindle twist shall be one cent a pound less than the loan rate for the quality (grade and staple length) to which the cotton is reduced. The loan rate for upland cotton which is designated on the classification memorandum as "wasty" shall be four cents a pound less than the loan rate for the

quality (grade and staple length) shown on the classification memorandum for the cotton. Loan rates for extra long staple cotton are also shown in § 427.1229. After a loan is made, CCC will not be obligated to make adjustments in the amount of the loan as a result of any subsequent redetermination of the weight or quality of the cotton.

3. Section 427.1211(b) is hereby amended to read as follows:

§ 427.1211 Preparation of documents.

(b) The Clerk's Certificate on each Form A tendered for a loan must be executed by the approved clerk who assisted the producer in the preparation and execution of the Form A. The original of Form A must be signed by the producer, and the copy marked "Producer's Copy" is to be retained by the producer. The copy marked "Lending Agency" shall be retained by the lending agency, and the copy marked "Warehouseman" shall be retained by the warehouseman. Loan forms must not be signed in blank under any circumstances. All applicable entries must be completed prior to the time the form is signed by the producer or the loan clerk. The proper status of the producer (i.e., whether landowner, landlord, tenant, or sharecropper) must be shown in the space provided therefor on Form A. If a bale of upland cotton is covered with cotton bagging made of cotton material manufactured specifically for covering cotton bales, the letter "C" shall be entered in the Schedule of Pledged Cotton in the column headed "Bagging," and the applicable number of pounds shall be added to the gross weight of the bale to reflect the allowance provided for in § 427.1210. All persons claiming liens on the cotton must sign the Lienholder's Waiver on the Form A, except that in lieu of signing the Lienholder's Waiver on each Form A, the lienholder may waive his lien on all cotton produced on a farm by executing Form 889 as provided in § 427.1214. All of the cotton pledged as security for any loan must be of the same grade and staple length and must be stored in the same warehouse. A split grade (i.e., a bale for which the official classification shows a "/" or "Lt.") must be pledged on separate notes from the full grade. Upland cotton which is reduced in grade because of the presence of extraneous matter or because of spindle twist must be pledged on separate notes which may include any other cotton which is so reduced to the same grade without regard to the grade from which such cotton was reduced. Upland cotton which is designated as "wasty" on the classification memorandum covering the cotton must be pledged on separate notes from other cotton. When the classification memorandum shows that the cotton has been reduced in grade because of the presence of extraneous

matter or because of spindle twist, the reduction data shown on the classification memorandum must be entered in the column headed "Reduced from A/C" in the Schedule of Pledged Cotton. When the cotton has been designated as "wasty" on the cotton classification memorandum, the notation "wasty" must be entered in the column headed "Reduced from A/C" in the Schedule of Pledged Cotton. Not more than 500 bales shall be pledged as security for any one note. Before preparing his loan documents, the producer should give careful consideration to the manner in which he may wish to withdraw the cotton from the loan. Cotton of the same grade and staple length will ordinarily be placed on the same note. However, it may be placed on separate notes if the producer believes it will facilitate the redemption of the cotton from the loan or the sale of his equity in such cotton. The approved lending agency shown as payee on the Form A shall make disbursement to the producer, must sign the Payee's Endorsement thereon, and must execute the covering Lending Agency's Letter of Transmittal. Date of disbursement shown on the Form A must be the actual date of disbursement to the producer by such lending agency.

(Sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 103, 401, 63 Stat. 1051, as amended; 15 U.S.C. 714 b and c. 7 U.S.C. 1441, 1444, 1421)

Effective date: This amendment shall be effective as to loans made on and after August 30, 1961.

Signed at Washington, D.C., on September 15, 1961.

ROBERT G. LEWIS,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 61-9035; Filed, Sept. 20, 1961; 8:49 a.m.]

Title 30—MINERAL RESOURCES

Chapter III—Office of Minerals Exploration, Department of the Interior

PART 301—REGULATIONS FOR OBTAINING FEDERAL ASSISTANCE IN FINANCING EXPLORATIONS FOR MINERAL RESERVES, EXCLUDING ORGANIC FUELS, IN UNITED STATES, ITS TERRITORIES, AND POSSESSIONS

Miscellaneous Amendments

The following changes are needed to simplify the information required of applicants to establish their financial eligibility for Federal assistance in financing exploration and to clarify and interpret other administrative procedures of the Office of Minerals Exploration:

1. Section 301.6 is changed to remove an unnecessary phrase in paragraph (b) and to add a new paragraph (c).

2. In § 301.7, paragraphs (g) and (h) are deleted.

3. In § 301.10 the word "outside" is added to modify consultants.

4. Section 301.11 is changed to clarify royalty provisions.

5. Section 301.12 is changed to clarify procedure for computing interest.

Inasmuch as these amendments impose no additional obligations on the public, simplify procedures for applicants and the Government, clarify other provisions of the regulations, and are of mutual benefit to the public and the Government, notice and public procedure thereon have been deemed unnecessary and the amendments as set forth below shall become effective upon the date of publication in the FEDERAL REGISTER.

STEWART L. UDALL,
Secretary of the Interior.

SEPTEMBER 14, 1961.

1. Paragraph (b) of § 301.6 is amended to read as follows and a new paragraph (c) is added to the section:

§ 301.6 Information required.

(b) The application must include evidence that funds for the exploration work are unavailable on reasonable terms from commercial sources. The evidence shall include information as to the commercial sources to which applications were made, the amounts requested, and the reasons why loans were not obtained.

(c) The application must include a certification by the applicant that he would not normally undertake the exploration at his sole expense under current conditions or circumstances.

§ 301.7 [Amendment]

2. Section 301.7 is amended by deleting paragraphs (g) and (h).

3. Paragraph (a)(1) of § 301.10 is amended to read as follows:

§ 301.10 Allowable costs.

(a) * * *

(1) The necessary, reasonable, and direct actual costs of performing the exploration, including the costs of: Labor, supervision, and outside consultants; operating materials, supplies, and equipment; initial rehabilitation or repair of existing buildings, installations, fixtures, and operating equipment; construction of buildings, fixed improvements, and installations; repairs and maintenance of operating equipment; analytical work, accounting, payroll and sales taxes, and employers' liability or employees' compensation insurance; payments by the operator to independent contractors; and such other necessary, reasonable, and direct actual costs as may be approved by the Government in the course of work; and

(4) Paragraph (c) of § 301.11 is amended to read as follows:

§ 301.11 Repayment by the operator.

(c) The operator shall pay the Government a royalty on all minerals or

metals produced from the land described in the contract and any other royalty as may be provided therein:

* * * * *

5. Paragraph (a) of § 301.12 is amended to read as follows:

§ 301.12 Interest on amount of Government participation.

(a) Simple interest is calculated from the first day of the month following the dates Federal funds are made available until the period specified for royalty payments expires or until the amount of Federal funds contributed, including interest, is fully repaid, whichever occurs first.

[F.R. Doc. 61-9026; Filed, Sept. 20, 1961; 8:48 a.m.]

Title 7—AGRICULTURE

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

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Processed Raisins ¹

SIZES OF THOMPSON SEEDLESS RAISINS

On August 2, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 6937) regarding a proposed amendment to the United States Standards for Grades of Processed Raisins (7 CFR 52.1841-52.1852).

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following United States Standards for Grades of Processed Raisins are hereby amended 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):

Delete § 52.1843 in its entirety and substitute the following:

§ 52.1843 Sizes of Thompson Seedless Raisins.

The size designations and measurement requirements for the respective sizes are:

(a) "Select" size raisins means that not more than 60 percent, by weight, of all the raisins will pass through round perforations $\frac{2}{64}$ inch in diameter, but not more than 10 percent, by weight, of all the raisins may pass through round perforations $\frac{2}{64}$ inch in diameter.

(b) "Small" (or "midget") size raisins means that all of the raisins will pass through round perforations $\frac{2}{64}$ inch in diameter and not less than 90 percent,

¹ Compliance with the provisions 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.

by weight, of all the raisins will pass through round perforations $\frac{2}{64}$ inch in diameter.

(c) "Mixed" size raisins means a mixture which does not meet either the requirements for "Select" size or for "Small" (or "midget") size.

It is hereby found that good cause exists for not postponing the effective date of this revision beyond that herein specified (5 U.S.C. 1001-1011) in that:

(1) The raisin processing season has started and it is necessary for purposes of inspection and marketing that this amendment be made effective immediately;

(2) Changes made were based upon data and comments from the industry and found to be in the best interest of the industry as well as the consumer; and

(3) The industry has been apprised of the changes and compliance therewith will not require any special preparation that cannot be completed by the effective time hereof.

(Secs. 202-208, 60 Stat. 1087, as amended; 7 U.S.C. 1621-1627)

Dated September 18, 1961, to become effective upon publication hereof in the FEDERAL REGISTER.

ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 61-9034; Filed, Sept. 20, 1961; 8:49 a.m.]

Chapter III—Agricultural Research Service, Department of Agriculture

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Nursery Stock, Plants, and Seeds

ADMINISTRATIVE INSTRUCTIONS CONCERNING IMPORTATION OF CERTAIN PINE MATERIAL FROM CANADA

On July 28, 1961, there was published in the FEDERAL REGISTER (26 F.R. 6771), a notice of rule making relating to the proposed issuance of administrative instructions to be designated as 7 CFR 319.37-24a, supplementary to § 319.37-24 of the regulations relating to the importation of nursery stock, plants, and seeds (7 CFR 319.37-24). After due consideration of all relevant matters presented, and pursuant to § 319.37-24, under the authority of section 1, 5, 7, and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 154, 159, 160, 162), administrative instructions designated as § 319.37-24a are hereby issued to read as follows:

§ 319.37-24a Administrative instructions concerning importation of certain pine material from Canada.

(a) In accordance with § 319.37-24 of the regulations supplemental to the quarantine relating to the importation of nursery stock, plants, and seeds (7 CFR 319.37-24), the Director of the Plant Quarantine Division has determined that the States of Idaho, Montana, Oregon, Utah, and Washington have taken action to suppress the Eu-

European pine shoot moth, *Rhyacionia buoliana* Schiff, and have promulgated quarantines providing that trees with or without roots, and tree twigs or branches, of all *Pinus* species, native or introduced, shall not be moved from specified areas in the United States into the States of Montana, Oregon, Utah, and Washington, and shall not be moved from specified areas in the United States into the State of Idaho unless accompanied by a certificate issued by a duly authorized inspector of the State of origin stating that the material has been so treated as to eliminate European pine shoot moth infestation. It has also been determined that the European pine shoot moth is established in Canada and that this pest may be imported with such trees, twigs, and branches. There is at the present time no known treatment that will completely eliminate European pine shoot moth infestation without probable injury to pine material. Further, the States of Idaho, Montana, Oregon, Utah, and Washington have requested that the United States Department of Agriculture cooperate in the enforcement of their quarantines by restricting the importation from Canada of such pine material.

(b) Pending the development of a treatment that will satisfactorily eliminate European pine shoot moth infestation from pine material, and under authority of § 319.37-24, notice is hereby given that import permits will be refused for trees with or without roots, and tree twigs or branches, of all *Pinus* species heretofore allowed importation from Canada, when destined for importation into the States of Idaho, Montana, Oregon, Utah, and Washington.

(Secs. 1, 5, 7, 9, 37 Stat. 315-318, as amended; 7 U.S.C. 154, 159, 160, 162; 7 CFR 319.37-24)

These administrative instructions shall become effective October 21, 1961.

The purpose of these administrative instructions is to cooperate with the States of Idaho, Montana, Oregon, Utah, and Washington by denying the entry into these States of certain pine material from Canada. This is in furtherance of action already taken by these States to suppress the European pine shoot moth.

Done at Washington, D.C., this 15th day of September 1961.

[SEAL] E. P. REAGAN,
Director,
Plant Quarantine Division.

[F.R. Doc. 61-9048; Filed, Sept. 20, 1961; 8:51 a.m.]

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

SUBCHAPTER A—MARKETING ORDERS

[Grapefruit Reg. 342]

PART 933—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

§ 933.1064 Grapefruit Regulation 342.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and

Order No. 33, as amended (7 CFR Part 933), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of all grapefruit, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on September 19, 1961, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit, and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Florida Grapefruit (§§ 51.750-51.783 of this title; 25 F.R. 8219, 26 F.R. 163).

(2) Grapefruit Regulation No. 341 (§ 933.1061; 26 F.R. 8482) is hereby ter-

minated at 12:01 a.m., e.s.t., September 22, 1961.

(3) During the period beginning at 12:01 a.m., e.s.t., September 22, 1961, and ending at 12:01 a.m., e.s.t., October 9, 1961, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any grapefruit, grown in the production area, which do not grade at least U.S. No. 1: *Provided*, That such grapefruit may have discoloration to the extent permitted under the U.S. No. 2 Russet grade, and may have slightly rough texture caused only by speck type melanose;

(ii) Any seeded grapefruit, grown in the production area, which are smaller than $3\frac{15}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in said United States Standards for Florida Grapefruit; or

(iii) Any seedless grapefruit, grown in the production area, which are smaller than $3\frac{15}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in said United States Standards for Florida Grapefruit.

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

Dated: September 20, 1961, to be effective at 12:01 a.m., e.s.t., September 22, 1961.

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

[F.R. Doc. 61-9138; Filed, Sept. 20, 1961; 12:02 p.m.]

SUBCHAPTER B—PROHIBITIONS OF IMPORTED COMMODITIES

[Grapefruit Reg. 3, Amdt. 2]

PART 1068—GRAPEFRUIT

Importation

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), the provisions of paragraph (a) of § 1068.3 (Grapefruit Regulation 3; 26 F.R. 7077) are hereby amended to read as follows:

(a) On and after 12:01 a.m., e.s.t., September 22, 1961, the importation into the United States of any grapefruit is prohibited unless such grapefruit meets the following requirements:

(1) Seeded grapefruit shall grade at least U.S. No. 1, except that such grapefruit may have discoloration to the extent permitted under the U.S. No. 2 Russet grade and may have slightly rough texture caused only by speck type melanose, and be of a size not smaller than $3\frac{15}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance

with the provisions for the application of tolerances, specified in the United States Standards for Florida Grapefruit;

(2) Seedless grapefruit shall grade at least U.S. No. 1, except that such grapefruit may have discoloration to the extent permitted under the U.S. No. 2 Russet grade and may have slightly rough texture caused only by speck type melanose, and be of a size not smaller than $3\frac{1}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the United States Standards for Florida Grapefruit; and

(3) Each such importation is made in conformance with the General Regulations (7 CFR Part 1060) applicable to the importation of listed commodities and the requirements of this regulation.

Nothing contained herein shall be construed (1) as affecting or waiving any right, duty, obligation, or liability which has arisen or which, prior to the effective time of the provisions hereof, may arise in connection with any provision of said Grapefruit Regulation No. 3, as amended; or (2) as releasing or extinguishing any violation of Grapefruit Regulation No. 3, as amended, which has occurred or which, prior to the effective time of the provisions hereof, may occur.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective time of this amendment beyond that hereinafter specified (5 U.S.C. 1001-1011) in that (a) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), which makes such regulation necessary; (b) such regulation imposes the same restrictions on imports of grapefruit as the grade and size restrictions being made applicable to the shipment of grapefruit grown in Florida under Grapefruit Regulation 342 (§ 933.1064) which becomes effective September 22, 1961; (c) compliance with this amended import regulation will not require any special preparation which cannot be completed by the effective time hereof; and (d) this amendment relieves restrictions on the importation of grapefruit.

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

Dated: September 20, 1961, to become effective at 12:01 a.m., e.s.t., September 22, 1961.

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

[F.R. Doc. 61-9139; Filed, Sept. 20, 1961; 12:02 p.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Reg. Docket No. 890; Amdt. 40-30]

PART 40—SCHEDULED INTERSTATE AIR CARRIER CERTIFICATION AND OPERATION RULES

Landing Flare Requirements

Section 40.200(d) of the Civil Air Regulations requires that each airplane used at night for extended overwater operations be equipped with landing flares.

In 1958, a requirement for the carriage of flares in night operations over land was deleted from Part 40 by Amendment 40-10 (23 F.R. 292). This requirement was deleted because there had been very little use of flares from 1947 to 1958, and the records revealed numerous instances of flares being inadvertently discharged on the ground or in the air, causing damage to the airplane, other airplanes, ramps, and hangars. Instances were also reported of flares contributing to the intensity of a fire following a crash. The Civil Aeronautics Board, after consideration of all the facts involved, concluded that equipping an airplane with flares should not be a mandatory safety requirement for operations conducted over land at night.

The military transport services discontinued the use of flares in their passenger transport operations several years ago for reasons involving cost, maintenance, the hazard of carrying flares, and their questionable value under emergency conditions.

Recently, the Federal Aviation Agency received several requests from air carriers for relief from the flare requirement for overwater operations at night. In view of those requests, the Agency has carefully reviewed the subject of flare requirements. Consideration has been given to all of the data available to the Board in 1958 when it deleted the requirement for the carriage of flares in night operations over land. In addition, the Agency has weighed the probability of having to ditch an airplane as opposed to diverting to a land area, in view of such factors as improved airplane performance, reliability, operating range, and the development of more accurate and dependable communication aids. In this connection, we consider it significant that to our knowledge no multiengine air carrier airplane has been involved in the dropping of flares during the past 14 years. Finally, it should be pointed out that the Air Transport Association and the Air Line Pilots Association have recently advised the Agency that they favor deletion of the requirement for flares in night overwater operations.

Upon consideration of the foregoing, the Agency has concluded that flares for passenger-carrying airplanes should not be required as mandatory safety equip-

ment for air carrier overwater operations conducted at night. Deletion of the flare requirement will not preclude the carriage of flares by an air carrier who may desire to continue carrying them as optional equipment.

Since this amendment relieves a restriction and imposes no additional burden on any person, I find that notice and public procedure hereon are unnecessary, and it may be made effective on less than 30 days' notice.

In consideration of the foregoing, § 40.200(d) of Part 40 of the Civil Air Regulations (14 CFR Part 40, as amended) is hereby deleted, effective September 21, 1961.

(Secs. 313(a), 601, 604; 72 Stat. 752, 775, 788; 49 U.S.C. 1354(a), 1421, 1424)

Issued in Washington, D.C., on September 15, 1961.

N. E. HALABY,
Administrator.

[F.R. Doc. 61-9002; Filed, Sept. 20, 1961; 8:45 a.m.]

[Reg. Docket No. 890; Amdt. 41-38]

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE THE CONTINENTAL LIMITS OF THE UNITED STATES

Landing Flare Requirements

Section 41.25(j) of the Civil Air Regulations requires that each aircraft used at night for extended overwater operations be equipped with landing flares.

In 1958, a requirement for the carriage of flares in night operations over land was deleted from Part 41 by Amendment 41-15 (23 F.R. 293). This requirement was deleted because there had been very little use of flares from 1947 to 1958, and the records revealed numerous instances of flares being inadvertently discharged on the ground or in the air, causing damage to the aircraft, other aircraft, ramps, and hangars. Instances were also reported of flares contributing to the intensity of a fire following a crash. The Civil Aeronautics Board, after consideration of all the facts involved, concluded that equipping an aircraft with flares should not be a mandatory safety requirement for operations conducted over land at night.

The military transport services discontinued the use of flares in their passenger transport operations several years ago for reasons involving cost, maintenance, the hazard of carrying flares, and their questionable value under emergency conditions.

Recently, the Federal Aviation Agency received several requests from air carriers for relief from the flare requirement for overwater operations at night. In view of those requests, the Agency has carefully reviewed the subject of flare requirements. Consideration has been given to all of the data available to the Board in 1958 when it deleted the re-

quirement for the carriage of flares in night operations over land. In addition, the Agency has weighed the probability of having to ditch an aircraft as opposed to diverting to a land area, in view of such factors as improved aircraft performance, reliability, operating range, and the development of more accurate and dependable communication aids. In this connection we consider it significant that to our knowledge no multiengine air carrier aircraft has been involved in the dropping of flares during the past 14 years. Finally, it should be pointed out that the Air Transport Association and the Air Line Pilots Association have recently advised the Agency that they favor deletion of the requirement for flares in night overwater operations.

Upon consideration of the foregoing, the agency has concluded that flares for passenger-carrying aircraft should not be required as mandatory safety equipment for air carrier overwater operations conducted at night. Deletion of the flare requirement will not preclude the carriage of flares by an air carrier who may desire to continue carrying them as optional equipment.

Since this amendment relieves a restriction and imposes no additional burden on any person, I find that notice and public procedure hereon are unnecessary, and it may be made effective on less than 30 days' notice.

In consideration of the foregoing, § 41.25(j) of Part 41 of the Civil Air Regulations (14 CFR Part 41, as amended) is amended to read as follows, effective September 21, 1961:

§ 41.25 Instruments and equipment required for continuance of flight.

* * * * *

(j) Forward position and tail lights, two landing lights, and one set of instrument lights for night operations.

(Secs. 313(a), 601, 604; 72 Stat. 752, 775, 778; 49 U.S.C. 1354(a), 1421, 1424)

Issued in Washington, D.C., on September 15, 1961.

N. E. HALABY,
Administrator.

[F.R. Doc. 61-9003; Filed, Sept. 20, 1961; 8:45 a.m.]

[Reg. Docket No. 890; Amdt. 42-33]

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

Landing Flare Requirements

Section 42.21(b) (6) of the Civil Air Regulations requires that each aircraft used at night for extended overwater operations shall be equipped with landing flares.

In 1958, a requirement for the carriage of flares in night operations over land was deleted from Part 42 by Amendment 42-13 (23 F.R. 293). This requirement was deleted because there had been very little use of flares from 1947 to 1958, and the records revealed numerous instances of flares being inadvertently discharged on the ground or in the air, causing

damage to the aircraft, other aircraft, ramps, and hangars. Instances were also reported of flares contributing to the intensity of a fire following a crash. The Civil Aeronautics Board, after consideration of all the facts involved, concluded that equipping an aircraft with flares should not be a mandatory safety requirement for operations conducted over land at night.

The military transport services discontinued the use of flares in their passenger transport operations several years ago for reasons involving cost, maintenance, the hazard of carrying flares, and their questionable value under emergency conditions.

Recently, the Federal Aviation Agency received several requests from air carriers for relief from the flare requirement for overwater operations at night. In view of those requests, the Agency has carefully reviewed the subject of flare requirements. Consideration has been given to all of the data available to the Board in 1958 when it deleted the requirement for the carriage of flares in night operations over land. In addition, the Agency has weighed the probability of having to ditch an aircraft as opposed to diverting to a land area, in view of such factors as improved aircraft performance, reliability, operating range, and the development of more accurate and dependable communication aids. In this connection, we consider it significant that to our knowledge no multiengine air carrier aircraft has been involved in the dropping of flares during the past 14 years. Finally, it should be pointed out that the Air Transport Association and the Air Line Pilots Association have recently advised the Agency that they favor deletion of the requirement for flares in night overwater operations.

Upon consideration of the foregoing, the Agency has concluded that flares for passenger-carrying aircraft should not be required as mandatory safety equipment for air carrier overwater operations conducted at night. Deletion of the flare requirement will not preclude the carriage of flares by an air carrier who may desire to continue carrying them as optional equipment.

Since this amendment relieves a restriction and imposes no additional burden on any person, I find that notice and public procedure hereon are unnecessary, and it may be made effective on less than 30 days' notice.

In consideration of the foregoing, § 42.21(b) (6) of Part 42 of the Civil Air Regulations (14 CFR Part 42, as amended) is hereby deleted, effective September 21, 1961.

(Secs. 313(a), 601, 604; 72 Stat. 752, 775, 778; 49 U.S.C. 1354(a), 1421, 1424)

Issued in Washington, D.C., on September 15, 1961.

N. E. HALABY,
Administrator.

[F.R. Doc. 61-9004; Filed, Sept. 20, 1961; 8:45 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 829; Amdt. 339]

PART 507—AIRWORTHINESS DIRECTIVES

Curtiss-Wright C-46 Series Aircraft

A proposal to amend Part 507 of the regulations of the Administrator by amending AD 52-17-2, 21 F.R. 9517, pertaining to tailwheel rework on Curtiss-Wright C-46 aircraft, was published in 26 F.R. 7016.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is amended as follows:

Airworthiness Directive 52-17-2 (21 F.R. 9517), is amended by changing the first sentence in paragraph 1 to read as follows:

1. The original compliance date set was not later than December 1, 1952, and at each No. 3 inspection thereafter, however, in order to convert the inspection interval to time in service, the following inspection shall be accomplished within 400 hours' time in service after the effective date of this amendment. Subsequent compliance required at each 400 hours' time in service after initial compliance.

This amendment shall become effective October 23, 1961.

(Secs. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on September 15, 1961.

G. S. MOORE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 61-9005; Filed, Sept. 20, 1961; 8:45 a.m.]

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 61-LA-55]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

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

Revocation of Segment of Federal Airway and Associated Control Areas; Alteration of Control Area Extension

The purpose of these amendments to §§ 600.6021, 601.6021, and 601.1247 of the regulations of the Administrator is to revoke a segment of low altitude VOR Federal airway No. 21 and its associated control areas, and to alter the Las Vegas, Nev., Control Area Extension.

The low altitude Federal airway route structure extends upward to, but not

including, 14,500 feet MSL. The segment of Victor 21 from the Soda, Calif., intersection to the Craters, Calif., intersection has a designated minimum enroute altitude above 14,000 feet MSL. The segment between Hector, Calif., VORTAC and the Soda intersection is not required for the routing of aircraft or for the transition of aircraft between the low and intermediate altitude airway structures. Therefore, the segment of Victor 21 and its associated control areas from Hector to the Craters intersection is herein revoked and will be concurrently removed from low altitude navigational charts.

The portion of the Las Vegas Control Area Extension south of Las Vegas is described in part as bounded on the northwest by the segment of Victor 21 revoked herein. Action is taken to re-describe the Las Vegas Control Area Extension omitting this area since it is already described as controlled airspace associated with Victor 8 in § 601.6008.

Since the changes effected by these amendments impose no additional burden on any person, notice and public procedure hereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than thirty days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), the following action is taken:

§ 600.6021 [Amendment]

1. In § 600.6021 (14 CFR 600.6021) the following changes are made:

(a) In the caption "(Long Beach, Calif., to the United States-Canadian Border)," is deleted and "(Long Beach, Calif., to Hector, Calif., and Craters, Calif., to United States-Canadian Border)," is substituted therefor.

(b) In the text "Hector, Calif., omnirange station; intersection of the Hector omnirange 049° and the Las Vegas omnirange 210° radials; Las Vegas, Nev., omnirange station;" is deleted and "to the Hector, Calif., VORTAC. From the INT of the Las Vegas VORTAC 210° and the Goffs, Calif., VOR 323° radials via the Las Vegas, Nev., VORTAC;" is substituted therefor.

§ 601.6021 [Amendment]

2. In § 601.6021 (14 CFR 601.1247) the following change is made: In the caption "(Long Beach, Calif., to United States-Canadian Border)," is deleted and "(Long Beach, Calif., to Hector, Calif., and Craters, Calif., to United States-Canadian Border)," is substituted therefor.

3. Section 601.1247 (14 CFR 601.1247) is amended to read:

§ 601.1247 Control area extension (Las Vegas, Nev.).

The area SW of Las Vegas bounded on the N by VOR Federal airway No. 105, on the SE by VOR Federal airway No. 8 N alternate and on the SW by the Goffs, Calif., VOR 323° radial, and the area E of Las Vegas bounded on the N by VOR Federal airway No. 21 E alternate, on the

E by VOR Federal airway No. 237 and on the S by VOR Federal airway No. 105 E alternate.

These amendments shall become effective 0001, e.s.t., October 19, 1961.

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

Issued in Washington, D.C., on September 14, 1961.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 61-9006; Filed, Sept. 20, 1961;
8:45 a.m.]

[Airspace Docket No. 61-WA-152]

PART 608—SPECIAL USE AIRSPACE

Revocation of Prohibited Area and Designation of Restricted Area

The purpose of this amendment is to revoke the airspace reservation herein-after referred to as Prohibited Area P-246, established over the Hanford Engineer Works, Richland, Wash., and to amend Part 608 of the regulations of the Administrator by designating Richland, Wash., Restricted Area R-6715.

The Hanford Prohibited Area P-246 was established by Presidential Executive Order 10127 (paragraph 2 thereof) dated May 23, 1950 (15 F.R. 3171), for national defense and other governmental purposes. This order was subsequently amended by Executive Order 10751 dated February 11, 1958 (23 F.R. 939). The prohibited area is in effect continuously from the surface to an unlimited altitude and encompasses the area beginning at

Latitude 46°48'00" N., longitude 119°13'13" W.; thence to
Latitude 46°20'00" N., longitude 119°13'13" W.; thence to
Latitude 46°18'06" N., longitude 119°30'00" W.; thence to
Latitude 46°30'00" N., longitude 119°55'30" W.; thence to
Latitude 46°39'00" N., longitude 119°55'30" W.; thence to
Latitude 46°48'00" N., longitude 119°47'00" W.; thence to point of beginning.

The Atomic Energy Commission concurs with the Federal Aviation Agency that Prohibited Area P-246 can be reduced in size and redesignated as a restricted area. Safety reasons and national defense interests preclude returning the entire area to public domain. In addition, no alterations to the altitudes or the time of use can be made because of national defense interests. Therefore, action is taken herein to revoke Prohibited Area P-246 and to designate a portion of this area as a restricted area with an unlimited ceiling on a continuous basis in the interest of national defense and for the purpose of protecting aircraft from possible exposure to harmful radiation.

Since the changes affected by these amendments are less restrictive in nature than the present requirements, and impose no additional burden on any person, notice and public procedure thereon are unnecessary and they may be made effective immediately.

In consideration of the foregoing, the following action is taken:

1. Executive Orders 10127 (15 F.R. 3171, 25 F.R. 5925, 6946) and 10751 (23 F.R. 939) establishing and amending the Hanford Engineer Works, Richland, Wash., Prohibited Area P-246 are revoked.

2. In § 608.67 Washington (26 F.R. 7203) the following is added:

R-6715 Richland, Wash.

Boundaries. Beginning at latitude 46°48'00" N., longitude 119°35'00" W.; to latitude 46°48'00" N., longitude 119°25'00" W.; to latitude 46°45'00" N., longitude 119°20'00" W.; to latitude 46°30'00" N., longitude 119°20'00" W.; to latitude 46°30'00" N., longitude 119°13'00" W.; to latitude 46°20'00" N., longitude 119°13'00" W.; to latitude 46°30'00" N., longitude 119°47'00" W.; to latitude 46°40'00" N., longitude 119°47'00" W.; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Using agency. Manager, Atomic Energy Commission, Richland, Washington.

These amendments shall become effective upon the date of publication in the FEDERAL REGISTER.

(Secs. 307(a), and 1501(a), 72 Stat. 749, 809; 49 U.S.C. 1348, 1301 Note)

Issued in Washington, D.C., on September 15, 1961.

N. E. HALABY,
Administrator.

[F.R. Doc. 61-9007; Filed, Sept. 20, 1961;
8:46 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 8379 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Churchill Sportswear Co., Inc., and Hyman Greenblatt

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods*. Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055–50 *Preticketing merchandise misleadingly*. Subpart—Misbranding or mislabeling: § 13.1185 *Composition*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Churchill Sportswear Co., Inc., et al., Boston, Mass., Docket 8379, Aug. 24, 1961]

In the Matter of Churchill Sportswear Co., Inc., a Corporation, and Hyman Greenblatt, Individually and as an Officer of Said Corporation

Consent order requiring Boston manufacturers of ladies' garments to cease advertising and labeling their products falsely as "Indian Madras" and as "Madras".

The order to cease and desist is as follows:

It is ordered, That Churchill Sportswear Co., Inc., a corporation, and its officers, and Hyman Greenblatt, individually and as an officer of said corporation, and respondents' agents, repre-

sentatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of women's garments or other textile products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Madras" or any simulations thereof, either alone or in combination with other words, to designate, describe or refer to any fabric or other textile product which is not, in fact, made of fine cotton, handloomed and imported from India, and, if the cloth is other than natural in color, has not been dyed with bleeding vegetable dyes;

2. Placing in the hands of retailers or others any means or instrumentalities whereby they may mislead or deceive the purchasing public with respect to the merchandise as set forth in Paragraph 1, above.

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

It is ordered, That respondents Churchill Sportswear Co., Inc., a corporation, and Hyman Greenblatt, individually and as an officer of said corporation, 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: August 24, 1961.

By the Commission.

[SEAL] JOSEPH N. KUZEW,
Acting Secretary.

[F.R. Doc. 61-9017; Filed, Sept. 20, 1961;
8:47 a.m.]

[Docket 8374 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Katten & Marengo, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices*: § 13.155-40 *Exaggerated as regular and customary*; § 13.155-70 *Percentage savings*. 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, Katten & Marengo, Inc., et al., Stockton, Calif., Docket 8374, Aug. 23, 1961]

In the Matter of Katten & Marengo, Inc., a Corporation, and Peter J. Marengo, Jr., Peter J. Marengo, III, and Mary Schenone, Individually and as Officers of Said Corporation

Consent order requiring furriers in Stockton, Calif., to cease violating the Fur Products Labeling Act by advertising in newspapers which represented prices of fur products as reduced from regular prices which were in fact fictitious and as reduced by stated percentages without

keeping adequate records as a basis for such claims.

The order to cease and desist is as follows:

It is ordered, That Katten & Marengo, Inc., a corporation and its officers, and Peter J. Marengo, Jr., Peter J. Marengo, III, and Mary Schenone, individually and as officers of said corporation, and respondents' 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. 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:

A. Represents directly or by implication that the regular or usual price of any fur product is any amount which is in excess of the price at which respondents have usually and customarily sold such products in the recent regular course of business.

B. Represents, directly or by implication, through the use of the words, symbols or figures "½ off", "regular", "reg.", or any other words or terms of the same import, that the regular or usual price of any fur product is any amount which is in excess of the price at which the respondents have usually and customarily sold such products in the recent regular course of business.

C. Represents, directly or by implication, that any savings from respondents' regular or usual retail price are afforded to the purchasers of respondents' fur products unless the price at which same are offered constitutes a reduction from the price at which said fur products have been usually and customarily sold by respondents in the recent regular course of their business.

D. Misrepresents, in any manner, the amount of savings available to purchasers of respondents' fur products or the amounts by which the prices of said fur products are reduced from the prices at which said products are usually and customarily sold by respondents in the recent regular course of their business.

2. Making price claims or representations respecting prices or values of fur products unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims or representations are based.

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

It is ordered, That respondents herein 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: August 23, 1961.

By the Commission.

[SEAL] JOSEPH N. KUZEW,
Acting Secretary.

[F.R. Doc. 61-9018; Filed, Sept. 20, 1961;
8:47 a.m.]

[Docket 8381 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Midwest Lamp Co. et al.

Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055-50 *Preticketing merchandise misleadingly*. Subpart—Misbranding or mislabeling: § 13.1280 *Price*. Subpart—Misrepresenting oneself and goods—Prices: § 13.1805 *Exaggerated as regular and customary*; § 13.1811 *Fictitious preticketing*.

(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, Midwest Lamp Company et al., Milwaukee, Wis., Docket 8381, Aug. 23, 1961]

In the Matter of Midwest Lamp Company, a Corporation, and Ivan Weinstein, Samuel Goldenberg and Lillian Weinstein, Individually and as Officers of Said Corporation

Consent order requiring Milwaukee distributors of lamps to retailers to cease such misrepresentations as attaching to their lamps tickets bearing excessive amounts represented thereby as regular retail prices, and bearing the words "nationally advertised" when such claim was false.

The order to cease and desist is as follows:

It is ordered, That respondents, Midwest Lamp Company, a corporation, and its officers, and Ivan Weinstein and Lillian Weinstein, individually and as officers of said corporation, and Samuel Goldenberg as a former officer 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 and distribution of lamps, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, by means of preticketing or in any other manner, that any amount is the usual and regular retail price of merchandise when such amount is in excess of the price at which said merchandise is usually and customarily sold at retail in the trade area or areas where the representations are made.

2. Furnishing to others any means or instrumentality by or through which the public may be misled as to the usual and customary prices of respondents' merchandise.

3. Representing, directly or by implication, that merchandise is nationally advertised when such is not the fact.

It is further ordered, That the complaint, insofar as it relates to respondent Samuel Goldenberg in his individual capacity be, and the same hereby is, dismissed.

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

It is ordered, That the respondents herein 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: August 23, 1961.

By the Commission.

[SEAL] JOSEPH N. KUZEW,
Acting Secretary.

[F.R. Doc. 61-9019; Filed, Sept. 20, 1961;
8:47 a.m.]

[Docket 7973 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Minnesota Mining and Manufacturing Co.

Subpart—Acquiring stock or assets of competitor: § 13.5 *Acquiring stock or assets of competitor.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731; 15 U.S.C. 18) [Divestiture order, Minnesota Mining and Manufacturing Company, St. Paul, Minn., Docket 7973, Aug. 24, 1961]

Consent order requiring the nation's largest manufacturer of electrical insulation tapes, among other products, and with a record of 14 acquisitions during the five-year period 1952 to 1956, to sell as a unit its Insulation and Wires division—before the acquisition the third largest distributor of electrical insulation products and consisting of three entities with distribution in the same nation-wide areas as respondent—which it acquired in August 1956 from Essex Wire Corp., and requiring it to comply with other provisions of the order of divestiture as set forth below in full.

The order is as follows:

I. It is ordered, That respondent Minnesota Mining and Manufacturing Company, its subsidiaries, officers, directors, agents, representatives and employees, shall:

1. On or before January 1, 1962, divest itself absolutely, in good faith, as a unit by sale to a purchaser approved by the Commission of all assets, properties, rights and privileges, including but not limited to all trade-marks, trade names, customer lists, contracts, business and good will acquired by respondent as a result of its acquisition of all of the assets of Insulation and Wires division of the Essex Wire Corporation, and all of the assets of Insulation and Wires Incorporated, a Missouri corporation, and all of the assets of Insulation and Wires Incorporated, a Georgia corporation (hereinafter collectively referred to as

Insulation and Wires and presently operated as a division of respondent), together with the additions and equipment of whatever description that is presently utilized by respondent in its Insulation and Wires division, in such manner as to restore Insulation and Wires as a competitive entity in substantially the same competitive standing it formerly had in the sale and distribution of electrical equipment and electrical insulation products at the time of the acquisition.

2. For a period of five (5) years from the date of divestiture, make available to said purchaser all of the electrical insulation products manufactured by respondent and sold by it to any electrical insulation distributors on the same terms and at the same prices as such products are sold by it to such other distributors.

3. Transfer to said purchaser all sales employees who are presently employed by respondent in its Insulation and Wires division.

II. It is further ordered, That in the divestiture of Insulation and Wires by respondent none of the said assets, properties, rights and privileges, tangible or intangible, shall be sold or transferred, directly or indirectly, to anyone, who at the time of the divestiture, is an officer, director, employee, or agent of, or otherwise directly or indirectly connected with or under the control of, respondent or any of respondent's subsidiaries or affiliated companies.

III. It is further ordered, That for a period of five (5) years from the date of this order respondent shall continue in good faith to operate its subsidiary Prehler Electrical Insulation Company as an electrical insulation distributor and shall cause said Company to purchase not less than 22 percent of its total annual purchases of electrical insulation products from suppliers other than respondent or its subsidiaries.

IV. It is further ordered, That for a period of ten (10) years from the date of this order respondent shall cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, the assets, stock, or any equity in any electrical insulation distributor in the United States.

V. It is further ordered, That, except for the restrictions set forth in Paragraph III of this order, the allegations of the complaint charging that respondent's acquisition of Prehler Electrical Insulation Company violated section 7 of the amended Clayton Act be dismissed.

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 contained in said initial decision.

Issued: August 24, 1961.

By the Commission.

[SEAL] JOSEPH N. KUZEW,
Acting Secretary.

[F.R. Doc. 61-9020; Filed, Sept. 20, 1961;
8:47 a.m.]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 4—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATIONS

Subpart E—Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age or Detrimental to Their Health or Well Being

EXPOSURE TO RADIOACTIVE SUBSTANCES AND IONIZING RADIATIONS

In the July 15, 1961, issue of the FEDERAL REGISTER (26 F.R. 6367), I proposed to amend 29 CFR 4.57(a) (Hazardous Occupation Order No. 6), to adopt recent important recommendations regarding the hazards involved in exposure to radio-active substances and ionizing radiations.

Interested persons were given thirty days in which to file written statements of data, views or arguments in regard to this proposal. None were received. Accordingly, the proposed amendment is hereby adopted without change. It shall become effective thirty days after this document is published in the FEDERAL REGISTER.

Signed at Washington, D.C., this 13th day of September 1961.

ARTHUR J. GOLDBERG,
Secretary of Labor.

§ 4.57 Exposure to radioactive substances and to ionizing radiations (Order 6).

(a) *Finding and declaration of fact.* The following occupations involving exposure to radioactive substances and to ionizing radiations are particularly hazardous and detrimental to health for minors between 16 and 18 years of age:

(1) Any work in any workroom in which (i) radium is stored or used in the manufacture of self-luminous compound, (ii) self-luminous compound is made, processed, or packaged, (iii) self-luminous compound is stored, used, or worked upon, (iv) incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged, (v) other radioactive substances are present in the air in average concentrations exceeding 10 percent of the maximum permissible concentrations in the air recommended for occupational exposure by the National Committee on Radiation Protection, as set forth in the 40-hour week column of table one of the National Bureau of Standards Handbook No. 69 entitled "Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure," issued June 5, 1959.

(2) Any other work which involves exposure to ionizing radiations in excess of 0.5 rem per year.

[F.R. Doc. 61-9027; Filed, Sept. 20, 1961;
8:48 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter 1—Federal Procurement Regulations

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 1 of Title 41 as amended as set forth below:

PART 1-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 1-2.4—Opening of Bids and Award of Contract

1. Section 1-2.406-3(d) (5) is amended to add, at the end of the first sentence, the words "in which case it may be rejected." As amended, subparagraph (5) reads as follows:

(5) Where the bidder fails or refuses to furnish evidence in support of a suspected or alleged mistake, the contracting officer shall consider the bid as submitted unless the amount of the bid is so far out of line with the amounts of other bids received or with the amount estimated by the agency or determined by the contracting officer to be reasonable, or there are other indications of error so clear, as reasonably to justify the conclusion that acceptance of the bid would be unfair to the bidder or to other bona fide bidders, in which case it may be rejected. The attempts made to obtain the information required and the action taken with respect to the bid shall be fully documented.

2. Section 1-2.406-4 is amended to add a new sentence at the end of paragraph (c). As so amended, paragraph (c) reads as follows:

(c) Determinations under paragraph (b) of this section may be made only on the basis of clear and convincing evidence that a mistake in bid was made, and either that the mistake was mutual or that the unilateral mistake made by the contractor was so apparent as to have charged the contracting officer with notice of the probability of the mistake. If the evidence does not warrant a determination under paragraph (b) (1) or (2) of the section, a determination may be made that no charge shall be made in the contract as awarded.

(Sec. 250(c), 63 Stat. 390; 40 U.S.C. 486(c))

PART 1-3—PROCUREMENT BY NEGOTIATION

Subpart 1-3.1—Use of Negotiation

1. The table of contents is amended to include new § 1-3.104 as follows:

1-3.104 Disclosure of mistakes after award.

2. New § 1-3.104 is added to read as follows:

§ 1-3.104 Disclosure of mistakes after award.

When a mistake in a contractor's proposal is not discovered until after award, the authority to correct mistakes contained in § 1-2.406-4 may be utilized in

accordance with the limitations and procedures set forth therein.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. These regulations are effective immediately.

Dated: September 13, 1961.

JOHN L. MOORE,
Administrator of General Services.

[F.R. Doc. 61-9044; Filed, Sept. 20, 1961; 8:51 a.m.]

Title 47—TELECOMMUNICATION

Chapter 1—Federal Communications Commission

[Docket No. 6741; FCC 61-1106]

PART 1—PRACTICE AND PROCEDURE

PART 3—RADIO BROADCAST SERVICES

Clear Channel Broadcasting in the Standard Broadcast Band

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INTRODUCTION

1. The basic question in this proceeding is whether and in what manner it would serve the public interest to amend the rules governing the use of the standard broadcast frequencies designated as "clear channels." The proceeding was instituted by the Commission on February 20, 1945, largely as a result of insistent claims that the clear channel concept of permitting only one station to operate at night on 24 of the 107 channels available for standard broadcasting is wasteful of valuable spectrum space and otherwise not in the best interests of efficient utilization of the frequencies involved. Resolution of the matter has been complicated during the

intervening years by changing treaty obligations, the necessity for disposing of precedent collateral problems, themselves difficult of settlement, and by marked changes in the socio-economic climate for a standard broadcast medium beset by the emergence of television as a vigorous competitor for audience, program material, and advertiser support. Proposals for settlement have been narrowed by the Commission's "Further Notice" of April 15, 1958, and a "Third Notice" adopted September 18, 1959. The course we take today marks our best judgment of the most practicable manner in which the clear channels can, at this stage, be better utilized to improve service in the standard broadcast band.

HISTORY OF THE PROCEEDING

2. Pursuant to long-standing practice and international agreement for the North American region, all United States standard broadcast stations are assigned to 107 channels, each 10-kilocycles wide, in the frequency range 535-1605 kilocycles. Unlike television, where channels were from the outset tied to specific cities, the practice of assigning standard broadcast stations to meet random demand emerged early in the development of the medium. Fixed by usage, the practice has been perpetuated under rules later developed to direct, along general lines and without reference to specific localities, the placement of stations on the 107 available frequencies in a manner designed to achieve as fully as possible the continuing objectives of providing: (a) Some service of satisfactory signal strength to all areas of the country, (b) as many program choices to as many listeners as possible, and (c) service of local origin to as many communities as possible.

3. However, the compatibility of the objectives is confounded by the physical behavior of radio signals. Part of the energy radiated from the transmitting antenna of a broadcast station is called a groundwave and travels closely along the earth's surface where its intensity, although diminishing rapidly with distance, remains relatively constant at any location day and night and from season to season. The portion of the energy which travels upward and outward from the transmitter into the upper atmosphere from which it is reflected back to earth at distances much greater than the reach of groundwave signals is called a skywave signal. Skywave propagation is effective chiefly during the hours between sunset and sunrise and is present, to a lesser degree, during a 2-3 hour pre-sunset buildup and a similar post-sunset period of waning intensity. Less constant in intensity than groundwave signals, skywave signals are nevertheless capable of providing service wherever they have sufficient average field intensity above noise levels and are free from excessive interference by other stations on the same or adjacent channels. While power output and other factors affect the range of useful signals, one of the principal restrictions on a station's service area at night is the number of stations on the same frequency. It fol-

lows that a duplication of stations on the same channel to meet demands for local and multiple services dilutes the effective range of nighttime skywave propagation to distant rural areas where it may not be economically feasible to provide local transmitters.

4. The circumstance that any plan for allocating the use of a standard broadcast channel must accommodate divergent purposes led at an early stage of radio regulation to the classification of standard broadcast frequencies into several categories, each primarily directed to the achievement of one or another of the conflicting objectives. An early action of the then newly-created Federal Radio Commission was the institution in 1928 of a division of the standard broadcast spectrum into clear, regional, and local channels. Although the description "clear" was not officially applied to the unduplicated channels until the Radio Commission's 1932 allocations rules, the clear channel concept is recognizable as early as 1923 when 40 frequencies were set aside by the Secretary of Commerce for the exclusive use of single stations. The channel classification technique survived and was perpetuated in the Federal Communications Commission's 1938 allocations plan which has endured and become the touchstone of the entire standard broadcast structure.

5. The existing classification of channels specifies three groups of frequencies, each with different rules for the assignment of stations depending upon the purpose for which each class of channel was established. The three groups are clear channels, which are the subject of this proceeding, regional channels on which stations are assignable under conditions permitting service to large metropolitan areas, and local channels for the assignment of large numbers of stations serving as local outlets for numerous smaller communities. In the case of regional (Class III) stations and local (Class IV) stations, which broadcast on frequencies shared with other Class III and IV stations operating in other cities and communities, protection of service is confined to their groundwave signals. Skywave or secondary service free from objectionable interference is provided only by Class I stations assigned to the clear channels, and this service is made possible only by rigid restrictions on the number of stations which may be assigned to the clear channels at night and by limitations on the radiations of the secondary stations assigned to those channels. Twenty-four U.S. clear channels are now reserved for the exclusive use at night of a single Class I-A station. On the remaining twenty-three United States clear channels one or two United States Class I-B stations are assigned under conditions requiring mutual protection through the use of directional antennas. The assignment of secondary, Class II, stations is permitted on the clear channels under conditions and restrictions which recognize that the primary purpose to be served by the frequencies is the widespread service provided by the Class I station occupying the channel. Class II stations are ex-

pected to provide only a groundwave service and are required, by use of a directional antenna, limitations on antenna height and power, or other means, to protect the wide area service of the Class I station. The scheme for tailoring a station's facilities to conform to the purpose of its class is carried out in a variety of restrictions imposed on the class. These restrictions include maximum power limitations of 1 kilowatt for local stations, 5 kilowatts for regionals and 50 kilowatts for Class I and Class II stations.

6. A persistently plaguing deficiency in the allocation plan that has otherwise provided a plenitude of signals to populous centers has been the scarcity of service in the sparsely-settled areas of the country. In the face of a 50 percent increase in the total number of fulltime stations in operation during the 10-year period 1947-1957, the extent of land area and population receiving no nighttime groundwave service from any stations was only insubstantially altered. More than half the total land area of the United States and perhaps as many as 25,000,000 people principally in northern New England, the more mountainous regions of the Middle Atlantic states, much of the South, the northernmost part of the Great Lakes area, within the Great Plains and the mountainous areas of the West, and in Alaska are estimated to be outside the range of usable nighttime groundwave service.

7. Since domestic and international use of other frequencies preclude any realistic prospect for increasing the size of the standard broadcast band of frequencies, improvement in rural service must be sought from existing or newly-assigned stations within the present band. Little improvement may be expected from Class III or Class IV stations because of unavoidable limitations on their nighttime interference-free service range. Thus such improvement as may be achieved must be provided on the clear channels.

THE BASIC CONFLICT

8. Two basically divergent views have persisted as to the measures best calculated to make more efficient use of the clear channel frequencies. On one side, it has been urged that the principal objective of providing satisfactory nighttime service to areas lacking such service is most likely to be attained by improvement in the capacity of the clear channel stations, particularly the Class I-A stations, to provide a good skywave signal to wide areas, this to be accomplished by permitting those stations to operate at substantially increased power and by limiting, and at night excluding, co-channel stations. The conflicting view has contended for an increase in the number of unlimited time stations on the clear channels. The clear channel inquiry was instituted against this background of conflict between the basic alternatives or higher power versus duplication.

9. The Commission's Order of February 20, 1945, instituting this proceeding, was so extensive as to open the way for consideration of solutions

ranging all the way between the extremes of exclusive nighttime use of selected clear channels by single stations operating at substantially higher power than the present maximum of 50 kilowatts and the reclassification of selected clear channels to local channels on which it would be possible to assign over 150 stations each, at a maximum power of 250 watts. Testimony was taken during extended hearings during 1946 and 1947 and a voluminous record compiled. At the same time, orders were issued freezing action on certain types of applications, grant of which appeared likely to conflict with reasonable settlement of the proceeding. In late 1947, the "daytime skywave" proceeding (Docket 8333), which had earlier that year been separately initiated to determine whether and the extent to which limitations should be imposed upon daytime skywave radiations toward Class I-A and Class I-B stations, was joined with the clear channel proceeding, and extensive oral argument before the Commission was held early in 1948 on the consolidated record. The daytime skywave phase was severed in 1953 and terminated in 1959 with the issuance of a Report and Order which adopted limits of permissible radiation toward Class I clear channel stations which were to be protected against objectionable skywave interference from further grants for daytime or limited time stations authorized to operate on those channels. Immediately prior to this decision, however, the Commission on April 15, 1958, reopened the clear channel record and narrowed the proceeding for its second phase.

THE FURTHER NOTICE

10. The Further Notice of Proposed Rule Making of April 15, 1958, invited comments on proposals to open twelve specified Class I-A channels for additional unlimited time assignments, to reserve for later determination proposals to increase power on the remaining Class I-A channels, and to leave undisturbed the Class I-B channels. On five of the twelve channels suggested for additional assignments it was proposed that there be placed a new directionalized Class I station and that the existing Class I station be required to directionalize, with the result that each station would afford mutual protection from interference to the areas served by the other. On the other seven channels, unlimited time Class II stations were proposed to be assigned in underserved areas. Comments in response to the Notice persuaded the Commission that its proposal for the licensing of such stations, because of the requirement that certain existing Class I stations directionalize their operations, would be accomplished only at the inordinate expense of substantial dislocations of existing skywave service and the unwarranted creation of new white areas. The Commission then decided to seek additional comments on a proposal to duplicate all the Class I-A channels without the objectionable requirement of directionalization by the Class I stations. The proceeding entered its third phase, thereafter, with the release on

September 22, 1959, of the Commission's redefined proposal for settlement.¹

THE THIRD NOTICE

11. The Third Notice of Further Proposed Rule Making, released September 22, 1959, invited comments on a proposal to provide for the assignment of new Class II stations on 23 clear channels,² the new stations to be located in certain selected and designated states. The existing Class I-A stations would continue to operate with 50 kilowatts of power, but each would share operation with one new Class II station which would be located in a designated area and would operate directionally with not less than 10 kilowatts of power in order to secure maximum coverage. Although not persuaded on the state of the record at that point that higher power would be in the public interest, the Commission also provided opportunity in the Third Notice for parties to update the record on proposals to increase maximum power for Class I-A stations.

12. Many parties took advantage of this invitation and in the more than 100 comments and more than 40 replies filed pursuant to the Third Notice, the basic dispute continues to be whether the additional needed service can better be supplied by permitting clear channels to operate at higher power or by permitting operation of an additional unlimited time station or stations on the clear channel frequencies. Recognizing that half the land area of the United States (excluding Alaska and Hawaii) remains nighttime white area, dependent upon skywave service, with little prospect of large-scale improvement in primary service, one view holds that much needed improvement in standard broadcast service to these areas can be achieved only through improved and increased skywave service and that this, in turn, requires an increase in maximum power for clear channel stations to 500 or 750 kilowatts. Others contend that since many Class I-A clear channel stations are clustered in the eastern portion of the country (a natural result of the greater population density and the superior capacity of such communities to provide economic support for such stations), with 50 kw power and a nighttime skywave service range of about 700 miles, the needed improvement should come from the assignment of unlimited time stations on the Class I-A clear channel frequencies which now have only one station operating nighttime. We will direct our attention to this basic dispute after noting briefly one preliminary matter.

¹ To restate in detail the considerations which have led up to the Third Notice would unduly lengthen this Report and Order. Persons desiring additional details of the historical progression of this proceeding, and who are not already familiar with the record, may consult the Further Notice of Proposed Rule Making adopted April 15, 1958 (FCC 58-350), and the Third Notice of Further Proposed Rule Making adopted September 18, 1959 (FCC 59-972).

² This includes 22 of the 24 Class I-A frequencies excluding 660 kc and 770 kc, and also includes 1030 kc, presently an I-B frequency.

SHORTCOMINGS OF PRESENT CLEAR CHANNEL ALLOCATIONS

13. As noted in our opening paragraph, we are concerned with whether and in what manner to amend the rules governing clear channels. Whether to amend them is comparatively simple to resolve. The proceeding was instituted because of insistent demands that present utilization is not adequate. That assumption underlies the entire proceeding. However, we must now look to the validity of that assumption and in doing so we conclude it has not only stood the test of time but that the situation has, if anything, become worse. We have noted that a great increase in the number of stations has only insubstantially reduced nighttime white area. Moreover, with our population growth, the number of people in white areas is growing.³ There is substantial support in the comments for a conclusion that the exclusive nighttime use of a channel by a single station limited to 50 kw is less justifiable now than it was when clear channels were first allocated in this way. Since that time techniques have been established and highly developed for directional transmission of signals, with a high degree of suppression now possible to protect the service areas of co-channel stations. In addition, heterodyne interference resulting from uncontrolled deviations from the assigned frequency has been substantially eliminated. Thus it is now possible, particularly in the case of Class I-A stations located in or near the northeast portion of the country, to assign additional co-channel unlimited time stations to provide needed service at distant locations, while preserving the capacity of the present station to provide a usable signal over wide primary and secondary service areas. In these circumstances there is serious question whether the most efficient use of the Class I-A clear channels can be achieved under the long-standing rules which, on the one hand, preclude power above 50 kw, and on the other hand, bar co-channel unlimited time assignments in distant areas which the present station cannot effectively serve, and where a new station could be operated so as to afford reasonable protection to the areas the present station does effectively serve at 50 kw. Almost without exception the commenting parties either note the need for additional service or at least do not attack the underlying assumption of such need. There were, however, a few comments to the effect that maintenance of the status quo would be preferable to adopting the alternative which the commenting party opposed.

RESOLUTION OF THE ISSUES

14. Our review of the record and our analysis of the numerous substantive, procedural, and administrative questions which it raises make it convincingly clear that it would be undesirable to set in motion the simultaneous reallocation of all the Class I-A clear channels. The

³ Based on the 1940 Census a population of 23,252,000 lived in white areas. By 1957 the white area population had grown to an estimated 25,630,000.

enormity of the consequent administrative burden alone would further glut our license processing and hearing resources and delay not only the achievement of improved service on the clear channels, but additionally delay our strenuous efforts to reduce the excessive and persistent backlog of pending standard broadcast applications.

15. Quite apart from these considerations, which in our considered judgment would alone warrant progressive rather than simultaneous approaches to reallocation of the Class I-A clear channels, we find compelling reasons for avoiding a course which would precipitate changed modes of utilizing the Class I-A clear channels without opportunity to review and evaluate, as we go along, the effectiveness of such reallocations as we herein adopt for some of the channels.

16. Both in the Further Notice of April 15, 1958, and in the Third Notice of September 18, 1959, the Commission invited comments on proposals to remove the heretofore total exclusivity of nighttime use of the Class I-A channels by a single station. The Third Notice contemplated additional unlimited time station assignments on substantially all of the Class I-A channels. The earlier Further Notice had looked toward this step on half of them. The underlying justification, in each case, was the compelling need to go as far as possible toward reducing the vast areas which lack any nighttime primary service. The record is replete with data demonstrating that, to an extent, this can be done with resultant increments of nighttime primary service to persons now lacking it without undue interference to the wide area service rendered by the Class I-A stations. This possibility derives from a combination of factors including directionalization of new unlimited time stations on these channels, the long distances between their prescribed locations and the transmitter sites of the existing co-channel I-A stations and the numbers of other services available in limited areas where interference from the new station may to a limited extent interfere with present reception of skywave service from the existing Class I-A station. Moreover, the limited amount of skywave service which would be so subjected to interference is of a low order since new unlimited time stations will be required to protect the 0.5 mv/m 50 percent skywave contour of the Class I-A station—generally located approximately 700 miles from its transmitter.

17. These basic considerations, in our considered view, strongly underscore the desirability of permitting the establishment of new unlimited time stations on at least some of the Class I-A channels, and we make appropriate provision therefor, in the accompanying rule amendments, on 13 of the Class I-A channels: i.e. 670, 720, 750, 760, 780, 880, 890, 1020, 1030, 1100, 1120, 1180, and 1210 kc.

18. There is support, recognized in our Third Notice in this proceeding, for the similar treatment of additional Class I-A clear channels. To pursue that course at this time would, however, be subject

to the grave objections already noted. It would, moreover, in one stroke crystallize a particular pattern of clear channel usage which would at least limit and at worst frustrate the future possibilities for employing other techniques of clear channel utilization. One of these is the use of higher power to improve the nighttime range of and, within existing service areas, the quality of skywave service reaching into the vast land areas where this is the only available technique for improving service since much of those areas lie beyond the foreseeable range of the primary service of any new stations which could be fitted into the crowded standard broadcast spectrum. Whether the public interest would be served by the authorization of higher power, whether, on the channels at this time left in status quo, duplication in the manner here adopted for 13 channels would serve the public interest, or whether any other alternatives including possible combinations of these techniques would best serve to improve service on these channels, we do not now decide.

19. At earlier stages of this proceeding strong objection to the authorization of higher power was expressed not only by interested parties but also by Congress. It is evident that in considering a question of the consequence of higher power, which would in any case be necessarily limited to a relatively few stations, the policy of the Congress should be accorded due recognition. The Senate of the United States on June 7, 1938, adopted a resolution (S. Res. 294, 75th Cong., 3d Session) characterizing the use of power in excess of 50 kw by standard broadcast stations at "definitely against the public interest" and expressing the sense of the Senate that the Commission "should not adopt or promulgate rules to permit or otherwise allow any station operating on a frequency in the standard broadcast band * * * to operate on a regular or other basis with power in excess of fifty kilowatts."

20. Some parties have throughout the long history of this proceeding forcefully urged strenuous objection against the use of higher power which, it is asserted, would give vastly undue competitive pre-eminence to the very few stations to whom in any case powers on the order of 500 kw to 750 kw could conceivably be authorized. The Commission, while aware of the strength of these contentions, cannot on the other hand ignore the potential for significant additions to service which the employment of higher power on even a few stations could make possible. Our close scrutiny of the portions of the record going to the issue of higher power fails to persuade us that, whatever the merits of the pending proposals for higher power, the objections listed against it have been sufficiently met. Upon careful consideration of the question, we conclude that there is insufficient basis before us for a finding that the public interest would be served by authorizing higher power, but that at the same time the question warrants further consideration in the light of such improvements and changes in service as may result from the action we now take

to authorize additional unlimited time stations on 13 of the Class I-A clear channels.

21. We thus leave open and unprejudiced the question of whether, and if so how, the public interest would be served by changing the rules affecting the use of the 12 Class I-A channels now left in status quo. At such time as further developments, including progress under the changes we now adopt, provide needed additional light on the question we will give further consideration to how best to utilize the 12 clear channels not now disturbed. It is manifestly desirable to do so on the basis of then current data and not to hold the instant proceeding open for the purpose. Much of the record herein was compiled years ago under different circumstances which have since changed markedly, and which may be expected to undergo further change. However, in any subsequent proceedings which may be held on the disposition of the twelve channels now left in status quo, parties will be permitted to incorporate by reference specifically designated pleadings herein, or designate portions thereof, as may be relevant to matters then under consideration.

22. In pursuing this course we follow certain basic features of the pattern proposed in our Further Notice, while departing from some elements of that proposal to which objection, which we find meritorious, was advanced. We follow that portion to the extent that it envisaged the establishment of additional unlimited-time stations, capable of providing primary service in white areas, on about half the channels, while leaving open for future consideration and decision action on the remaining Class I-A channels.

23. The primary feature of the Further Notice which evoked critical comment from the industry, and which was a factor in our determination to consider in the Third Notice a somewhat different allocations plan, was the suggestion that certain Class I stations be required to directionalize. This factor, in the language of the Third Notice: "would result in substantial reduction of the existing ground wave and skywave service, with the result that substantial new 'white areas' would be created in which no ground wave service would remain available from any station and that other areas would be reduced in the number of services received from four, three or two ground wave services to a single ground wave service. In addition, substantial dislocations would obtain of present skywave service which would not be fully compensated by new operations."

In the approach we adopt herein the requirement of directionalization by the Class I stations has been eliminated and the undesirable results noted above would not occur.⁴

⁴ That we do not follow the Further Notice approach generally does not alter the validity of our conclusion that in case of one particular I-A channel (770 kc), directionalization of the existing Class I station so as to afford mutual protection to a similar operation in New Mexico would best serve the public interest. We note herein the special circumstances pertaining to that channel.

24. We now have the benefit of updated comments directed to the two approaches of the Further Notice and the Third Notice. The course we take is consistent with both of these proposals in the basic sense that both proposals envisage the nighttime sharing of at least 12 of the Class I-A clear channels by more than one station. In addition, the Further Notice would reserve for future determination the use to be made of the remaining I-A channels. The method of duplication we adopt is that proposed in the Third Notice for 23 channels and proposed in the Further Notice for 7 channels. As noted, we have (except on 770 kc) removed the directionalization requirement for Class I stations. Since the two approaches do contemplate duplication of up to 12 frequencies, we have reexamined each of the 24 Class I-A channels, plus 1030 kc which is reclassified herein as a I-A clear channel. We discuss later our reasons for selecting the 13 channels which we earmark in this proceeding for duplication by a Class II unlimited-time station. Channel sharing on the selected 13 clear channel frequencies, as has been amply demonstrated in the comments, will not frustrate the achievement of the primary objective of clear channel allocation, i.e., to render wide area service to the residents of less densely populated portions of the country which are beyond the effective reach of interference-free nighttime service from other classes of stations. The conditions projected in the Third Notice for the operation of additional stations afford a high degree of protection to the 50 kilowatt Class I-A stations now occupying these channels, i.e., to their 0.5 mv/m 50 percent skywave contour. Such interference as our action herein would permit to minor, fringe reception beyond the 0.5 mv/m 50 percent skywave contour of those stations is, in our judgment, acceptable in view of the additional services which are thereby made possible from new stations in underserved areas.

25. While we do not now reach a decision either for or against the use of higher power, and while we thus leave entirely open the question of what station assignment plans would best serve the public interest on the 12 Class I-A clear channels left in status quo at this time, we recognize the critical importance of so tailoring the partial reallocation as to avoid undue prejudice to practical latitude for future decision. Our review of the comments persuades us that such undue restriction would have resulted from adoption of the proposal in the Third Notice to place additional unlimited-time stations on virtually all of the Class I-A clear channels.

26. Implementation of our judgment that we should at this time refrain from permitting shared nighttime use of all the Class I-A channels poses the problem of selecting, on a suitable basis, those channels on which we open the way to additional unlimited-time stations and those reserved for future decision. Numerous considerations bear on such a selection. The basic determinant is the question of whether, taking into account the numerous circumstances affecting each channel and the resultant overall

pattern of service, it is best suited to shared use or to the preservation of possibilities of wider service from the existing Class I-A station through utilization of higher power. Key factors having a bearing on this judgment include:

a. Location of needful white areas.
b. The possibilities for providing a primary nighttime service in those white areas at sufficient distance from the Class I-A station to permit requisite protection of the generally usable portion of the existing station's skywave service, i.e., the service area within its 0.5 mv/m 50 percent skywave contour.

c. Due protection to existing co-channel U.S. daytime stations and to U.S. stations on adjacent channels.

d. Consideration of adjacent channel interference to stations located in neighboring countries, and to foreign co-channel stations to which the United States is committed, under international agreements, to afford a stated degree of protection.

e. Avoidance of adjacent channel interference among new unlimited-time stations assigned to the Class I-A clear channels.

f. The location of white areas apparently beyond the reach of foreseeable new stations which could provide a nighttime primary service.

g. Existing skywave services in the foregoing areas and the consequent benefits from improved additional skywave services.

h. The location of Class I-A stations so situated—with reference to geographic relationships to the needful areas and co-channel and adjacent channel domestic and foreign interference considerations—as to indicate that they would be best adapted to the provision of additional and improved skywave services to the needful areas.

27. In the case of no single channel would all of the foregoing determinants uniformly indicate that it be earmarked for additional unlimited time assignment or that it be held in status quo for future consideration of alternative action. In each case we have arrived at our judgment by the painstaking process of determining and evaluating all the pertinent factors and deciding, on net balance, which course would best serve the public interest both in usage of the individual channel and in terms of the resultant assembled pattern of additional nighttime primary services on the one hand, and the potential for additional and improved skywave services in needful areas on the other hand. In weighing our choices of channels to be left at this time in status quo we have taken into account the desirability of endeavoring to preserve the potential of at least four reasonably reliable and satisfactory skywave services throughout all white areas.

28. In arriving at the selection of Class I-A clear channels for duplication and for status quo, we have scrutinized with great care the entire record of this proceeding, including testimony, exhibits, briefs, oral argument, comments and other pleadings which, as we have noted, have included diverse alternatives and counter proposals.

29. Considering all pertinent factors, and submissions, and taking into account the skywave services presently received, we have determined that the public interest will be served by deferring action at this time on the following frequencies: 640, 650, 660, 700, 770, 820, 830, 840, 870, 1040, 1160, and 1200 kc. The potential for widespread improvement in skywave service is thus preserved for future evaluation.

30. In selecting 640, 820, 1160, and 1200 kc for inclusion in this group, we have noted that these are the only I-A channels (other than 1040 and 1120 kc discussed below) serving the West; that the West is characterized by vast regions of low population density where skywave signals afford the only nighttime broadcast service; that a choice among skywave signals is not generally available to a substantial part of the West; and that acceptable locations for assignment of new unlimited time stations on these channels would, in general, be limited to eastern areas already receiving abundant service. Accordingly, at this stage, we preserve the potential for improving skywave service which these channels afford.

31. On 660 and 770 kc, unlimited time assignments, in addition to the Class I-A stations, are already operating. For this reason, as we state in the Third Notice, no additional assignments on these channels is deemed warranted at this time. Similarly, we do not at this time take any action with respect to 830 kc because of the pendency of an adjudicatory proceeding involving WNYC's use of that frequency during nighttime hours.

32. The potential for improved skywave service which arises from the location of 650 kc at Nashville, 700 kc at Cincinnati, 840 kc at Louisville, and 870 kc at New Orleans warrants inclusion of these channels in the group as to which no action is to be taken at this time. We have examined the feasibility of duplication on these channels and, while we recognize that duplication on these channels is possible, we are reluctant to take any action at this time which would limit the potential of these stations for providing improved skywave service in underserved areas of the Southeast.

33. Of the group on which action is deferred, there remains only 1040 kc to be discussed. The Class I-A station on 1040 kc is located at Des Moines, Iowa. Both 1040 kc and 1120 kc, on which KMOX, St. Louis, Missouri, is the Class I-A station, are somewhat centrally located and those channels could be used either to provide nighttime groundwave service to white areas in the west or to provide some improved skywave service. We have concluded that, in attempting to achieve a proper balance between the immediate benefits of duplication and retaining a potential for improved skywave service, it is preferable to defer action on 1040 kc but to permit an additional station on 1120 kc. An important factor in making this choice was a realization that the potential of 1120 kc for providing improved skywave service is considerably limited in all directions by adjacent channel operations at Omaha, Nebraska, Charlotte, North

Carolina, Shreveport, Louisiana, Minneapolis, Minnesota, and New York, New York.

34. Turning now to the remaining Class I-A channels, we have determined that they can best be utilized by permitting operation of an unlimited time Class II station on each, thereby serving the important and immediate objective of providing nighttime primary service to white areas. This is not to indicate that other channels, among the group not presently duplicated, could not be duplicated and provide valuable service to white areas. As we have indicated, our action here leaves to future determination, in the light of future developments, the decision as to what use should be made of those channels on which the status quo is presently retained.

35. We conclude that the proper balance between immediate objectives and possible future goals is best achieved by deferring action on the channels noted above and by permitting one new unlimited time operation on the following: 670, 720, 780, 880, 1020, 1030, 1100, 1120, 1180, and 1210 kc. In addition 750 and 760 kc will be duplicated but in a way designed to meet special situations arising out of the entry into force of the United States/Mexican Broadcasting Agreement.

36. Class I-A stations on 880, 1020, 1030, 1100, 1180, and 1210 kc are located at or near the northern or eastern boundaries of the country thereby affording maximum opportunity for assignment of unlimited time stations in the West where serious deficiencies in present service exist and the corresponding need for improvement is great. Such location permits flexibility in meeting the required spacing between co-channel Class I-A and unlimited time Class II stations. Moreover, the impact of the new unlimited time Class II stations on the present skywave service of these Class I-A stations will be at a minimum because the useful skywave service these stations render is generally confined to the extreme northeastern portion of the country.

37. The Class I-A stations on 670, 720, 780, and 890 kc are located in Chicago and, while they are, of course, west of the group just discussed, they still offer useful opportunity for assignment of unlimited time stations in the far West. Several western states will meet spacing requirements and, additionally, the useful skywave service provided by the Chicago I-A stations is confined to the region of the Great Lakes which insures a minimum impact by the new co-channel unlimited time Class II stations to their skywave service. An added consideration in selecting the Chicago I-A frequencies for duplication is the limited potential which they have for improving skywave service in areas which need it. Adjacent channel class I operations in New York would limit radiation to the east and requirements of protection to stations in Cuba and Mexico would limit radiation to the south. Their potential for improving skywave service to the west, moreover, is not so great as that of the Class I-A channels on which we are presently retaining the status quo.

38. We have already discussed 1120 kc. The special considerations concerning 750 and 760 kc are treated separately in subsequent paragraphs of this Report and Order.

39. Our decision to permit nighttime sharing of 13 of the Class I-A clear channels could be implemented in several ways. If we were to follow the practice heretofore established in assigning new standard broadcast stations, applications meeting announced interference criteria and other technical standards would be accepted and processed without confining such applications to designated areas. This would not be practicable here. The acceptability of any location proposed for new unlimited stations on clear channels depends not only upon requisite protection to existing stations but also upon avoidance of undue interference among the new stations so assigned. This means that if we followed the general basis for standard broadcast station assignments we could expect to receive considerable numbers of mutually exclusive applications which conflict either because they propose mutually inconsistent uses of the same frequency or because they propose conflicts as to acceptable locations of new adjacent channel assignments on Channels 10, 20, and 30 kilocycles removed from the channel applied for. For these reasons the hitherto customary approach to new station assignments could be expected to require numerous complicated and interrelated hearings which would be vastly and unnecessarily time consuming.

40. Much of this impediment and delay can be avoided by the system we here adopt—of designating the particular state or states within which each of the I-A channels to be duplicated will be available for an additional unlimited time station. The states so designated have been selected with a view to making the most fair, equitable and efficient use of the frequency taking into account limitations imposed by the need to protect existing co-channel and adjacent channel stations, the areas of greatest need for additional nighttime primary service and the avoidance of undue mutual interference among the new stations themselves. Due regard has additionally been given requisite protection to stations in neighboring countries.

41. In the interests of fulfilling to the greatest possible extent the prime objective of the new unlimited time stations on the Class I-A clear channels, i.e., to create new primary services in white areas—we propose, as detailed below, to give preference to those applications which most fully serve this objective; and we will not consider any application for a new unlimited time station on one of the Class I-A channels unless it meets a specified minimum criterion for new primary service to white areas.

42. For the foregoing reasons we reject proposals that we fix by rule the specific communities in which these frequencies may be so used. It would not be possible to anticipate, in advance of the filing of specific station assignments, the finite circumstances of principal city and radiation pattern which could best serve

the objective of clear channel duplication. We leave this for decision on the basis of applications to be submitted in accordance with the rules herein adopted.

43. As to the suggestion that more than one unlimited time Class II station be authorized on the same Class I-A channel, we deem it preferable at this time to permit only one unlimited time Class II station on the channels selected for such use. After we have the benefit of the manner in which the new unlimited time Class II stations are utilized, and details of actual performance, interference, etc. become available, we will be in a position to determine whether the public interest warrants assignment of additional unlimited time facilities on these channels, and, if so, to determine under what conditions they should be permitted. We are convinced, however, that such a decision should await further developments and that extension of the plan adopted herein to include such multiple use is not warranted at this time.⁵

44. The record also reveals that many of the comments requesting Class II facilities come from parties seeking to improve their existing service—which is all too often in the areas of concentrated population where little "white area" would be served. We have emphasized our aim of securing standard broadcast radio service to those areas which lack nighttime primary service. The standards we adopt herein are directed toward the achievement of that end and represent our considered judgment of the best way to fill these gaps in service at this time. In considering applications for Class II facilities on these clear channels we shall look closely at the applicants' plans for serving such "white area". The extent to which the facilities thus made available are ultimately utilized is, and necessarily so under our free competitive system, dependent upon the business judgment of prospective applicants and licensees. The fact that the theoretical optimum of service is unlikely of practical attainment due to such considerations as population distribution does not preclude our adopting a solution which more nearly achieves

⁵ In this connection, Argonaut Broadcasting Co., Standard Broadcasting Co., and Seattle, Portland, and Spokane Radio filed a joint petition for acceptance of supplemental comments on July 7, 1961, seeking consideration of multiple nighttime use of the channels on which they operate limited time stations. The comments were filed more than one year after the record in the proceeding had been closed. Moreover, they came after public announcement of instructions by the Commission to its staff. The orderly processes of rule making required that petitions so filed be denied. In any event, as noted in the text, it has been decided that multiple use (i.e., nighttime sharing of the frequency by more than the Class I and a single Class II station) is not warranted at this time but should await further developments. The petition for acceptance of late comments filed by John Poole Broadcasting Co., Inc. is also denied. That petition was also filed more than a year late and is an attempted reargument of matters already presented in timely comments and considered by the Commission. Several oppositions were filed to each petition.

the objectives of broadcasting in the standard band than does the present utilization of Class I-A clear channels at night by only one station. The net result of the action we take today is to open the way for additional nighttime primary service to the public, especially in those areas where such service is needed, while at the same time holding to a minimum any loss of existing service to the listening public.

45. Moreover, it is expected that, upon final resolution of this proceeding, applications may be forthcoming from parties who have not commented in this proceeding and that additional sites within the states selected, will be proposed. We can in a comparative hearing consider, inter alia, the white area population expected to be served under the various proposals. Indeed, prospective applicants should be aware that we intend, absent decisive countervailing circumstances, that as between fully qualified applicants complying with all our rules, the one who will serve the largest white area population will receive the grant. Parties are thus forewarned that white area population served rather than total population served is of prime importance herein. We can foresee at this time only one kind of circumstance in which it may be anticipated that the grant should not necessarily go to the qualified competing applicant proposing the first primary service to the largest number of people. Under § 3.182(g) of the rules, primary service is not considered to exist in towns with a population from 2,500 to 10,000 if available groundwave service has a field intensity of less than 2 mv/m. It is possible that one applicant for an unlimited time Class II station may be in a position to show that he would provide a first nighttime primary service to more people than a competing applicant, in reliance upon his provision of groundwave service with a field intensity of 2 mv/m or better to persons living near enough to an existing unlimited time station, so that they now receive service of 0.5 mv/m or better, although less than 2 mv/m. Some usable groundwave signals, although not of the standard contemplated in § 3.182(g), are thus available to persons so situated. A competing applicant, on the other hand, may be in a position to demonstrate that he proposes a first groundwave service to a larger number of people who do not now have an 0.5 mv/m groundwave signal or better available to them. Considering the objectives of our rule changes herein, it would be appropriate, in reaching our decision in such case, to take this circumstance into account and not necessarily to grant perfunctorily an application which reflects a first primary service to the largest number of people by virtue of including in the count persons who, although they do not receive the 2 mv/m signal prescribed in § 3.182(g), are nevertheless able to receive a signal of at least 0.5 mv/m.

STANDARDS GOVERNING NEW STATION ASSIGNMENTS

46. In light of the fundamental concepts which we have enunciated above—and considering that the I-A channels are those which must be primarily

looked to for the improvement of over-all standard broadcast service—we adopt the following allocation standards, looking toward the assignment of unlimited-time stations herein classified as II-A stations. The Class I stations now licensed to operate exclusively in the United States on these channels, listed in the Table in § 3.22 of the Commission's rules, will continue to operate with 50 kilowatts of power but will share operation on the channel with one newly licensed station located in the designated area. These additional assignments are those which, from a careful analysis of the entire allocation picture, we have determined will go furthest toward achievement of our objective, provided they meet certain standards as to power and service to "white areas". The applicable standards are:

(1) The application must be for assignment to a community within the State or States specified in the table in new § 3.22 of the rules.

(2) The application must be for unlimited time operation with no less than 10 kw nighttime power. A few parties have suggested that lower power should be considered. Minimum power as herein specified is necessary if a substantial amount of badly needed nighttime primary service is to be provided and we affirm our earlier judgment in this respect. While it is anticipated that these stations would also operate ordinarily with at least 10 kw power daytime, in some cases requirements of protecting existing nearby daytime stations may require that the new station operate with lower power daytime, and accordingly, to provide more flexibility with respect to the new assignments, we do not impose such minimum requirement as to daytime power.

(3) At least 25 percent of the area or 25 percent of the population within the station's nighttime interference-free service contour must not receive nighttime interference-free primary service from any other station. Applications not meeting all of these standards will not be in compliance with our rules and will not be accepted, but will, if tendered, be returned.

47. Additionally, the new Class II-A stations will be required to observe the following protection requirements:

(1) Daytime protection standards for existing Class I-A stations will be as prescribed in the present rules.

(2) Nighttime standards will require that the existing Class I-A station normally be protected to its 0.5 mv/m, 50 percent skywave field strength contour.⁶ The location of this contour will be determined in accordance with procedures specified in the present rules for Class I-B stations and the 10 percent skywave signal from an interfering station on the same channel shall normally not exceed 25 uv/m at this contour.

⁶We recognize the importance of clear channel service to national defense communications and in emergencies, and find substantial support in the comments to the effect that if there is to be duplication the existing Class I-A stations should be protected to their 0.5 mv/m 50 percent skywave contour.

(3) In addition to providing protection to the existing Class I-A stations, the new Class II-A stations will be required to afford protection to existing stations of other classes, as prescribed for Class II stations in accordance with present rules, except to facilities granted after October 30, 1961.

DETERMINATION OF SERVICE AND INTERFERENCE WITH RESPECT TO CLASS I-A STATIONS

48. In order to implement the assignment plan and to insure that the Class II-A stations provide needed service while imposing a minimum impact on the service of the existing Class I-A stations, the Commission, in its "Second Supplement to the Third Notice" released February 19, 1960, sought comments concerning proposed engineering standards for the limitation of nighttime co-channel interference to Class I-A stations. Almost without exception, the comments and engineering statements which have been submitted proposed adoption of standards which are based either on the definitions of service given in Exhibit 109 of this proceeding or on the present Commission Rules relating to operation of stations on Class I-B frequencies.

49. The Commission has previously recognized Exhibit 109 as "the most comprehensive and realistic tool yet devised for evaluation of standard broadcast service" (emphasis added). A number of comments noted however, and we agree, that adoption of standards based upon definitions of service given in this Exhibit would not lend themselves to convenient administration. We are disposed to assign considerable weight to the requirement that standards be susceptible of practical administration, in order to facilitate implementation of the allocation plan we adopt with minimum procedural delays. Observing this criterion, and giving due consideration to all comments filed, we have determined that the new assignments on Class I-A channels provided for herein shall be based on somewhat simpler concepts along the lines presently embodied in our rules, i.e., protection of the Class I-A stations normally to their 0.5 mv/m 50 percent skywave contours. However, location of 50 percent and 10 percent time skywave contours will be determined by a method slightly different from that now used on clear channels, i.e., by use of skywave curves contained in a new Figure 1a of § 3.190, which are the same as those contained in Appendix E to Annex 2 of NARBA; and, as to pertinent angle of departure, use of present Figure 6a of § 3.190, which is now used for frequencies other than clear channels (as to which Figure 6 is used), and which is the same in pertinent part as Appendix F to Annex 2 of NARBA. The location of the 50 percent time contour will be determined by the use of Curve number one of Figure 6a, with the title of that figure modified accordingly. For the time being, assignments on Class I-B channels will con-

tinue to be based on Figure 1 and Figure 6 of that section.^{6a}

50. Use of the new Figure 1a and Figure 6a, the NARBA curves, instead of present figures 1 and 6, has several advantages. First, it makes more uniform the treatment of applications from a domestic and from an international standpoint. Second, as a step toward elimination of Figures 1 and 6, it works toward simplifying the Commission's rules by providing for only two standards instead of the present three. Third, use of the NARBA skywave curves and the more refined figure 6a, angle of departure curves, will give somewhat more realistic results in terms of extent of service, interference and protection. Fourth, the computation process involved in using new figure 1a and figure 6a is somewhat simpler. Lastly, use of these figures, especially 6a instead of 6, will result in more complete protection of the I-A station to its 0.5 mv/m 50 percent skywave contour, the desired objective. We have also considered the use of the latitude-corrected curves contained in figure 2 of § 3.190, which are the same as the 10 percent time curve contained in exhibit 109; but we conclude that the considerations of simplicity mentioned above make preferable the use of the standards adopted here.

SERVICE TO NIGHTTIME "WHITE AREAS"

51. We have set forth above a minimum standard which the proposed new Class II-A assignments must meet in order to be entitled to consideration under our new rules—that at least 25 percent of the area or population within its nighttime interference-free service contour must not now receive any nighttime interference-free primary service from another station. We adopt this minimum criterion because obviously a proposed operation which would not add this much service to present "white" areas would not greatly serve to fulfill our objective, and at the same time would probably, if not certainly, block a later operation which would be of more value in this connection. We believe that prospective applicants in each case can and should be expected to pick locations and design operations which will meet this criterion.

APPLICATION PROCESSING

52. Applications for Class II-A assignments will not be placed in our normal processing line, but will be processed immediately. This is necessary if our objective, which these are the chief and first means of fulfilling, is to be attained with reasonable promptness. We disfavor exceptional priorities in license processing except where the most compelling circumstances call for them. It

^{6a}Because of the large distances involved between co-channel stations, the use of the frequencies 660 kc (New York City and Fairbanks, Alaska) and 770 kc (New York City and Albuquerque) will not be affected by the substitution of Figures 1a and 6a for Figures 1 and 6. This is primarily because at the distances between one station and the other (more than 1,400 miles) the pertinent angle of departure is virtually zero under either figure 6 or figure 6a.

it unquestionable, in our considered judgment, that the public interest in improved and increased AM broadcast services will be far better served by proceeding with the least possible delay to deal with Class II-A assignments, than by requiring them to wait until many hundreds of more routine applications which were previously filed have first been disposed of.

53. We will, however, allow a period of 90 days after the effective date of the rule amendments herein for the filing of applications for Class II-A stations before acting upon any of them, in order to afford reasonable opportunity for the submission of other applications which may more effectively serve the major objective of reducing nighttime white areas. Where more than one application for an assignment provided for herein is filed, a comparative hearing will, of course, be required.

PROHIBITION OF NEW DAYTIME ASSIGNMENTS ON CLASS I-A CHANNELS

54. For a number of years, we have been concerned with the crowding, and indeed over-crowding, of the daytime standard broadcast spectrum, which has not brought a corresponding gain in service. Not only has such intensive crowding of stations into the spectrum not brought the amount of needed additional service which had been hoped for, but it has been argued that economic limitations on programming for very limited audiences in very small interference-free service areas have prevented individual stations from rendering the quality of broadcast service which they might otherwise provide. It is the I-A channels to which we must look primarily for achievement of our overall allocations objectives. Therefore, for these and related reasons, we have concluded that the I-A channels should not be opened for the assignment of stations on the same uncontrolled basis prevailing in the AM service generally, where each application is considered separately except with respect to conflicting applications or objectionable interference to specific existing stations. Further assignments on the I-A channels should be made in accordance with an overall plan which will achieve our various objectives, including provision of maximum service to underserved areas, provision of local outlets for the maximum number of communities, and others.

55. We have achieved such plan with respect to the making of the Class II assignments provided for herein. After the specific location and facilities of the Class II stations have become established, the way would be open for consideration, in subsequent rule making proceedings, of any further proposals which may be submitted for additional unlimited-time Class II assignments on the Class I-A channels in question. As in the case of the Class II-A assignments for which we now provide, any such rule making proposals would be examined in the light of the prime objective of further reducing nighttime white areas while at the same time affording due protection to the co-channel Class I-A station.

56. In the circumstances we are amending the rules to remove provision

for new daytime stations on the 25 Class I-A clear channels. Pending applications therefor will be dismissed. It is evident that the assignment of new daytime stations on the Class I-A channels could in many instances frustrate the future optimum use of these channels for additional unlimited-time stations. Considering the potential reach of co-channel interference, the making of numerous daytime assignments on these channels could seriously impair the value of the new Class II-A assignments through extensive daytime interference to the new Class II-A station and by imposing protection requirements which the new Class II-A station would have to meet. Moreover, new daytime stations on the 12 Class I-A channels now held in status quo could hinder or obstruct whatever further use of the channels—higher power and/or additional unlimited-time assignments—may later be found appropriate in furtherance of our objective of improved overall radio service.

ADJACENT CHANNELS

57. Our Rules take into account objectionable groundwave interference not only between co-channel stations but also between stations 10 kc and 20 kc removed. As to skywave interference the rules (§ 3.182) take into account objectionable skywave-to-groundwave interference co-channel and between stations 10 kc removed.⁷ The rules (§ 3.37) also provide that two stations will not be authorized 10 or 20 kc removed when the 2 mv/m groundwave contour of one would overlap the 25 mv/m contour of the other, or 30 kc removed where the 25 mv/m groundwave contours would overlap.

58. Aside from some of the Class I-A channels themselves (as to which, since there will for the time being be no further applications other than those specifically provided for herein, no further consideration need be given in this connection), there are a total of 33 frequencies which are located adjacent to, i.e., within 30 kc of—one or more Class I-A channels. These include 14 I-B channels (other than 1030 kc, herein reclassified as I-A), 10 channels on which Canada or Mexico has priority for Class I-A use, 7 regional channels, and the two local channels 1230 and 1240 kc. In our judgment, it is obvious that we should not proceed to grant applications for these frequencies where the operation proposed would have a substantial impact on future optimum use of the Class I-A channels, either the specific use provided herein for 13 of them, or possible future uses of the other 12 which are to be the subject of continuing study.

⁷ Objectionable interference exists where the ratio between desired and undesired groundwave signals is less than: (1) Co-channel, 20 to one; (2) 10 kc apart, one to one; (3) 20 kc apart, one to 30 (§ 3.182(w)). Adjacent channel (10 kc removed) skywave-groundwave interference exists where the ratio is less than one to five. The rules also recognize adjacent channel (10 kc removed) groundwave-to-skywave interference; but since only Class I stations are generally regarded as rendering skywave service, this problem does not arise here.

59. The problem of protecting against such adverse impact from adjacent channel operations has two parts:

(1) Protection of the new unlimited time Class II assignments on 13 Class I-A channels from new or changed operations on adjacent channels which would thwart such new Class II assignments or jeopardize their value because of interference caused or received, or involve prohibited contour overlap;

(2) Protection of the future use to be decided upon for the remaining 12 Class I-A channels upon which the status quo is retained for the present.

Different kinds of restrictions are necessary with respect to frequencies adjacent to the two groups of Class I-A channels involved in (1) and (2) above. Since some frequencies are adjacent to Class I-A channels in both groups, it will be necessary (with the exceptions noted below) to impose both kinds of restrictions as to the adjacent frequencies so situated.

PROTECTION WITH RESPECT TO NEW CLASS II UNLIMITED TIME STATIONS

60. The frequencies which are adjacent to the Class I-A channels on which we now permit new Class II unlimited time assignments are:

680, 690, 710, 730, 740, 790, 800, 810, 850, 860, 900, 910, 920, 990, 1000, 1010, 1050, 1060, 1070, 1080, 1090, 1110, 1130, 1140, 1150, 1170, 1190, 1220, 1230, and 1240 kc.

We find that in order to avoid undue risk of mutual interference or prohibited overlap between stations on these frequencies and the new unlimited time Class II stations, which would seriously impair the value of the later, it will be necessary to process applications on the above-listed frequencies in accordance with the provisions of paragraph (a) of the appended revision of § 1.351 of the rules. When it appears that the adjacent channel facilities requested would involve undue risk of objectionable daytime or nighttime interference to, prohibitive daytime or nighttime interference from, or prohibited overlap with, a possible Class II assignment as provided herein, the possibly conflicting application will not be granted but will be held pending until the location of the new Class II station and its mode of operation are determined. If a hearing on the possibly conflicting application is in progress or is ordered for other reasons, the hearing will include an issue as to effect to or from the new Class II assignment. When the location and facilities of the new Class II station are determined, the other application will be: (1) Granted (or otherwise acted upon independently of the new Class II assignment), if it appears that interference or overlap conditions as mentioned would not exist; or (2) designated for hearing, where it appears that such conditions would exist. The hearing will not be comparative, but will be upon the issue of whether, with the Class II station operating as proposed, grant of the other application would serve the public interest, taking into account the extent of interference or overlap between the two operations.

61. In giving the foregoing priority to Class II assignments over conflicting assignments on adjacent channels we depart from long established bases for comparative consideration in such cases. We do so with full awareness of the requirements under section 307(b) of the Communications Act for fair, efficient and equitable distribution of radio facilities. After the most painstaking consideration we conclude that, in view of the paramount importance of enabling the new Class II-A stations to achieve—to the greatest extent possible—the primary objective of reducing nighttime white areas, for which Class I-A frequencies are best suited, it could only frustrate the effective implementation of section 307(b) and invoke wasteful hearing processes to no useful end, to apply here the long established route of the comparative routines which have hitherto been generally followed. In our judgment, the public interest will be much better served by giving the Class II-A stations the protection discussed above. Such action, although not conforming with past routines, is not unprecedented. It is basically similar to the precedence given Class I-A assignments over conflicting applications in the interest of service to areas which it is impracticable to reach with other classes of stations. Similar precedence in the case of the Anchorage and San Diego assignments is required in order to effectuate adjustments necessary to meet this Nation's international obligations.

62. It is apparent from the foregoing that we do not contemplate grant of any applications for facilities which would prevent making the new unlimited time Class II assignments established herein, or which could not co-exist with them. It is possible, however, that some assignments on adjacent frequencies may receive interference from these subsequently authorized Class II stations. Therefore, in order to provide the greatest opportunity for these new Class II assignments in furtherance of our objectives, and in order that, where appropriate, such assignments may be implemented without the cumbersome and time-consuming adjudicatory processes often involved in new AM assignments, we will impose, as a condition on any grant of an application for new or changed facilities on one of the frequencies listed in paragraph 60, the condition that the grant is subject to whatever objectionable interference may be received from any of the new Class II unlimited time stations provided for herein. Our rules are amended so as to provide that all grants involved are so subject, and every authorization on any of the indicated frequencies will carry this condition.

PROTECTION WITH RESPECT TO CLASS I-A CHANNELS LEFT IN STATUS QUO

63. The following frequencies are adjacent to the 12 Class I-A channels which for the time being we leave in status quo:

610, 620, 630, 680, 690, 710, 730, 790, 800, 810, 850, 860, 900, 1010, 1050, 1060, 1070, 1130, 1140, 1150, 1170, 1190, and 1220 kc.

We find that in order to avoid undue risk of frustrating future improvements to

service on the 12 Class I-A channels now left in status quo (whether by possible future authorization of higher power, by possible future Class II unlimited time assignments or, by possible combinations of these techniques) it is necessary to apply to applications on the above listed adjacent frequencies the restrictions set out in paragraphs (b) and (c) of § 1.351, as herein amended. We have omitted from the foregoing list two frequencies (740 kc and 1230 kc) notwithstanding the fact that, like those listed, they also are adjacent to Class I-A channels now held in status quo.⁸

64. The restrictions we impose on the adjacent frequencies listed in paragraph 63 will be maintained until September 1, 1964, by which time it is expected that we will be able to decide the future use of the 12 Class I-A channels now left in status quo. Should earlier decision be reached, it will be possible to shorten this period. In the interim we deem it necessary to defer the processing of all applications for new facilities on the listed frequencies, or for the change of existing stations to these frequencies. Only by this means is it possible to safeguard effectively against the assignment of new stations which could obstruct the possibilities for meaningful improvement of service by whichever of the techniques it may be found best to employ in improving service on the Class I-A channels now left in status quo. Additionally, as provided in the appended amendment to § 1.351, we will examine requests for modifications of outstanding authorizations on the frequencies listed in paragraph 63, with a view to insuring that those which propose increases of power, or which seek authorization to operate existing stations during nighttime hours not now authorized, will not prejudice the effectuation of service improvements on the 12 reserved Class I-A channels. Action will be deferred until September 1, 1964, on applications which we find would jeopardize such improvements.

65. It is because of the relative degree of possible impact that, in the restrictions summarized in paragraph 64, we have made a distinction between applications for new facilities and those for certain major changes. The effect of a change in facilities (without change of frequency) is more predictable in terms of possible impact on adjacent Class I-A channels, if for no other reason than that the station whose facilities are to be changed is already in existence, radiating and entitled to protection, and therefore—whatever may ultimately be determined as the optimum use for the Class I-A channel—the inhibiting effect on such use from the proposed change in facilities will often be inconsequential. In the case of a new station, on the other hand, the facilities would repre-

sent, almost by definition, a substantial new factor on the frequency which would have to be reckoned with in deciding the ultimate use of the adjacent Class I-A channel. This is true both because of the interference potential of the new operation, involving radiation in an area of the country where usually it did not exist before on that frequency, and because the new operation would be entitled to some degree of protection and would thus impose a limitation on use of the adjacent I-A channel in that area. Thus, until final decisions are reached as to the future uses of these Class I-A channels, any new station on an adjacent channel is quite likely to have a damaging adverse impact. We must, therefore, defer action on all such applications for the three-year period mentioned, i.e., until September 1, 1964, unless appropriate overall decisions can be made earlier.

PROTECTION WITH RESPECT TO ADJACENT CLASS IV CHANNELS

66. We recognize the need for exceptional treatment of 1230 kc and 1240 kc, which are Class IV channels. Both are adjacent to 1210 kc on which a new Class II-A station is proposed. Under separate rule amendments previously adopted the Commission has increased the daytime maximum power of Class IV stations from 250 watts to 1 kilowatt. There is strong reason for keeping the way open to the prompt processing of applications for such daytime power increases, in order that, insofar as possible, Class IV stations still operating with less than 1 kw daytime may have the opportunity to offset the interference effects of power increases by other Class IV stations. Since the power increase is confined to daytime hours, since there is a maximum limit of 1 kilowatt, and further, in view of the fact that the adjacencies here involved are 20 and 30 kc removed from the pertinent Class I-A channel, the regular processing and grant of these applications may not be expected to interfere unduly with the assignment of a Class II-A station on 1210 kc. Applications on 1230 and 1240 kc other than for daytime power increase will be considered in the light of possible impact on the Class II-A assignment, as provided in the revised § 1.351 of the rules.

67. For similar reasons, we refrain from imposing further restrictions on the use of 1230 kc, notwithstanding the fact that it is additionally adjacent to 1200 kc, one of the Class I-A channels on which we now preserve the status quo. Owing to the remoteness of the adjacency involved (30 kc removed), and the limitations otherwise imposed by our rules on the use of Class IV frequencies, we find that no useful purpose would be served by barring new Class IV assignments on 1230 kc, or by otherwise limiting the use of this channel.

RESULTANT REVISION OF FREEZE RULE

68. Hitherto, under a blanket freeze imposed by § 1.351 of the rules, the processing of all applications of designated types on all Class I-B channels within 30 kc of Class I-A channels has been deferred. Under § 1.351 as herein amended, the processing of applications

⁸Despite these adjacencies, it is not appropriate to subject 740 kc and 1230 kc to the same restrictions which are applied to the other frequencies listed in this paragraph. 740 kc is adjacent to 770 kc. The limits of future use of 770 kc are sufficiently defined by previous Commission decisions as to establish the degree of protection required to be provided to stations assigned to this channel. The special circumstances pertinent to 1230 kc are noted below in paragraph 67.

on frequencies adjacent to the Class I-A channels will, with one exception, no longer be deferred. Instead (with the one exception of applications for new stations on designated adjacent frequencies) processing of applications will proceed in the normal course. Only where it is determined that the grant of an application would jeopardize improvement of service on Class I-A channels as contemplated herein will we defer action on the adjacent channel application until further developments make it possible to evaluate the matter definitively.

69. While we thus moderate the former freeze, we at the same time have found it necessary, for reasons already stated in some detail, to extend to additional adjacent frequencies the remaining restrictions applied to preserve due latitude in making the most fair, efficient and equitable possible use of the Class I-A channels. Specifically, we now bring within the purview of the amended § 1.351 frequencies which, like those formerly included, are within 10, 20 or 30 kc of a Class I-A channel. Although the rule had formerly applied only to Class I-B channels so situated, it has frequently been pointed out that, so limited, the rule hazarded damaging assignments on other classes of similarly adjacent channels. Since the only "freeze" (i.e., deferral of application processing) now retained has been narrowed to new assignments on channels adjacent to 12 of the Class I-A channels, § 1.351, as amended to include additional adjacent channels, will have less restrictive effect than if these channels had been so included when the "freeze" provisions applied to frequencies adjacent to all of the Class I-A channels. The fact that, animated by the desire to restrict the freeze, we formerly confined it to adjacent Class I-B channels, did result in assignments on similarly adjacent frequencies of other classes which to an extent have hampered and limited our efforts to make optimum use of the Class I-A channels on which we have found it desirable to permit new unlimited time Class II stations. This experience has demonstrated that continued omission of some adjacent frequencies from the restrictions imposed under § 1.351 is bound to create progressively serious jeopardy to the realization of the vital and basic objectives of the best utilization of the Class I-A clear channels. We thus have found it imperative to adjust § 1.351 in the manner described above. We do so with regret that it will create some delays, and only after reaching the considered judgment that, taking all pertinent factors into account, the public interest will be best served by the course here adopted.

SOME SPECIFIC PROBLEMS

70. A few specific problems and areas of comment should be noted at this point. As we noted in our Third Notice, the operations of KFAR, Fairbanks, Alaska, on 660 kc and of KOB, Albuquerque, New Mexico, on 770 kc, have caused us to conclude that no additional assignments on these two channels are warranted at this time.

71. One specific proposal for use of 770 kc was received but it was a proposal for multiple use of the frequency. We have already denied requests for multiple use at this time. Meredith Engineering Co., National Weekly, Inc., and Sky Broadcasting Service all sought multiple use of 660 kc in various diverse locations.

72. One other related proposal is the suggestion by WJR, The Goodwill Station, Inc., Detroit, the I-A station on 760 kc, that the use of 760 kw by KGU, Honolulu, Hawaii, should be considered as the duplication of that frequency and no further assignments made thereon. We cannot agree. In the case of 660 kc, we have recognized that because of the paucity of radio facilities operating in Alaska, it would be inadvisable to permit the same amount of interference to reach that area as we do in the remaining states where some 3,400 radio stations are in operation. Alaska, with its vast remote area, is highly dependent upon its radio services. KFAR can serve most of Alaska, which obviously does not receive services from other states, but could not do so if we authorized another station on 660 kc somewhere in the Southwest. We are motivated in this regard by the need for protection against the potential interference which would be caused to the Alaska station by a new Class II station so located that it would protect the dominant station and also comply with restrictions caused by operation of a co-channel station in Cuba. There is no similar need to protect 760 kc in Honolulu, several thousand miles from the mainland. Moreover, it is WJR, the I-A station on the frequency, which makes the suggestion—and not KGU. WJR, along with all other Class I-A stations, will be protected to its 0.5 mv/m 50 percent skywave contour.

640 KC AND 830 KC

73. While neither 640 kc, on which KFI operates as the I-A station at Los Angeles, nor 830 kc, on which WCCO operates as the I-A station at Minneapolis, is authorized for use by a Class II-A station, both of these frequencies should be given special attention here because of pending hearings which involve the question of additional use of those frequencies.

74. On 640 kc, Station WOI, Ames, Iowa (which is regularly licensed to operate on this frequency daytime with 5 kw nondirectionally), operates with 1 kw power from 6:00 a.m., c.s.t., to sunrise at Ames, which is during nighttime hours when sunrise is later than 6:00. Notwithstanding the fact that this operation does not meet the conditions of § 3.78 of the rules concerning presunrise operation of daytime stations on clear channels, the Commission has, since 1944, authorized such presunrise operations by WOI under a series of Special Service Authorizations (and more recently under other temporary authority), a type of authorization employed in exceptional circumstances to permit uses of AM frequencies for which provision is not made in the general rules. There is currently pending an adjudicatory proceeding, Docket No. 11290, in

which there is at issue the basic question of whether the public interest would be served by continuing to authorize WOI's presunrise operation.

75. Since 1943, WNYC, a municipally owned and operated station at New York City, has been permitted under a series of temporary authorizations to operate on 830 kc during certain nighttime hours: 6:00 a.m., e.s.t., to local sunrise and from sunset at Minneapolis to 10:00 p.m., e.s.t., with power of 1 kw. (WNYC's regularly licensed limited time operation on 830 kc is at 1 kw power, with a different directional antenna.) Notwithstanding the directional antenna employed, WNYC's operation during nighttime hours causes interference within the secondary service area of WCCO at Minneapolis. In a pending adjudicatory proceeding (Docket No. 11227) consideration is being given to the question of whether, balancing the interference caused to WCCO against the service WNYC renders during nighttime hours, the public interest would be served by continuing to permit WNYC's nighttime operation, for which no provision is made in the AM rules governing the use of Class I-A frequencies.

76. We do not here decide upon or prejudice the decision in those adjudicatory proceedings. In one pertinent respect, however, it is appropriate to take action in this proceeding by way of amending the clear channel rules to establish the basis for the regular licensing of WOI's presunrise operations and WNYC's nighttime operations so that in the event it is decided in the adjudicatory proceedings that such operations are in the public interest the way will be clear procedurally for applications to be filed for such operations on a regular basis.

750 KC AND 760 KC

77. In two instances we have provided for a solution to special problems arising by virtue of the entry into force of the United States-Mexican Broadcasting Agreement, by allocating 750 kc to Anchorage, Alaska for use by station KFQD and 760 kc to San Diego, Calif., for use by station KFMB.

78. The Agreement between the United States of America and the United Mexican States Concerning Broadcasting in the Standard Broadcast Band signed in January 1957, gives Mexico a Class I-A priority on 540 kc and thus precludes its continued use at San Diego. While discontinuance of this particular use of 540 kc in the United States is offset by advantages deriving from the provisions of the Agreement for reciprocal protection on all AM broadcast frequencies, the problem remains of finding a suitable frequency on which the service heretofore provided by KFMB at San Diego may continue to be rendered to that community and adjacent areas. It is appropriate that use be made of the relatively uncluttered spectrum space still open on the Class I-A clear channels, and that provision be made in this proceeding—which embraces the allocation questions pertaining to all Class I-A frequencies—for a substituted assignment to San Diego. A painstakingly

careful review of all the availabilities persuades us that 760 kc is the preferable choice, taking into account requirements of protection to Mexican stations on other Class I-A channels, the availabilities of some other Class I-A clear channels for new Class II-A stations at other places in the United States, domestic and Canadian co-channel and adjacent channel limitations on the allocation of individual Class I-A clear channels, and related considerations. We accordingly herein assign 760 kc for use for a Class II unlimited time operation at San Diego. Exceptionally, in this instance, we confine the assignment to a specific city instead of making it available generally throughout one or more states in conformity with the general pattern of clear channel reallocations adopted herein.

79. In reaching this decision, we have given consideration to all comments relating to KFMB's request for shift to 760 kc or other frequency, and to possible alternative solutions. These include comments by stations KFSD, San Diego, WJR, Detroit, and other comments bearing on this problem. We note the interest of KFSD, a station operating at San Diego on 600 kc, in shifting to a Class I-A frequency if any should be made available. Parties interested in securing a Class II-A operation in California may apply for 1120 kc which is herein made available for application in California or Oregon. The interests of any other parties in the use of 760 kc at San Diego can, of course, be considered in connection with renewal of KFMB's license on that frequency. We are not, however, using 760 kc to solve the main issues of the clear channel proceeding but for this special limited purpose. Therefore, it will not be available under the criteria governing Class II-A stations but will be authorized to operate with 5 kw of power, the power presently used by KFMB on 540 kc. Finally, we recognize that an authorization under this rule will require waiver of section 3.37 of our rules because of a 2 mv/m and 25 mv/m overlap with station KBIG, Avalon, California (740 kc).

80. In like manner, we are reserving 750 kc, herein assigned to Alaska, for use at Anchorage by KFQD, which must vacate 730 kc under the terms of the Mexican Agreement. This special need results in the use of 750 kc in Alaska, rather than in Arizona as proposed by the Third Notice. Moreover, our careful search has disclosed no other frequency which, under the general allocation plan we adopt, could be allocated to Arizona. However, the comments received under the Third Notice show that 750 kc would have been "unworkable" in Arizona in any event. Use of 750 kc in Arizona is undesirable because it would present serious adjacent channel problems and the assignment could not be used in wide areas of the state. The necessity of avoiding interference to KUEQ (740 kc, Phoenix), coupled with its central location in Arizona, constitutes a formidable bar to the flexible use of the frequency within the state. Other substantially limiting factors to such assignment would be the necessity of protecting co-channel station KMMJ,

Grand Island, Nebraska, and an adjacent channel station (740 kc) at Cortez, Colorado. These stations would probably forever limit an Arizona station on 750 kc to a power of 10 kw and would seriously restrict its location. We note, in passing, that no specific proposals were received requesting 750 kc for Arizona. We have given the parties comments and proposals careful consideration and agree that 750 kc is not a desirable assignment for Arizona. Because of the special use made of 750 kc, it will not be governed by the criteria applying to Class II-A stations. Its use at Anchorage will be limited to 10 kw, the power presently used by station KFQD on 730 kc.

81. We note with respect to both the Anchorage and San Diego assignments made herein on 750 kc and 760 kc, that neither serves the primary objective of the clear channel reallocations adopted in the appended rule amendments: i.e., the provision of primary service to white areas. Were it not for the special and compelling circumstances which justify the exceptional use of these frequencies as herein provided for, we would have preferred to allocate them for stations which would provide a first primary service in white areas. We nevertheless conclude, after a painstaking balancing of all pertinent considerations, that it is appropriate and desirable to make the exceptional provisions for 750 kc and 760 kc which we here adopt. As to both, we impose a requirement that they protect the 0.5 mv/m 50 percent skywave contour of the Class I-A station operating on the same channel. In addition, they will, of course, be required to meet the daytime protection standards presently contained in the rules.

KOB (770 KC)

82. The special circumstances relating to 770 kc and 1030 kc relate largely to the "KOB problem". In 1940, as in prior years, stations WJZ, New York City (now WABC), WBZ, Boston, and KOB, Albuquerque, operated as Class I stations on the clear channels 760 kc, 990 kc, and 1180 kc, respectively, § 3.25(a) of our rules then providing that 760 kc and 990 kc were I-A clear channels, and 1180 kc was a I-B clear channel. Under the reallocations effected in late 1940 and early 1941 to implement the first North American Regional Broadcasting Agreement, all of these stations were required to change frequency. WABC (WJZ) was shifted to 770 kc, and under the rule amendments effective March 29, 1941, that frequency became a I-A clear channel. As part of the overall reallocation (in which many stations were moved to higher frequencies) it was necessary to remove KOB from 1180 kc, and no frequency could be found on which that station could retain its I-B status. Accordingly, WBZ and KOB were both assigned to 1030 kc, WBZ as a Class I-B station and KOB as a Class II station, and began operation on this frequency

March 29, 1941. The rule amendments effective the same date made 1030 kc a Class I-B frequency. Because of the limited service KOB could render on 1030 kc, efforts were made to find a frequency on which its service area would be larger. Accordingly, in October 1941, KOB received a Special Service Authorization to operate on 770 kc with 50 kw day and 25 kw night, nondirectionally. Since October 1941, KOB has operated on 770 kc, under a series of SSA's and most recently under temporary authority.¹⁰

83. Early in 1944 KOB applied for modification of construction permit and license to operate on 770 kc with 50 kw power, unlimited time and nondirectionally. It was the hearing proceeding on this application. (Dockets 6584 and 6585) which ultimately resulted in our decision of September 1958 (25 FCC 683, 16 RR 765), in the "KOB case". This hearing, after an extensive inquiry into 10 possible modes of operation by KOB (4 on 770 kc and 6 on 1030 kc) resulted in a determination that the public interest would best be served by KOB and WABC both operating on 770 kc as Class I stations, affording each other mutual protection by directionalizing their operations at night. The Commission accordingly amended its Rules to permit assignment of two Class I stations on 770 kc. Of great importance in reaching this conclusion was the fact that KOB would render a much larger nighttime primary service¹¹ under this mode than under any other mode, as well as some secondary service, including secondary service to an area in the West which receives only two other secondary service and has no nighttime primary service. (See 25 FCC 771-782, 16 RR 859-873.) The decision took into account the loss of service from WABC which would be entailed by requiring that station to directionalize (which would occur largely in the East, where service is substantially more abundant); and there was specific comparison of the mode finally selected with operation by KOB as a Class II station protecting WABC's present service. (See 25 FCC 778, 16 RR 866-867.) The decision outlined various procedural steps designed to implement this conclusion; KOB, as permitted by the decision filed an amendment to its 770 kc application looking toward the operation decided upon. Pending action on this application, KOB continues to operate on 770 kc under its temporary authority, with 50 kw daytime and 25 kw, direc-

¹⁰ In 1957, pursuant to an Order of the Commission following a mandate of the Court of Appeals for the District of Columbia, KOB's nighttime operation was directionalized so as to substantially protect WABC from objectionable interference within that station's 0.5 mv/m 50 percent skywave contour, and it presently operates on that basis. However, KOB has continued to be licensed for operation on 1030 kc, presently holding a renewal of license until 1962 on that frequency, even though it does not operate thereon.

¹¹ Under this mode of operation KOB can provide a nighttime primary service to 156,275 persons who lack any such service from other stations as compared to only 37,483 persons who would be so benefitted if KOB should operate as a Class II station protecting WABC.

¹² For a more complete history of this matter, see the Commission's decision in Albuquerque Broadcasting Co., Appendix A, 25 FCC 683, 794; 16 RR 765, 883 affirmed 280 F. 2d 631, 20 RR 2001 (1960).

tionalized to protect WABC, at night. WABC has consistently opposed KOB's assignment to 770 kc, and in its presently pending application for renewal of license indicated that it does not acquiesce in our conclusion that its nighttime operation should be directionalized to afford KOB mutual Class I protection. Since the rule amendment is phrased in permissive rather than mandatory terms, WABC's renewal application is not technically in conflict with the amended rules. KSTP, Inc., the licensee of KOB, has filed an application for facilities on 770 kc at New York City, directionalized as set forth in our KOB decision, obviously in conflict with WABC's renewal application.

84. ABC appealed our decision to the United States Court of Appeals for the District of Columbia, which in May 1960 affirmed the Commission. (American Broadcasting Company v. FCC, 280 F.2d 631 20 R.R. 2001.) However, the Court added: "at the same time, we do not think that the position of ABC as a network should be permanently prejudiced by forcing it to share a channel if other networks are given full use of clear channels. This inequity, if it exists or is permitted to exist, should be cognizable by the Commission in a proper proceeding brought before it by ABC, even though the assignment of KOB to 770 kc is permitted to continue. In other words, the Commission should seek to provide channel facilities to the ABC network on a basis which is fair and equitable in comparison with other networks. Whether this is to be done by permitting ABC to intervene in the clear channel proceedings now pending, or through some other means, is not for us to say. It may be that ABC can raise its claims in this regard by filing competitive applications when present licensees on other frequencies seek renewal or by seeking modification of existing licenses held by others. Perhaps the Commission will afford, sua sponte, some other procedural remedy. Thus, we do not believe that ABC has been or should be precluded from a hearing on its claim that the public interest requires that the loss of service in the East, which Class I broadcasting from Albuquerque produces, be absorbed by some eastern broadcaster other than WABC. Any failure by the Commission to give due consideration to ABC's claim for treatment comparable to that accorded to other networks, when raised in an appropriate manner, may be brought to the courts for review."

85. In view of the above language of the Court of Appeals and the need for further hearings concerning some or all of the three pending applications mentioned above, it is not appropriate here to determine finally the exact form of operations which will be permitted on the channel 770 kc. However, we have in our deliberations herein reviewed the disposition to be made of all of the clear channels, including that frequency, and certain conclusions as to the "KOB problem" and 770 kc are required and appropriate at this point. These, which are discussed in more detail below, are as follows:

(a) For reasons stated at length in the KOB decision, and in line with our gen-

eral conclusions reached herein concerning the need for using I-A channels to provide a first nighttime primary service in underserved areas, the public interest requires the establishment of a major unlimited time facility in New Mexico. This is particularly true in the unique "KOB case," where the area once had Class I service and was deprived of it because of the reallocations required in 1941 in connection with the first NARBA.

(b) The frequency 1030 kc, being greatly inferior to 770 kc for such operation for reasons stated in the KOB decision, can no longer be regarded as involved in the "KOB problem", and is available for other use. Its utilization is discussed below.

(c) The frequency 770 kc is the one most suitable and appropriate for such operation by KOB. We did not consider alternative frequencies other than 770 kc and 1030 kc in the KOB proceeding, and we should not and indeed cannot consider them further—e.g., on the basis of an evidentiary record as requested by ABC—either here or in whatever hearings may take place with respect to the 770 kc applications mentioned above.

(d) Whatever may be the ultimate decision as to operation by New York and Albuquerque stations on 770 kc, we conclude with respect to this channel, for the same reasons discussed above with respect to the I-A channels generally, that multiple breakdown thereof, with more than two stations operating at night, is not in the public interest at this time. Therefore pending applications for unlimited time operations by other stations on this frequency will be dismissed.

86. The only one of these points requiring further discussion is the selection of 770 kc as the frequency for the New Mexico unlimited time assignment, without further consideration of other frequencies on the basis of an evidentiary hearing as requested by ABC. This channel was selected in the KOB case as one of two for consideration, because of the historical association of that frequency with the "KOB problem". Of the two channels so studied, 770 was selected as greatly preferable to 1030 kc. The Court of Appeals affirmed our actions in both respects. Upon further examination of all of the channels, we find 770 kc to be the appropriate one for use in New Mexico. It must be borne in mind that the overall allocation scheme adopted herein was carefully worked out, as it had to be, to take into account the numerous problems involved in making the new assignments on the I-A channels—protection of Canadian and Mexican stations, protection of our own co-channel and adjacent channel assignments, placing the new stations far enough from the co-channel Class I-A stations so that the former can render a reasonable amount of service, and avoidance wherever possible of having the new unlimited time stations in adjacent states on channels only 10 kc apart. The assignment of 770 kc for use in New Mexico meets these requirements, and permits the rendition of a large amount of much-needed service in that area. Our decision affirming that assignment is based upon what we deem

best for the public with due regard for present and potential service in the standard broadcast medium. Whatever significance considerations relating to "networking" and network competition may have in other contexts—a matter we do not decide here—we cannot conclude that the public interest would be served by attempting to redesign the entire nationwide allocation of frequencies adopted here solely in order to alleviate whatever adverse situation may confront ABC in these respects.¹² Consideration of this character, which are subject to frequent change, cannot be of great consequence in deciding wide-ranging, basic, and relatively permanent allocations questions such as those involved here.

87. For these reasons, ABC's request for evidentiary hearing on alternative frequencies for the New Mexico assignment must be denied. Moreover, it would make a complete travesty of our efforts to resolve the many and fundamental clear channel allocation problems, involving hundreds of stations all over the country, if we were to proceed to consider other alternative frequencies on the basis of an evidentiary record. As mentioned above, there is no one single obvious alternative. Even if limited to three as proposed by ABC, such an inquiry would obviously take a vast additional amount of time; and there is no reason why licensees of stations affected by inquiry into these frequencies could not suggest still further alternatives which we would be compelled to consider. While such a proceeding, doubtless of several years' duration, would be going on, not only would resolution of the "KOB problem" be delayed, but we could not proceed finally with any substantial reallocation of clear channels anywhere, because we would not know what frequency would finally be selected for this important use. A blanket "freeze" on a substantial portion of the broadcast spectrum, affecting many applications, would have to be maintained for the same indefinitely long period.

88-89. Whatever disposition is finally made as to operation on 770 kc, the use of this frequency will harmonize with uses herein made of Class I-A channels for the provision of much needed nighttime primary service in areas otherwise lacking it. The Class I-A channels formerly reserved for the exclusive nighttime use of a single station, on which

¹² There is no one other frequency which could be considered as an obvious alternative to 770 kc for Class I use at Albuquerque, even aside from the other disposition of the various I-A channels made herein. Of the three proposed by ABC—660, 680, and 1180 kc—880 and 1180 kc would not provide as much needed primary service in the Southwest as does 770 kc. As to 660 kc, while this frequency might afford somewhat more of such service in the Southwest, this channel has long been used by station KFAA, Fairbanks, Alaska, in addition to the Class I-A station at New York City. Such use we have concluded herein to be consistent with our allocation plan. Additional use at Albuquerque would raise slightly the nighttime limit to KFAA in Alaska, and thus prevent that station to some extent from rendering widespread and needed service.

we now permit two unlimited time stations, include all those occupied by network owned stations.

90. In view of the foregoing considerations, we here affirm our KOB decision insofar as it determined that a major unlimited time facility should be assigned to New Mexico on 770 kc and amended rules to permit the assignment of two Class I stations on that frequency.

KOA

91. Metropolitan Television Company, licensee of KOA, Denver, Colorado, admits that since the I-A channels, rather than the I-B channels, form the basis for our overall allocation plan, KOA is not directly affected. However, it urges that KOA be restored to Class I-A facilities. It does not suggest what to do with the 10 full-time stations now sharing its frequency. The KOA request goes beyond anything adopted herein and must be denied.

1030 KC

92. Since 1030 kc is no longer involved in the "KOB problem", we proposed in our Third Notice to permit a Class II unlimited time assignment on that frequency in Montana or Wyoming.¹³ That Notice also contemplated the use of 650 kc in Montana and 1180 kc in Wyoming. We have seen that 650 kc is not one of the frequencies on which duplication will now be permitted. As to 1030 kc and 1180 kc, further examination has revealed that by utilizing 1030 kc in Wyoming and 1180 kc in Montana greater protection can be afforded to the I-A operation at Salt Lake City which provides the only I-A service to vast regions of Idaho, Utah, Wyoming, Nevada, Arizona, New Mexico, and Colorado. The change involves only the Montana and Wyoming assignments and each of these states still receives one Class II-A assignment. No proposals were received pursuant to the Third Notice with respect to either of these frequencies. Moreover, assignment of 1030 to any portion of Wyoming and 1180 to any portion of Montana is not precluded by the location of the I-A stations on those channels.

93. Such use of 1030 kc, is, of course, similar to that now adopted for those I-A channels on which duplication will be permitted. 1030 kc is now a I-B channel under our rules, though assigned to the United States for priority of use as a I-A channel under the 1950 North American Regional Broadcasting Agreement, and the 1957 Agreement between the United States of America and the United Mexican States Concerning Radio Broadcasting in the Standard Broadcast Band. The question is whether this frequency should be reclassified as a I-A channel in our rules. In the pending file (because of the "freeze")¹⁴ are some

six applications for use of this frequency on an unlimited time Class II basis in the continental United States, none of which is for Wyoming. If 1030 kc becomes a I-A channel these applications, of course, cannot be granted under the rules we adopt herein as to the use of these channels.

94. We conclude that 1030 kc should be utilized by a Class II-A station in Wyoming and that it should be reclassified as a I-A channel. The reason why it was made a I-B channel in 1941—to afford an assignment for KOB in New Mexico—no longer exists, and therefore it is appropriate to give this frequency the status accorded it under international agreements. It must be borne in mind that a I-A channel—on which the United States or any other country having I-A priority is afforded protection to its borders rather than merely with respect to particular existing operations—is a national asset. We should not suffer a loss by default of such an asset to which we are entitled under international agreements. These considerations outweigh the restriction on unlimited time assignments which is entailed if 1030 kc is made a I-A channel. Moreover, the Class I-A assignment which is provided on that frequency is an integral part of the plan which we have adopted for achievement of the primary objective of improving service to white areas. We could not consider in any event the making of other unlimited time assignments which would impair the value of this new Class II-A allocation. The reclassification of 1030 kc is consistent with our decision mentioned above not to permit, for the present, use of the channels duplicated in this proceeding by more than one unlimited time Class II-A station. Accordingly, § 3.25 of our rules is amended herein to make 1030 kc a I-A channel, and the pending applications for unlimited time operation thereon within the continental United States will be dismissed.

DENIAL OF EDUCATIONAL RESERVATIONS

95. Comments pursuant to the Third Notice were filed by about 30 educational groups which requested that some or all of the proposed new Class II stations be reserved for educational use. Of this group, nine gave some indication that the commenting party itself is interested in obtaining the use of a clear channel frequency. One such party stated it has the necessary funds available to it.

96. The Commission has never reserved frequencies for educational use in the standard broadcast band. When television came to the fore as a new medium, we recognized the high costs of establishing a television station and the necessity, if educators were to be given sufficient opportunity to utilize the medium, that some channels be reserved for non-commercial use in the establishment of the Table of Assignments to give the educational community time to evaluate the uses of the medium, and to raise the huge sums required for the construction and operation of stations. This decision was necessitated in part by the limited number of channels available.

97. In AM radio, however, the situation has been somewhat different. Con-

struction costs are substantially less than they are for television stations. Radio as a medium has existed for many years and it is not necessary that educators be given time, as was required in the new medium of television, to study possible uses and the impact of the medium. We see no need in the public interest for the reservation requested. Our objective of securing nighttime primary service to areas which presently lack such service has been made clear. Detailed requirements that successful applicants for such stations must meet are enumerated herein. Moreover, as we noted in our Sixth Report and Order setting up the Table of Television Assignments, the potential of television for education is much greater and more readily apparent than that of aural broadcasting and that the interest of the educational community in the field is much greater than it was in aural broadcasting. Nothing we are adopting herein forecloses additional educational AM radio. Educational applications for the Class II-A stations hereby made available will be accepted on the same basis as are commercial applications. Those mutually exclusive applications complying with our rules will be given comparative consideration.

THE I-B CHANNELS

98. In our consideration of the clear channel proceeding in recent years, we have not contemplated breakdown of the I-B channels any further than at present. Because of the relatively complicated conditions and requirements which already obtain on these channels and which would have to be taken into account in any new allocation plan—requirements of protecting usually two co-channel United States I-B stations and a number of co-channel unlimited time United States Class II stations, foreign protection requirements, the fact that the United States receives protection on these channels only with respect to existing operations and not to the borders of the country, and similar factors—the Class I-B channels do not lend themselves to use in an overall allocation plan, and we must look primarily to the I-A channels for an allocation pattern designed to improve overall radio service.

99. Accordingly, we adopt herein no change in the established principles and standards governing the assignment of stations to Class I-B channels. Further, consistently with the changed mode of protecting future uses of Class I-A channels, we remove the blanket freeze hitherto applicable to 15 Class I-B channels and retain only the restrictions already discussed, which are adapted to and necessitated by our decisions concerning the utilization of the Class I-A channels.

CONCLUDING OBSERVATIONS

100. This proceeding, which was initiated in 1945 on eleven issues of wide scope, and pursued further under subsequent Notices issued in 1958 and 1959, has embraced an encyclopedic variety of approaches and proposals going to the basic question of how best to utilize almost half the spectrum space devoted to standard broadcasting. While the sheer

¹³ In view of KOB's operation on 770 kc, the fact that KOB has a license on 1030 kc is not an impediment to assignment of a new 1030 kc station elsewhere.

¹⁴ Section 1.351 of our rules, the "freeze" rule, provided that, pending the decision in Docket No. 6741, action would be withheld on applications for facilities on the I-A channels and on 1030 kc and 14 other I-B channels.

volume of the record and the fact that it has spanned a period of consequential change in standard broadcasting have added difficulty to the task of deciding upon the most desirable course, the Commission has been vastly assisted by numerous helpful contributions made in submissions on the record through testimony, exhibits, briefs, oral arguments, comments and other pleadings.

101. In the hard fought, head-on conflict between the two basic approaches of extending the reach of major stations on clear channels or increasing the numbers of stations permitted on these channels, much valuable data and analysis have been placed before us by the proponents of both approaches. Recognition is due to the fact that some merit attaches to very many of the proposals which have been urged upon us, including some of those which we herein reject. Our essential task in this proceeding has been to select among the myriad solutions offered those which, on net balance, taking into account the many pertinent considerations, would best serve the public interest. The opposed factors bearing upon our judgments in some instances are closely balanced. While recognizing that much can be said for numerous alternative approaches, we now conclude that the course laid out herein, both as reflected in the rule changes now adopted and in the preservation for the time being of the status quo on 12 Class I-A clear channels, represents the best solution available at this time.

102. Authority for adoption of the rule amendments herein is contained in sections 4 (i) and (j), 303 (a), (b), (c), (d), (f), (g), (h), and (r), and 307 (b) of the Communications Act of 1934, as amended.

103. In view of the foregoing: *It is ordered*, That, effective October 30, 1961, the Commission's rules are amended as set forth below; and

104. *It is further ordered*, That all pleadings, petitions, comments and reply comments, requesting other changes in our rules relating to clear channels; requesting that no changes be made; requesting further hearing, oral argument, or evidentiary hearing; or requesting other relief not adopted herein are denied; and

105. *It is further ordered*, That this proceeding, Docket No. 6741, is terminated.

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

Adopted: September 13, 1961.

Released: September 14, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,¹⁶

[SEAL] BEN F. WAPLE,
Acting Secretary.

1. Section 1.351 is amended to read as follows:

§ 1.351 Applications for frequencies adjacent to Class I-A channels.

Notwithstanding the provisions of any other rules of the Commission, all appli-

¹⁶ Commissioner Lee dissenting; Commissioner Cross dissenting in part.

No. 182—4

cations (regardless of when they were or may be filed) for frequencies located within 30 kc of a Class I-A channel listed in § 3.25(a) of this chapter will be subject to the provisions of this section. The provisions of paragraph (a) of this section apply to the frequencies listed therein, which are within 30 kc of a Class I-A channel on which an unlimited time Class II assignment is specifically provided for in § 3.22 or § 3.25(a) of this chapter. The provisions of paragraphs (b) and (c) of this section apply to the frequencies listed in paragraph (b) of this section, which are within 30 kc of the remaining Class I-A channels. Where a frequency is listed both in paragraphs (a) and (b) of this section, applications for facilities on such frequency are subject to the provisions and restrictions contained in both of said paragraphs.

(a)(1) The provisions of this paragraph apply to the following frequencies:

680, 690, 710, 730, 740, 790, 800, 810, 850, 860, 900, 910, 920, 990, 1000, 1010, 1050, 1060, 1070, 1080, 1090, 1110, 1130, 1140, 1150, 1170, 1190, 1220, 1230, and 1240 kc.

(2) Where it appears that the facilities requested in any application for one of the designated frequencies (other than an application by an existing Class IV station to increase daytime power on 1230 or 1240 kc) involves undue risk of objectionable interference to, prohibitive interference from, or prohibited overlap with, a possible new Class II-A assignment specified in § 3.22 of this chapter or a new unlimited time Class II assignment at Anchorage, Alaska, or San Diego, California, specified in § 3.25(a) of this chapter, such application will not be granted until the location and operating facilities of such new Class II stations are established. Assignments of such new Class II stations will be made without regard to the pendency of applications on adjacent frequencies. Any hearing which may be held on such an application for an adjacent frequency will not be comparative with respect to the Class II facility, and any issues pertaining to the mutual impact of the Class II and adjacent channel operations concerned will be confined to the question of whether, with a Class II station operating as proposed, the public interest would be served by a grant of the adjacent channel application.

(b)(1) Until Sept. 1, 1964, or such earlier date as may be announced, the provisions of this paragraph and of paragraph (c) of this section will apply to all applications for the following frequencies:

610, 620, 630, 680, 690, 710, 730, 790, 800, 810, 850, 860, 900, 1010, 1050, 1060, 1070, 1130, 1140, 1150, 1170, 1190, and 1220 kc.

(2) Applications for new stations on, or for change of existing stations to, one of the designated frequencies will not be granted, and, except as provided in paragraph (c) of this section, will be placed in the pending file without further processing or consideration. Where before October 30, 1961, such applications had attained protected status under § 1.354 or by designation for hearing, they will retain such status to the extent so established. Additionally, such applications

will be protected, as provided elsewhere in the rules, through designation for hearing. They will not be otherwise protected.

(3) Applications for increase in power or operation during nighttime hours not previously authorized will be processed in normal course, but will be considered in the light of the effect that grant thereof might have upon possible future uses of the Class I-A channel or channels located within 30 kc of the frequency involved (e.g., authorization of power greater than 50 kw for Class I-A stations, or additional unlimited time co-channel assignments). Such applications will not be granted if it appears that they risk prejudice to such possible future uses of the Class I-A channels concerned, because of interference caused or received, or prohibited overlap. In these situations the application involved, if otherwise ready for grant (after hearing or otherwise) will be placed in the pending file. Where it appears that because of these considerations an application cannot be granted in due course, the applicant will be so notified and, notwithstanding the provisions of §§ 1.311 and 1.354, will be permitted to amend his application within 45 days of such notice, without change in position in hearing or on the processing line, in order to remove the circumstances which stand in the way of a grant. Applications will acquire and retain protected status as they would in normal course.

(4) Applications for other changes in facilities on the designated frequencies will be processed and acted upon in normal course.

(5) Action will not be withheld under this paragraph on applications for facilities in Alaska, Hawaii, Puerto Rico, or the Virgin Islands.

(c)(1) After October 30, 1961, hearings will not be designated on applications falling under paragraph (b)(2) of this section unless they conflict with applications not falling under paragraph (b)(2) of this section.

(2) If the decision in a hearing looks toward grant of an application which under paragraph (b)(2) or (3) of this section, cannot be made immediately, such application and all applications conflicting with it will be placed in the pending file, and will retain protected status.

2. In § 1.354, paragraphs (a) and (c) are amended, paragraphs (d) through (j), inclusive, are redesignated paragraphs (f) through (l), inclusive, and new paragraphs (d) and (e) are added, as follows:

§ 1.354 Processing of standard broadcast applications.

(a) Applications for standard broadcast facilities are divided into three groups.

(1) In the first group are applications for new stations (except applications for new Class II-A stations) or for major changes in the facilities of authorized stations, i.e., any change in frequency power, hours of operation, or station location: *Provided, however*, That the Commission may, within 15 days after the tender for filing of any application

for other modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore is subject to the provisions of § 1.359.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(3) The third group consists of applications for new Class II-A stations.

* * * * *

(c) Applications for new stations (except new Class II-A stations) or for major changes in the facilities of authorized stations are processed as nearly as possible in the order in which they are filed. Such applications will be placed in the processing line in numerical sequence, and are drawn by the staff for study, the lowest file number first. Thus, the file number determines the order in which the staff's work is begun on a particular application. There are two exceptions thereto: the Broadcast Bureau is authorized to (1) group together for processing applications which involve interference conflicts where it appears that the applications must be designated for hearing in a consolidated proceeding; and (2) to group together for processing and simultaneous consideration, without designation for hearing, all applications filed by existing Class IV stations requesting an increase in daytime power which involve interlinking interference problems only, regardless of their respective dates of filing. In order that those applications which are entitled to be grouped for processing may be fixed prior to the time processing of the earliest filed application is begun, the Commission will periodically publish in the FEDERAL REGISTER a Public Notice listing applications which are near the top of the processing line and announcing a date (not less than 30 days after publication) on which the listed applications will be considered available and ready for processing and by which all applications excepting those specified in exception (2) in this paragraph must be filed if they are to be grouped with any of the listed applications.

(d) Applications for new Class II-A stations are placed at the head of the processing line and processed as quickly as possible. Action on such applications may be at any time: (1) More than 30 days after public notice is given of acceptance of the application for filing, or (2) after January 30, 1962, whichever is later.

(e) The processing and consideration of applications for new stations or major changes on those frequencies specified in § 1.351 are subject to certain restrictions, as set forth therein.

3. Section 3.21 is amended to read as follows:

§ 3.21 Classes of standard broadcast channels and stations.

(a) *Clear channel.* A clear channel is one on which the dominant station or stations render service over wide areas, and which are cleared of objectionable interference within their primary service

areas and over all or a substantial portion of their secondary service areas. Stations operating on these channels are classified as follows:

(1) *Class I station.* A class I station is a dominant station operating on a clear channel and designed to render primary and secondary service over an extended area and at relatively long distances. Its primary service area is free from objectionable interference from other stations on the same and adjacent channels, and its secondary service area free from interference except from stations on adjacent channels, and from stations on the same channel in accordance with the channel designation in §§ 3.25 or 3.182. The operating power shall not be less than 10 kilowatts nor more than 50 kilowatts. (Also see § 3.25 (a) for further power limitation.)

(2) *Class II station.* A Class II station is a secondary station which operates on a clear channel (see § 3.25) and is designed to render service over a primary service area which is limited by and subject to such interference as may be received from Class I stations. Whenever necessary a Class II station shall use a directional antenna or other means to avoid interference with Class I stations and with other Class II stations, in accordance with § 3.182 (and § 3.22 in the case of Class II-A stations). Class II stations are divided into three groups:

(i) *Class II-A station.* A Class II-A station is an unlimited time Class II station operating on one of the clear channels listed in § 3.22 and assigned to a community within a state specified in the Table contained in that section. A Class II-A station shall operate with power of not less than 10 kilowatts nighttime nor more than 50 kilowatts at any time.

(ii) *Class II-B station.* A Class II-B station is an unlimited time Class II station other than those included in Class II-A. A Class II-B station shall operate with power not less than 0.25 kilowatts nor more than 50 kilowatts.

NOTE: The Class II station operating unlimited time on 760 kc at San Diego, Calif., shall be limited to a power of 5 kw and the Class II station operating unlimited time on 750 kc at Anchorage, Alaska, shall be limited to a power of 10 kw. Both stations shall protect the I-A station on the same frequency to its 0.5 mv/m 50 percent skywave contour.

(iii) *Class II-D station.* A Class II-D station is a Class II station operating daytime or limited time. A Class II-D station shall operate with power not less than 0.25 kilowatts nor more than 50 kilowatts.

(b) *Regional channel.* A regional channel is one on which several stations may operate with powers not in excess of 5 kilowatts. The primary service area of a station operating on any such channel may be limited to a given field intensity contour as a consequence of interference.

(1) *Class III station.* A Class III station is a station which operates on a regional channel and is designed to render service primarily to a principal center of population and the rural area contiguous thereto. Class III stations are subdivided into two classes.

(i) *Class III-A station.* A Class III-A station is a Class III station which operates with power not less than 1 kilowatt nor more than 5 kilowatts and the service area of which is subject to interference in accordance with § 3.182.

(ii) *Class III-B station.* A Class III-B station is a Class III station which operates with power not less than 0.5 kilowatt, nor more than 1 kilowatt night and 5 kilowatts daytime, and the service area of which is subject to interference in accordance with § 3.182.

(c) *Local channel.* A local channel is one on which several stations operate with powers no greater than provided in this paragraph. The primary service area of a station operating on any such channel may be limited to a given field intensity contour as a consequence of interference. Such stations operate with power no greater than 250 watts nighttime, and power daytime no greater than:

(1) 250 watts if the station is located 100 kilometers (62 miles) or closer to the Mexican border, or in the area of the state of Florida south of 28 degrees north latitude and between 80 and 82 degrees west longitude; or

(2) 1 kilowatt if the station is located elsewhere.

(3) *Class IV station.* A Class IV station is a station operating on a local channel and designed to render service primarily to a city or town and the suburban and rural areas contiguous thereto. The power of a station of this class shall not be less than 0.1 kilowatt, and not more than 0.25 kilowatt nighttime and 1 kilowatt daytime, and its service area is subject to interference in accordance with § 3.182.

NOTE 1: Under NARBA, the power ceiling for Class IV stations is 250 watts daytime as well as nighttime. The U.S.-Mexican Agreement permits such stations to operate with up to 1 kilowatt power daytime if they are located further than 100 kilometers (62 miles) the Mexican border. Pursuant to the U.S.-Mexican Agreement and informal coordination with the other NARBA signatories, the Commission will consider applications for Class IV stations on local channels with daytime powers more than 250 watts, up to 1 kilowatt, if such station is to be located outside of the areas specified in subparagraph (1) of this paragraph, and if no objectionable interference would be caused (under the standards set forth in the pertinent international agreement) to a duly notified station in Mexico, Haiti, or any foreign country signatory to NARBA.

NOTE 2: All authorizations of new or changed Class I-B, Class II-B, Class II-D, Class III or Class IV facilities after October 30, 1961, are subject to whatever interference may be received from, or whatever overlap of 2.0 mv/m and 25 mv/m groundwave contours or overlap of 25 mv/m groundwave contours may be involved with, previously or subsequently authorized Class II-A facilities.

4. Section 3.22 is amended to read as follows:

§ 3.22 Assignment of Class II-A stations.

(a) *Table of assignments.* One Class II-A station may be assigned on each channel listed in the following table within the designated State or States:

Channel (kc)	Existing Class I station	State(s) in which Class II-A assignment may be applied for—
670	WMAQ Chicago	Idaho,
720	WGN Chicago	Nevada or Idaho.
780	WBBM Chicago	Nevada.
880	WCBS New York	North Dakota,
		South Dakota, or
		Nebraska.
890	WLS Chicago	Utah.
1020	KDKA Pittsburgh	New Mexico.
1030	WBZ Boston	Wyoming.
1100	KYW Cleveland	Colorado.
1120	KMOX St. Louis	California or Oregon.
1180	WHAM Rochester	Montana.
1210	WCAU Philadelphia	Kansas, Nebraska, or Oklahoma.

(b) *Minimum service to "White" areas.* No Class II-A station shall be assigned unless at least 25 percent of its nighttime interference-free service area or at least 25 percent of the population residing therein receives no other interference-free nighttime primary service.

(c) *Power.* Class II-A stations shall operate with not less than 10 kw power nighttime.

(d) *Protection—(1) Protection by Class II-A stations to other stations.* The co-channel Class I-A station shall be protected by the Class II-A station to its 0.1 mv/m contour daytime and its 0.5 mv/m 50 percent skywave contour nighttime. All other stations of any class authorized on or before October 30, 1961, shall normally receive protection from objectionable interference from Class II-A stations as provided in § 3.182.

(2) *Protection to Class II-A stations.* A Class II-A station shall normally receive daytime protection to its 0.5 mv/m groundwave contour and nighttime protection to the contour to which it is limited by the co-channel Class I-A station.

(e) *Applications not complying with this section.* Applications for Class II-A stations which do not meet the requirements of paragraphs (b) and (c) of this section will be returned without further consideration.

5. In § 3.24, paragraph (b) is amended; present paragraph (i) is redesignated paragraph (j); and new paragraph (i) is added; as follows:

§ 3.24 Broadcast facilities; showing required.

(b) That objectionable interference will not be caused to existing stations or that, if interference will be caused, the need for the proposed service outweighs the need for the service which will be lost by reason of such interference. (For special provisions concerning interference from Class II-A stations to stations of other classes authorized after October 30, 1961, see Note 2 to § 3.21 and § 3.22(d).) That the proposed station will not suffer interference to such an extent that its service would be reduced to an unsatisfactory degree. (For determining objectionable interference, see §§ 3.182 and 3.186.)

(i) That, in the case of an application for a Class II-A station (see § 3.22), 25 percent or more of the area or pop-

ulation within the nighttime interference-free service contour of the proposed station receives no nighttime interference-free primary service from another station.

6. In § 3.25, paragraphs (a) and (b) are amended to read as follows:

§ 3.25 Clear channels; Classes I and II stations.

(a) On each of the following channels, one Class I station will be assigned, operating with power of 50 kw: 640, 650, 660, 670, 700, 720, 750, 760, 780, 820, 830, 840, 870, 880, 890, 1020, 1030, 1040, 1100, 1120, 1160, 1180, 1200, and 1210 kc. In addition, on the channels listed in this paragraph, Class II stations may be assigned as follows:

(1) On 670, 720, 780, 880, 890, 1020, 1030, 1100, 1120, 1180, and 1210 kc, one Class II-A unlimited time station, assigned and located pursuant to the provisions of § 3.22.

(2) On the channel 750 kc, an unlimited time Class II station located at Anchorage, Alaska.

(3) On the channel 760 kc, an unlimited time Class II station located at San Diego, California.

(4) On any of the channels listed in this paragraph (to the extent consistent with the assignments provided in subparagraphs (1), (2), and (3) of this paragraph), unlimited time Class II stations located in Alaska, Hawaii, Virgin Islands, or Puerto Rico, which will not deliver more than 5 microvolts per meter groundwave day or night or 25 microvolts per meter 10 percent time skywave at night at any point within the continental limits of the United States excluding Alaska.

(5) On any of the channels listed in this paragraph (to the extent consistent with the Class I, Class II-A, and Anchorage and San Diego Class II assignments provided in this paragraph, and, in the case of limited time stations, subject to the restrictions contained in § 3.38), limited time and daytime only stations, as follows:

(i) In Alaska, Hawaii, Puerto Rico, and Virgin Islands.

(ii) Within the continental United States excluding Alaska, where the station would operate with facilities authorized as of October 30, 1961.

NOTE 1: In view of special circumstances arising from the provision of pre-sunrise broadcast service on 640 kc at Ames, Iowa, applications will be accepted for broadcast operations on 640 kc between 6:00 a.m., central standard time and local sunrise at Ames, Iowa, with not to exceed 1 kw power: *Provided*, That such applications will be acted upon only after and in light of the decision reached in Docket No. 11290.

NOTE 2: In view of special circumstances arising from the provision of a service during some nighttime hours by a Class II station operating on 830 kc at New York, N.Y. (i.e., from 6:00 a.m., to local sunrise and from sunset at Minneapolis to 10:00 p.m., e.s.t.), applications will be accepted for such operation: *Provided*, That they will be acted upon only after and in light of the decision reached in Docket No. 11227.

NOTE 3: On the frequency 770 kc, two Class I stations may be assigned.

NOTE 4: See NARBA concerning priority for Canadian Class I-B and Cuban Class I-C assignments on 640 kc.

NOTE 5: See NARBA concerning Cuban Class II-E assignments on 660, 670, 760, 780, 830, 1020, 1030, and 1120 kc.

NOTE 6: See U.S.-Mexican Agreement concerning Mexican use of 660, 760, and 830 kc.

(b) To each of the following channels there may be assigned Class I and Class II stations: 680, 710, 810, 850, 940, 1000, 1060, 1070, 1080, 1090, 1110, 1130, 1140, 1170, 1190, 1500, 1510, 1520, 1530, 1540, 1550, and 1560 kilocycles.

NOTE 1: See NARBA and the U.S.-Mexican Agreement concerning a Cuban Class II-E assignment on, and Mexican use of, 1030 kc.

NOTE 2: Class I and Class II stations on 1540 kc shall deliver not over 5 microvolts per meter groundwave or 25 microvolts per meter 10 percent time skywave at any point of land in the Bahama Islands, and such stations operating nighttime (i.e., sunset to sunrise at the location of the Class II station) shall be located not less than 650 miles from the nearest point of land in the Bahama Islands.

7. Section 3.28(a) is amended to read as follows:

§ 3.28 Assignment of stations to channels.

(a) The individual assignments of stations to channels which may cause interference to other United States stations only, shall be made in accordance with the provisions of this part for the respective classes of stations involved. (For determining objectionable interference, see §§ 3.22, 3.182, and 3.186.)

8. In § 3.182, the introductory text and subparagraphs (1)(i) and (2) of paragraph (a) are amended; paragraph (c) is added; and paragraphs (s), (t), and (v) are amended, as follows:

§ 3.182 Engineering standards of allocation.

(a) Sections 3.21 to 3.34, inclusive, govern allocation of facilities in the standard broadcast band of 535 to 1605 kc. § 3.21 establishes three classes of channels in this band, namely, clear channels for the use of high-powered stations, regional channels for the use of medium-powered stations, and local channels for the use of low-powered stations. The classes and power of standard broadcast stations which will be assigned to the various channels are set forth in § 3.21. The classification of the standard broadcast stations are as follows:

(1) * * *
(i) The Class I stations in Group I-A are those assigned to the channels allocated by § 3.25(a), on which, except to the extent provided by that section and by § 3.22, duplicate nighttime operation is not permitted. The power of these stations shall not be less than 50 kilowatts. The Class I stations in this group are afforded protection as follows:

Daytime: To the 0.1 mv/m groundwave contour from stations on the same channel, and to the 0.5 mv/m groundwave contour from stations on adjacent channels.

Nighttime: To the 0.5 mv/m, 50 percent skywave contour from stations on the same channel, and to the 0.5 mv/m groundwave contour from stations on adjacent channels.

(2) Class II stations are secondary stations which operate on clear channels with powers not less than 0.25 kw nor more than 50 kw, except that Class II-A stations shall not operate nighttime with less than 10 kw. Class II stations are required to use a directional antenna or other means to avoid causing interference within the normally protected service areas of Class I stations or other Class II stations (for special rules and standards concerning Class II-A stations, see § 3.22). These stations normally render primary service only, the area of which depends on the geographical location, power, and frequency. This may be relatively large but is limited by and subject to such interference as may be received from Class I stations. However, it is recommended that Class II stations be so located that the interference received from other stations will not limit the service area to greater than the 2.5 mv/m groundwave contour nighttime and 0.5 mv/m groundwave contour daytime, which are the values for the mutual protection of this class of stations with other stations of the same class (except that Class II-A stations are normally protected to their 0.5 mv/m groundwave contour daytime, and nighttime to the limit imposed by the co-channel Class I-A station).

(s) The existence or absence of objectionable groundwave interference from stations on the same or adjacent channels shall be determined by actual measurements made according to the method hereinafter described, or, in the absence of such measurements, by reference to the propagation curves of § 3.184. The existence or absence of objectionable interference due to skywave propagation shall be determined by reference to the appropriate propagation curves in Figure 1 or Figure 1a or Figure 2 of § 3.190.

(t) In computing the fifty (50) percent and the ten (10) percent skywave field intensity values of a station operating on a clear channel specified in § 3.25 (a), use shall be made of the appropriate curve set forth in Figure 1a of § 3.190, "Skywave Signals for 10 percent and 50 percent of the Time." In computing the fifty (50) percent and ten (10) percent skywave field intensity values of a station operating on a clear channel specified in § 3.25(b), use shall be made of the appropriate curve set forth in Figure 1 of § 3.190, entitled "Average Skywave Field Intensity (corresponding to the second hour after sunset at the recording station)." In computing the ten (10) percent skywave field intensity values of a regional channel station, use shall be made of the appropriate curve in Figure 2 of § 3.190, entitled "10 percent Skywave Signal Range." The curves in Figure 1 of § 3.190 are drawn for a radiated field of 100 mv/m at one mile in the horizontal plane from a 0.311 wavelength antenna. The curves in Figure 1a

and Figure 2 of § 3.190 are drawn for a radiated field of 100 mv/m at one mile at the vertical angle pertinent to transmission by one reflection. In computations based on Figure 1, the pertinent vertical angle shall be determined by use of Figure 6 of § 3.190. In computations based on Figures 1a or 2 of § 3.190, the

pertinent vertical angle shall be determined by use of Figure 6a of § 3.190.

(v) Protected service contours and permissible interference signals for broadcast stations are as follows (for Class I and Class II-A stations, see paragraph (a) of this section):

Class of station	Class of channel used	Permissible power	Signal intensity contour of area protected from objectionable interference. ¹		Permissible interfering signal on same channel ²	
			Day ³	Night	Day ³	Night ⁴
I-A-----	Clear-----	50 kw-----	SC 100 uv/m..	SC 500 uv/m (50% skywave). ¹	5 uv/m..	25 uv/m. ¹
I-B-----	do-----	10 kw to 50 kw-----	AC 500 uv/m..	AC 500 uv/m. ¹	5 uv/m..	25 uv/m.
II-A-----	do-----	(0.25 kw to 50 kw (daytime))	SC 100 uv/m..	SC 500 uv/m (50% skywave).	5 uv/m..	25 uv/m.
II-B and II-D-----	do-----	10 kw to 50 kw (nighttime).	AC 500 uv/m..	AC 500 uv/m. ¹	5 uv/m..	25 uv/m.
III-A-----	Regional-----	0.25 kw to 50 kw-----	500 uv/m..	500 uv/m. ²	25 uv/m..	Do.
III-B-----	do-----	10 kw to 50 kw (nighttime).	500 uv/m..	2500 uv/m. ³	do-----	125 uv/m.
IV-----	Local-----	0.1 to 0.25 kw (night), and 0.1 to 1 kw (day).	do-----	2500 uv/m. ³	do-----	Do.
			do-----	4000 uv/m. ³	do-----	200 uv/m.
			do-----	Not prescribed ⁶	do-----	Not prescribed. ⁴

¹ When a station is already limited by interference from other stations to a contour of higher value than that normally protected for its class, this contour shall be the established standard for such station with respect to interference from all other stations.

² For adjacent channel, see paragraph (w) of this section.

³ Groundwave.

⁴ Skywave field intensity for 10 percent or more of the time.

⁵ These values are with respect to interference from all stations except Class I-B, which stations may cause interference to a field intensity contour of higher value. However, it is recommended that Class II stations be so located that the interference received from Class I-B stations will not exceed these values. If the Class II stations are limited by Class I-B stations to higher values, then such values shall be the established standard with respect to protection from all other stations.

⁶ See paragraph (a)(4) of this section.

⁷ Class I-A stations on channels reserved for the exclusive use of one station during nighttime hours are protected, from co-channel interference on that basis. On the frequency 770 kc, two Class I stations may be assigned.

SC=Same channel. AC=Adjacent channel.

9. In § 3.185, paragraph (b), and the introductory text of paragraph (d) are amended, and new paragraph (k) is added, as follows:

§ 3.185 Computation of interfering signal from a directional antenna.

(b) For signals from stations operating on Class I-B clear channels (those specified in § 3.25(b)), in case of determining skywave interference from an antenna with a vertical pattern different from that on which Figure 1 of § 3.190 is predicated (the basis of the night mileage separation tables), it is necessary to compare the appropriate vectors in the vertical plane.

(d) Examples of the use of skywave curves on Class I-B clear channels:

(k) For signals from stations operating on Class I-A clear channels (those specified in § 3.25(a)), skywave interference is determined by using the 10 percent curve of Figure 1a of § 3.190, entitled "Skywave Signals for 10 percent and 50 percent of the Time." The pertinent angle of departure is to be determined by use of Figure 6a of § 3.190, in a manner similar to that described in paragraph (g) of this section for re-

gional stations. An example of the determination of skywave interference in this situation is as follows: Assume a Class I-A station and a proposed Class II-A station, operating on the same channel, are separated 1450 miles and that the 0.5 mv/m—50 percent skywave contour of the Class I-A station is located 740 miles from the station. The distance from the Class II-A station to the protected contour of the Class I-A station is 710 miles and from Figure 6a the critical angles of radiation are 5° to 9°. If the vertical pattern of the antenna of the proposed Class II-A station is such that between these angles the maximum radiation is 34 mv/m at one mile, the value of the 10 percent field as read from Figure 1a is multiplied by $34/100$ to determine the interfering 10 percent field intensity at the 0.5 mv/m—50 percent skywave contour of the I-A station, which would be 0.025 mv/m.

10. Section 3.190 is revised by adding new Figure 1a, and modifying the legend to the title on Figure 6a, and amending the text to read as follows:

§ 3.190 Engineering charts.

This section consists of the following figures: 1, 1a, 2, R3, 5, 6, 6a, 7, 8, 9, 10, and 11.

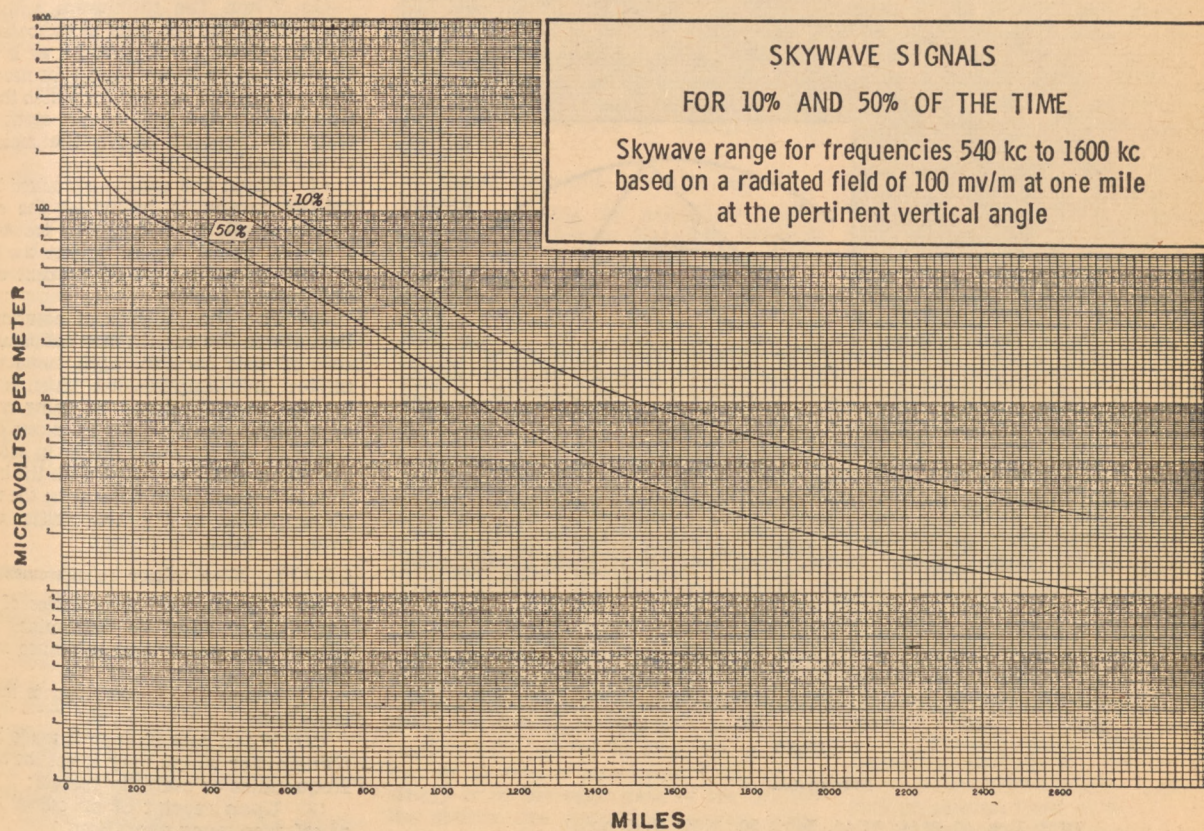


FIGURE 1A.

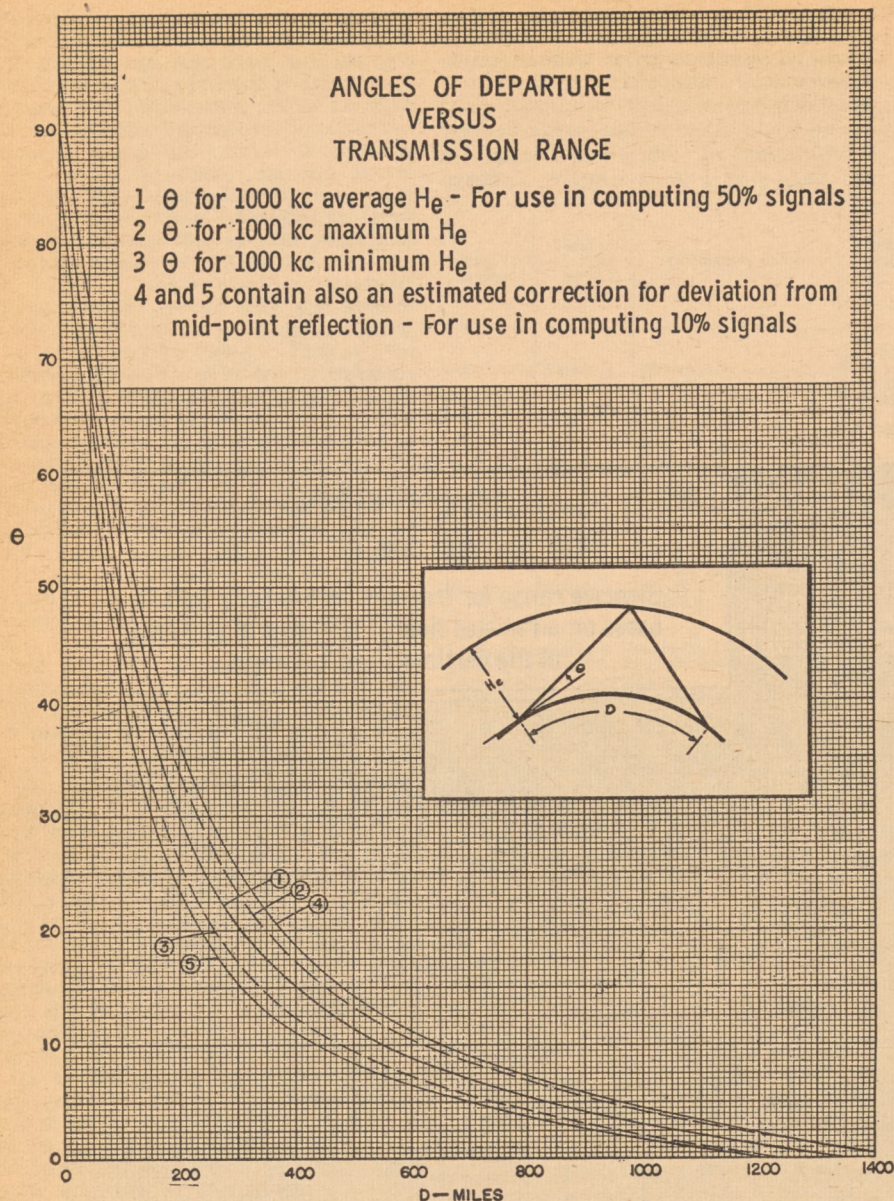


FIGURE 6A.

[F.R. Doc. 61-8944; Filed, Sept. 20, 1961; 8:45 a.m.]

[Docket No. 14161; FCC 61-1099]

PART 8—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Modulation Requirements, Maintenance of Transmitter Power, and Transmitter Measurements

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 13th day of September 1961;

The Commission having under consideration the above-captioned matter;

It appearing, that no comments concerning the notice of proposed rule making have been filed within the time provided for such filing; and

It further appearing, that no reason appears why the amendments should not

be adopted as proposed and that the public interest would be served thereby;

It is ordered, That pursuant to the authority contained in section 303 (e), (f), and (r) of the Communications Act of 1934, as amended, Part 8 of the Commission's rules is amended as set forth below, effective October 23, 1961.

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

Released: September 18, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL]

BEN F. WAPLE,
Acting Secretary.

A. Part 8 is amended as follows:

1. The provisions of §§ 8.109, 8.110 and 8.111 are revised and rearranged to read as set forth below:

§ 8.109 Modulation requirements.

(a) Transmitters using A3 emission shall be capable of proper technical operation with modulations of 75 percent on peaks but not more than 100 percent on negative peaks.

(b) Transmitters using F1, F2, or F3 emission shall be capable of proper technical operation with a frequency deviation of 15 kc, which is defined as 100 percent modulation.

§ 8.110 Maintenance of transmitter power.

(a) The actual power of each radio transmitter in a ship station shall be maintained within the following tolerance of the specific power authorized by the Commission for that transmitter:

(1) When the maximum authorized transmitter power only is indicated, the actual power shall, insofar as is practicable, not be more than that necessary to carry on the service for which the station is licensed and in no event more than 20 percent above the maximum power authorized;

(2) When the exact authorized transmitter power is indicated the actual power shall, whenever the transmitter is being operated, be within the limits of 120 percent and 80 percent of the authorized power.

(b) For the purpose of assuring adherence to the requirement of paragraph (a) of this section, each radio transmitter in a ship station which is rated by the manufacturer as being capable of a plate input power in excess of 200 watts or an antenna power in excess of 100 watts shall be fitted with the instruments necessary to determine the actual plate power to the transmitter whenever the latter is in use.

§ 8.111 Transmitter measurements.

(a) The carrier frequencies of each transmitter shall be determined to be within the prescribed tolerance as follows:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect the carrier frequencies or stability thereof;

(3) Upon receipt of an official notice of off-frequency operation.

(b) When the manufacturer's rated power of a ship transmitter is more than 120 percent of the maximum authorized power the actual power shall be determined as follows:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may increase its power.

(c) A determination shall be made that each radio-telephone transmitter produces peak modulation between 75 and 100 percent insofar as practicable as follows:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect its modulation characteristics.

(d) The determinations required by paragraphs (a) and (c) of this section may be made at a test or service bench,

provided the load conditions are equivalent to those of actual operation.

(e) The results of the determinations of paragraphs (a), (b), and (c) of this section shall be entered in or made a part of the station log.

§ 8.137 [Amendment]

2. Section 8.137 is amended by deleting paragraph (c) thereof.

[F.R. Doc. 61-9057; Filed, Sept. 20, 1961; 8:52 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Migratory Game Birds; Special Regulations for Wildlife Refuge Areas in Alaska

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER. The limited time ensuing from the date of the adoption of the national migratory game bird regulations to and including the establishment of State hunting seasons makes it impracticable to give public notice of proposed rulemaking.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

ALASKA

ALEUTIAN ISLANDS NATIONAL WILDLIFE REFUGE

Public hunting of migratory game birds on the Aleutian Islands National Wildlife Refuge, Alaska, is permitted only on the islands of Adak, Atka, Unimak, Shemya, Attu, and Great Sitkin. A map of the area is available at the refuge headquarters, Cold Bay, Alaska, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Juneau, Alaska. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: Wilson's snipe, brant, coot, all species of duck except canvasback and redhead and all species of geese except Canadian and white-cheeked geese.

(b) Open season:

(1) Wilson's snipe—from one-half hour before sunrise to sunset during the period September 1 through October 15, 1961.

(2) Coots, ducks, geese and brant—from one-half hour before sunrise to sunset during the period September 1 through December 14, 1961.

(c) Daily bag and possession limits:

(1) Ducks—daily bag of 5 and a possession limit of 10; in addition, a daily bag of 15 and a possession limit of 30, singly or in the aggregate of the following species are permitted: scoter, eider, harlequin, old squaw, and American and red-breasted mergansers.

(2) Geese—daily bag of 6 and a possession limit of 12, of which not more

than 3 daily, singly or in the aggregate, nor more than 6 in possession, singly or in the aggregate may be white-fronted geese or subspecies thereof.

(3) Brant—daily bag and possession limit of 3.

(4) Coot—daily bag and possession limit of 15.

(5) Wilson's snipe—daily bag and possession limit of 8.

(d) Methods of hunting:

(1) As prescribed in current Federal Migratory Bird Regulations.

(2) Guides may be employed for hunting.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective to December 15, 1961.

ARCTIC NATIONAL WILDLIFE RANGE

Public hunting of migratory game birds on the Arctic National Wildlife Range, Alaska, is permitted on all lands within the Arctic National Wildlife Range. A map of the area is available from the Regional Director, Bureau of Sport Fisheries and Wildlife, Juneau, Alaska. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: Wilson's snipe, brant, coot, all species of ducks except canvasback and redhead and all species of geese.

(b) Open season:

(1) Wilson's snipe—from one-half hour before sunrise to sunset during the period September 1 through October 15, 1961.

(2) Coots, ducks, geese and brant—from one-half hour before sunrise to sunset during the period September 1 through December 14, 1961.

(c) Daily bag and possession limits:

(1) Ducks—daily bag of 5 and a possession limit of 10; in addition, a daily bag of 15 and a possession limit of 30, singly or in the aggregate of the following species are permitted: scoter, eider, harlequin, old squaw, and American and red-breasted mergansers.

(2) Geese—daily bag of 6 and a possession limit of 12, of which not more than 3 daily, singly or in the aggregate, nor more than 6 in possession, singly or in the aggregate may be white-fronted or Canada geese or subspecies thereof.

(3) Brant—daily bag and possession limit of 3.

(4) Coot—daily bag and possession limit of 15.

(5) Wilson's snipe—daily bag and possession limit of 8.

(d) Methods of hunting:

(1) As prescribed in current Federal Migratory Bird Regulations.

(2) Guides may be employed for hunting.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas

generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective to December 15, 1961.

CLARENCE RHODE NATIONAL WILDLIFE RANGE

Public hunting of migratory game birds on the Clarence Rhode National Wildlife Range, Alaska, is permitted on all lands within the Clarence Rhode National Wildlife Range. A map of the area is available from the Regional Director, Bureau of Sport Fisheries and Wildlife, Juneau, Alaska. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: Wilson's snipe, brant, coot, little brown crane, all species of duck except canvasback and redhead and all species of geese.

(b) Open season:

(1) Wilson's snipe—from one-half hour before sunrise to sunset during the period September 1 through October 15, 1961.

(2) Coots, ducks, geese and brant—from one-half hour before sunrise to sunset during the period September 1 through December 14, 1961.

(3) Little brown crane—from one-half hour before sunrise to sunset during the period September 1 through September 30, 1961.

(c) Daily bag and possession limits:

(1) Ducks—daily bag of 5 and a possession limit of 10; in addition, a daily bag of 15 and a possession limit of 30, singly or in the aggregate of the following species are permitted: scoter, eider, harlequin, old squaw, and American and red-breasted mergansers.

(2) Geese—daily bag of 6 and a possession limit of 12, of which not more than 3 daily, singly or in the aggregate, nor more than 6 in possession, singly or in the aggregate may be white-fronted or Canada geese or subspecies thereof.

(3) Brant—daily bag and possession limit of 3.

(4) Coot—daily bag and possession limit of 15.

(5) Wilson's snipe—daily bag and possession limit of 8.

(6) Little brown crane—daily bag of 2 and possession limit of 4.

(d) Methods of hunting:

(1) As prescribed in current Federal Migratory Bird Regulations.

(2) Guides may be employed for hunting.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective to December 15, 1961.

IZEMBEK NATIONAL WILDLIFE RANGE

Public hunting of migratory game birds on the Izembek National Wildlife Range, Alaska, is permitted on all lands within the Izembek National Wildlife Range. A map of the area is available at the refuge headquarters, Cold Bay,

Alaska, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Juneau, Alaska. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: Wilson's snipe, brant, coot, all species of ducks except canvasback and redhead and all species of geese.

(b) Open season:

(1) Wilson's snipe—from one-half hour before sunrise to sunset during the period September 1 through October 15, 1961.

(2) Coots, ducks, geese and brant—from one-half hour before sunrise to sunset during the period September 1 through December 14, 1961.

(c) Daily bag and possession limits:

(1) Ducks—daily bag of 5 and a possession limit of 10; in addition, a daily bag of 15 and a possession limit of 30, singly or in the aggregate of the following species are permitted: scoter, eider, harlequin, old squaw, and American and red-breasted mergansers.

(2) Geese—daily bag of 6 and a possession limit of 12, of which not more than 3 daily, singly or in the aggregate, nor more than 6 in possession, singly or in the aggregate may be white-fronted or Canada geese or subspecies thereof.

(3) Brant—daily bag and possession limit of 3.

(4) Coot—daily bag and possession limit of 15.

(5) Wilson's snipe—daily bag and possession limit of 8.

(d) Methods of hunting:

(1) As prescribed in current Federal Migratory Bird Regulations.

(2) Guides may be employed for hunting.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective to December 15, 1961.

KENAI NATIONAL MOOSE RANGE

Public hunting of migratory game birds on the Kenai National Moose Range, Alaska, is permitted on all the lands within the Kenai National Moose Range. A map of the area is available at the refuge headquarters, Kenai, Alaska, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Juneau, Alaska. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: Wilson's snipe, brant, coot, all species of ducks except canvasback and redhead and all species of geese.

(b) Open season:

(1) Wilson's snipe — from one-half hour before sunrise to sunset during the period September 1 through October 15, 1961.

(2) Coots, ducks, geese and brant—from one-half hour before sunrise to sunset during the period September 1 through December 14, 1961.

(c) Daily bag and possession limits:

(1) Ducks—daily bag of 5 and a possession limit of 10; in addition, a daily bag of 15 and a possession limit of 30, singly or in the aggregate of the following species are permitted: scoter, eider, harlequin, old squaw, and American and red-breasted mergansers.

(2) Geese—daily bag of 6 and a possession limit of 12, of which not more than 3 daily, singly or in the aggregate, nor more than 6 in possession, singly or in the aggregate may be white-fronted or Canada geese or subspecies thereof.

(3) Brant—daily bag and possession limit of 3.

(4) Coot—daily bag and possession limit of 15.

(5) Wilson's snipe—daily bag and possession limit of 8.

(d) Methods of hunting:

(1) As prescribed in current Federal Migratory Bird Regulations.

(2) Guides may be employed for hunting.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective to December 15, 1961.

KODIAK NATIONAL WILDLIFE REFUGE

Public hunting of migratory game birds on the Kodiak National Wildlife Refuge, Alaska, is permitted on all the lands within the Kodiak National Wildlife Refuge. A map of the area is available at the refuge headquarters, Kodiak, Alaska, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Juneau, Alaska. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: Wilson's snipe, brant, coot, all species of ducks except canvasback and redhead and all species of geese.

(b) Open season:

(1) Wilson's snipe—from one-half hour before sunrise to sunset during the period September 1 through October 15, 1961.

(2) Coots, ducks, geese and brant—from one-half hour before sunrise to sunset during the period September 1 through December 14, 1961.

(c) Daily bag and possession limits:

(1) Ducks—daily bag of 5 and a possession limit of 10; in addition, a daily bag of 15 and a possession limit of 30, singly or in the aggregate of the following species are permitted: scoter, eider, harlequin, old squaw, and American and red-breasted mergansers.

(2) Geese—daily bag of 6 and a possession limit of 12, of which not more than 3 daily, singly or in the aggregate, nor more than 6 in possession, singly or in the aggregate may be white-fronted or Canada geese or subspecies thereof.

(3) Brant—daily bag and possession limit of 3.

(4) Coot—daily bag and possession limit of 15.

(5) Wilson's snipe—daily bag and possession limit of 8.

(d) Methods of hunting:

(1) As prescribed in current Federal Migratory Bird regulations.

(2) Guides may be employed for hunting.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective to December 15, 1961.

NUNIVAK NATIONAL WILDLIFE REFUGE

Public hunting of migratory game birds on the Nunivak National Wildlife Refuge, Alaska, is permitted on all of the lands within the Nunivak National Wildlife Refuge. A map of the area is available from the Regional Director, Bureau of Sport Fisheries and Wildlife, Juneau, Alaska. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: Wilson's snipe, brant, coot, all species of ducks except canvasback and redhead and all species of geese.

(b) Open season:

(1) Wilson's snipe—from one-half hour before sunrise to sunset during the period September 1 through October 15, 1961.

(2) Coots, ducks, geese and brant—from one-half hour before sunrise to sunset during the period September 1 through December 14, 1961.

(c) Daily bag and possession limits:

(1) Ducks—daily bag of 5 and a possession limit of 10; in addition, a daily bag of 15 and a possession limit of 30, singly or in the aggregate of the following species are permitted: scoter, eider, harlequin, old squaw, and American and red-breasted mergansers.

(2) Geese—daily bag of 6 and a possession limit of 12, of which not more than 3 daily, singly or in the aggregate nor more than 6 in possession, singly or in the aggregate may be white-fronted or Canada geese or subspecies thereof.

(3) Brant—daily bag and possession limit of 3.

(4) Coot—daily bag and possession limit of 15.

(5) Wilson's snipe—daily bag and possession limit of 8.

(d) Methods of hunting:

(1) As prescribed in current Federal Migratory Bird Regulations.

(2) Guides may be employed for hunting.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective to December 15, 1961.

DANIEL H. JANZEN,
Director, Bureau of
Sport Fisheries and Wildlife.

SEPTEMBER 15, 1961.

[F.R. Doc. 61-9040; Filed, Sept. 20, 1961;
8:50 a.m.]

PART 32—HUNTING

Tule Lake National Wildlife Refuge, California

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

CALIFORNIA

TULE LAKE NATIONAL WILDLIFE REFUGE

Public hunting of Upland Game on the Tule Lake National Wildlife Refuge, California, is permitted only on the area designated by signs as open to hunting. This open area, comprising 23,320 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1002 N. E. Holladay, Portland 8, Oregon. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: Ring-necked Pheasant.

(b) Open season: November 11 and 12, 1961—all refuge lands except that portion south of the center line in Secs. 19, 20, 21 and 22, T. 47 N., R. 4 E. and west of Dike A and the west boundary dike of the Lower Sump and headquarters area. November 13 through 26, 1961—League of Nations and marsh area of Upper Sump, except headquarters area. Shooting hours: 8:00 a.m. to 4:30 p.m.

(c) Daily bag limits: 2 cocks per day. Season limit—10 cocks.

(d) Methods of hunting:

(1) Weapons: Shotguns only (not larger than 10 gauge and incapable of holding more than 3 shells) may be used.

(2) Dogs: Dogs, not to exceed two (2) in number, may be used for hunting upland game birds.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) Camping: Camping permitted in designated areas only.

(3) A Federal permit is not required to enter the public hunting area, but hunters will report at such checking stations as may be established when entering or leaving the area.

(4) The provisions of this special regulation are effective to November 27, 1961.

RICHARD E. GRIFFITH,
Acting Regional Director, Bureau
of Sport Fisheries and Wildlife.

[F.R. Doc. 61-9021; Filed, Sept. 20, 1961;
8:48 a.m.]

PART 32—HUNTING

Lower Klamath National Wildlife Refuge, California and Oregon

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

CALIFORNIA AND OREGON

LOWER KLAMATH NATIONAL WILDLIFE REFUGE

Public hunting of Upland Game on the Lower Klamath National Wildlife Refuge, California and Oregon, is permitted only on the area designated by signs as

open to hunting. This open area, comprising 22,200 acres, is delineated on a map available at the refuge headquarters, Tule Lake National Wildlife Refuge, Tulelake, California, and from the Regional Director, Bureau of Sport Fisheries and Wildlife. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: Ring-necked Pheasant.

(b) Open season: Oregon—October 14 through November 19, 1961. Shooting hours: 8 a.m., to sunset on October 14, ½ hour before sunrise to sunset balance of season. California—November 11 and 12, 1961, for all refuge lands except Adm. Units 2 and 3. November 11 through 26, 1961, Adm. Units 4, 7, 8, and 9. Shooting hours: 8 a.m., to 4:30 p.m.

(c) Daily bag limits: California—2 cocks per day. Oregon—3 cocks per day.

(d) Methods of hunting:

(1) Weapons: Shotguns only (not larger than 10 gauge and incapable of holding more than three shells) may be used.

(2) Dogs: Dogs, not to exceed two (2) in number, may be used for hunting upland game birds.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) Camping: Camping permitted in designated areas only.

(3) A Federal permit is not required to enter the public hunting area.

(4) The provisions of this special regulation are effective to November 27, 1961.

RICHARD E. GRIFFITH,
Acting Regional Director, Bureau
of Sport Fisheries and Wildlife.

[F.R. Doc. 61-9022; Filed, Sept. 20, 1961;
8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 943.1]

[Docket No. AO 231-A16]

MILK IN NORTH TEXAS MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Ex- ceptions on Proposed Amendments to Tentative Marketing Agreement and to 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 the filing with the Hearing Clerk of this recommended decision of the Assistant Secretary, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the North Texas marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., not later than the close of business the 15th day after publication of this decision in the *FEDERAL REGISTER*. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Dallas, Texas, on July 24, 1961, pursuant to notice thereof which was issued July 14, 1961 (26 F.R. 6452).

The material issue on the record of the hearing relates to revision of the supply-demand adjustment component of the Class I pricing formula.

Findings and conclusions. The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

Producers' proposed modification of the supply-demand adjustment mechanism of the Class I pricing formula should be adopted.

Under the existing order provisions the amount of the supply-demand adjustment is determined by a direct comparison of the supply-sales relationship for the 2d and 3d preceding months with fixed specified monthly standard utilization ranges which average 113-119 percent on an annual basis. The amount and direction of the adjustment is a composite of the deviations computed for the current and two immediately preceding pricing months, eliminating

any deviation in a preceding month which is in an opposite direction from a subsequent month and any amount by which the deviation in a preceding month exceeds that of a more recent month.

The Texas Milk Producers' Federation proposed the changes herein recommended contending that the existing supply-demand adjustment mechanism has not appropriately reflected trends in supplies and Class I sales and that it is too sensitive and has produced extremely variable and contraseasonal Class I price changes. In support of their proposal proponents pointed out that during the 44 months period immediately preceding the hearing, the amount of supply-demand adjustment changed 37 times, that eleven of these changes (30 percent) adjusted the price in a different direction from the adjustment of the preceding month and that forty-two percent of the changes were in amounts of less than four cents. This situation, proponents contend, has been confusing to producers and as a result the action of the adjustment mechanism has not tended to encourage appropriate supply adjustments.

The mechanism which producers proposed cannot be expected to reflect the current supply-demand situation as accurately as the existing mechanism. However, it does provide a basis for adjusting the "norm" or standard utilization percentage to reflect changing seasonality of supplies and sales which the existing mechanism does not provide. Further, it cannot be concluded, as producers suggest, that the adjustments under the recommended procedure will reflect trends in the supply-demand relationship to any greater degree than the existing mechanism. The use of the four-month mover, in lieu of the existing two-month mover, however, tends to mask variations in month-to-month supply-demand relationships and accordingly can be expected to provide less variation in month-to-month price adjustments. Since this is the objective which producers aim to achieve, and since, as indicated later in this decision, the annual level of price is not affected there is no compelling reason why it should not be adopted.

The base period should be the 12-month period extending from the 2d to the 14th month preceding the pricing month. To determine changes in seasonality of supplies and sales a utilization percentage (ratio of supplies to sales) for the immediately preceding four-month period and for the same four months of the preceding year should be computed and compared to the utilization percentage for the base period. This comparison provides a basis for adjusting the "norm" or standard to reflect the current seasonality of supplies and sales.

Under the present order provisions the normal relationship between supply and sales at which no adjustment is made is expressed as stated monthly ranges which average 113-119 on an annual basis. Proponents suggested that the 118 percent, which approximates the average supply-sales relationship for the five markets during the past three years, be used. The use of 118 percent in conjunction with the new scheme of adjustments provided will tend to provide a level of Class I pricing essentially the same as that which the existing provision has provided.

The relationship established between supplies and sales in the two four-month periods and in the base period should be applied to the 118 percent to establish the "norm" or standard for comparing with actual utilization in the four-month period ending with the second preceding month. The deviation between the two percentages would indicate the direction and extent of desirable price adjustments.

Each price adjustment should reflect the deviation percentage for the current and the preceding pricing month. Thus, if August were the pricing month, the deviation percentage for such month would reflect the supply-sales relationship for the preceding March, April, May, and June, and the deviation percentage for the preceding month (July) would reflect the supply-sales relationship for the months of February, March, April and May. The two deviation percentages to be used in determining the price adjustment for the month should be applied in a manner so that the most recent of the two deviations is given more importance than the earlier deviation. This is accomplished by eliminating any deviation for the preceding month which is in the opposite direction from that of the current month and reducing any deviation for the preceding month to the extent that it exceeds the deviation for the current month. The sum of the resulting adjusted deviation percentages provides the basis for price adjustments. The price adjustment would be upward or downward depending on whether the sum of the adjusted deviation percentages reflects utilization below or above, respectively, the standard utilization percentages. Each percentage point variation from the standard would represent an indicated one-cent price change. However, to eliminate minor fluctuating price changes no additional adjustment from that effective in the preceding month should be made unless the indicated adjustment exceeds that of the preceding month by more than three cents. This procedure was supported by producers who contend that minor fluctuation in the amount of the adjustor is confusing to producers and serves no useful purpose.

Official notice is taken of the market administrator's Class I price announce-

ment for the months of August and September 1961. The procedure herein recommended would have produced virtually the identical level of pricing which has been in effect during the period since January 1960. However, the variations in the amount of the month-to-month adjustments would have been substantially reduced. Thus the recommended procedure meets producers' objections to the existing procedure while at the same time providing assurance that an appropriate price level will be maintained.

In addition to the changes herein recommended producers also proposed that the amount of the supply-demand adjustment in any month be limited to not more than 25 cents from that of the same month of the previous year.

There is no prospect that the recommended mechanism will provide an adjustment during the current fall and winter months more than 25 cents greater than that of last year. Further, since the current adjustment under the recommended mechanism would be 30 cents it would not be possible in view of the maximum adjustment of 50 cents provided, for the adjustment during the fall and winter months of 1962-63 to exceed those of this year by more than 25 cents. If the twenty-five-cent limitation were adopted, however, and the supply-demand relationship should change significantly it is possible that the limitation would restrict a price increase which producers might otherwise receive as a result of the action of the adjustor and which might be necessary to bring forth the necessary market supply. On the other hand, producers pointed out that the adjustments provided by the existing mechanism during the flush production months of 1961, when compared to those provided during the previous fall months, probably were less than were appropriate. A continuation of the present trend in supply-sales relationship will likely provide adjustments during the flush production months of 1962 which will exceed those of the corresponding months of this year by more than 25 cents. Hence, the adoption of the 25-cent limitation might well result in adjustments during the 1962 flush production season which would be less than those actually in effect this fall. Elimination of contraseasonal price adjustments was one of proponent's principal arguments for changing the adjustment mechanism. In view of the above considerations, the adoption of the 25-cent limitation would be inappropriate.

Proponents suggested (in line with their position that when the indicated adjustment for any month varies from the adjustment of the previous month by less than 4 cents, the adjustment of the previous month should be used) that if the adjustment indicated for the first month under the amended order varies from that of the preceding month by less than 4 cents the adjustment of the preceding month should be used. Official notice is taken that the amount of the adjustment for the months of August and September 1961, has been set by suspension action. It is possible that the indicated adjustment over an extended period following amendment of the order

could be higher or lower, than the adjustment set by suspension, but, nevertheless, within four cents of that amount. Under such circumstances producers could receive a price either higher or lower than that herein concluded to be appropriate. It is concluded, therefore, that in computing the adjustment for the first month under the amended order the relationship to the adjustment applicable in the immediately preceding month should be disregarded.

A handler proposed the complete elimination of the supply-demand adjustment mechanism and a 15-cent reduction in the specified differentials which are added to the basic formula price to determine the Class I price. He further proposed a contraseasonal provision which would prevent the price from falling during the fall months and from rising during the spring months. He contended that no satisfactory supply-demand adjustment mechanism has yet been devised for the North Texas market notwithstanding the fact that the matter had been under consideration at numerous hearings. He further contended that the adjustment mechanism proposed and herein recommended would not be understood by producers and therefore could not be effective in achieving its intended purpose.

Notwithstanding proponents position the supply-demand adjustment mechanism has served to adjust the Class I price in response to changes in supply and sales relationship in the five Texas markets. The proposed 15-cent adjustment in the Class I price level would provide a higher price than that presently in effect despite the fact that the market is in an oversupply situation. Further, there would be no procedure other than amendment hearings whereby the price level could be adjusted in response to changing supply-demand relationships. Under the procedure herein recommended producers have assurance that their Class I price will be maintained at that level necessary to bring forth an adequate supply of milk to meet the fluid milk requirements of the market. Accordingly, the proposal is denied.

Rulings on proposed findings and conclusions. A brief and addendum with proposed findings and conclusions was filed on behalf of an interested party. This brief and addendum, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by the interested party are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with

the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the North Texas marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

§ 943.51 [Amendment]

Delete § 943.51(a) and substitute therefor the following:

(a) **Class I milk.** The basic formula price for the preceding month (rounded to the nearest one-tenth of a cent) plus \$1.85 for the months of March through June and plus \$2.25 for all other months, subject to a supply-demand adjustment of not more than 50 cents computed as follows:

(1) Divide the total receipts of producer milk by the total volume of Class I milk (excluding interhandler transfers and any intermarket transfers that would result in the same milk being accounted for the second time as Class I milk) under this Part and Parts 949, 952, 982, and 998 of this Chapter regulating the handling of milk in the North Texas, San Antonio, Austin-Waco, Central West Texas and Corpus Christi marketing areas, respectively, in each of the following periods and round to one-tenth of one percent:

(i) The one-year period ending with the second preceding month;

(ii) The four-month period ending with the second preceding month; and

(iii) The four-month period ending with the second preceding month and the same period of the preceding year.

(2) Divide the utilization percentage computed pursuant to subparagraph (1) (iii) of this paragraph by the utilization percentage computed pursuant to

subparagraph (1) (i) of this paragraph. Adjust the resulting "seasonal ratio" as follows:

(i) Add to the seasonal ratio a similar computation for each of the 11 preceding periods;

(ii) Divide 12 by the sum thus obtained;

(iii) Divide the seasonal ratio by the quotient obtained in subdivision (ii) of this subparagraph.

(3) Compute the standard utilization percentage by multiplying the adjusted seasonal ratio of subparagraph (2) (iii) of this paragraph by 118.0.

(4) Subtract from the standard utilization percentage computed pursuant to subparagraph (3) of this paragraph the current utilization percentage computed pursuant to subparagraph (1) (ii) of this paragraph and round to the nearest full percentage. The result is the deviation percentage.

(5) Compute a sum of the deviation percentages for the current and the preceding month, excluding the deviation percentage for the preceding month when it is in the opposite direction from the deviation percentage of the current month, and excluding when it is in the same direction, any amount by which such deviation percentage exceeds the deviation percentage for the current month.

(6) Compute the number of cents which is one times the sum of the plus or minus deviation percentages, as the case may be, computed pursuant to subparagraph (5) of this paragraph and increase or decrease, respectively, the Class I price by such sum: *Provided*, That if such adjustment varies from that for the preceding month by less than 4 cents, the supply-demand adjustment for the preceding month shall be the supply-demand adjustment for the current month.

Signed at Washington, D.C., on September 15, 1961.

JOHN P. DUNCAN, Jr.,
Acting Secretary.

[F.R. Doc. 61-9046; Filed, Sept. 20, 1961;
8:51 a.m.]

[7 CFR Parts 1015, 1035]

[Docket No. AO-324]

MILK IN WESTERN NORTH DAKOTA AND MINNESOTA-NORTH DAKOTA MARKETING AREAS

Notice of Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Marketing Agreements and Orders

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 that the time for filing exceptions to the proposed marketing agreements and orders regulating the handling of milk in the Western

North Dakota and Minnesota-North Dakota marketing areas, which was issued August 22, 1961 (26 F.R. 8012), is hereby extended to October 2, 1961.

Signed at Washington, D.C., on September 15, 1961.

JOHN P. DUNCAN, Jr.,
Acting Secretary.

[F.R. Doc. 61-9047; Filed, Sept. 20, 1961;
8:51 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 600]

[Airspace Docket No. 61-KC-32]

FEDERAL AIRWAY

Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 600.1676 of the regulations of the Administrator, the substance of which is stated below.

Intermediate altitude VOR Federal airway No. 1676 extends in part from the intersection of the South Bend VOR 075° and the Muskegon, Mich., VOR 157° True radials as a 16-mile wide airway via the intersection of the South Bend VOR 075° and the Salem, Mich., VOR 249° True radials; to the Salem VOR. The Federal Aviation Agency is considering the realignment and extension of this segment of Victor 1676 as follows: a 16-mile wide airway from the intersection of the South Bend VOR 075° and the Muskegon VOR 157° True radials; via the intersection of the South Bend VOR 075° and the Windsor, Ont., VOR 261° True radials; to the intersection of the Windsor VOR 261° and the Salem VOR 123° True radials; thence a 10-mile wide airway to the Windsor VOR, excluding the portion which lies over Canada.

The proposed alteration of Victor 1676 would channel intermediate air traffic between New York, N.Y., and Chicago, Ill., over the Willow Run, Mich., and the Detroit Metropolitan Airports. This would facilitate the movement of aircraft departing the Detroit/Windsor terminal area. The reduced airway width east of Detroit would provide continuity with the Canadian airway system. Coordination has been accomplished with the Canadian government.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Manager, Central Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. 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 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 C-226, 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 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 September 15, 1961.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 61-9008; Filed, Sept. 20, 1961;
8:46 a.m.]

[14 CFR Part 602]

[Airspace Docket No. 61-WA-155]

JET ADVISORY AREA

Designation

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.

In accordance with Special Civil Air Regulation No. 444 (26 F.R. 292) the Federal Aviation Agency has under consideration the designation of radar jet advisory areas within 16 miles either side of the following Jet routes from flight level 240 to flight level 390.

1. Jet Route No. 6 from Amarillo, Texas, to Memphis, Tenn.
2. Jet Route No. 8 from Oklahoma City, Okla., to Tulsa, Okla.
3. Jet Route No. 21 from Oklahoma City, Okla., to Duluth, Minn.

The provision for the designation of Radar Jet Advisory Areas within the continental control area from flight level 240 to flight level 390 inclusive appears in a revision to Part 602 (Airspace Docket No. 60-WA-34) published in the FEDERAL REGISTER August 8, 1961 (26 F.R. 7079), effective September 21, 1961.

The designation of these proposed Enroute Radar Jet Advisory Areas would provide a defined area wherein jet advisory service would be provided to civil turbojet aircraft while operating on these routes.

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 forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the pro-

posed 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 C-226, 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 September 15, 1961.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 61-9009; Filed, Sept. 20, 1961;
8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 14273; FCC 61-1115]

CERTAIN TELEVISION BROADCAST STATIONS IN PALM SPRINGS, CALI- FORNIA

Table of Assignments

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

2. On November 5, 1958, the Commission amended its Table of Assignments in § 3.606 of its rules and regulations by assigning Channel 19+ to Palm Springs, California.

3. On July 26, 1961, the Commission granted an application for Channel 18 at San Bernardino, California. The proposed transmitter site of the San Bernardino grantee is only 50 miles from the reference point in Palm Springs, to which Channel 19+ is assigned. Consequently, the proposal did not meet the 55-mile adjacent channel separation required by § 3.610(c) (1) of the Commission's rules.

4. There is no operating station, construction permit outstanding or application on file for Channel 19+ at Palm Springs, California. The Commission therefore believes that Channel 19+ should be moved from Palm Springs, California, to Indio, California. It is proposed to amend the Table of Assignments as follows:

City	Channel No.	
	Present	Proposed
Palm Springs, Calif. Indio, Calif.	19+	19+

We do not herein designate a replacement for the UHF channel proposed to be deleted from Palm Springs. Unless an active interest is manifested we find it desirable in the public interest to defer action on making available a substitute UHF channel for Palm Springs until decisions are reached in Docket 14229 concerning the future methods of assigning stations on UHF channels.

5. The Commission is of the view that a rule making proceeding should be instituted in this matter in order that interested parties may submit their views on this proposal.

6. Authority for the adoption of amendments proposed herein is contained in sections 4(i) and 303(r) of the Communications Act of 1943, as amended.

7. Since Indio is within 200 miles of the United States-Mexican border, the reassignment of this channel is subject to coordination with the Mexican authorities.

8. Pursuant to applicable procedure set out in § 1.213 of the Commission's rules, interested parties may file comments on or before October 20, 1961, and reply comments on or before October 30, 1961. In reaching its decision on the rule amendment which is proposed herein, the Commission will not be limited to consideration of comments on record, but will take into account all relevant information obtained in any manner from informed sources.

9. In accordance with the provisions of § 1.54 of the rules, an original and 14 copies of all written comments and statements shall be furnished to the Commission.

Adopted: September 13, 1961.

Released: September 15, 1961.

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

[F.R. Doc. 61-9058; Filed, Sept. 20, 1961;
8:52 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 270, 274]

RULES AND REGULATIONS, INVEST- MENT COMPANY ACT OF 1940

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration the adoption of rules and a related reporting form which would provide small business investment companies (SBICs) licensed by the Small Business Administration, exemptions from certain requirements of sections 17(a), 17(d), and 18(c) of the Investment Company Act of 1940 (Act). The Commission has previously adopted §§ 270.3c-1, 3c-2, and 14a-1 (Investment Company Act Release Nos. 2828, 2909, 3011, and 3095) excluding certain activities of SBICs or the ownership of their securities from various provisions of sec-

tion 3(c) (1) of the Act and permitting the use by an SBIC of Regulation E filings under the Securities Act of 1933 in raising its initial capital as required by section 14(a) of the Act.

The Small Business Administration and various private persons have urged that the public interests will be served and the interest of investors will not be adversely affected by the adoption of rules exempting SBICs from section 17(a), 17(d), and 18(c) of the Act in respect of transactions of the type covered by the proposed rules. The SBIC program is too recent for the accumulation of any substantial experience which would demonstrate the desirability of complete exemptions in the respects indicated, as has been requested, from these provisions of the Act. However, in view of the public interest to be served as expressed in the Small Business Investment Act of 1958 (SBI Act), the Commission believes it is appropriate for an experimental period to grant exemptions with certain protective conditions. This approach will afford the Commission and all other interested persons an opportunity to examine the operation of SBICs and to reconsider the exemptions if that should appear necessary.

A new proposed § 270.17a-6, would exempt from the prohibitions of sections 17(a) (1) and 17(a) (3) of the Act, subject to certain conditions, loans and other securities transactions which would be prohibited by such sections solely because of an affiliation created through stock ownership by the SBIC of 5 per centum or more of the voting securities of a small business concern.

Section 17(b) of the Act provides that the Commission shall exempt a proposed transaction from the prohibitions of section 17(a) if evidence establishes that the terms thereof are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act. Section 6(c) of the Act provides that the Commission by rule, regulation or order may exempt any person or transaction or any class of persons or transactions from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the Act. Section 38(a) of the Act authorizes the Commission to issue rules necessary or appropriate to the exercise of the powers conferred upon the Commission in the Act.

One of the basic purposes of section 17(a) is to protect investment companies against overreaching by affiliated persons. The rule herein proposed, pursuant to sections 6(c) and 38(a) of the Act, is intended to operate in an area where there is small likelihood of overreaching of the small business investment company by an affiliate and the Commission believes that the conditions under which the exemption would be available will give added assurance that such overreaching will not occur.

The Commission proposes to adopt, pursuant to sections 17(d) and 38(a) of the Act, an amendment to § 270.17d-1 which would exempt from that rule's requirements certain transactions where banks and an affiliated SBIC make investments in the same small business concern.

In a number of instances, banks have promoted the formation of SBICs registered under the Act, or are substantial stockholders of such companies, or cooperate in their operation by providing them with office space or the services of officers, or by referring potential clients to them. Where a bank is an affiliated person of an SBIC as defined in the Act, for example by reason of the bank's ownership of 5 percent or more of the outstanding voting securities of the SBIC, and the bank has financial transactions with the same small business concerns as the SBIC, it appears that the provisions of § 270.17d-1 under the Act are applicable.

Section 17(d) authorizes the Commission to adopt rules designed to protect investment companies and their security holders from overreaching by affiliated persons where the investment company and the affiliated person have a joint or a joint and several participation in a transaction. This section is not self-operating. It prohibits participation by an investment company with an affiliate in a joint enterprise only in contravention of such rules and regulations as the Commission may prescribe for the purpose of limiting or preventing participation by such registered investment company on a basis different from or less advantageous than that of the other participant. Section 270.17d-1, as now promulgated, implements this section by prohibiting any joint enterprise or other arrangement or profit-sharing plan, where the investment company and the affiliate are participants, unless an application regarding such joint enterprise has been filed with the Commission and has been granted by an order entered prior to effecting any transactions in connection with the joint enterprise, profit-sharing plan or other arrangement.

A joint enterprise or other joint arrangement or profit-sharing plan is defined by the section as "any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company or a controlled company thereof and any affiliated person of or a principal underwriter for such registered investment company, or any affiliated person of such a person or principal underwriter, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking * * *

In view of the fact that investments in the same concern by the SBIC and an affiliated bank subject such investments to the risk of the same enterprise, it appears that any transactions by the bank and the SBIC with the same small business concern should be considered to constitute a joint enterprise whether

such transactions are contemporaneous or separated in time.

A number of SBICs having bank affiliations and other interested persons and agencies have contended that it would not be feasible to operate an SBIC affiliated with a bank and comply with § 270.17d-1 in its present form because of the requirement of the section that an order be obtained from the Commission prior to effecting any transaction in connection with the joint enterprise. The proposed amendment to § 270.17d-1 would except banks affiliated with SBICs from the requirements of the present section provided certain conditions are satisfied.

Exception of SBIC transactions from the operation of § 270.17d-1 would be accomplished by adding an additional subparagraph to paragraph (d) thereof which paragraph presently excepts certain other transactions. This amendment to the section will require the submission of reports containing pertinent details of transactions by an SBIC and an affiliated bank with the same small business concern, and the Commission proposes to adopt Form N-17D-1 to be used in filing such reports.

The Commission also proposes to adopt, pursuant to sections 6(c) and 38(a) of the Act, a new § 270.18c-1 which would exempt indebtedness to the SBA from the provisions of section 18(c) of the Act.

Section 18(c) of the Act, in relevant part, prohibits a closed-end investment company from issuing or selling more than one class of senior security representing indebtedness and provides that, for this purpose, bank loans and other privately arranged indebtedness not intended to be publicly distributed shall not be deemed a separate class of senior security representing indebtedness. It permits a class of senior security representing indebtedness to be issued and sold in one or more series provided no such series shall have a preference or priority over any other series upon the distribution of assets or in respect of the payment of interest.

In Investment Company Act Release No. 3214, issued March 16, 1961, the Commission construed this section as intended to make clear that a company might have outstanding both publicly distributed and privately arranged debt securities if there were no differences in the preferences as to assets and interest of any outstanding indebtedness.

Under the SBI Act, it is contemplated that an SBIC may borrow money and issue debt securities to both the SBA and non-governmental lenders. This creates a dilemma so far as compliance with section 18(c) is concerned. Two types of indebtedness may be issued by an SBIC to the SBA. Under section 302(a) of the SBI Act, up to \$150,000 of indebtedness subordinated to all other indebtedness of the SBIC may be issued to the SBA. Under section 303(b), the SBA may loan an SBIC up to 50 percent of the company's paid-in capital and surplus; while in practice section 303(b) loans are made without nominal priority and subject only to a requirement that specified assets of the SBIC may

not be pledged as security for other indebtedness, it appears that under other statutes such indebtedness to the SBA, as claims due the Government, would nevertheless have a priority over other unsecured debts in the event of liquidation or insolvency of the SBIC.

The proposed new § 270.18c-1 would permit an SBIC registered under the Act to have outstanding indebtedness both to the SBA and other lenders so long as any indebtedness issued to a person other than the SBA does not have any preference as to assets and interest over any other outstanding indebtedness.

I. The proposed new § 270.17a-6 would read as follows:

§ 270.17a-6 Exemption of certain transactions with affiliates from the provisions of paragraphs (1) and (3) of section 17(a) of the Investment Company Act of 1940.

(a) The sale of any security or other property to a registered investment company which is a small business investment company licensed under the Small Business Investment Act of 1958 by an affiliated small business concern, and the borrowing of money or other property from such an investment company by the small business concern, which is prohibited by paragraphs (1) and (3) of section 17 of the Act solely because of an affiliation created through stock ownership by the investment company of 5 per centum or more of the voting securities of such concern, shall be exempt from the provisions of said paragraphs. The exemption provided by this section shall not be available if anyone having an affiliate, promoter or principal underwriter relationship with the investment company also has a direct or indirect financial interest in the small business concern. A financial interest based solely upon ownership of securities of the investment company and a financial interest in such concern excepted from the requirements of § 270.17d-1 by paragraph (d) (3) thereof shall be disregarded in determining compliance with the preceding sentence.

(b) The pertinent details of each transaction for which exemption is claimed pursuant to paragraph (a) of this section shall be reported in writing by the investment company to (1) its stockholders in its annual report to stockholders which report shall cover all such transactions during the preceding 12 months period, and (2) the Commission within 30 days after the end of each semi-annual accounting period of the investment company which report shall cover all such transactions during the preceding six months period.

II. Paragraph (d) of § 270.17d-1 would be amended by the addition of a new subparagraph (3) to read as follows:

(3) Any loan or advance of credit to, or acquisition of securities or other property of, a small business concern, or any agreement to do any of the foregoing, ("Investments") made by a bank and a small business investment company (SBIC) licensed under the Small Business Investment Act of 1958 where the bank is an affiliated person of either (i) the SBIC or (ii) an affiliated person of

the SBIC; reports containing pertinent details as to Investments and transactions relating thereto shall be made at such time, on such forms and by such persons as the Commission may from time to time prescribe.

III. The proposed new § 270.18c-1 would read as follows:

§ 270.18c-1 Exemption of Indebtedness to Small Business Administration.

The issuance or sale of a senior security representing indebtedness by a small business investment company, licensed under the Small Business Investment Act of 1958, to the Small Business Administration or to other lenders shall not be prohibited by section 18(c) of the Act, so long as any senior security representing indebtedness issued or sold to such other lenders does not have any preference or priority as to the distribution of assets or payment of interest over any other outstanding senior security representing indebtedness, other than indebtedness issued to the Small Business Administration pursuant to section 302(a) of the Small Business Investment Act of 1958.

IV. A proposed new § 274.200 concerning Form N-17D-1 would read as follows:

§ 274.200 Form N-17D-1, report filed by small business investment company (SBIC) registered under the Investment Company Act of 1940 and an affiliated bank, with respect to investments by the SBIC and the bank, submitted pursuant to paragraph (d) (3) of § 270.17d-1.

(a) *Use of form.* Form N-17D-1 is prescribed for use by a small business investment company (SBIC) licensed as such under the Small Business Investment Act of 1958, and by a bank which is an affiliated person of either (1) the SBIC or (2) an affiliated person of the SBIC, with respect to investments in a

small business concern by the SBIC and the bank, for submission pursuant to the requirements of paragraph (d) (3) of § 270.17d-1. A report on this form may be filed jointly by the SBIC and the bank, or separate reports may be filed by the SBIC and the bank if such reports together contain all of the information required by this form. Where a joint report is filed, the SBIC and the bank may indicate which of the information set forth therein has been furnished by each. A report or reports shall be filed for every semi-annual accounting period during which one or more of the events set forth in the introductions to Parts I and II of this form occurred. No report need be filed for any period in which none of such events occurred.

(b) *Time for filing reports.* Reports on this form shall be filed with the Commission not later than 30 days after the end of the six months period during which an event or events required to be reported occurred. A report will be deemed to have been filed with the Commission on the date it is received.

(c) *Number of copies to be filed.* An original and two copies of each report on this form shall be filed with the Commission and one copy shall be filed with the Small Business Administration.

(d) *Preparation of report.* This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report on paper meeting the requirements of § 270.8b-12, except that the report shall be filed on paper approximately 8½ x 11 inches in size. The report shall contain the numbers of all items required to be answered but the text of any item may be omitted provided the answer thereto is so prepared as to indicate to the reader the coverage of the item without the necessity of referring to the text of the item. If any item is inapplicable or the answer

is in the negative, an appropriate statement to that effect shall be made.

(e) *Definition of terms.* The term "investment" used in this report shall have the same meaning as in paragraph (d) (3) of § 270.17d-1. Other terms shall have the meanings set forth in the Investment Company Act of 1940 to the extent applicable.

(f) *Incorporation by reference.* Information in answer or partial answer to any item of this form may be incorporated by specific reference to a report previously filed on Form N-17D-1. Such reference shall specify the period covered by the previous report and the Part and Item number thereof in which the information appears.

(Sec. 6(c), 54 Stat. 800, 15 U.S.C. 80a-6(c); sec. 38(a), 54 Stat. 841, 15 U.S.C. 80a-37(a))

All interested persons are invited to submit views and comments on the proposed new rules, the amendment to § 270.17d-1, and Form N-17D-1. Copies of the proposed Form N-17D-1 are available from the Publications Distribution Unit, Branch of Records and Service, Securities and Exchange Commission, Washington 25, D.C. Written statements of views and comments and any requests for oral argument in respect of the proposed rules, amendment, and form should be submitted to the Securities and Exchange Commission, Washington 25, D.C., on or before October 6, 1961. Unless the person submitting any statement requests that his views will not be made part of the Commission's public files, all statements will be made available for public inspection.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

SEPTEMBER 12, 1961.

[F.R. Doc. 61-9032; Filed, Sept. 20, 1961; 8:49 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NEW MEXICO

Notice of Termination of Proposed Withdrawal and Reservation of Lands

SEPTEMBER 15, 1961.

Notice of an application, Serial No. NM 094303, for withdrawal and reservation of lands was published as Federal Register Document No. 61-7795 on pages 7613 and 7614 of the issue for Wednesday, August 16, 1961. The applicant agency has cancelled its application insofar as it involved the lands described below. Therefore pursuant to the regulations contained in 43 CFR Part 295, such lands will be at 10:00 a.m., on October 16, 1961, relieved of the segregative effort of the above-mentioned application.

The lands involved in this notice of termination are:

NEW MEXICO PRINCIPAL MERIDIAN

LINCOLN NATIONAL FOREST

Weed Administrative Site

T. 17 S., R. 14 E.,
Sec. 28, S $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described aggregates 120 acres.

CHESLEY P. SEELY,
State Director, New Mexico.

[F.R. Doc. 61-9023; Filed, Sept. 20, 1961;
8:48 a.m.]

NEW MEXICO

Amended Notice of Proposed Withdrawal and Reservation of Lands

SEPTEMBER 15, 1961.

The U.S. Department of Agriculture, Forest Service has filed an application, Serial Number NM 094303 for the withdrawal of the lands described below, from all forms of appropriation, including the general mining, but not the mineral leasing laws. The applicant desires the land for recreation areas and administrative sites.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, P.O. Box 1251, Santa Fe, New Mexico.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

NEW MEXICO PRINCIPAL MERIDIAN

SANTA FE NATIONAL FOREST

San Antonio Creek Recreation Area

T. 20 N., R. 3 E.,
Sec. 31, SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 32, W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$
NW $\frac{1}{4}$.

Holy Ghost Recreation Area

T. 18 N., R. 12 E.,
Sec. 6, Lot 9;
Sec. 7, NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$,
W $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$,
NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$
W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 17, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$
NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ W $\frac{1}{2}$
SW $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 18, NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$
NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 20, W $\frac{1}{2}$ Lot 1, E $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
W $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$
SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$
NE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$
SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$
SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$.

Winsor Creek Summer Home Area

T. 18 N., R. 12 E.,
Sec. 3, N $\frac{1}{2}$ NW $\frac{1}{4}$ Lot 5, NE $\frac{1}{4}$ Lot 5, NW $\frac{1}{4}$
Lot 6, S $\frac{1}{2}$ NE $\frac{1}{4}$ Lot 6, N $\frac{1}{2}$ SE $\frac{1}{4}$ Lot 6;
T. 19 N., R. 12 E.,
Sec. 33, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$
SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 34, S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$.

The area described above aggregates 592.03 acres.

CORRECTION OF NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

In F.R. Doc 61-7795, appearing at pages 7613 and 7614 of the issue of Wednesday, August 16, 1961, the second line of the land description under "Holy Ghost Summer Home Area, T. 18 N., R. 12 E.," is corrected to read as follows:

"Sec. 32, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$
NE $\frac{1}{4}$;"

The first line of the land description under "Cibola National Forest, Cienega Recreation Area, T. 11 N., R. 5 E.," is corrected to read as follows:

"Sec. 23, S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$,
N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$."

CHESLEY P. SEELY,
State Director, New Mexico.

[F.R. Doc. 61-9024; Filed, Sept. 20, 1961;
8:48 a.m.]

[No. 62-5]

OREGON

Notice of Proposed Withdrawal and Reservation of Lands

SEPTEMBER 15, 1961.

Bonneville Power Administration, Department of the Interior, has filed an application, Serial Number 011509, for the withdrawal of the lands described below, subject to valid existing rights, from all forms of appropriation under the public

land laws including the mining laws. Grazing will be permitted under the administration of the Bureau of Land Management on the unused portion of the lands until such time as the entire tract is needed.

The applicant desires the land to construct, maintain, and operate the Hampton Substation and appurtenant facilities 11 miles southeast of Brothers, Oregon. The new substation will provide central station power for service to the Central Electric Cooperative.

The area consists of arid range land with no merchantable timber. The center portion, amounting to about 3 acres, will be fenced and the area outside the fence may be used for grazing until facilities are expanded.

The application and right of advance entry so that a construction schedule may be adhered to was approved on April 3, 1961, by the Assistant Secretary, Public Land Management.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 710 NE. Holladay Street, Portland 12, Oregon.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

T. 21 S., R. 19 E., W.M.
Sec. 13: E $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$
NW $\frac{1}{4}$ NW $\frac{1}{4}$ —10 acres—Deschutes
County.

RUSSELL E. GETTY,
State Director, Oregon.

[F.R. Doc. 61-9025; Filed, Sept. 20, 1961;
8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

SOUTH DAKOTA

Designation of Area for Production Emergency Loans

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

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named county after June 30, 1962, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 14th day of September 1961.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 61-9036; Filed, Sept. 20, 1961;
8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 27-32]

BAY CITIES TRANSPORTATION CO.

Notice of Proposed Issuance of By-product, Source and Special Nuclear Material License

Take notice that Bay Cities Transportation Company, Pier No. 3, San Francisco 11, California, has applied for a license to receive and store pre-packaged waste byproduct, source and special nuclear material at their facilities located at 321 Embarcadero Street, Oakland, California, and transfer said waste to the National Reactor Testing Station, Idaho Falls, Idaho, for land burial. Under the requested license Bay Cities Transportation Company would not possess more than 1,000 curies of byproduct material, 3,000 pounds of source material and 150 grams of special nuclear material at any one time.

The Atomic Energy Commission has reviewed the application and proposes to grant the license subject to appropriate limitations, unless within fifteen (15) days after filing of this notice with the Federal Register Division, a petition to intervene and a request for a formal hearing is filed with the Commission in the manner prescribed in Title 10, Code of Federal Regulations, Chapter I, Part 2, "Rules of Practice". For further details see (1) the application submitted by Bay Cities Transportation Company and amendments thereto and (2) a memorandum prepared by the Division of Licensing and Regulation summarizing the considerations evaluated prior to the proposed issuance of the license, both on file at the Commission's Public Document Room, 1717 H Street and amendments thereto and (2) a above may be obtained at the Commission's Public Document Room or by request addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., September 15, 1961.

For the Atomic Energy Commission,

R. LOWENSTEIN,
Acting Director,

Licensing and Regulation.

[F.R. Doc. 61-9000; Filed, Sept. 20, 1961;
8:48 a.m.]

No. 182—6

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 13822, 13823; FCC 61M-1500]

BI-STATES CO. (KHOL-TV) AND TOPEKA BROADCASTING ASSN., INC. (WIBW-TV)

Order Scheduling Prehearing Conference

In re applications of Bi-States Company (KHOL-TV), Kearney, Nebraska, Docket No. 13822, File No. BPCT-2718; Topeka Broadcasting Association, Inc. (WIBW-TV), Topeka, Kansas, Docket No. 13823, File No. BPCT-2743; for construction permits for new transmitter sites.

On the Examiner's own motion: *It is ordered*, This 14th day of September 1961, that a further prehearing conference in the above-entitled matter will be held in the offices of the Commission, Washington, D.C., on October 2, 1961, at 9:30 a.m.

Released: September 15, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-9051; Filed, Sept. 20, 1961;
8:51 a.m.]

[Docket Nos. 14254, 14268; FCC 61-1109]

HOLMES-ROBERTS BROADCASTING CO. AND CROSBY COUNTY BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Henry Holmes and Elvis Leo Roberts d/b as Holmes-Roberts Broadcasting Company, Slaton, Texas, Docket No. 14254, File No. BP-13837, Requests: 1530 kc, 1 kw, Day; Darrell Willis, W. R. Bentley, Phil Crenshaw, Galen O. Gilbert and Lew D'Elia d/b as Crosby County Broadcasting Co., Ralls, Texas, Docket No. 14268, File No. BP-14864, Requests: 1530 kc, 1 kw, Day; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 13th day of September 1961;

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

It appearing that, except for matters involved in the issues set forth below, each of the applicants is in all respects qualified to construct and operate its proposal; and

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

1. The applicants propose co-channel 1 kilowatt operation in cities 25 miles apart, and are mutually exclusive.
2. Galen O. Gilbert and Phil Crenshaw, who have a combined ownership

interest of 65 percent in the subject Ralls, Texas, application, own 100 percent of Station KUKO, Post, Texas. Post, Texas, is 25 miles from the Ralls site and the proposed operation would involve extensive overlap of service contours with the existing operation of KUKO. Additionally, KUKO provides primary service (0.5 mv/m) to the city of Ralls (population 2229 according to 1960 Census). It will be necessary to determine in hearing whether grant of the Ralls application would contravene the provisions of § 3.35(a) of the Commission rules. It appears appropriate to consider the size, extent and location of the areas served and to be served; the extent of the overlap involved; the number of persons served; the number of persons residing within the overlap area; the classes of stations involved; the extent of other competitive service to the areas in question; the extent to which the stations will rely on the same revenue and program sources; the nature of the programming that the stations will present with particular reference to the particular needs of the communities they are designed to serve; the advertising practices of the stations; the source of program material and talent for each station; and such other factors as will tend to demonstrate that the overlap involved will or will not be in contravention of § 3.35(a) of the Commission rules.

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 a grant of the instant proposal of Crosby County Broadcasting Co. would be in contravention of the provisions of § 3.35(a) of the Commission rules.
3. 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.
4. To determine, in the 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, to avail themselves of the opportunity to be heard, the applicants 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 rules, give notice of the hearing, either individually or, if feasible, jointly, within the time and in the manner prescribed in such rules, 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: September 18, 1961.

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

[F.R. Doc. 61-9052; Filed, Sept. 20, 1961;
8:51 a.m.]

[Docket No. 14174 FCC 61-1103]

KENOSHA BROADCASTING, INC.

Memorandum Opinion and Order Amending Issues

In re application of Kenosha Broadcasting, Inc., Kenosha, Wisconsin, Docket No. 14174, File No. BPH-3367; for construction permit.

1. The Commission has before it for consideration a motion to enlarge issues, filed August 8, 1961, by The Journal Company (The Milwaukee Journal), and comments thereto, filed August 11, 1961, by the Broadcast Bureau.

2. The instant proceeding involves the application of Kenosha Broadcasting, Inc., for a new FM broadcast station, 95.1 mc, 6.19 kw, Channel 236, utilizing an antenna 256 feet above average terrain, Kenosha, Wisconsin, which was designated for hearing on certain specified issues by Commission Order, 26 F.R. 5977, July 1, 1961. On the basis of the objectionable interference that would be caused to it from the operation proposed by Kenosha, The Journal Company (The Milwaukee Journal) licensee of WTMJ-FM, 94.5 mc, 4.6 kw, U, Class B Channel 233, utilizing an antenna 982 feet above average terrain, Milwaukee, Wisconsin, pursuant to its petition to intervene, was made a party respondent to the instant proceeding by Chief Hearing Examiner Order, FCC 61M-1299, July 28, 1961.

3. Respondent, by motion filed August 8, 1961, pursuant to 47 CFR 1.141¹ re-

quests that the issues specified in the designation order be enlarged, contending that since it did not become a party until July 28, 1961, it did not have standing to seek enlargement of the issues within the period normally specified by 47 CFR 1.141 and therefore, its motion having been filed within 15 days after the Chief Hearing Examiner's Order making it a party herein, is timely filed. Movant alleges that none of the existing specified issues require Kenosha to demonstrate the existence of objectionable interference to be caused any existing FM broadcast station from its proposed operation. In the light of the action of the Chief Hearing Examiner permitting it to intervene herein, WTMJ-FM submits that the following issue should be added with respect to the proposal of Kenosha: "To determine whether the proposal of Kenosha Broadcasting, Inc., would involve objectionable interference to Station WTMJ-FM, Milwaukee, Wisconsin, and if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other FM service of at least 1 mv/m to such areas and populations."

4. The Broadcast Bureau joins in the motion contending that since the movant had no standing to seek enlargement of the issues until July 28, 1961, when it became a party by virtue of the Chief Hearing Examiner Order, the instant petition was timely filed. It is asserted that since the designation order herein specifies issues which, as they now stand, do not require the applicant to demonstrate the existence of objectionable interference to be caused any existing FM broadcast station from its proposed operation, the issue requested should be granted, Bureau alleging that the engineering showing in Journal's petition to intervene revealed that Kenosha's proposed site will be 36 miles from the site of WTMJ-FM; that the 1 mv/m contour of WTMJ-FM extends 34.5 miles towards Kenosha, and that Kenosha's interfering contour would overlap WTMJ-FM's 1 mv/m contour by one mile, resulting in an interference area of 1.8 square miles containing 3,395 persons.

5. We note that Kenosha has filed no reply pleading and thus the instant motion stands unopposed.

6. We agree with the Bureau that a person must be a party to a proceeding before he has standing to seek enlargement of issues. We do not agree with Bureau or movant, however, that the instant motion was timely filed. As we stated in Martin Karig, 20 RR 944 (1960), 47 CFR 1.141 applies to intervenors, and the fact that an intervenor did not enter a proceeding until after the time for filing a motion to enlarge issues had elapsed goes only to the question of good cause for late filing; it does

be filed with the Commission not later than 15 days after the issues in the hearing have first been published in the FEDERAL REGISTER. Any person desiring to file a motion to enlarge, change, or delete the issues after the expiration of such 15 days must set forth the reason why it was not possible to file the petition within the prescribed 15 days. Unless good cause is shown for delay in filing, the motion will not be granted."

not toll the running of the 15 days specified by the rule. Here intervention was sought promptly after the designation of the application for hearing, and enlargement of the issues was sought promptly after intervention was granted. We believe good cause for late filing has been shown, and the need for the issue is obvious.

Accordingly, it is ordered, This 13th day of September 1961, that the motion to enlarge issues is granted, and the issues are enlarged in this proceeding to include the following: "To determine whether the proposal of Kenosha Broadcasting, Inc. would involve objectionable interference to Station WTMJ-FM, Milwaukee, Wisconsin, or any other existing FM broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other FM service of at least 1 mv/m to such areas and populations."

Released: September 18, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.
[F.R. Doc. 61-9053; Filed, Sept. 20, 1961;
8:51 a.m.]

[Docket No. 14007 etc.; FCC 61M-1497]

VERNON E. PRESSLEY ET AL.

Order Continuing Hearing

In re applications of Vernon E. Pressley, Canton, North Carolina, Docket No. 14007, File No. BP-12872; Folkways Broadcasting Company, Inc. (WTCW), Whitesburg, Kentucky, Docket No. 14008, File No. BP-13526; B. E. Bryant, Asheville, North Carolina, Docket No. 14009, File No. BP-14104; for construction permits.

The Hearing Examiner having before him a Petition of Broadcast Bureau for Change of Date of Hearing in the above-entitled proceeding filed on September 12, 1961; and

It appearing that the other parties to the proceeding have no objection to grant of the requested continuance;

It is ordered, this 13th day of September 1961, that the petition described above is granted; and the hearing now scheduled for October 10, 1961, is continued to October 16, 1961.

Released: September 15, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.
[F.R. Doc. 61-9055; Filed, Sept. 20, 1961;
8:52 a.m.]

[Docket No. 14007 etc.; FCC 61-1104]

VERNON E. PRESSLEY ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of Vernon E. Pressley, Canton, North Carolina, Docket No. 14007, File No. BP-12872; Folkways Broadcasting Company Inc. (WTCW), Whitesburg, Kentucky, Docket No. 14008, File No. BP-13526; B. E. Bryant,

¹ 47 CFR 1.141 states: "Motions to enlarge, change, or delete issues. Motion to enlarge, change, or delete the issues may be filed by any party to a hearing. Such motions must

Asheville, North Carolina, Docket No. 14009, File No. BP-14104; for construction permits.

1. The Commission has before it for consideration (1) a motion to enlarge issues, filed April 24, 1961, by Vernon E. Pressley (Pressley); (2) comments on Motion, filed May 5, 1961, by the Broadcast Bureau (Bureau); (3) Opposition to motion and petition to enlarge issues, filed May 8, 1961, by B. E. Bryant (Bryant); (4) reply to oppositions and comments, filed May 18, 1961, by Pressley; (5) motion to dismiss, filed May 18, 1961, by Pressley; (6) opposition to motion to dismiss, filed May 24, 1961, by Bryant; (7) reply to opposition to dismiss, filed June 2, 1961, by Pressley; (8) comments re opposition to motion to enlarge issues and petition to enlarge, filed May 19, 1961, by the Bureau; (9) opposition to Bryant's petition to enlarge issues, filed May 22, 1961, by Pressley; and (10) reply to Pressley's opposition, filed May 24, 1961, by Bryant.

2. By Order released April 4, 1961 (FCC 61-415), the Commission designated for hearing, on various issues, the applications for construction permits of (1) Vernon E. Pressley for a new standard broadcast station to operate on 920 kc, 500 w, Day, at Canton, North Carolina; (2) Folkways Broadcasting Company, Inc. (WTCW) to increase its present operation on 920 kc, 1 kw, D to 920 kc, 5 kw, D, at Whitesburg, Kentucky; and (3) B. E. Bryant for a new station to operate on 920 kc, 1 kw, DA, D, at Asheville, North Carolina. The Commission found each applicant to be legally, technically, financially and otherwise qualified.

PRESSLEY'S MOTION TO ENLARGE ISSUES

3. Pressley requests the enlargement of the issues to include the following:

(a) To determine whether the application of B. E. Bryant was filed in good faith, or was filed solely or in part to block the application of Vernon E. Pressley in the instant proceeding.

(b) To determine whether the application of B. E. Bryant fully discloses the information called for by Section II of Commission Form 301 and in particular Question 22 of said Section, and if the finding be in the negative, what information was not set forth and the reasons therefor.

(c) To determine whether B. E. Bryant is financially qualified to construct and operate the proposed station.

(d) To determine whether the application of B. E. Bryant represents an accurate and complete financial proposal and if not, whether the misrepresentation is of such a nature to warrant a conclusion adverse to his candor.

4. In support of his petition, Pressley made various allegations to the effect that Bryant was not the real or only party in interest in his application for a station at Asheville, North Carolina, but was, instead, a tool of the principals of Western North Carolina Broadcasters, licensees of Station WWIT in Canton, North Carolina. Pressley alleges that he filed his instant application for Canton

on March 2, 1959, and thereafter, on April 6, 1960, Mr. Dalton R. Paxton, Vice President, Director and 33.8 percent stockholder in WWIT, offered to him the position of Sales Manager of WWIT, on his own terms, if he would dismiss his instant application; that failing this, Paxton offered to pay petitioner for the withdrawal of his application, which offer was also refused; and that after trying various and sundry plans, Paxton located Bryant, and persuaded him to file an application for the same frequency at Asheville and advanced certain of the funds which were purportedly put into the application by Bryant. All this is alleged to have been for the avowed purpose of blocking or at least postponing the granting of Pressley's application, thus maintaining a position of monopoly, Paxton representing the only broadcast station in Canton.

5. Pressley offered in support of these allegations affidavits signed by himself, his brother, and a Mr. A. Hal Edwards.

6. Bryant vigorously opposes Pressley's petition and in doing so, attached "Counter-affidavits of parties concerned categorically denying the truthfulness of allegations in such [Pressley's] affidavits." Bryant concedes that upon the pleadings thus submitted, an issue of veracity of the applicants is presented, and accordingly, a hearing will be necessary to determine the facts.

7. Although some of the allegations set forth in Pressley's petition and the affidavits submitted therewith are predicated on hearsay, the Commission believes that sufficient facts have been alleged to warrant a full inquiry into the matter. Therefore, the issues will be enlarged to include Pressley's requested issues A, B, and D.

8. Based on the irreconcilable factual inconsistency between Pressley's motion to enlarge the issues, and his own opposition thereto, Bryant requests the Commission to enlarge the issues as follows: "To determine whether Vernon E. Pressley submitted false information in the affidavits attached to his Motion to Enlarge Issues (dated April 24, 1961), and to determine his character qualifications in the light thereof."

9. Pressley filed a "Motion to Dismiss" Bryant's petition to enlarge alleging that such petition is not timely filed in accordance with § 1.141 of the Commission's rules, and that Bryant does not attempt to show good cause for his late filing.

10. Since Bryant's petition was filed solely in response to Pressley's motion to enlarge issues and was filed promptly after service of the Pressley pleading, the Commission finds that Bryant has shown due diligence and good cause for late filing. Therefore, Pressley's motion to dismiss will be denied.

11. Bryant's requested issue will be added. The charges leveled by Pressley are of the utmost gravity, and, if proven, might well affect not only the instant Bryant application but the communication interests of all of the parties mentioned. If, on the other hand, it should be established that Pressley has made such vital allegations without reason-

able cause for believing in the accuracy thereof, a serious question would be raised as to whether he has attempted to abuse the Commission's processes with attendant implications as to his character qualifications.

12. With reference to his request for the addition of an issue relating to Bryant's financial qualifications, Pressley alleges that on April 21, 1961, the equipment contract between Gates and Bryant was rescinded and the deposit returned at the request of Bryant. Petitioner suggests that in the absence of a deferred credit agreement on equipment, Bryant does not appear to be financially qualified.

13. Petitioner further argues that Bryant's application indicates that he will require \$56,214 cash to construct his proposed station and operate it initially; that his assets, both liquid and to be liquidated, total \$77,320 and his liabilities are \$33,831, and hence the \$43,449 remaining are insufficient to meet Bryant's estimated needs for his proposed station.

14. Attached to Bryant's opposition was an affidavit by Harry H. Straus, Jr., offering to purchase from Bryant an interest in an oil and gas lease for \$60,000 and a showing of his ability to fulfill his offer of purchase.

15. Under the circumstances of this case, the veracity of both applicants having been called into question, we deem it preferable that the facts of this disputed matter be established in the record. We will, therefore, add the requested issue as to Bryant's financial qualifications.

Accordingly, it is ordered, This 13th day of September 1961, that the motion to enlarge issues, filed April 24, 1961, by Vernon E. Pressley, and the petition to enlarge issues, filed May 8, 1961, by B. E. Bryant, are granted and the motion to dismiss Bryant's petition, filed May 18, 1961, by Vernon E. Pressley is denied.

It is further ordered, That existing Issue 7 is renumbered as Issue 12; and that the issues in this proceeding are enlarged by adding the following Issues 7, 8, 9, 10, and 11:

7. To determine whether the application of B. E. Bryant was filed in good faith, or was filed solely or in part to strike or block the application of Vernon E. Pressley in the instant proceeding.

8. To determine whether the application of B. E. Bryant fully disclosed the information called for by Section II of the Commission Form 301 and in particular Question 22 of said Section, and, if the finding be in the negative, what information was not set forth and the reasons therefor.

9. To determine whether the application of B. E. Bryant represents an accurate and complete financial proposal and if not, whether the misrepresentation is of such a nature to warrant a conclusion adverse to his candor.

10. To determine whether Vernon E. Pressley submitted false information in the affidavits attached to his Motion to Enlarge Issues (dated April 24, 1961), and determine his character qualifications in the light thereof.

11. To determine whether B. E. Bryant is financially qualified to construct and operate the proposed station.

Released: September 18, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-9056; Filed, Sept. 20, 1961;
8:52 a.m.]

[Docket No. 14125 etc.; FCC 61-1102]

MASSILLON BROADCASTING COMPANY, INC., ET AL.

Memorandum Opinion and Order Amending Issues

In re application of Massillon Broadcasting Company, Inc., Norwood, Ohio, Docket No. 14125, File No. BP-13633; Covington Broadcasting Company, Covington, Kentucky, Docket No. 14126, File No. BP-14552; Irving Schwartz, tr/as Kenton County Broadcasters, Covington, Kentucky, Docket No. 14127, File No. BP-14613; Dale H. Mossman, Norwood, Ohio, Docket No. 14128, File No. BP-14623; for construction permits.

1. The Commission has before it for consideration (1) a petition to enlarge issues, filed June 8, 1961, by Massillon Broadcasting Company, Inc., Norwood, Ohio; (2) an opposition, filed June 21, 1961, by the Broadcast Bureau; (3) an opposition, filed June 23, 1961, after petition for extension of time granted, by Dale H. Mossman, Norwood, Ohio; and (4) a reply, filed June 26, 1961, by Massillon Broadcasting Company, Inc.

2. Massillon Broadcasting Company, Inc. seeks by this petition to enlarge the issues beyond those designated for hearing by the Commission in its Order released May 22, 1961 (FCC 61-622, Mimeo No. 4501), to add the following issue: "To determine whether the proposed transmitter location of Dale H. Mossman is properly zoned to permit construction of the proposed antenna towers as set forth in his application."

3. In support of its petition Massillon asserts that the location of the proposed transmitter site of Mossman, which is set forth in its application as south of Galbraith Road at the Cincinnati City Boundary, Wyoming Township, Hamilton County, Ohio, is actually not within said Wyoming Township, but within the zoning authority of the County of Hamilton; that in either case the immediately contiguous areas are zoned residential by both the county and the township which precludes the construction of broadcast towers; that the Zoning Code of Wyoming, Ohio permits variations from the terms of the Code only where it can be shown that the Code actually

prohibits the use of the property in a manner similar to that which other property in the district is used and that the granting of such variation will alleviate a clearly demonstrable hardship approaching confiscation, which Massillon contends Mossman cannot possibly show; that rezoning the transmitter site would require the change of an "AAA" Single-Family Residential District to an "E" Commercial District upon the approval of the Wyoming Town Council after public notice, hearing, and a report of the Planning Commission and, in the event of Planning Commission disapproval of the proposed change, the amendment to the Code could only be passed upon the favorable vote of $\frac{3}{4}$ of all members of the Council; and that there is presently no application on file before any agency or board within either Wyoming Township or Hamilton County for permission to erect the proposed towers at the site indicated in the Mossman application. While Massillon admits that it may well be that the Zoning Code could be amended, it contends that the burden of proof of an exception to a regulation is upon the party relying upon the exception, and therefore, it urges that the subject petition should be granted with the burden of proof placed on Mossman.

4. Mossman in its opposition states that the owner of the optioned transmitter site has agreed with him that he will file for the building permit, and Mossman will then request a waiver of pertinent regulations. Mossman further asserts only that such waiver may be granted and a non-conforming permit or certificate of variance may be issued. Mossman does not contest petitioner's statement of the regulations.

5. The Broadcast Bureau opposes the petition on the ground that there is no showing by Massillon that Mossman will be unable to obtain approval from the appropriate authorities to erect his proposed antenna towers. The Bureau cites Indianapolis Broadcasting, Inc., 10 RR 1010(c) (1954), a case in which the Commission refused to add an issue as to site availability on the basis of alleged conflict with zoning regulations where the petitioner failed to make a reasonable showing of the improbability of change in the present zoning restrictions. We find that such a reasonable showing has been made in the instant case.

6. We are mindful that the Commission has in the past held that zoning matters are "clearly a matter to be resolved by the local zoning authority." *W. Gordon Allen (KTIX)*, 13 RR 1120 (1956). We have also held that an applicant is not required to enter into a final binding arrangement in order to show that a site is available to him. *Suburban Broadcasting Co., Inc.*, 19 RR 956(a) (1960). An applicant should, however, have reasonable assurance of the approval of the local zoning authorities. In view of the fact that the applicant herein has done no more than state that it will make application with the zoning authorities for a waiver of regulations which it does not deny pro-

hibit the construction of its proposed towers, and which on their face do not appear to provide an available exception permitting such waiver, an issue will be added to determine whether applicant has a reasonable expectancy of obtaining permission from the appropriate zoning authorities for the construction of its proposed antenna towers.

Accordingly, it is ordered, This 13th day of September, 1961, that the petition to enlarge issues, filed by Massillon Broadcasting Company, Inc. on June 8, 1961, is denied; and

It is further ordered, That present issues 4, 5, and 6 be renumbered as issues 5, 6 and 7, respectively, and that the following new issue be added on the Commission's own motion:

4. To determine whether Dale H. Mossman has a reasonable expectancy of obtaining permission from the appropriate zoning authorities for the construction of the proposed antenna towers at the site set forth in his application.

Released: September 18, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-9054; Filed, Sept. 20, 1961;
8:51 a.m.]

FEDERAL MARITIME COMMISSION

[Docket No. 954]

INVESTIGATION OF RATES AND PRACTICES IN THE ATLANTIC- GULF/PUERTO RICO TRADE

Notice of First Supplemental Order

On September 1, 1961, the Federal Maritime Commission entered the following First Supplemental Order to the original Order in this proceeding dated July 17, 1961:

It appearing that there is currently pending in this proceeding an investigation into and concerning certain rates and practices from Atlantic and Gulf Coast ports of the United States to ports in the Commonwealth of Puerto Rico which became effective July 6, 1961, and on various dates thereafter; and

It further appearing that A. H. Bull Steamship Company (Bull) and Sea-Land of Puerto Rico, Division of Sea-Land Service, Inc. (Sea-Land), have been named respondents in this proceeding; and

It further appearing that there was filed with the Federal Maritime Commission² by Bull a second revised page No. 38 to its Outward Freight Tariff No. 1, FMB-F No. 1, which became effective August 3, 1961, which page published a new commodity rate as follows:

¹ Commissioners Lee and Cross dissenting; Commissioner Ford absent.

² As used herein, the Federal Maritime Commission refers to both the present Federal Maritime Commission and its predecessor the Federal Maritime Board.

¹ Commissioners Bartley and Craven dissenting to the denial of Vernon E. Pressley's motion to dismiss B. E. Bryant's petition; Commissioners Hyde, Lee, and Craven dissenting to the addition of Issue 9; Commissioners Hyde and Craven dissenting to the addition of Issue 10; Commissioner Cross dissenting to the addition of Issue 11.

	Per cubic foot	Per 100 pounds
Canned or bottled goods in quantities of not less than 500 tons of 2,240 pounds, from one shipper to one consignee, and from one loading port (see Note)-----	\$0.42	\$1.05

Note: Pick-up service at point of origin and delivery service at point of destination, as described in Pick-up and Delivery Service Tariff No. 1, FMB-F, No. 3 will not be afforded on shipments moving under this provision.

and

It further appearing that Bull filed with the Federal Maritime Commission a first revised page No. 49 to the said Outward Freight Tariff No. 1, FMB-F No. 1, naming a reduced rate on new or used office furniture, which became effective July 27, 1961, as follows:

	Cents per cubic foot	Cents per hundred-weight
Furniture, office, new or used in unit load quantities, from one shipper to one consignee at one destination, when shipper requests exclusive use of units and bill of lading is so endorsed, shipper to load unit, and consignee to unload unit (see note)-----	\$0.53	\$1.29
Per trailer (see Pick Up and Delivery Service Tariff No. 1, FMB-F No. 3, item 24, applies to unit "C" only)-----	\$750.00	
Per van-trailer (see Pick Up and Delivery Service Tariff No. 1, FMB-F No. 3, applies to unit "D" only)-----	350.00	

Note: Pick up service at point of origin and delivery service to point of destination as described in Freight Tariff No. 1, FMB-F No. 3, will not be rendered shipments moving under this provision.

and

It further appearing that there was filed with the Federal Maritime Commission by Sea-Land an 11th revised page No. 27 to its Homeward Freight Tariff No. 4, FMB-F No. 2 (Pan-Atlantic Steamship Corporation FMB-F Series), which became effective August 5, 1961, which page published a new commodity rate as follows:

	Cents per cubic foot	Cents per hundred-weight
Beams, textile (aluminum) in cartons, drums, or racks (see note 2)-----	\$0.31	
In quantities of not less than 8,000 pounds per trailer-----		\$2.25
In quantities of not less than 12,000 pounds per trailer-----		2.00

Note 2: Rate applies only on returned empty beams, and only when prior movement of yarn on beams was made to Puerto Rico via Sea-Land of Puerto Rico, Division of Sea-Land Service, Inc.

and

It further appearing that the aforementioned rate reductions or revisions indicate the existence of unstable conditions in the aforementioned trade, which said conditions may result not only from

the said rate reductions or revisions but also from their relationship to rates charged by all carriers in the aforementioned trade for transportation of the aforementioned commodities;

Now therefore, it is ordered, That, with a view to making such findings and orders in the premises as the facts and circumstances shall warrant, this proceeding be, and it hereby is, expanded to include, in addition to the matters now under investigation, an investigation of, and a hearing concerning, the lawfulness under the Shipping Act, 1916, as amended, and the Intercoastal Shipping Act, 1933, as amended, of the rates, rate reductions or revisions, charges, classifi-

cations, rules, conditions, regulations, tariffs, and practices stated in the aforementioned schedules, as well as those stated with respect to the aforementioned commodities in the schedules heretofore filed on various dates by Alcoa Steamship Company, Inc. (Alcoa), American Union Transport, Inc. (AUT), Bull, Lykes Bros. Steamship Company (Lykes), Sea-Land, TMT Trailer Ferry, Inc. (TMT), and Waterman Steamship Corporation of Puerto Rico (Waterman) as follows, except that where such carriers move the said commodities under cargo n.o.s. rates as hereinafter indicated, the said cargo n.o.s. rate is, to that extent, placed under investigation:

Alcoa Outward Freight Tariff No. 1, FMB-F No. 2

Commodity	Appearing on—
Canned or bottled goods [Foodstuffs, n.o.s.]-----	Original page No. 44.
Office furniture, new or used [Furniture, n.o.s.]-----	Second revised page No. 55.
Beams, textile (aluminum) [Cargo, n.o.s.]-----	Original page No. 44.

AUT Southbound Freight Tariff No. 6, FMB-F No. 6

Canned or bottled goods [Foodstuffs, n.o.s.]-----	Second revised page No. 20.
Office furniture, new or used [Furniture, n.o.s.]-----	Second revised page No. 24.

AUT Inward Freight Tariff No. 7, FMB-F No. 7

Beams, textile (aluminum) [Cargo, n.o.s.]-----	Fourth revised page No. 17.
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Bull Outward Freight Tariff No. 1, FMB-F No. 1

Canned or bottled goods-----	Second revised page No. 38.
Furniture, office, new or used-----	First revised page No. 49.

Bull Homeward Freight Tariff No. 1, FMB-F No. 2

Beams, textile (aluminum)-----	Third revised page No. 23.
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Sea-Land Outward Freight Tariff No. 2, FMB-F No. 3

Canned or bottled goods [Foodstuffs, n.o.s.]-----	Sixth revised page No. 40.
Furniture, office, new or used [other than personal effects]--	Fourth revised page No. 55 and third revised page No. 55.

Sea-Land Homeward Freight Tariff No. 4, FMB-F No. 2

Beams, textile (aluminum)-----	Eleventh revised page No. 27.
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TMT Freight Tariff No. 3, FMB-F No. 3

Canned or bottled goods [Foodstuffs, n.o.s.]-----	Third revised page No. 53.
Furniture, office, new or used [Furniture, n.o.s.]-----	Third revised page No. 72.
Beams, textile (aluminum) [Cargo, n.o.s.]-----	Fourth revised page No. 54.

U.S. Atlantic & Gulf-Puerto Rico Outward Freight Tariff No. 1, FMB-F No. 1, Richard Kinsella, agent, Lykes and Waterman being participating carriers named therein

Canned or bottled goods [Foodstuffs, n.o.s.]-----	First revised page No. 48.
Furniture, office, new or used-----	Original page No. 58.
Beams, textile (aluminum) [Cargo, n.o.s.]-----	First revised page No. 48.

It is further ordered, That copies of this order shall be filed with the said tariff schedules in the Office of Regulations of the Federal Maritime Commission; and

It is further ordered, That (I) the investigation herein ordered be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners, at a date and place to be determined and announced by the Chief Examiner, to receive evidence which will provide an adequate record for proper disposition of the issues, and that an initial decision be issued; (II) a copy of this order shall forthwith be served upon all protestants herein and upon Alcoa, AUT, Bull, Lykes, Sea-Land, TMT, and Waterman, heretofore named respondents herein; (III) respondents and protestants be duly notified of the time and

place of the hearing herein ordered; and (IV) this order and notice of the said hearing be published in the FEDERAL REGISTER.

Notice is hereby given that the hearing in this proceeding will be held before an examiner of the Commission's Office of Hearing Examiners at a date and place hereafter to be announced. The hearing will be conducted in accordance with the Commission's rules of practice and procedure, and an initial decision will be issued by the examiner.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene

in accordance with Rule 5(n) (46 CFR 201.74) of said rules.

Dated: September 15, 1961.

By order of the Federal Maritime Commission.

GEO. A. VIEHMANN,
Acting Secretary.

[F.R. Doc. 61-9041; Filed, Sept. 20, 1961;
8:50 a.m.]

[Docket No. 954]

INVESTIGATION OF RATES AND PRACTICES IN THE ATLANTIC-GULF/PUERTO RICO TRADE

Notice of Second Supplemental Order

On September 1, 1961, the Federal Maritime Commission entered the following Second Supplemental Order to the original Order in this proceeding dated July 17, 1961.

It appearing that there is currently pending an investigation into and a hearing concerning certain reduced rates and practices from Atlantic and Gulf coast ports of the United States to ports in the Commonwealth of Puerto Rico which became effective on July 6, 1961, and on various dates thereafter; and

It further appearing that A. H. Bull Steamship Company, Inc. (Bull) has been named as a respondent in this proceeding; and

It further appearing that there was filed with the Federal Maritime Commission or its predecessor the Federal Maritime Board, hereafter separately or collectively, as the context may require, referred to as the Commission, by Bull a fourth revised page No. 27 to its Homeward Freight Tariff No. 1, FMB-F No. 2, effective on September 4, 1961, which pages publishes a new reduced commodity rate as follows:

Tiles, viz: Pre-cast Terrazzo, floor or wall, in cartons, \$1.04 per 100 pounds.

and

It further appearing that a protest was filed on August 21, 1961, by Sea-Land Service, Inc., Puerto Rican Division, requesting suspension and investigation of the said rate; and

It further appearing that upon consideration of the said schedule and protest thereto, there is reason to believe that the said schedule would, if permitted to become effective, result in a rate, charge, rule, classification, regulation, tariff, or practice which would be unjust, unreasonable, or otherwise unlawful in violation of the Shipping Act, 1916, as amended, and the Intercoastal Shipping Act, 1933, as amended; and

It further appearing that the Commission is of the opinion that the new schedule and the rate, charge, classification, rule, regulation, tariff, and practice contained therein should be made the subject of a public investigation and hearing to determine whether it is just, reasonable, and otherwise lawful under the Shipping Act, 1916, as amended, or the Intercoastal Shipping Act, 1933, as amended; and

It further appearing that the aforementioned rate reduction or revision in-

dicates the existence of unstable conditions in the aforementioned trade, which said conditions may result not only from the said rate reduction or revision but also from its relationship to the rates charged by all carriers in the aforementioned trade for transportation of the aforementioned commodity; and

It further appearing that the effective date of the said schedule should be suspended pending such investigation;

Now therefore it is ordered, That the said Schedule be and it is hereby, suspended and that the use of the said schedule be, and it is hereby, deferred to and including January 3, 1962, unless otherwise authorized by the Commission, and that the rate, fare, charge, classification, rule, regulation, and practice heretofore in effect, and which was to be changed by the suspended schedule, shall remain in effect during the period of suspension;

It is further ordered, That no change shall be made in the matter hereby suspended nor the matter which is continued in effect as a result of such suspension until the period of suspension or any extension thereof has expired, or until this investigation and suspension proceeding has been disposed of, whichever first occurs, unless otherwise authorized by the Commission;

It is further ordered, That there shall be filed immediately with the Commission by A. H. Bull Steamship Company, Inc., a consecutively numbered supplement to the aforesaid suspended schedule which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspended schedule is described, and shall state that the aforesaid schedule is suspended and that the rate, fare, charge, classification, rule, regulation, and practice therein stated may not be used until January 4, 1962, unless otherwise authorized by the Commission, and that the rate, fare, charge, classification, rule, regulation, and practice heretofore in effect, and which was to be changed by the suspended schedule, shall remain in effect during the period of suspension, and neither the matter suspended, nor the matter which is continued in effect as a result of such suspension, may be changed until the period of suspension or any extension thereof has expired, or until this investigation and suspension proceeding has been disposed of, whichever first occurs, unless otherwise authorized by the Commission; and

It is further ordered, That, with a view to making such findings and orders in the premises as the facts and circumstances shall warrant, this proceeding be and it hereby is, expanded to include, in addition to the matters now under suspension or investigation, an investigation of, and hearing concerning, the lawfulness under the Shipping Act, 1916, as amended, or the Intercoastal Shipping Act, 1933, as amended, of the rates, rate reductions or revisions, rules, conditions, charges, tariffs, regulations, or practices stated in the aforementioned schedule, as well as those stated with respect to the aforementioned commodity in the schedules heretofore filed on

various dates by American Union Transport, Inc. (AUT), Alcoa Steamship Company, Inc. (Alcoa), Lykes Bros. Steamship Company (Lykes), Sea-Land of Puerto Rico, division of Sea-Land Services, Inc. (Sea-Land), TMT Trailer Ferry, Inc. (TMT), and Waterman Steamship Corporation of Puerto Rico (Waterman) as follows, except that where such carriers move the said commodity under cargo n.o.s. rates as hereinafter indicated, the said cargo n.o.s. rate is, to that extent, placed under investigation:

AUT Southbound Freight Tariff No. 6, FMB-F No. 6, second revised page No. 43.
Alcoa Outward Freight Tariff No. 2, FMB-F No. 2, original page No. 84.
Sea-Land Homeward Freight Tariff No. 4, FMB-F No. 2, ninth revised page No. 34 [Tile, viz: Facing or flooring, n.o.s.].
TMT Freight Tariff No. 3, FMB-F No. 3, sixth revised page No. 150.
United States Atlantic and Gulf-Puerto Rico Freight Tariff No. 1, FMB-F No. 2 [Richard Kinsella, agent, Lykes and Waterman being participating carriers named therein], original page No. 33 and first revised page No. 33.

and

It is further ordered, That copies of this order shall be filed with the said tariff schedules in the Office of Regulations of the Federal Maritime Commission; and

It is further ordered, That (I) the investigation herein ordered be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners, at a date and place to be determined and announced by the Chief Examiner, to receive evidence which will provide an adequate record for proper disposition of the issues, and that an initial decision be issued; (II) a copy of this order shall forthwith be served upon all protestants herein and upon Alcoa, AUT, Bull, TMT, Lykes, Sea-Land, and Waterman, heretofore named respondents herein; (III) respondents and protestants be duly notified of the time and place of the hearing herein ordered; and (IV) this order and notice of the said hearing be published in the FEDERAL REGISTER.

Notice is hereby given that the hearing in this proceeding will be held before an examiner of the Commission's Office of Hearing Examiners at a date and place hereafter to be announced. The hearing will be conducted in accordance with the Commission's rules and practice and procedure, and an initial decision will be issued by the examiner.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies), having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(n) (46 CFR 207.74) of said rules.

Dated: September 15, 1961.

By order of the Federal Maritime Commission.

GEO. A. VIEHMANN,
Acting Secretary.

[F.R. Doc. 61-9042; Filed, Sept. 20, 1961;
8:50 a.m.]

[Docket No. 954]

INVESTIGATION OF RATES AND PRACTICES IN THE ATLANTIC-GULF/PUERTO RICO TRADE**Notice of Third Supplemental Order**

On September 7, 1961, the Federal Maritime Commission entered the following Third Supplemental Order to the original Order in this proceeding dated July 17, 1961:

It appearing that there is currently pending an investigation into and a hearing concerning certain reduced rates and practices from Atlantic and Gulf coast ports of the United States to ports in the Commonwealth of Puerto Rico which became effective on July 6, 1961, and on various dates thereafter; and

It further appearing that Alcoa Steamship Company, Inc. (Alcoa), has been named as a respondent in this proceeding; and

It further appearing that there was filed with the Federal Maritime Commission¹ by Alcoa a second revised page No. 55 to its Outward Freight Tariff No. 2, FMB-F No. 2, which became effective on August 8, 1961, which page publishes a new reduced commodity rate, as follows:

Furniture, School (Set up or knocked down)
\$0.39 per cubic foot.

and

It further appearing that a protest was filed on July 31, 1961, by Sea-Land Service, Inc., Puerto Rican Division, requesting suspension and investigation of the said rate; and

It further appearing that the aforementioned rate reduction or revision indicates the existence of unstable conditions in the aforementioned trade, which said conditions may result not only from the said rate reduction or revision but also from its relationship to the rates charged by all carriers in the aforementioned trade for transportation of the aforementioned commodity;

Now therefore, it is ordered, That, with a view to making such findings and orders in the premises as the facts and circumstances shall warrant, this proceeding be, and it hereby is, expanded to include, in addition to the matters now under investigation of, and a hearing concerning, the lawfulness under the Shipping Act, 1916, as amended, or the Intercoastal Shipping Act, 1933, as amended, of the rates, rate reductions or revisions, rules, conditions, charges, tariffs, regulations, or practices stated in the aforementioned schedule, as well as those stated with respect to the aforementioned commodity in the schedule heretofore filed on various dates by American Union Transport, Inc. (AUT), A. H. Bull Steamship Company (Bull), Lykes Bros. Steamship Company (Lykes), Sea-Land of Puerto Rico, di-

vision of Sea-Land Services, Inc., (Sea-Land), TMT Trailer Ferry, Inc. (TMT), and Waterman Steamship Corporation of Puerto Rico (Waterman) as follows, except that where such carriers move the said commodity under cargo n.o.s. as hereinafter indicated, the said cargo n.o.s. rate is, to that extent, placed under investigation:

AUT Southbound Freight Tariff No. 6, FMB-F No. 6, second revised page No. 24.
Bull, Outward Freight Tariff No. 1, FMB-F No. 1, first revised page No. 49 [Furniture, n.o.s.].

Sea-Land Outward Freight Tariff No. 2, FMB-F No. 3, third revised page No. 55 [Furniture, n.o.s.].

TMT Freight Tariff No. 3, FMB-F No. 3, third revised page No. 72 [Furniture, n.o.s.].

United States Atlantic and Gulf-Puerto Rico Outward Freight Tariff No. 1, FMB-F No. 1, [Richard Kinsella, agent, Lykes and Waterman being participating carriers named therein], original page No. 58 [Furniture, n.o.s.].

It is further ordered, That copies of this order shall be filed with the said tariff schedules in the Office of Regulations of the Federal Maritime Commission; and

It is further ordered, That (I) the investigation herein ordered be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners, at a date and place to be determined and announced by the Chief Examiner, to receive evidence which will provide an adequate record for proper disposition of the issues, and that an initial decision be issued; (II) a copy of this order shall forthwith be served upon all protestants herein and upon Alcoa, AUT, Bull, TMT, Lykes, Sea-Land, and Waterman, heretofore named respondents herein; (III) respondents and protestants be duly notified of the time and place of the hearing herein ordered; and (IV) this order and notice of the said hearing be published in the FEDERAL REGISTER.

Notice is hereby given that the hearing in this proceeding will be held before an examiner of the Commission's Office of Hearing Examiners at a date and place hereafter to be announced. The hearing will be conducted in accordance with the Commission's rules of practice and procedure, and an initial decision will be issued by the examiner.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies), having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(n) (46 CFR 201.74) of said rules.

Dated: September 15, 1961.

By order of the Federal Maritime Commission.

GEO. A. VIEHMANN,
Acting Secretary.

[F.R. Doc. 61-9043; Filed, Sept. 20, 1961; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP62-54]

ARKANSAS LOUISIANA GAS CO.**Notice of Application and Date of Hearing**

SEPTEMBER 14, 1961.

Take notice that on August 28, 1961, Arkansas Louisiana Gas Company (Applicant), Slattery Building, Shreveport, Louisiana, filed an application in Docket No. CP62-54 pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon and remove a 225 horsepower compressor unit at Applicant's Twitty Compressor Station in the West Panhandle Field in Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the compressor unit is standing idle because of the decline in gas supply on this part of its system and any further use of the unit at the Twitty Compressor Station is not anticipated. Applicant proposes to remove the compressor unit for use elsewhere.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 24, 1961, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 13, 1961. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-9010; Filed, Sept. 20, 1961; 8:46 a.m.]

¹As used herein, the Federal Maritime Commission refers to both the present Federal Maritime Commission and its predecessor the Federal Maritime Board.

[Docket No. RI62-37]

BELCO PETROLEUM CORP.**Order Providing for Hearing on and Suspension of Proposed Change in Rates**

SEPTEMBER 14, 1961.

On August 17, 1961, Belco Petroleum Corporation (Belco)¹ tendered for filing proposed changes in presently-effective rates for sales of natural gas subject to the jurisdiction of the Commission. The filing, designated Supplement No. 11 to Rate Schedule No. 3, represents an increase of 1 cent for sales to El Paso Natural Gas Company, Big Piney Field, Sublette and Lincoln Counties, Wyoming. The rates of 14.0 cents, 15.384 cents, and 16.0 cents per Mcf would thereby be increased to 15.0 cents, 16.384 cents, and 17.0 cents per Mcf, respectively, at a pressure base of 15,025 psia. The total annual amount of increase is \$184,326, and Belco requests an effective date of October 20, 1961. The rates described above all exceed the appropriate area price level as set forth in the Commission's Statement of General Policy No. 61-1.

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

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the several proposed changes and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon the date to be fixed by notice from the Secretary concerning the lawfulness of the several proposed changes and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

(B) Pending hearing and decision thereon, the above-designated supplement is hereby suspended and the use thereof deferred until March 20, 1962, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of

¹ 630 Third Avenue, New York 17, N.Y.

practice and procedure (18 CFR 1.8 and 1.37 (f)) on or before October 30, 1961.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-9011; Filed, Sept. 20, 1961;
8:46 a.m.]

[Docket Nos. CI60-155 etc.]

J. M. HUBER CORP. ET AL.**Notice of Applications and Date of Hearing**

SEPTEMBER 15, 1961.

J. M. Huber Corporation, Docket No. CI60-155; Tidewater Oil Company, Docket No. CI60-200; Allen & Martin Gas Company, Docket No. CI60-523; Ginther Warren & Company, Operator, et al., Docket No. CI60-643; Hanlon Oil Company, Docket No. CI60-710; Redland Pipeline Company and R. W. Fair, Docket No. CI60-728; Stanley J. Tepe, Docket No. CI60-729; Hickman Oil & Gas Company, Docket No. CI60-764; Letha Westfall Gas Company, Docket No. CI61-858; Penn-Hunt Oil & Gas Company, Docket No. CI61-1051; Humble Oil & Refining Company, Docket No. CI61-1173; Columbian Carbon Company, Docket No. CI61-1258; Socony Mobil Oil Company, Inc., Docket No. CI61-1406; Amerada Petroleum Corporation, Docket No. CI61-1407; W. L. Heeter, Docket No. CI61-1478; Skelly Oil Company, Docket No. CI61-1509.

Take notice that each of the above applicants seeks permission and approval pursuant to section 7(b) of the Natural Gas Act to abandon natural gas service subject to the jurisdiction of the Commission, as hereinafter described and as more fully described in the respective applications herein which are on file with the Commission and open to public inspection.

The pertinent facts in each application are as follows:

Docket No., field and location, purchaser, Docket No. in which sale was authorized

CI60-155; No. 1 Hennigh Gas Unit, Beaver County, Okla.; Cities Service Gas Co.; G-9871.
CI60-200; Cruce Field, Stephens County, Okla.; Lone Star Gas Co.; G-6270.
CI60-523; John Lipscomb Lease, Grant District, Ritchie County, W. Va.; Hope Natural Gas Co.; G-16304.
CI60-643; North Goliad Field, Goliad County, Tex.; United Gas Pipeline Co.; G-8853.
CI60-710; McKim, Lafayette, and Clay Districts, Pleasants and Ritchie Counties, W. Va.; Hope Natural Gas Co.; G-5393.
CI60-728; Redland Field, Bossier Parish, La.; Redland Pipeline Co.; G-9216; R. W. Fair Leases Redland Field, Bossier Parish, La.; Louisiana Nevada Transit Co.; G-9215.
CI60-729; Leidy Field, Clinton County, Pa.; New York State Natural Gas Co.; G-6933.
CI60-764; Union District, Ritchie County, W. Va.; Hope Natural Gas Co.; G-5536.
CI61-858; DeKalb District, Gilmer County, W. Va.; Hope Natural Gas Co.; G-5567.
CI61-1051; Union District, Ritchie County, W. Va.; Hope Natural Gas Co.; G-8363.
CI61-1173; Doyle Pool, Stephens County, Okla.; Service Gas Products Co.; G-4863.

CI61-1258; Lewis and Upshur Counties, W. Va.; Cumberland and Allegheny Gas Co.; G-7079.

CI61-1406; Craft Brothers Lease, Lake St. John Field, Tensas Parish, La.; Tensas Gas Gathering Corp.; G-14246.

CI61-1407; Heide Lease, Blackwell Area, Kay County, Okla.; The Range Co.; G-11901.

CI61-1478; Washington District, Calhoun County, W. Va.; Hope Natural Gas Co.; G-15133.

CI61-1509; King-Nueces Unit, Agua Dulce Field, Nueces County, Tex.; Tennessee Gas Transmission Co.; G-5347.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 24, 1961, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 13, 1961. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-9013; Filed, Sept. 20, 1961;
8:46 a.m.]

[Docket No. CP61-213]

NORTHERN NATURAL GAS CO.**Notice of Application and Date of Hearing**

SEPTEMBER 15, 1961.

Take notice that on February 17, 1961, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska, filed an application in Docket No. CP61-213, as supplemented on May 8, 1961, and August 7, 1961, pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity seeking authorization to sell and deliver on an interruptible basis up to 1,500 Mcf of natural gas per day to Texas Public Service Corporation of Texas (Public Service), all as more fully set forth in the application, as supple-

mented, on file with the Commission and open to public inspection.

The application shows that Public Service owns and operates a 4- and 6-inch transmission pipeline system from which it sells gas for resale to the communities of Perryton and Spearman, Texas, and sells gas at retail in nine other communities in Texas and Oklahoma.

The application indicates that Public Service's present sources of gas supply are no longer adequate to meet the increasing peak period requirements of its customers, and hence, it desires to purchase interruptible gas from Applicant to help meet peak day needs.

The estimated peak day requirements of Public Service are:

	1961	1962	1963
Firm.....	10,438	11,500	12,550
Interruptible.....	900	900	900
Total.....	11,338	12,400	13,450

No additional facilities will be required as the proposed sale will be effected through an existing interconnection of facilities in Ochiltree County, Texas, which connection is presently used for the delivery and sale by Applicant to Public Service of natural gas for emergency use only.

The proposed sale will be made pursuant to an agreement between Applicant and Public Service, dated December 8, 1960, as amended July 25, 1961. The agreement provides for a price of 33 cents per Mcf of natural gas.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 23, 1961, at 9:30 a.m. e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 130(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 10, 1961. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of

the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-9014; Filed, Sept. 20, 1961;
8:47 a.m.]

[Docket No. E-7012]

NORTHERN STATES POWER CO.

Notice of Application

SEPTEMBER 14, 1961.

Take notice that on September 5, 1961, an application was filed with the Federal Power Commission pursuant to section 203 of the Federal Power Act by Northern States Power Company ("Applicant") for authorization to sell certain electric facilities to the City of Anoka, Minnesota. Applicant is a public utility incorporated under the laws of the State of Minnesota furnishing electric service in certain portions of the States of Minnesota, North Dakota, and South Dakota. Its principal business office is in Minneapolis, Minnesota. This application is for the sale of feeder lines located in the City of Anoka (hereinafter referred to as "City") together with station equipment, poles, towers and fixtures, overhead conductors and devices and underground conduit, conductors, and devices. In addition, Applicant will, at an estimated cost of \$29,900, install a new 500 MCM submarine cable across the Mississippi River, and deliver it to the City. The consideration for the aforesaid electric facilities to be sold by Applicant to the City is \$60,000, payable in installments of \$1,000 a month, without interest, commencing May 1962 under a proposed Agreement of Sale between Applicant and the City. Said electric facilities, which do not constitute all of either Applicant's or the City's operating facilities, are used by Applicant in furnishing wholesale electric energy to the City and after acquisition by the City will be used by the City in furnishing electric service. The only material change in the new contract for the sale by Applicant of the electric energy requirements of the City from the present contract will be to change the point of delivery of the energy from the City's substation located within the City to Applicant's substation outside the city limits. Applicant represents that the consummation of the sale of the electric facilities to the City will not have any material effect on public interests.

Any person desiring to be heard or to make any protest with reference to said application should on or before the 4th day of October 1961, file with the Federal Power Commission, Washington 25, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-9015; Filed, Sept. 20, 1961;
8:47 a.m.]

[Docket No. RI60-118 etc.]

TEXAS PACIFIC COAL AND OIL CO. ET AL.

Order Making Successors in Interest Co-Respondents, Accepting Successor's Undertaking and Redesignating Proceedings

SEPTEMBER 15, 1961.

Texas Pacific Coal and Oil Company and Olsen Oils, Inc. (Operator, et al., Docket Nos. RI60-118 and G-20002; Texas Pacific Coal and Oil Company and Olsen Oils, Inc., Docket No. G-20003; Texas Pacific Coal and Oil Company and Jal Oil Company, Inc. (Operator), et al., Docket Nos. RI60-256, RI60-350 and RI60-386; Texas Pacific Coal and Oil Company and Jal Oil Company, Inc., Docket Nos. RI60-362 and RI60-442.

Texas Pacific Coal and Oil Company (Texas Pacific), on March 30, 1961, filed joint motions with Olsen Oils, Inc. (Operator), et al., and with Olsen Oils, Inc. (both hereinafter referred to as Olsen), with Jal Oil Company, Inc. (Operator), et al., and with Jal Oil Company, Inc. (both hereinafter referred to as Jal Oil), moving that, as of January 1, 1961, Texas Pacific be substituted as Respondent in lieu of Olsen and in lieu of Jal Oil in these proceedings, and that the agreement and undertaking of Texas Pacific concurrently filed be accepted in lieu of such instruments previously filed by Olsen in Docket Nos. RI60-118, G-20002, and G-20003 and in lieu of the surety bonds previously filed by Jal Oil in Docket Nos. RI60-256, RI60-350, RI60-362, RI60-386, and RI60-442. The joint motions specifically seek to have the agreement and undertaking of Texas Pacific made effective as of 7:00 a.m., January 1, 1961, and to release Olsen from all obligations under its aforementioned agreements and undertakings with respect to the sale of gas made under its FPC Gas Rate Schedule Nos. 2, 13, 14, 15 and 16, subsequent to 7:00 a.m., on January 1, 1961, and to release Jal Oil from all obligations under its aforementioned surety bonds with respect to sales of gas made under its FPC Gas Rate Schedule Nos. 1, 2, 4, 6, 7, and 8, subsequent to the same time and date. Texas Pacific acquired the working interests of Olsen and of Jal Oil, effective as hereinbefore stated, subject to certain reservations which are not here material.

The joint motions reflect, as indicated, that Texas Pacific proposes to continue the sales of natural gas under the rate schedules as redesignated¹ and under the undertaking thereby assuring the payment of refunds, if required, to appropriate parties in the pending proceedings. In this connection, movant's request, if authorized as proposed, would

¹ By letter dated July 5, 1961, the Commission informed Texas Pacific that Olsen's FPC Gas Rate Schedule Nos. 2, 13, 14, 15, and 16 have been redesignated as Texas Pacific's FPC Gas Rate Schedule Nos. 42, 48, 49, 50, and 51, respectively, and that Jal Oil's FPC Gas Rate Schedule Nos. 1, 2, 4, 6, 7, and 8 have been redesignated as Texas Pacific's FPC Gas Rate Schedule Nos. 29, 30, 32, 34, 35, and 36, respectively.

substitute Texas Pacific as Respondent for Olsen and for Jal Oil without effecting a disposition of the funds collected by Olsen and by Jal Oil, subject to eventual refund, if so ordered by the Commission in the final determination of these rate proceedings.

In view of the particular circumstances of the acquisition by Texas Pacific, it is not deemed appropriate that Texas Pacific be substituted as Respondent in lieu of Olsen and in lieu of Jal Oil, but rather that Texas Pacific be joined with Olsen and with Jal Oil as Co-Respondents with Texas Pacific's agreement and undertaking, effective as proposed.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Texas Pacific be joined as Co-Respondent (1) with Olsen Oils, Inc. (Operator), et al. in the proceedings in Docket Nos. RI60-118 and G-20002; (2) with Olsen Oils, Inc. in the proceeding in Docket No. G-20003; (3) with Jal Oil Company (Operator), et al. in the proceedings in Docket Nos. RI60-256, RI60-350 and RI60-386; and (4) with Jal Oil Company, Inc. in the proceedings in Docket Nos. RI60-362 and RI60-442; that said proceedings be redesignated as hereinafter ordered; and that Texas Pacific's agreement and undertaking be accepted for filing as hereinafter provided.

The Commission orders:

(A) Texas Pacific is hereby joined as Co-Respondent with Olsen Oils, Inc. (Operator), et al. in the proceedings in Docket Nos. RI60-118 and G-20002, and said proceedings are hereby redesignated as Texas Pacific Coal and Oil Company and Olsen Oils, Inc. (Operator), et al.

(B) Texas Pacific is hereby joined with Olsen Oils, Inc. as Co-Respondent in the proceeding in Docket No. G-20003, and said proceeding is hereby redesignated as Texas Pacific Coal and Oil Company and Olsen Oils, Inc.

(C) Texas Pacific is hereby joined with Jal Oil Company, Inc. (Operator), et al. as Co-Respondent in the proceedings in Docket Nos. RI60-256, RI60-350, and RI60-386, and said proceedings are hereby redesignated as Texas Pacific Coal and Oil Company and Jal Oil Company, Inc. (Operator), et al.

(D) Texas Pacific is hereby joined with Jal Oil Company, Inc. as Co-Respondent in the proceedings in Docket Nos. RI60-362 and RI60-442, and said proceedings are hereby redesignated as Texas Pacific Coal and Oil Company and Jal Oil Company, Inc.

(E) The agreement and undertaking submitted by Texas Pacific on March 30, 1961, in these proceedings, is hereby accepted for filing, effective as of 7:00 a.m., January 1, 1961, and the aforementioned agreements and undertakings previously filed by Olsen Oils and the aforementioned surety bonds filed by Jal Oil shall remain in effect, subject to further orders of the Commission in these proceedings.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-9016; Filed, Sept. 20, 1961;
8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3848]

APEX MINERALS CORP.

Order Summarily Suspending Trading

SEPTEMBER 15, 1961.

The common stock, \$1.00 par value, of Apex Minerals Corporation, being listed and registered on the San Francisco Mining Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is 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 such security, 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 security on the San Francisco Mining 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, September 18, 1961, to September 27, 1961, both dates inclusive.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 61-9028; Filed, Sept. 20, 1961;
8:48 a.m.]

[File No. 70-3990]

GENERAL PUBLIC UTILITIES CORP.

Notice of Proposed Acquisition of Letters of Credit by Holding Company

SEPTEMBER 13, 1961.

Notice is hereby given that General Public Utilities Corporation ("GPU"), 80 Pine Street, New York 5, New York, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 9, 10, and 12(d) of the Act and Rule 44 promulgated thereunder as applicable to the proposed transaction.

All interested persons are referred to the application, on file at the office of the Commission, for a statement of the transaction therein proposed which is summarized as follows:

GPU proposes to sell all of its holdings of the securities of its subsidiary com-

pany, Manila Electric Company ("Manila"), a public-utility company organized and operating under the laws of the Republic of the Philippines, to Meralco Securities Corporation ("MSC"), a non-affiliated Philippine corporation. All of the outstanding shares of Manila common stock and all of the outstanding shares of preferred stock (except 9 shares held by Manila's directors, which shares are included in the proposed sale) are held by GPU. In addition, GPU holds 8,000,000 pesos principal amount of Manila's first mortgage bonds and \$3,355,431 face amount of its unsecured notes payable serially to 1968 in U.S. dollars.

The sale price of the securities is the sum of \$46,000,000 plus the dollar equivalent of the undistributed earnings of Manila from January 1, 1961 to the closing date, which dollar equivalent is to be determined on the basis of the so-called "free-market rate" for the exchange of pesos for dollars prevailing on the closing date. At the present time, the prevailing "free-market rate" is 3 pesos for \$1, and, on this basis, the dollar equivalent of the undistributed earnings of Manila from January 1, 1961, to May 31, 1961, was approximately \$2,900,000.

The purchase price will be evidenced by irrevocable letters of credit to be opened by Philippine banks through United States banks and deposited by MSC with Fiduciary Trust Company of New York, as escrow agent or trustee. The letters of credit proposed to be acquired by GPU will provide for the payment, in funds current at the New York clearing house, of approximately 10 percent of the sale price at the date of closing, the balance being payable in nine approximately equal annual installments commencing one year from the closing date, with interest on such unpaid installments at the rate of 3 percent per annum.

GPU will sell the letters of credit evidencing the nine installment payments within one year after the date of its acquisition thereof and after making an appropriate filing to that effect with this Commission. It is stated that the exact method and results of such disposition cannot now be determined, since they will be affected by market conditions prevailing at the time.

The application states that the transfer on Manila's books of its outstanding common and preferred stock from GPU to MSC is subject to authorization by the Philippine Public Service Commission, that such authorization has been granted, and that no State or Federal regulatory body, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses incident to the proposed transaction are to be filed by amendment.

Notice is further given that any interested person may, not later than October 2, 1961, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed:

Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon declarant, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed contemporaneously with the request. At any time after said date, the application, as filed or as amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F.R. Doc. 61-9029; Filed, Sept. 20, 1961;
8:49 a.m.]

[File No. 70-3985]

PHILADELPHIA ELECTRIC POWER CO.

Notice of Proposed Advances on Open Account to Subsidiary Company

SEPTEMBER 13, 1961.

Notice is hereby given that Philadelphia Electric Power Company ("Philadelphia Power"), 1000 Chestnut Street, Philadelphia 5, Pa., a registered holding company and an electric utility company, and also a subsidiary company of Philadelphia Electric Company, a company which is exempt as a holding company pursuant to Rule 2 promulgated under the Public Utility Holding Company Act of 1935 ("Act"), has filed a declaration with this Commission and has designated section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transaction.

All interested persons are referred to the declaration, on file at the office of the Commission, for a statement of the transaction therein proposed which is summarized below.

Philadelphia Power and its wholly-owned subsidiary company, The Susquehanna Power Company ("Susquehanna Power"), are joint holders of a Federal License issued February 20, 1926, by the Federal Power Commission for a hydroelectric power development on the Susquehanna River known as the Conowingo Project ("Project"). Philadelphia Power, a Pennsylvania corporation, owns that portion of the project located in Pennsylvania, and Susquehanna Power, a Maryland corporation, owns the portion located in Maryland. The project presently has installed seven hydroelectric generating units rated at 36,000 kilowatts capacity and has provision for four additional units.

Philadelphia Power proposes to make interest bearing advances to Susquehanna on open account, from time to time as needed during 1961, aggregating not more than \$1,500,000. The funds are to be used solely for the initial financing of the construction and installation of four additional turbo-generator units of 60,000 Kw each with appurtenant facilities at the Conowingo Project. The total cost of the proposed construction, expected to be completed in 1964, is estimated at \$31,500,000.

The initial funds will be obtained by Philadelphia Power on the basis of promissory notes issued to banks, made and renewed from time to time, with maturities of nine months or less from their respective dates of issuance and concurrently loaned on open account to Susquehanna Power. The interest on such advances to Susquehanna is to be at the same rate or rates as charged Philadelphia Power by the lending bank or banks on such promissory-note indebtedness.

The expenses to be incurred in connection with the proposed open account advances consist of the fee and expenses of counsel amounting to \$668 and a State filing fee of \$10. Philadelphia Power has filed an application with the Pennsylvania Public Utility Commission for approval of the proposed transaction, and the order of said commission is to be filed by amendment to this declaration. The filing states that no other State and no Federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 2, 1961, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon declarant, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed contemporaneously with the request. At any time after said date, the declaration, as filed or as amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rule 20(a) and 100 thereof or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F.R. Doc. 61-9030; Filed, Sept. 20, 1961;
8:49 a.m.]

[File No. 70-3986]

POTOMAC EDISON CO. AND SOUTH PENN POWER CO.

Notice of Filing of Application-Declaration

SEPTEMBER 13, 1961.

Notice is hereby given that The Potomac Edison Company ("Potomac Edison"), 200 East Patrick Street,

Frederick, Md., a registered holding company and a public-utility subsidiary company of Allegheny Power System, Inc., a registered holding company, and South Penn Power Company ("South Penn"), Waynesboro, Pa., a public-utility subsidiary company of Potomac Edison, have filed a joint application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6, 7, 9, 10, and 12 of the Act and Rules 43, 44, 50(a) (3), and 50(a) (4) promulgated thereunder as applicable to the proposed transactions.

All interested persons are referred to the joint application-declaration on file at the office of the Commission for a statement of the transactions therein proposed which are summarized as follows:

South Penn proposes to amend its charter to increase its authorized capital stock from 1,000,000 to 1,400,000 shares without nominal or par value.

South Penn proposes to issue and sell 100,000 shares of its no par authorized and unissued capital stock, and Potomac Edison proposes to acquire such shares for a cash consideration equal to the aggregate stated value of \$500,000. The proceeds are to be used for property additions.

Potomac Edison now owns all of the outstanding shares of capital stock of South Penn. Such shares are pledged under the Indenture of Potomac Edison dated as of October 1, 1944, as supplemented, securing its First Mortgage and Collateral Trust Bonds. The additional shares proposed to be acquired by Potomac Edison will be issued from time to time as necessary prior to December 31, 1961, and upon issuance will be pledged under the Indenture in accordance with the requirements thereof.

The joint application-declaration states that the Pennsylvania Public Utility Commission has jurisdiction over the issuance of the stock of South Penn and the Public Service Commission of West Virginia has or asserts jurisdiction over the acquisition by Potomac Edison of the common stock of South Penn. Appropriate applications have been made to these Commissions and copies of their orders will be supplied by amendment. No other State commission or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

It is estimated that fees and expenses in connection with the proposed transactions will not exceed \$5,270 including \$100 for legal fees, and will be paid by South Penn.

Notice is further given that any interested person may, not later than October 9, 1961, request this Commission in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the joint application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request should be served personally or by mail (air mail if the person being

served is located more than 500 miles from the point of mailing) upon declarant, and proof of service (by affidavit, or in the case of an attorney-at-law by certificate) filed or dispatched contemporaneously with the request. At any time after said date the joint application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 61-9031; Filed, Sept. 20, 1961;
8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 18, 1961.

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

LONG-AND-SHORT HAUL

FSA No. 37348: *Gasoline and liquefied petroleum gas from Shallow Water, Kans.* Filed by Southwestern Freight Bureau, Agent (No. B-8081), for interested rail carriers. Rates on liquefied petroleum gas and gasoline, in tank-car loads, from Shallow Water, Kans., to points in southern territory, also official-southern territory border points.

Grounds for relief: Market competition and grouping.

Tariff: Supplement 121 to Southwestern Freight Bureau tariff I.C.C. 4334.

FSA No. 37349: *Bituminous fine coal from Ashland and Washburn, Wis.* Filed by Chicago and North Western Railway Company (No. 3). Rates on bituminous fine coal, as described in the application, in carloads, from Ashland and Washburn, Wis., to Minneapolis, Minnesota Transfer and St. Paul, Minn.

Grounds for relief: Restore rate relationship.

Tariff: Supplement 56 to Chicago and North Western Railway tariff I.C.C. 4876.

FSA No. 37350: *Commodities between points in Texas.* Filed by Texas-Louisiana Freight Bureau, Agent (No. 415), for interested rail carriers. Rates on mineral wool (rock, slag and glass wool), plain or saturated, in batts or other than batts, in carloads, from, to and between points in Texas, over interstate routes through adjoining states.

Grounds for relief: Intrastate rates and maintenance of rates from and to points in other states not subject to the same competition.

Tariff: Supplement 14 to Texas-Louisiana Freight Bureau tariff I.C.C. 935.

AGGREGATE-OF-INTERMEDIATES

FSA No. 37351: *Commodities between points in Texas.* Filed by Texas-Louisiana Freight Bureau, Agent (No. 416), for interested rail carriers. Rates on mineral wool (rock, slag and glass wool), plain or saturated, in batts or other than batts, in carloads, from, to and between points in Texas, over interstate routes through adjoining states.

Grounds for relief: Maintenance of depressed rates established to meet intrastate competition without use of such rates as factors in constructing combination rates.

Tariff: Supplement 14 to Texas-Louisiana Freight Bureau tariff I.C.C. 935.

By the Commission.

[SEAL]

HAROLD D. McCoy,
Secretary.

[F.R. Doc. 61-9038; Filed, Sept. 20, 1961;
8:49 a.m.]

[Rev. S.O. No. 562; Taylor's I.C.C. Order
No. 135]

RAILROADS SERVING KANSAS AND MISSOURI

Diversion and Rerouting of Traffic

In the opinion of Charles W. Taylor, Agent, the railroads serving the States of Kansas and Missouri are unable to transport traffic routed over their lines, because of floods and high water.

It is ordered, That:

(a) Rerouting traffic: Railroads serving the States of Kansas and Missouri unable to transport traffic in accordance with shippers' routing, because of floods and high water, are hereby authorized to divert or reroute such traffic over any available route to expedite the movement, regardless of the routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to his order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroad or railroads desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroad before the diversion or rerouting is ordered.

(c) Notification to shippers: The carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is diverted or rerouted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of trans-

portation applicable to such traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 5:00 p.m., September 13, 1961.

(g) Expiration date: This order shall expire at 11:59 p.m., September 20, 1961, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D.C., September 13, 1961.

INTERSTATE COMMERCE
COMMISSION,
CHARLES W. TAYLOR,
Agent.

[F.R. Doc. 61-9039; Filed, Sept. 20, 1961;
8:50 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property
JENNY LUEDERS 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 conservation expenses:

Claimant, property, and location

Jenny Lueders,	Haddonfield, N.J., \$5,259.08 in the Treasury of the United States.
Frederick W. Siemssen,	Hamburg, Germany, \$2,280.27 in the Treasury of the United States.
Ellen Siemssen,	Hamburg, Germany, \$5,259.08 in the Treasury of the United States.
Gustav Theodor Siemssen,	Hamburg, Germany, \$2,280.27 in the Treasury of the United States.
Agnes Siemssen Herz,	Augsburg, Germany, \$2,657.80 in the Treasury of the United States.
Claim Nos. 63261 and 62044.	
Vesting Order Nos. 13668 and 16938.	

Executed at Washington, D.C., on September 12, 1961.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.
[F.R. Doc. 61-9012; Filed, Sept. 20, 1961;
8:46 a.m.]

CUMULATIVE CODIFICATION GUIDE—SEPTEMBER

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