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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

MISCELLANEOUS AMENDMENTS

Effective upon publication in the FEDERAL REGISTER, § 6.102 (b) (1), (2), and (3), and § 6.112 (b) (1), (2), and (3), are revoked, and the positions listed below in the Departments of State, Commerce and Labor are excepted from the competitive service under Schedule C.

§ 6.302 *Department of State—(a) Office of the Secretary.* * * *

(3) Five Special Assistants,
(4) Special Assistant for Atomic Energy.

(5) Foreign Affairs Officer (Atomic Energy).

(6) Special Assistant for Mutual Security Affairs.

(7) Two Confidential Assistants and two Private Secretaries to the Secretary.

(8) Chauffeur to the Secretary.

(9) Three Special Assistants to the Under Secretary.

(10) Special Assistant (Fisheries) to the Under Secretary.

(11) Two Confidential Assistants and one Private Secretary to the Under Secretary.

(12) Two Special Assistants and one Confidential Assistant to the Deputy Under Secretary.

* * *

(n) *Executive Secretariat.* (1) Director.

(2) Deputy Director.

(c) *Policy Planning Staff.* (1) Director.

(2) Deputy Director.

(3) Special Assistant to the Director.

(4) Executive Secretary.

(5) Special Assistant (National Security Council).

(6) Ten Members.

§ 6.312 *Department of Commerce—(a) Office of the Secretary.* * * *

(2) Six Confidential Assistants to the Secretary.

(3) Two Private Secretaries to the Secretary.

(4) One Confidential Assistant and one Private Secretary to the Under Secretary.

(5) One Confidential Assistant and one Private Secretary to the Under Secretary for Transportation.

(6) One Confidential Assistant and one Private Secretary to the Assistant Secretary for Domestic Affairs.

(7) One Confidential Assistant and one Private Secretary to the Assistant Secretary for International Affairs.

(8) One Confidential Assistant and one Private Secretary to the General Counsel.

(9) One Private Secretary to the Deputy Under Secretary for Transportation.

(10) Administrator, Defense Air Transport Administration.

(11) One Private Secretary to the Administrator, Defense Air Transport Administration.

(12) Deputy General Counsel.

(13) One Private Secretary to the Deputy General Counsel.

(14) Director of Public Information.

(15) One Chauffeur for the Secretary.

* * *

(e) *Business Services Administration.* * * *

(3) One Private Secretary to the Director, Field Service.

§ 6.313 *Department of Labor.* * * *

(e) *Bureau of Labor Statistics.* * * *

(2) Deputy Commissioner.

* * *

(j) *Office of International Labor Affairs.* (1) Executive Director.

(2) Two Associate Directors.

(k) *Veterans Employment Service.*

(1) Chief.

(l) *Bureau of Veterans Reemployment Rights.* (1) Director.

(m) *Bureau of Employees' Compensation.* (1) Director.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 10440, March 31, 1953, 18 F. R. 1823)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,

Executive Assistant.

[F. R. Doc. 53-8539; Filed, Oct. 6, 1953;

8:48 a. m.]

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Chapter V—The International Organizations Employees Loyalty Board

PART 501—OPERATIONS OF THE INTERNATIONAL ORGANIZATIONS EMPLOYEES LOYALTY BOARD

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AUTHORITY: §§ 501.1 to 501.16 issued under E. O. 10422, Jan. 9, 1953, 18 F. R. 239, as amended by E. O. 10459, June 2, 1953, 18 F. R. 3183.

§ 501.1 Name. This Board shall be known as the International Organizations Employees Loyalty Board, and any reference to the "Board" in this part shall mean such International Organizations Employees Loyalty Board.

§ 501.2 Officers. The officers of the Board shall consist of a chairman, a vice-chairman to be designated by the chairman, and an executive secretary to be appointed by the Board.

§ 501.3 Duties of officers—(a) The Chairman. The chairman shall perform all the duties usually pertaining to the office of chairman, including presiding at Board meetings, supervising the administrative work of the Board, and conducting its correspondence. He shall be authorized to call special meetings of the Board, when in his judgment, such meetings are necessary and shall call such meetings at the written request of three members of the Board. The time and place of such meetings shall be fixed by the chairman. The chairman shall constitute such panels of the Board as may be necessary or desirable to render advisory determinations and to conduct hearings, and he is authorized to appoint such committees as from time to time may be required to handle the work

of the Board. The chairman may request the vice-chairman to assume the duties of the chairman in event of the absence of the chairman or his inability to act.

(b) The Vice-Chairman. The duties of the vice-chairman, when acting in the place of the chairman, shall be the same as the duties of the chairman.

(c) The Executive-Secretary. The executive-secretary shall perform all of the duties customarily performed by an executive-secretary. He shall have immediate charge of the administrative duties of the Board under the direction of the chairman and shall have general responsibility for advising and assisting the Board members and exercising executive direction over the staff.

§ 501.4 Hearings. No adverse determination shall be made without the opportunity for a hearing.

§ 501.5 Panels of the Board. All hearings shall be held by panels of the Board, the determinations of which shall be the determinations of the Board. Such panels of the Board shall consist of not less than three members designated by the chairman. The chairman shall designate the Board member who shall be the presiding member and it shall be the duty of such presiding member to make due report to the Board of all acts and proceedings of the said panel.

§ 501.6 Quorum. A majority of all the members of the Board shall constitute a quorum of the Board. Minutes shall be kept of the transactions of the Board in its meetings.

§ 501.7 Authority and responsibility of the Board. The Board shall have the authority and responsibility to make rules and regulations, not inconsistent with the provisions of Executive Order 10422, as amended, for the execution of its functions and for making available to the Secretary General of the United Nations and the executive heads of other public international organizations certain information concerning United States citizens employed or being considered for employment by the United Nations or other public international organizations of which the United States is a member.

§ 501.8 Grounds for determinations of the Board—(a) Standard. The standard to be used by the Board in making an advisory determination relating to the loyalty of a United States citizen who is an employee of, or is being considered for employment in, a public international organization of which the United States is a member, shall be whether or not on all the evidence there is a reasonable doubt as to the loyalty of the person involved to the Government of the United States.

(b) Activities and associations. Among the activities and associations of the employee or person being considered for employment which may be considered in connection with a determination of disloyalty may be one or more of the following:

(1) Sabotage, espionage, or attempts or preparations therefor, or knowingly associating with spies or saboteurs.

(2) Treason or sedition or advocacy thereof.

(3) Advocacy of revolution or force or violence to alter the constitutional form of Government of the United States.

(4) Intentional, unauthorized disclosure to any person, under circumstances which may indicate disloyalty to the United States, of United States documents or United States information of a confidential or non-public character obtained by the person making the disclosure as a result of his previous employment by the Government of the United States or otherwise.

(5) Performing or attempting to perform his duties, or otherwise acting, while an employee of the United States Government during a previous period, so as to serve the interests of another government in preference to the interests of the United States.

(6) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, or group or combination of persons, designated by the Attorney General as totalitarian, fascist, communist, or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or as seeking to alter the form of government of the United States by unconstitutional means.

§ 501.9 Cases reviewable by the Board. All cases in which an investigation has been made under Executive Order 10422, as amended, shall be referred to and reviewed by the Board in accordance with the Executive order and the rules and regulations of the Board.

§ 501.10 Consideration of reports of investigation—(a) In all cases the Board shall consider the reports of investigation in the light of the standard as set forth in § 501.8 and shall determine whether such reports warrant a finding favorable to the individual or appear to call for further processing of the case with a view to a possible unfavorable determination.

(b) If the Board reaches a favorable conclusion in a case involving a question of loyalty, it shall make a determination that on all the evidence there is not a reasonable doubt as to the individual's loyalty.

(c) If the Board determines that the reports do not warrant a finding favorable to the individual, or the Board determines that the evidence is of such a nature that a hearing may be required before a final decision is made, the Board shall send by registered mail, or in such other manner as the Board in a particular case may decide, a written interrogatory to the individual. Such interrogatory shall state the nature of the evidence against him, setting forth with particularity the facts and circumstances involved, in as much detail as security conditions permit, in order to enable him to submit his answer, defense or explanation and to submit affidavits. It will also inform the applicant or employee, of his opportunity to reply to the interrogatory in writing, under oath or

affirmation, within ten (10) calendar days of the date of receipt by him of the interrogatory or such longer time as the Board in specific cases may prescribe, and of his opportunity for a hearing on the issues before the Board or a panel of the Board, including his right to appear personally at such hearing, to be represented by counsel or a representative of his own choosing, to present evidence in his own behalf, and to cross-examine witnesses offered in support of the derogatory information.

§ 501.11 *Consideration of complete file before hearing.* (a) Following delivery to the applicant or employee of the interrogatory and after expiration of the time limit for filing an answer to the interrogatory, the Board shall proceed to consider the case on the complete file, including the answer, if any, to the interrogatory.

(b) If, upon such consideration, the Board concludes that a finding favorable to the individual may be made, no hearing shall be required.

(c) If, upon such consideration, the Board concludes that a determination favorable to the individual cannot be made on the basis of the information in the file, it shall set a time and place for a hearing and shall give notice thereof to the individual.

§ 501.12 *Obtaining further information.* At any stage in its review and consideration of a case, if the Board deems it advisable or necessary to obtain information or clarification of any matter, the Board may request further investigation, or submit a written questionnaire to the individual whose case is before the Board, or request such individual to furnish information in an oral interview.

§ 501.13 *Conduct of hearings—*(a) Not less than three members of a panel of the Board shall be present at all hearings. The Board shall conduct its hearings in such manner as to protect from disclosure information affecting the national security. The chairman of the panel shall preside and be responsible for the maintenance of decorum and order in the hearing.

(b) Attendance at hearings shall be limited to the applicant or employee, his attorney or representative, the panel of the Board assigned to the case, Board members, Board staff employees participating in the case, the witness who is testifying, and such other persons as in the opinion of the panel are required for the proper presentation of the case. Representation for an applicant or employee shall be limited to one attorney or representative and one bona fide assistant, both representing the applicant or employee only.

(c) Hearings shall begin with the reading of the interrogatory. The applicant or employee shall thereupon be informed of his right to participate in the hearing, to be represented by counsel, to present witnesses and other evidence in his behalf, and to cross-examine witnesses offered in support of the derogatory information.

(d) Testimony shall be given under oath or affirmation.

(e) Strict legal rules of evidence shall not be applied at the hearings, but reasonable bounds shall be maintained as to competency, relevancy, and materiality and due allowance shall be made for the effect of any nondisclosure to the individual of information or the absence of any opportunity to cross-examine persons who supplied information but who do not appear and testify. Both the Government and the applicant or employee may introduce such evidence as the panel may deem proper in the particular case.

(f) A complete verbatim stenographic transcript shall be made of the hearing, and the transcript shall constitute a permanent part of the record.

§ 501.14 *Decision of the Board.* After the employee or person being considered for employment has been given a hearing, the Board shall promptly make its decision. The determination of the Board shall be in writing and shall be signed by the members of the panel. It shall state the action taken, together with the reasons therefor, and shall be made a permanent part of the file in every case.

§ 501.15 *Transmission of determination to the Secretary of State.* The Board shall transmit its determination in each case to the Secretary of State for transmission to the Secretary General of the United Nations, or the executive head of any other public international organization concerned. In each case in which the Board determines that, on all the evidence, there is a reasonable doubt as to the loyalty of the person involved to the Government of the United States, it shall also transmit a statement of the reasons for the Board's determination in as much detail as the Board deems that security considerations permit.

§ 501.16 *Notification of individual concerned.* A copy of the determination of the Board, but not of the statement of reasons, shall be furnished in each case to the person who is the subject thereof.

INTERNATIONAL ORGANIZATIONS EMPLOYEES
LOYALTY BOARD,
UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] PIERCE J. GERETY,
Chairman.

[F. R. Doc. 53-8554; Filed, Oct. 6, 1953;
8:52 a. m.]

TITLE 7—AGRICULTURE

Chapter VII—Production and Marketing Administration (Agricultural Adjustment), Department of Agriculture

[1023 (Peanuts-54)-1]

PART 729—PEANUTS

MARKETING QUOTA REGULATIONS FOR PEANUTS OF 1954 CROP

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ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS

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AUTHORITY: §§ 729.510 to 729.530 issued under sec. 375, 52 Stat. 66; 7 U. S. C. 1375. Interpret or apply secs. 301, 353, 359, 361-368, 388, 52 Stat. 38, as amended; 7 U. S. C. 1301, 1358, 1359, 1361-1368, 1383.

GENERAL

§ 729.510 *Basis and purpose.* The regulations contained in §§ 729.510 to 729.530 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the establishment of farm allotments and normal yields in connection with farm marketing quotas for the peanut crop produced in the calendar year 1954. The purpose of the regulations in §§ 729.510 to 729.530 is to provide the procedure for allocating the 1954 State peanut acreage allotments among farms, for establishing allotments for farms on which peanuts were not picked or threshed in 1951, 1952, or 1953, but on which peanuts are to be picked or threshed in 1954, and for determining farm normal yields per acre for peanuts. Prior to preparing the regulations in §§ 729.510 to 729.530, public notice (18 F. R. 3802) was given in accordance with section 4 of the Administrative Procedure Act (5 U. S. C. 1003). The data, views, and recommendations which were submitted in accordance with such notice have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended.

§ 729.511 *Definitions.* As used in §§ 729.510 to 729.530 and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Assistant Administrator" means the Assistant Administrator for Production, or the Acting Assistant Administrator

tor for Production of the Production and Marketing Administration of the United States Department of Agriculture.

(b) "Committees." (1) "Community committee" means the persons elected within a community as the community committee pursuant to the Secretary's regulations governing the selection and functions of the Production and Marketing Administration county and community committees (Part 713 of this chapter).

(2) "County committee" means the persons elected within a county as the county committee, pursuant to the Secretary's regulations governing the selection and functions of Production and Marketing Administration county and community committees (Part 713 of this chapter).

(3) "State committee" means the persons designated in a State by the Secretary as the State committee of the Production and Marketing Administration.

(c) "County office manager" means the person employed by the county committee to execute the policies of the county committee and be responsible for the day-to-day operations of the county PMA office, or the person acting in such capacity.

(d) "Cropland" means farm land which in 1953 was tilled or was in regular crop-rotation, excluding (1) bearing orchards and vineyards (except the acreage of cropland therein), (2) plowable, noncrop, open pasture, and (3) any land which constitutes or will constitute, if tillage is continued, a wind erosion hazard to the community.

(e) "Director" means the Director, or Acting Director of the Fats and Oils Branch of the Production and Marketing Administration of the United States Department of Agriculture.

(f) "Excess acreage" means the acreage by which the farm peanut acreage exceeds the farm allotment but there will be no excess acreage if the farm peanut acreage is one acre or less.

(g) "Farm" means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm land which the county committee, in accordance with instructions issued by the Assistant Administrator, determines is operated by the same person as part of the same unit with respect to the rotation of crops and with work-stock, farm machinery, and labor substantially separate from that for any other lands; and

(2) (i) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

(ii) A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county in which the major portion of the farm is located.

(h) "Farm allotment" means the acreage allotment established for a farm pursuant to § 729.519 or § 729.522.

(i) "Farm peanut acreage" means the acreage on the farm planted to peanuts

in 1954, as determined in accordance with instructions issued by the Assistant Administrator, less any such acreage with respect to which it is established by the operator or otherwise to the satisfaction of the county office manager that the entire production therefrom has not and will not be picked or threshed either before or after marketing from the farm: *Provided, however*, That:

(1) The farm peanut acreage shall be considered equal to the farm allotment on a farm for which such allotment equals or exceeds one acre if the acreage in excess of the farm allotment from which peanuts are picked or threshed is not greater than one-tenth acre or three percent of the farm allotment, whichever is larger;

(2) The farm peanut acreage shall be considered equal to one acre on a farm for which the farm allotment is equal to or less than one acre and the acreage from which peanuts are picked or threshed does not exceed 1.1 acres; but the provisions of this subparagraph and of subparagraph (1) of this paragraph shall not apply unless a quantity of peanuts equal to the county office manager's estimate of the production from the acreage in excess of the larger of the farm allotment or one acre is disposed of on the farm in such manner that the peanuts cannot thereafter be used or marketed as peanuts: *Provided, further*, That the maximum acreage limit prescribed in this subparagraph or subparagraph (1) of this paragraph shall not be applicable if the State committee concurs in the findings and recommendations of the county committee that the unusual circumstances from which the excess resulted are such that the maximum limitation should not apply.

(j) "New farm" means a farm on which peanuts will be picked or threshed in 1954, but on which no peanuts were picked or threshed in 1951, 1952, or 1953.

(k) "Old farm" means any farm on which peanuts were picked or threshed in 1951, 1952, or 1953; including also any farm for which 1953 farm allotments were established or which were eligible for 1953 old farm allotments, if peanuts were planted for harvest on any such farm in any year 1951, 1952, or 1953 and the county committee determines that no peanuts were picked or threshed from the farm in any such year because of abnormal conditions affecting acreage.

(l) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(m) "Peanuts" means all peanuts produced, excluding any peanuts not picked or threshed either before or after marketing from the farm.

(n) "Person" means an individual, partnership, association, corporation, firm, joint-stock company, estate or trust, or other business enterprise or other legal entity, and whenever applicable, a State, a political subdivision of a State, or any agency thereof.

(o) "Secretary" means the Secretary, or the Acting Secretary of Agriculture of the United States.

(p) "State administrative officer" means the person employed by the State

committee to execute the policies of the State committee and be responsible for the day-to-day operations of the State PMA office or the person acting in such capacity.

(q) "Tillable acreage available" means the acreage of cropland on the farm which the county committee determines is available for the production of peanuts in 1954, taking into consideration land uses and other crops grown on the farm and customary rotation practices: *Provided*, That the tillable acreage available for the production of peanuts for a farm shall not exceed the cropland on the farm minus the total of the 1954 acreage allotments established for other crops for the farm.

(r) "Tillable acreage factor" means the factor determined for the county (or for each community in a county, if the county committee determines that there is a wide variation between communities in the percentage of the tillable acreage available that is customarily devoted to peanuts) by dividing the tillable acreage available for all old farms in the county (or community) into the sum of the 1953 farm peanut allotments for all old farms in the county (or community). The sum of the 1953 farm peanut allotments shall be determined pursuant to instructions issued by the Assistant Administrator.

§ 729.512 *Rule of fractions.* Farm allotments shall be rounded to the nearest one-tenth acre. Fractions of fifty-one thousandths of an acre or more shall be rounded upward, and fractions of fifty thousandths of an acre or less shall be dropped. For example, 8.051 would be 8.1 and 8.050 would be 8.0.

§ 729.513 *Instructions and forms.* The Director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions as are necessary, for carrying out the regulations in §§ 729.510 to 729.530. The forms and instructions shall be approved by, and the instructions shall be issued by, the Assistant Administrator.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS

§ 729.514 *Determination of farm data.*

(a) The county committee shall obtain the following information and data for each old farm.

(1) The name and address of the operator.

(2) The total acreage of all land in the farm.

(3) The acreage of cropland in the farm.

(4) The tillable acreage available for the farm.

(5) The farm peanut acreage for each year 1951, 1952, and 1953.

(6) The 1953 peanut acreage allotment for the farm.

(7) Such other information and data as may be necessary in establishing farm allotments in accordance with §§ 729.510 to 729.530.

(b) The information and data provided for in this section shall be obtained from acreage measurements and other records in the office of the county committee; if not available from these

sources, these data and information may be obtained from reports made by operators or other interested persons or may be appraised or determined by the county committee on the basis of production and marketing records or other available information.

§ 729.515 *Apportionment of State peanut allotment to farms.* Adjusted acreages for all old farms in the State shall be determined in accordance with § 729.517. Preliminary acreage allotments for old farms shall be calculated by multiplying the adjusted acreage for each old farm by a factor obtained by dividing the total of the adjusted acreages for all old farms in the State into the 1954 State peanut acreage allotment (minus the acreage reserve for late allotments and corrections pursuant to § 729.518 and the acreage reserve for adjustments pursuant to § 729.517 (b) (5) if allotment adjustments are to be made after adjusted acreages have been determined). Farm allotments shall be determined pursuant to § 729.519.

§ 729.516 *Basis of farm allotment.* A farm allotment shall be determined for each old farm on the basis of the following factors as hereinafter applied: The 1953 peanut acreage allotment for the farm; the 1951, 1952, and 1953 farm peanut acreages; abnormal conditions affecting farm peanut acreage; tillable acreage available; labor and equipment available for the production of peanuts on the farm; crop-rotation practices; and soil and other physical factors affecting the production of peanuts: *Provided, however,* That in establishing farm allotments pursuant to §§ 729.510 to 729.530, the following acreages shall not be taken into consideration: The peanut acreage determined as harvested in excess of the farm allotments established for each of the years 1951, 1952, and 1953; the peanut acreage harvested on the farm in 1951 as a result of allotments made under §§ 729.228 and 729.230 of the marketing quota regulations for the 1951 crop of peanuts (16 F. R. 3275); the acreage allotment made to the farm under §§ 729.228 and 729.230 of the marketing quota regulations for the 1951 crop of peanuts; the peanut acreage harvested on the farm in 1952 as a result of allotments made under §§ 729.326 and 729.328 of the marketing regulations for the 1952 crop of peanuts; the acreage allotment made to the farm under §§ 729.326 and 729.328 of the marketing quota regulations for the 1952 crop of peanuts; the peanut acreage harvested on the farm in 1953 as a result of allotments made under §§ 729.427 and 729.429 of the marketing quota regulations for the 1953 crop of peanuts; and the acreage allotment made to the farm under §§ 729.427 and 729.429 of the marketing quota regulations for the 1953 crop of peanuts: *And provided further,* That an allotment shall not be determined for any farm on which one acre or less of peanuts was harvested in each of the years 1951, 1952, and 1953, unless the county committee determines from available information that more than one acre of peanuts will be harvested on the farm in 1954.

§ 729.517 *Determination of adjusted acreages.* The county committee shall determine an adjusted acreage for each old farm in the county (excluding farms on which one acre or less of peanuts was harvested in each year 1951, 1952, and 1953, unless the county committee determines from available information that more than one acre of peanuts will be harvested on any such farm in 1954) as follows:

(a) If peanuts were produced on a farm in 1953 for the first time since 1949, but no 1953 peanut acreage allotment was established for the farm, the county committee shall, on the basis of tillable acreage available; labor and equipment available for the production of peanuts; crop-rotation practices; and soil and other physical factors affecting the production of peanuts, determine an adjusted acreage for the farm which is fair and equitable in comparison with the adjusted acreages for other farms in the community which are similar with respect to such factors.

(b) For each old farm, excluding farms described in paragraph (a) of this section, the county committee shall adjust 1953 farm peanut acreages and establish adjusted acreages as provided herein:

(1) The county committee shall examine the 1953 farm peanut acreage and if abnormal conditions affected such acreage, the 1953 farm peanut acreage shall be increased to compensate for any reduction in the acreage resulting from such abnormal conditions; however, the acreage as so increased shall not exceed the 1953 farm allotment established for the farm.

(2) If a farm allotment was not established for 1953 for a farm on which peanuts were produced in any one or more of the years 1950, 1951, or 1952, the county committee shall determine an acreage for the farm which shall be considered the 1953 farm allotment for purposes of establishing an adjusted acreage for the farm. Such acreage shall be established in accordance with the regulations contained in §§ 729.410 to 729.432 of the marketing quota regulations for the 1953 crop of peanuts.

(3) The county committee shall compare the 1953 farm peanut acreage for each farm with the 1953 farm allotment for each farm. If the 1953 farm peanut acreage for a farm was less than 75 percent of the 1953 farm allotment, a total of the farm peanut acreages for 1951, 1952, and 1953 shall be determined. The total acreage so determined shall be divided by 3, except that if the farm did not receive a farm allotment in 1951, the total shall be divided by 2, or if the farm did not receive a farm allotment in 1951 and 1952, the total shall be divided by 1. If the average of the farm peanut acreages for the farm, determined in accordance with this subparagraph, is less than the 1953 farm allotment, for the purpose of determining the adjusted acreage for the farm the average of the farm peanut acreages shall be considered as the 1953 farm allotment.

(4) The county committee shall examine the 1953 farm allotment for each

farm after adjustments, if any, have been made under subparagraph (3) of this paragraph and may adjust such allotments downward if it determines that such adjustment is necessary to obtain an adjusted acreage for the farm which is comparable with the adjusted acreages established for other old farms in the community which are similar as to the tillable acreage available for the production of peanuts. If a downward adjustment is made, the adjusted acreage for the farm shall be not less than the smaller of (i) the result obtained by multiplying the tillable acreage available for the farm by the tillable acreage factor or (ii) the 1951-53 average peanut acreage for the farm.

(5) An acreage not in excess of 5 percent of the peanut acreage allotted to all old farms in the State in 1953 shall be made available to county committees by the State committee for making upward adjustments. The State committee shall determine if upward adjustments are to be made prior to or subsequent to determining adjusted acreages. If upward adjustments are to be made prior to determining adjusted acreages the county committee shall examine the 1953 farm allotment for each farm after adjustments, if any, have been made under subparagraphs (3) and (4) of this paragraph and may adjust such allotment upward if it determines that such adjustment is necessary to obtain an adjusted acreage for the farm which is comparable with the adjusted acreages established for other similar old farms in the community. Upward adjustments shall be made on the basis of the farm peanut acreage for 1951, 1952, and 1953; tillable acreage available; labor and equipment available for the production of peanuts; crop-rotation practices; and the soil and other physical factors affecting the production of peanuts. If upward adjustments are to be made prior to determining adjusted acreages, the county committee may use the sum of the downward adjustments made in accordance with subparagraph (4) of this paragraph in addition to the acreage available under this subparagraph for making upward adjustments. If an upward adjustment is made, the adjusted acreage for the farm shall not exceed the larger of (i) the result obtained by multiplying the tillable acreage available for the farm by the tillable acreage factor or (ii) the largest farm peanut acreage for the farm for the years 1951, 1952, or 1953: *Provided, however,* That such limitation shall not be applicable if the State and county committees find that the adjusted acreage as determined under the limitation is relatively smaller in relation to the farm peanut acreages for 1951, 1952, and 1953, the tillable acreage available, and the labor and equipment available for the production of peanuts on the farm, than the adjusted acreages for other old farms in the community which are similar with respect to such factors.

(6) The adjusted average for each old farm in the county shall be the 1953 farm allotment plus or minus any upward or downward adjustment made pursuant to subparagraphs (4) and (5) of this paragraph.

(c) The adjusted acreage determined for the farm in accordance with the foregoing provisions of this section shall not exceed the tillable acreage available for the farm.

§ 729.518 *County reserves for late allotments and corrections.* The county committee shall estimate the acreage that will be needed in the county (a) to establish late 1954 allotments for old farms on which one acre or less of peanuts was picked or threshed in each year 1951, 1952, and 1953, but on which more than one acre of peanuts will be picked and threshed in 1954 and (b) for the correction of errors in farm allotments resulting from inaccurate or incomplete data used in establishing 1954 farm allotments. The reserve for late allotments and corrections recommended by the county committee shall be subject to adjustment by the State committee and shall be held as a State reserve.

§ 729.519 *Allotments for old farms.* (a) If adjustments are to be made prior to determining preliminary allotments, as provided in § 729.517 (b) (5) the preliminary allotments determined pursuant to § 729.515 shall be the 1954 farm allotments.

(b) If the State committee determines, as provided in § 729.517 (b) (5), that upward adjustments shall be made subsequent to the determination of preliminary allotments, the county committee shall examine the 1954 preliminary farm allotment for each farm and may adjust such preliminary allotment upward if it determines that such adjustment is necessary to obtain a 1954 farm allotment for the farm which is comparable with the 1954 allotments established for other similar old farms in the community. Upward adjustments shall be made on the basis of the farm peanut acreage for 1951, 1952, and 1953; tillable acreage available; labor and equipment available for the production of peanuts; crop-rotation practices; and the soil and other physical factors affecting the production of peanuts. If an upward adjustment is made, the farm allotment shall not exceed the larger of (1) the result obtained by multiplying the tillable acreage available for the farm by the tillable acreage factor or (2) the largest farm peanut acreage for the farm for the years 1951, 1952, and 1953: *Provided, however,* That such limitation shall not be applicable if the State and county committees find that the allotment as determined under such limitations is relatively smaller in relation to the farm peanut acreage for 1951, 1952, and 1953, and the tillable acreage available for the production of peanuts on the farm, than the allotment for other old farms in the community which are similar with respect to such factors. The 1954 farm allotment shall be the preliminary allotment for the farm determined in accordance with § 729.515 plus any additional acreage allotted to the farm as an upward adjustment from the acreage made available to the county committee by the State committee pursuant to § 729.517 (b) (5).

§ 729.520 *Allotments for farms divided or combined—(a) Divisions.* If

land operated as a single farm in 1953 will be operated in 1954 as two or more farms, the 1954 allotment determined or which otherwise would have been determined for the entire farm shall be apportioned among the divided farms in the same proportion as the acreage of cropland available for the production of peanuts for each such divided farm bears to the cropland available for the production of peanuts for the entire tract; except that the peanut acreage allotment determined or which otherwise would have been determined for the entire farm shall, if the farm to be divided for 1954 consists of two or more tracts which were separate and distinct farms before being combined for 1951, 1952, or 1953, be apportioned among the tracts in the same proportion that each contributed to the farm allotment for the year for which combined: *Provided,* That with the recommendation of the county committee and the approval of the State committee, the allotment determined for a divided farm pursuant to the preceding provisions of this paragraph may be increased or decreased by not more than the larger of one acre or ten percent of the 1954 farm allotment determined for the entire tract, with corresponding increases or decreases made in the allotment apportioned to the other divided farm or farms: *Provided further,* That if a farm is to be divided for 1954 in settling an estate, the allotment may be apportioned among the divided farms in accordance with this paragraph or on such basis as the State committee determines will result in equitable allotments.

(b) *Combinations.* If two or more tracts which were operated as separate farms in 1953 are combined and operated as a single farm for 1954, the 1954 allotment shall be the sum of the 1954 allotments determined, or which otherwise would have been determined, for each of the tracts composing the combination.

§ 729.521 *Normal yields for old farms.* The normal yield for an old farm for the 1954 crop of peanuts shall be the average yield per acre of peanuts for the farm, adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which the normal yield is determined. If for any such year the data are not available or there is no actual yield, then the normal yield for the farm shall be appraised by the county committee on the basis of the data which are available.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS

§ 729.522 *Allotments for new farms.* (a) The farm allotment for a new farm shall be that acreage which the county committee, subject to the approval of the State committee, determines is fair and reasonable for the farm, taking into consideration the peanut-growing experience of the producers on the farm, the tillable acreage available, labor and equipment, available for the production of peanuts on the farm, crop-rotation practices, and soil and other physical factors affecting the production of peanuts. The farm allotment for a new farm shall not exceed the result obtained

by multiplying the tillable acreage available for the farm by the tillable acreage factor: *Provided, however,* That such limitation shall not be applicable if the State and county committees find that the allotment determined for the farm under the limitation is relatively smaller in relation to the tillable acreage available, labor and equipment available for the production of peanuts on the farm, and crop-rotation practices, than the allotments established for other farms in the community which are similar with respect to such factors.

(b) Notwithstanding any other provisions of this section, an allotment shall not be established for any new farm unless each of the following conditions has been met:

(1) An application for a new farm allotment is filed by the farm operator and farm owner with the county committee prior to the closing date established by the State committee. In no event is the closing date to be earlier than January 15, 1954, or later than February 15, 1954.

(2) A producer on the farm shall have had experience in growing peanuts either as a share cropper, tenant, or as a farm operator or farm owner during at least two of the past five years: *Provided, however,* That a producer who was in the armed services after September 16, 1940, shall be deemed to have met the requirements hereof if he has had experience in growing peanuts during one year either within the five years immediately prior to his entry into the armed services or within the five years immediately following his discharge from the armed services and if he files an application for an allotment within five years from date of discharge.

(3) The farm operator is largely dependent on the farm for his livelihood.

(4) The farm is the only farm owned or operated by the farm operator or farm owner for which a farm allotment is established for 1954.

(c) One-half of one percent of the national peanut acreage allotment shall be available for establishing allotments for new farms; except that, if the total of the acreages required to establish fair and reasonable allotments and reserves for old farms in any State is less than the State allotment, the balance of such State allotment shall, upon approval by the Director, be available for establishing allotments for new farms in the State. If the total of the acreage allotments for new farms as determined by the county and State committees pursuant to this section exceeds the acreage reserved for new farm allotments, such acreage shall be made available to the States for establishing new farm allotments as follows:

(1) For any State for which the total of the new farm allotments determined by the county and State committees does not exceed one-half of one percent of the State's share of the 1954 national peanut acreage allotment, as determined by the Director, no adjustment will be made in the new farm allotments determined by the county and State committees;

(2) For any State for which the total of the new farm allotments determined

by the county and State committees exceeds one-half of one percent of the State's share of the national acreage allotment, as determined by the Director, there shall be made available for new farm allotments in each such State an acreage equal to one-half of one percent of the State's share of the national acreage allotment; and

(3) The acreage remaining after making the apportionments under subparagraphs (1) and (2) of this paragraph shall be apportioned pro rata among the States receiving acreage under subparagraph (2) of this paragraph on the basis of the total acreage determined for new farm allotments by the county and State committees that is in excess of the acreage made available under subparagraph (2) of this paragraph. The farm allotments determined by the county and State committees for new farms which received acreage under subparagraph (2) of this paragraph shall be adjusted downward so that the total of the acreage allotments for such farms shall not exceed the acreage made available to the State for establishing allotments for such farms.

(4) If the total of the acreage required to establish fair and reasonable allotments and reserves for all old farms in the State and for all new farms in the State that meet the eligibility requirements set forth in paragraph (b) of this section is less than the State acreage allotment plus the acreage allocated to new farms in the State under this section, the balance of such acreage shall, upon approval of the Director, be available for establishing allotments, on the basis of the factors specified in paragraph (a) of this section, for farms on which no peanuts were picked or threshed in 1951, 1952, or 1953, if each of the following conditions has been met:

(i) An application for an allotment is filed by the farm operator and farm owner with the county committee prior to the closing date established by the State committee which shall not be later than March 1, 1954.

(ii) The applicant is largely dependent on the farm for his livelihood.

(iii) The farm is the only farm owned or operated by the farm operator or farm owner for which a farm allotment is established for 1954.

§ 729.523 Normal yields for new farms. The normal yield for a new farm for the 1954 crop of peanuts shall be that yield per acre which the county committee determines is normal for the farm, as compared with other farms in the locality which are similar with respect to soil and other physical factors affecting the production of peanuts.

MISCELLANEOUS

§ 729.524 Reduction of acreage allotment for violation of the marketing quota regulations for a prior marketing year. (a) If peanuts were marketed or were permitted to be marketed in any marketing year as having been produced on the acreage allotment for any farm which in fact were produced on a different farm, the acreage allotments established for both such farms for 1954 shall be reduced, as hereinafter provided, except

that such reduction for any farm shall not be made if the county committee determines that no person connected with such farm caused, aided, or acquiesced in such marketings.

(b) The operator of the farm shall furnish complete and accurate proof of the disposition of all peanuts produced on the farm at such time and in such manner as will insure payment of the penalty due and in the event of refusal or failure for any reason to furnish such proof, the allotment for the farm shall be reduced, except that if the operator establishes to the satisfaction of the county and State committees that failure to furnish proof of disposition was unintentional on his part and that he could not reasonably have been expected to furnish accurate proof of disposition, reduction of the allotment will not be required if the failure to furnish proof of disposition is corrected and payment of all additional penalty due is made.

(c) Any reduction shall be made with respect to the 1954 farm allotment, provided it can be made 30 days prior to the beginning of the normal planting season for the county in which the farm is located, as determined by the State committee. If the reduction cannot be made effective with respect to the 1954 crop, such reduction shall be made with respect to the farm allotment next established for the farm. This section shall not apply if the farm allotment for any prior year was reduced on account of the same violation.

(d) The amount of reduction in the 1954 farm allotment shall be that percentage which the amount of peanuts involved in the violation is of the respective farm marketing quota for the farm for the marketing year in which the violation occurred. Where the amount of such peanuts involved in the violation equals or exceeds the amount of the farm marketing quota, the amount of reduction shall be 100 percent. The amount of peanuts determined by the county committee to have been falsely identified or for which satisfactory proof of disposition has not been furnished shall be considered the amount of peanuts involved in the violation. If the actual production of peanuts on the farm is not known, the county committee shall estimate such actual production, taking into consideration the condition of the peanut crop during the growing and harvesting seasons, if known, and the actual yield per acre of peanuts on other farms in the locality on which the soil and other physical factors affecting the production of peanuts are similar: *Provided*, That the estimate of such actual production of peanuts on the farm shall not exceed the harvested acreage of peanuts on the farm multiplied by the average actual yield per acre on farms in the locality on which the soil and other physical factors affecting the production of peanuts are similar. The actual yield per acre of peanuts on the farm, as so estimated by the county committee, multiplied by the farm allotment shall be considered the farm marketing quota for the purposes of this section. In determining the amount of peanuts for which satisfac-

tory proof of disposition of peanuts on the farm is not known, the amount of peanuts involved in the violation shall be deemed to be the actual production of peanuts on the farm, estimated as above, less the amount of peanuts for which satisfactory proof of disposition has been shown.

(e) If the farm involved in the violation is combined with another farm prior to the reduction, the reduction shall be applied to that portion of the allotment for which a reduction is required under paragraph (a) or (b) of this section.

(f) If the farm involved in the violation has been divided prior to the reduction, the reduction shall be applied to the allotments for the divided farms as required under paragraphs (a) and (b) of this section.

§ 729.525 Release and reapportionment—(a) Release of acreage allotments. Any part of the acreage allotted for 1954 to an individual farm in any county under the provisions of §§ 729.519 and 729.522 on which peanuts will not be produced and which the owner or operator of the farm voluntarily surrenders in writing to the county committee by the closing date established by the State committee, which shall not be later than July 1, 1954, shall be deducted from the allotment to such farm in accordance with instructions issued by the Assistant Administrator. If any part of the farm allotment is permanently released (i. e., for 1954 and all subsequent years), such release shall be in writing and signed by both the owner and the operator of the farm. If the entire 1954 farm allotment is permanently released, the farm shall not thereafter be eligible for a 1954 farm allotment as either an old farm or as a new farm, and the farm peanut acreages and farm allotments for 1954 and prior years shall not be considered in establishing an allotment for the farm for 1954 or any subsequent year.

(b) *Reapportionment of released acreage allotment.* The farm allotments released under paragraph (a) of this section shall be reapportioned by the county committee, in accordance with instructions issued by the Assistant Administrator, to other farms in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of tillable acreage available; labor and equipment available for the production of peanuts; crop-rotation practices; and soil and other physical factors affecting the production of peanuts. Such reapportionment shall be made on the basis of applications filed on Form MQ-30—Peanuts (1954) by the farm owners or operators with the county committee not later than a closing date established by the State committee which shall be not later than July 15, 1954.

(c) *Maximum acreage allotment.* No allotment shall be increased by reason of the provisions in paragraph (b) of this section to an acreage in excess of the tillable acreage available for the farm.

(d) *Credit for acreage allotment released for 1954 only.* The release for 1954 only, of any part of the acreage allotted for 1954 to individual farms, pur-

suant to paragraph (a) of this section, shall not operate to reduce the allotment for any subsequent year for the farm from which such acreage was released unless the farm becomes ineligible for an old farm allotment in 1955 because peanuts were not picked or threshed on the farm in 1952, 1953, or 1954. Any reapportionment of allotment under this section shall not operate to increase the allotment for any year subsequent to 1954 for the farm to which the acreage is reapportioned.

§ 729.526 Reallocation of allotments released from farms removed from agricultural production. (a) The allotment determined or which would have been determined for any land which is removed from agricultural production in 1950 or any subsequent year for any purpose because of acquisition by any Federal, State, or other agency having a right of eminent domain shall be placed in a State pool and shall be available for use in providing equitable allotments for farms owned or purchased by owners displaced because of acquisition of their farms by such agencies. Upon application to the county committee within five years from the date of such acquisition of the farm, any owner so displaced shall be entitled to have an allotment for any other farm owned or purchased by him equal to an allotment which would have been determined for the farm so acquired: *Provided*, That such allotment shall not exceed 50 percent of the acreage of cropland on the farm.

(b) The provisions of this section shall not be applicable if (1) there is any marketing quota penalty due with respect to the marketing of peanuts from the farm by the owner of the farm at the time of its acquisition by the Federal, State, or other agency; (2) any peanuts produced on such farm have not been accounted for as required by the Secretary; or (3) the allotment next to be established for the farm acquired by the Federal, State, or other agency would have been reduced because of false or improper identification of peanuts produced on or marketed from such farm.

§ 729.527 Additional acreage allotment for farms producing types of peanuts in short supply. (a) The additional acreage allotment apportioned to any State producing peanuts of a type or types determined to be in short supply for 1954, less a reserve for the correction of errors, shall be apportioned among farms on which peanuts of such type or types were produced in any of the three years 1951, 1952, and 1953 on the basis of the average picked and threshed acreage of peanuts of such type or types (excluding excess acreage) on each such farm during such period. The reserve for the correction of errors shall be determined by the State committee on the basis of experience in past allotment programs and its knowledge as to the reliability of data used in apportioning the additional acreage to farms, and shall not exceed three-fourths of one percent of the additional acreage apportioned to the State.

(b) The increase in acreage allotment under this section shall not be considered

in establishing future State, county, or farm acreage allotments.

§ 729.528 Approval of determinations and notice of farm allotment. The State committee shall review farm allotments and normal yields and the State committee may correct or require the correction of any determination made in connection therewith pursuant to §§ 729.510 to 729.530. Farm allotments shall be approved by the State committee and official notice of the farm allotment on Form MQ-24 shall not be issued for a farm until such allotment has been so approved. A Form MQ-24—Peanuts (1954), Notice of Farm Acreage Allotment and Marketing Quota for Peanuts, shall be prepared and mailed to the operator of each farm for which a farm allotment is established. Forms MQ-24 that are prepared for farms for which the farm allotments are reduced in accordance with § 729.524 shall be mailed to operators by registered mail.

§ 729.529 Application for review. Any producer who is dissatisfied with the farm allotment or marketing quota established for his farm, may, within fifteen days after mailing of the official notice, file application with the county committee which issued such notice to have such allotment or quota reviewed. Farm allotments and marketing quotas shall be reviewed by a review committee in accordance with the the marketing quota review regulations issued by the Secretary (Part 711 of this chapter), a copy of which is available at the office of the county committee.

§ 729.530 Redellegation of authority. Any authority delegated to the State committee by the regulations in §§ 729.510 to 729.530 may be redelegated by the State committee.

Done at Washington, D. C., this 1st day of October 1953. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 53-8541; Filed, Oct. 6, 1953; 8:49 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Grapefruit Reg. 185]

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

LIMITATION OF SHIPMENTS

§ 933.636 Grapefruit Regulation 185—
(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, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, 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 in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective not later than October 7, 1953. Shipments of grapefruit, grown in the State of Florida, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order, and will so continue until October 7, 1953, the recommendation and supporting information for continued regulation subsequent to October 6 was promptly submitted to the Department after an open meeting of the Growers Administrative Committee on October 2; 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 of this section, 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 persons subject thereto which cannot be completed by the effective time of this section.

(b) *Order.* (1) Grapefruit Regulation 184 (7 CFR 933.634; 18 F. R. 5725) is hereby terminated as of the effective time of this section.

(2) During the period beginning at 12:01 a. m., e. s. t., October 7, 1953, and ending at 12:01 a. m., e. s. t., October 19, 1953, no handler shall ship:

(i) Any white seeded grapefruit, grown in the State of Florida, which do not grade at least U. S. No. 1 Russet;

(ii) Any pink seeded grapefruit, grown in the State of Florida, which do not grade at least U. S. No. 2;

(iii) Any seedless grapefruit, grown in the State of Florida, which do not grade at least U. S. No. 2;

(iv) Any seeded grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 70 grapefruit, packed in accordance with

the requirements of a standard pack, in a standard nailed box;

(v) Any seedless grapefruit, grown in the State of Florida, that grade U. S. No. 2 or U. S. No. 2 Bright which are of a size smaller than a size that will pack 80 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box; or

(vi) Any seedless grapefruit, grown in the State of Florida, that grade U. S. No. 1 Russet, U. S. No. 1, U. S. No. 1 Bronze, U. S. No. 1 Golden, U. S. No. 1 Bright or U. S. Fancy which are of a size smaller than a size that will pack 96 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box.

(3) As used in this section, "handler," "variety," and "ship," shall have the same meaning as when used in said amended marketing agreement and order; and "U. S. No. 1 Russet," "U. S. No. 1," "U. S. No. 1 Bronze," "U. S. No. 1 Golden," "U. S. No. 1 Bright," "U. S. Fancy," "U. S. No. 2," "standard pack," and "standard nailed box" shall have the same meaning as when used in the revised United States Standards for Florida Grapefruit (§ 51.193; 17 F. R. 7408).

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

Done at Washington, D. C., this 5th day of October 1953.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Branch, Production and Mar-
keting Administration.

[F. R. Doc. 53-8604; Filed, Oct. 6, 1953;
8:53 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission [Docket 6009]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

PERRY SALES CO. AND PERRY HALSETH

Subpart—Using, selling or supplying lottery devices: § 3.2475 Devices for lottery selling; § 3.2480 In merchandising. In connection with the offering for sale, sale and distribution of cameras, radios, pens, dolls, cutlery, bedspreads or other articles of merchandise in commerce, (1) supplying to or placing in the hands of others push cards or any other lottery device or devices which are designed or intended to be used in selling or distributing said merchandise to the public by means of games of chance, gift enterprises, or lottery schemes; (2) shipping, mailing or transporting to agents or distributors, or to members of the purchasing public, push cards or any other lottery device or devices which are designed or intended to be used in the sale or distribution of respondent's merchandise to the public by means of games of chance, gift enterprises or lottery schemes; or (3) selling or otherwise disposing of any merchandise by means of or under a plan involving a game of chance, gift enterprise, or lottery scheme; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Perry Halseth t. a. Perry Sales Company, Chicago, Ill., Docket 6009, September 14, 1953]

In the Matter of Perry Halseth, Individually and Trading as Perry Sales Company

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on July 16, 1952, issued and subsequently served its complaint in this proceeding upon respondent Perry Halseth, individually and trading as Perry Sales Company, charging him with the use of unfair acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer thereto, hearings were held at which testimony and other evidence in support of and in opposition to the allegations of said complaint were introduced before a hearing examiner of the Commission theretofore duly designated by it, and such testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter the proceeding regularly came on for final consideration by said hearing examiner upon the complaint, the answer thereto, testimony and other evidence, and proposed findings as to the facts and conclusions presented by counsel, oral argument not having been requested, and said hearing examiner, on February 9, 1953, filed his initial decision herein.

Within the time permitted by the Commission's rules of practice, respondent filed an appeal from said initial decision and the Commission, after duly considering said appeal and the record herein, issued its order denying said appeal.

The Commission is of the opinion, however, that the initial decision of the hearing examiner is deficient in certain respects, principally in that the order therein is inconsistent with the form of order which the United States Court of Appeals for the District of Columbia Circuit has determined is appropriate in cases where the facts are essentially similar to those in this case. *Hamilton Manufacturing Co. v. Federal Trade Commission*, 194 F. 2d 346, and *U. S. Printing & Novelty Co. v. Federal Trade Commission*, CCH Trade Reg. Serv. Par. 67,502 (June 4, 1953). Therefore, the Commission, being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes the following findings as to the facts,¹ conclusions drawn therefrom, and order, the same to be in lieu of the initial decision of the hearing examiner.

It is ordered, That respondent Perry Halseth, trading as Perry Sales Company or under any other name or names, his representatives, agents and employees, directly or through any corporate or other device in connection with the offering for sale, sale and distribution of cameras, radios, pens, dolls, cutlery, bedspreads or other articles of merchandise in commerce, as "commerce" is defined

¹ Filed as part of the original document.

in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Supplying to or placing in the hands of others push cards or any other lottery device or devices which are designed or intended to be used in selling or distributing said merchandise to the public by means of games of chance, gift enterprises, or lottery schemes.

2. Shipping, mailing or transporting to agents or distributors, or to members of the purchasing public, push cards or any other lottery device or devices which are designed or intended to be used in the sale or distribution of respondent's merchandise to the public by means of games of chance, gift enterprises or lottery schemes.

3. Selling or otherwise disposing of any merchandise by means of or under a plan involving a game of chance, gift enterprise, or lottery scheme.

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

Issued: September 14, 1953.

By the Commission.

[SEAL] ALEX. AKERMAN, Jr.,
Secretary.

[F. R. Doc. 53-8540; Filed, Oct. 6, 1953;
8:49 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

Chapter III—Bureau of Old-Age and Survivors Insurance, Social Security Administration, Department of Health, Education, and Welfare

[Regulations No. 4, Further Amended]

PART 404—FEDERAL OLD-AGE AND SUR- VIVORS INSURANCE (1950 —)

COVERAGE OF EMPLOYEES OF STATE AND LOCAL GOVERNMENTS

Regulations No. 4 (20 CFR, Cum. Supp., 404.1 et seq.) are further amended as follows:

1. Paragraph (b) of § 404.1255 is amended to read as follows:

(b) For periods prior to date of execution of agreement. If the agreement provides for the coverage of employees performing services in employment for the State or any of its political subdivisions at the time the agreement is executed for calendar quarters during which such employees were in the employ of the State or any of its political subdivisions prior to the date of execution of the agreement, including the calendar quarter in which the agreement is executed, any contribution returns or wage reports for such prior calendar quarters shall be filed not more than 90 days after date of execution of the agreement. The Secretary, for good cause shown, may, upon application by a State, allow such further time for the filing of contribution returns and wage reports for periods prior to the date of execution of the agreement (or modifica-

tion) as he may deem proper. (As to interest assessable for failure to file a contribution return within the prescribed time see § 404.1226.)

(Sec. 205, 49 Stat. 624, as amended, sec. 1102, 49 Stat. 647, sec. 218, 64 Stat. 514; 42 U. S. C. 405, 418, 1302)

[SEAL]

W. L. MITCHELL,
Acting Commissioner
of Social Security.

Approved: October 1, 1953.

OVETA CULP HOBBY,
Secretary of Health, Education,
and Welfare.

[F. R. Doc. 53-8553; Filed, Oct. 6, 1953;
8:52 a. m.]

TITLE 21—FOOD AND DRUGS

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

PART 141—TESTS AND METHODS OF ASSAY FOR ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

MISCELLANEOUS AMENDMENTS

Correction

In F. R. Doc. 53-8443 appearing at page 6318 of the issue for Friday, October 2, 1953, make the following changes:

1. In the first line of the heading for § 141.69 the word "and" should be deleted.

2. In amendatory paragraph 4, insert the word "and" following the word "penicillin".

TITLE 32—NATIONAL DEFENSE

Chapter XI—National Guard and State Guard, Department of the Army

PART 1101—NATIONAL GUARD REGULATIONS

ENLISTED MEN

Sections 1101.4 through 1101.20 are rescinded and the following substituted therefor:

- Sec.
1101.14 Qualifications for enlistment.
1101.15 Enlistments.
1101.16 Reenlistments.
1101.17 Recognition of enlisted personnel.
1101.18 Separation from the National Guard.
1101.19 Discharge certificate.

AUTHORITY: §§ 1101.14 to 1101.19 issued under sec. 118, 39 Stat. 213; 32 U. S. C. 17.
SOURCE: NGR 25-1, August 13, 1953; NGR 25-2, August 13, 1953; NGR 25-3, August 13, 1953.

§ 1101.14 *Qualifications for enlistment*—(a) *Who may be enlisted.* (1) Any able-bodied male resident of a State who is a citizen of the United States or an alien (if permissible by State Law) who has filed a legal declaration of intention to become a citizen of the United States or has had prior service in the Armed Forces of the United

States may be enlisted in the National Guard of his State, provided he is otherwise qualified.

(2) Individuals who have reached their thirty-fifth but have not reached their forty-fifth birthday at time of application for enlistment in the National Guard may be accepted for an original enlistment in non-divisional Antiaircraft Artillery units of the National Guard provided they meet all other enlistment requirements. Such individuals are limited in assignment to such units and for service only within the continental United States. Under "Remarks" section, DA Form 165, and under "Remarks—Administrative", NGB Form 24, the following entry will be made for personnel enlisted in this category:

By policy of the Department of the Army, this individual will not be employed in the service of the United States outside the continental United States without his consent.

(3) Male citizens of the United States possessing technical skills which are needed by the National Guard, who have reached their thirty-fifth birthday and who at the time of application for original enlistment have not attained their forty-fifth birthday may, when specifically authorized by the adjutant general of the State, Territory, Commonwealth of Puerto Rico, or the District of Columbia, be accepted for enlistment and assignment to State Headquarters and Headquarters Detachments. An enlisted person in this category will not be eligible for transfer to another unit unless he is qualified for general military service.

(b) *Persons not authorized to be enlisted.* The enlistment of any of the following in the National Guard is not authorized. Each reference given on any Discharge Certificate or Report of Separation presented by a candidate for enlistment will be carefully checked for compliance with subparagraphs (1) to (17) of this paragraph:

(1) A person who has been convicted of a criminal offense by a civil court, or who has a record of adjudication by a juvenile court adverse to him, for any offense punishable by death or imprisonment for a term exceeding one year; and persons under parole, probation, or suspended sentence from any court. No waivers will be granted.

(2) A person who is not of good character and temperate habits.

(3) A person having a record of emotional instability.

(4) A person who does not speak, read, and write English, except for a unit located in an area where the language use is predominantly other than English.

(5) A former member of the Army, Navy, U. S. Air Force, U. S. Marine Corps, or the U. S. Coast Guard, including the reserve components thereof, last discharged under the authority of AR 615-370 (Disloyal or Subversive), AR 600-443 (Homosexuals), AR 615-368 (Unfitness), or AR 615-369 (Inaptitude or Unsuitability), or similar discharges from the other services, or whose discharge certificate from his last enlistment bears any notation stating in substance, "not recommended for re-

enlistment," "not recommended for further military service."

(6) A deserter from the Regular Army, Navy, U. S. Air Force, U. S. Marine Corps, or the U. S. Coast Guard.

(7) An alien, who has not filed his legal declaration of intention to become a citizen of the United States.

(8) A person under 17 or over 35 years of age, except as prescribed in paragraphs (a) (2) and (3), and (d) of this section. See paragraph (e) of § 1101.15 for age limits on reenlistment of personnel with prior military service.

(9) A person who draws a disability pension, disability allowance, or disability compensation from the Government of the United States, unless such compensation is waived in its entirety and he is otherwise qualified.

(10) A person who draws retirement pay from the Government of the United States where retirement has been made on account of physical disability or age.

(11) A person who is a member of the Army, Navy, U. S. Air Force, U. S. Marine Corps, U. S. Coast Guard, Coast and Geodetic Survey, the U. S. Public Health Service, or any reserve component thereof.

(12) A person who has been discharged from active military service, whose total time lost under section 6 (a), Appendix 2b, Manual for Courts-Martial, United States, 1951, was sixty (60) days or more during his last period of enlistment or period of active duty.

(13) Subversive or disloyal persons.

(i) In no case will any person who admits, or whose available records show that he has at any time engaged in disloyal or subversive activities be enlisted in the federally recognized National Guard. Activities and associations which may be considered as establishing reasonable grounds for rejection of persons for service in the federally recognized National Guard will include, but are not limited to one or more of the following:

(a) Sabotage, espionage, or attempts or preparations therefor, or knowingly associating with spies or saboteurs.

(b) Treason, sedition, or writings and acts which can reasonably be considered as intended to encourage seditious or treasonable opinions or actions.

(c) Advocacy of revolution or by force of violence to alter the existing constitutional form of Government of the United States; advocacy of revolution or by force or violence to bring about change in the economic, political, or social structure of the United States.

(d) Disclosure of documents or information of a classified or non-public character to any person under circumstances which indicate disloyalty to the United States.

(e) Acting, attempting to act, or knowingly failing to act when such conduct is calculated to injure the interests of the United States of America.

(f) Membership in, or affiliation or sympathetic association with any foreign or domestic organization, association, movement, group, or combination of persons:

(1) Which practices, seeks to practice, or advocated: (i) Denial, by force, violence, or intimidation, to any person,

group of persons, or class of persons within the United States or Territory subject to its jurisdiction of any right or rights which the Federal Constitution guarantees or protects against encroachment by either or both Federal and State governments.

(ii) Alteration through or with the aid of force, violence, or intimidation, of the existing form of Government of the United States or territory subject to its jurisdiction, or of the existing economic, social, or political order within it.

(2) Which (regardless of practice, advocacy, or nonadvocacy of any of the tenets set forth in (1) of this subdivision) is disclosed by investigation or designated by the Attorney General to be totalitarian, fascist, communist, or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny persons their rights under the Constitution of the United States, or as seeking to alter the form of Government of the United States by unconstitutional means.

(ii) The entry in the certification section on the back of the enlistment record pertaining to disloyal or subversive activities will be read by the applicant and he will be required to initial the appropriate word or words lined out, "I have read paragraph 2, SR 600-220-1, 6 December 1950, or NGR 25-1 and certify that I (have) (have never) engaged in disloyal or subversive activities as defined therein." If his answer is in the affirmative, he will be rejected for enlistment in the National Guard.

(14) If an individual has been a conscientious objector, he will be required to furnish an affidavit which will express his abandonment of such beliefs and principles so far as they pertain to his willingness to bear arms and to give full and unqualified military service to the United States; and where appropriate, he must have demonstrated that he has changed his views by subsequent military service.

(15) Cadets, U. S. Military Academy; midshipmen, U. S. Naval Academy; cadets, U. S. Coast Guard Academy, and Aviation Cadets, U. S. Air Force.

(16) Selective Service registrants who have received orders from their local board to report for pre-induction physical and mental examinations, or to report for induction, unless the order has been cancelled and release is obtained from the local Selective Service Board.

(17) Retired enlisted persons who are members of other reserve components of the Armed Forces will not be enlisted.

(c) *Persons whose enlistment requires waivers or special authority prior to enlistment*—(1) *Exempted classes*. The following will be enlisted or reenlisted only upon written request signed by the applicant prior to enlistment in which he specifically states that he desires to waive his exemption from military duty (see sec. 59, National Defense Act, as amended):

(i) Officers, judicial and executive, of the Government of the United States and the several States;

(ii) Customhouse clerks;

(iii) Persons employed by the United States in the transmission of the mails;

(iv) Artificers and workmen employed in Government armories, arsenals, and Navy yards;

(v) Pilots and mariners actually employed in the sea service of any citizen or merchant within the United States.

(2) *United States civilian officials and employees*. A civilian official or employee of the United States or of the District of Columbia, including postal employees, and artificers or workmen employed in Government armories, arsenals, or Navy yards, will not be enlisted or reenlisted in the National Guard without written consent of the local head of the Department or service in which he is employed. Such consent will be obtained prior to enlistment or reenlistment.

(3) *Dependency and hardship*. A person who was previously discharged from one of the Armed Forces of the United States for hardship or dependency may not be accepted for enlistment or reenlistment, unless it has been definitely determined, and documentary evidence submitted with the enlistment record, that the reason for which separated no longer exists. A person with four or more dependents may not be accepted for enlistment or reenlistment unless it is evident that the individual would be available in the event of an emergency and an affidavit to that effect is obtained from the individual concerned prior to enlistment or reenlistment.

(d) *Parental consent in enlistment of minors*. (1) Any applicant for enlistment who is 17 years of age but has not reached his 18th birthday will be required to furnish written consent of his parents or guardian before enlistment is effected. If the applicant has neither parents nor guardian, a statement to that effect will be typed on the DA Form 165, in space reserved for remarks, by the enlisting officer. This entry will be read to the applicant and initialed by him.

(2) The consent agreement of the parents or guardian will:

(i) Be signed by both parents or the guardian, but the consent of one parent may be accepted if the other has been or is to be absent for an extended period of time. Enlistment is not authorized if either parent objects.

(ii) Include a statement of date of birth of applicant.

(iii) Include no written or oral qualifications relative to allotments of pay, special training, or service in any particular branch of service, or at a certain post or locality.

(iv) Be notarized or the signing of the consent papers by the person authorized to sign them shall be witnessed by a commissioned, warrant, or noncommissioned officer of the National Guard.

(v) Be signed in quadruplicate and a copy fastened securely to the original and all copies of the enlistment record.

(e) *Residence*. An applicant for enlistment will not be accepted unless he lives within such distance of the home station of the unit in which he desires to enlist that he can properly perform his military duties.

(f) *General examination of applicants*. (1) An officer of the National Guard will examine each applicant for enlistment, asking certain questions to determine whether the applicant fills the

requirements for enlistment. If any statement of the applicant indicates a cause for rejection, the officer will inform the applicant that he is not eligible for enlistment or, if appropriate, not acceptable unless waiver is secured, and make a notation accordingly on DA Form 165.

(2) The enlisting officer to whom application is made for enlistment in the National Guard may properly require, in addition to an instrument of discharge from any prior service, any additional evidence of good character as may be desirable. An instrument of discharge will be presented to the enlisting officer for his scrutiny after which it will be returned to the applicant.

(g) *Physical examination*. All applicants for enlistment will appear before an authorized medical examiner for physical examination in accordance with the standards prescribed for the National Guard. Final determination of physical eligibility of all applicants will be subject to review by the Chief, National Guard Bureau.

§ 1101.15 *Enlistments*—(a) *Grades and period of enlistment*. (1) All enlistments in units of the National Guard, except as otherwise provided in this part, will be in the grade of private, E-1.

(2) Personnel who entered the active military service of the United States with the National Guard on or subsequent to September 16, 1940, and who re-enlist therein subsequent to release or discharge from the active military service, may be re-enlisted in a grade equivalent to their former National Guard grade.

(3) When compatible with State law, qualified personnel may be enlisted in the National Guard of a State in a grade equivalent to the grade held in the Army of the United States, U. S. Air Force, U. S. Marine Corps, or a reserve component thereof, at time of release or discharge.

(4) Personnel who have four months or more cumulative service for pay purposes will be enlisted as private, E-2, unless enlisted in a higher grade as otherwise provided in this part.

(5) Original enlistment in the National Guard will be for a period of 3 years.

(b) *Immunization*. Before, or as soon as practicable after taking the oath of enlistment as prescribed in paragraph (c) of this section, applicants for enlistment will be immunized against smallpox and will receive the first of the immunization series for immunization against typhoid and paratyphoid, if there is doubt as to prior immunization.

(c) *Enlistment and administration of oath*. (1) If an applicant has successfully passed the screening required in § 1101.14, or received an approved waiver of his disqualification, an officer will read to him the oaths of enlistment and explain to him the term of service, the responsibilities he assumes, the service obligation he acquires pursuant to section 4 (d) (3), Public Law 51, 82d Congress, if applicable, the possible active duty service and the pay and allowances to which he will be entitled. The officer

will then complete the enlistment by administering the above mentioned oaths and requiring the enlisted person to sign both oaths on all four copies of the enlistment record. The officer will then sign the certificate of enlistment on all four copies of the enlistment record.

(2) Any officer or warrant officer of the National Guard so authorized by the laws of the State may administer the State oath. The Federal oath of enlistment may not be administered by warrant officers.

(d) *Date of enlistment.* The date on which the oath is administered is the date of enlistment.

(e) *Age at enlistment or reenlistment.*

(1) The age limit of 35 years applies only to persons without prior military service. A person who has served in the National Guard of any State, Territory, Commonwealth of Puerto Rico, or the District of Columbia, or in the Regular Army, Army of the United States, U. S. Navy, U. S. Air Force, U. S. Marine Corps, or U. S. Coast Guard, whose service was terminated by honorable discharge, other than under the provisions of AR 615-370 (Disloyal or Subversive), AR 600-443 (Homosexual), AR 615-368 (Unfitness), or AR 615-369 (Inaptitude or Unsuitability), or similar discharged from the other services, may be enlisted in the National Guard if he has not reached his 57th birthday, subject to any lesser age limits prescribed by the laws of the State in which he is applying for enlistment, provided he has had total active service in the federally recognized National Guard since June 15, 1933, Regular Army, Army of the United States, U. S. Air Force, U. S. Navy, U. S. Marine Corps, or a reserve component thereof, equal to or exceeding that shown in the following table:

Age:	Prior service required
36 under 38...	1 year.
38 under 41...	2 years.
41 under 57...	2 years plus the number of years applicant is over age of 40.

Applicants who have been awarded decorations of the Silver Star, or higher, will be accepted for enlistment without regard to the age limitations of this subparagraph, if they have not reached their fifty-fifth birthday.

(2) Individuals who have not reached their fifty-fifth birthday at time of application for reenlistment in the National Guard may be accepted for such reenlistment in non-divisional Antiaircraft Artillery units of the National Guard provided they have served at least one year in the Armed Forces of the United States, including the National Guard or the Air National Guard of any State, Territory, Commonwealth of Puerto Rico, or the District of Columbia, such enlistment having been terminated by honorable discharge (other than under the provisions of AR 615-368 (Unfitness), AR 615-369 (Inaptitude or Unsuitability), or a similar regulation), provided they meet all other enlistment requirements. The same limitation of assignment is applicable as for those individuals enlisted under the provisions of paragraph (b) of § 1101.14.

(f) *Enlistment of persons with prior military service.* A former member of any of the Armed Forces of the United States having no previous National Guard service will be enlisted for three years provided he meets age and service requirements as prescribed in paragraph (e) of this section. An enlistment of this type is considered an original enlistment in the National Guard.

§ 1101.16 *Reenlistments.*—(a) *General provisions.* A person who has served one or more enlistments in the National Guard, either complete or incomplete may be reenlisted in the National Guard for a period of 1 or 3 years if he is fully qualified for enlistment in accordance with §§ 1101.14 and 1101.15. In lieu of reenlistment, persons in National Guard service may extend a current 1-year enlistment for periods of either 1 or 2 years, if not prohibited by the laws of the particular State, Territory, Commonwealth of Puerto Rico, or the District of Columbia, provided that there shall be not more than one 2-year extension and not more than two 1-year extensions of any 1-year enlistment. The extension of an enlistment under this authority may be accomplished at any time subsequent to date of enlistment and prior to expiration of term of enlistment.

(b) *Persons undergoing treatment.* Enlisted persons of good character and faithful service who, at the expiration of their term of enlistment, are undergoing treatment for injuries suffered or disease contracted in line of duty, may be reenlisted if they so elect; and if so reenlisted, and the disability proves permanent, they will be processed in accordance with pertinent National Guard Regulations.

(c) *Persons of doubtful physical condition who are not under treatment.* An enlisted person not under treatment but who has contracted illness or injury in line of duty that may raise a question of physical eligibility for reenlistment, but not such as to prevent the performance of his military duties, may be reenlisted by authority of the State adjutant general subject to approval by the Chief, National Guard Bureau, upon application made by letter through channels, including a recommendation from the examining surgeon. Such applications should, if practicable, be made in time to receive a decision before the date discharge must be effected for expiration of term of enlistment.

(d) *Persons in confinement.* If an enlisted person sentenced by court-martial to confinement for a period extending beyond the expiration of his term of enlistment received an honorable discharge, he will be reenlisted only upon the remission by competent military authority of the unexecuted portion of his sentence, unless the laws of the State authorize otherwise.

(e) *Discharge and reenlistment of personnel detailed to schools.* An enlisted person to be detailed to a service school must have at least 2 years to serve in his current enlistment as of the date on which the course he is to take is scheduled to end. If he does not have this much unexpired service, he will be

discharged and reenlisted for 3 years before attending the service school.

§ 1101.17 *Recognition of enlisted personnel.*—(a) *Effective date of recognition of enlisted person.*—(1) *Date of recognition of his unit.* If enlisted person has already qualified by taking the required oaths as a member of a National Guard unit not yet federally recognized, his own recognition becomes effective on the date his unit is recognized.

(2) *Date of oath.* If a person enlists in a federally recognized unit of the National Guard, the date on which he takes and subscribes to the oath of enlistment is the date of his recognition. Retroactive enlistments are not authorized.

(3) *Period of enlistment.* Regardless of whether or not the unit for which a person is enlisted is federally recognized, the period of enlistment commences on the date of taking and subscribing to the oath of enlistment, and ends one year or three years later unless sooner terminated or extended.

(b) *Enlistments after induction under a Presidential call or order.* Instructions covering enlistments after date of a Presidential call or order pursuant to which enlisted personnel enters the active military service of the United States are contained in pertinent Army regulations.

§ 1101.18 *Separation from the National Guard.*—(a) *General.* (1) The separation of enlisted personnel from the National Guard is effected through discharge by proper authority. Unless a discharge is fraudulently obtained or is, in determined cases, voidable, an individual discharged is actually separated from the National Guard and his enlistment cannot be continued by revoking, rescinding, or voiding the discharge. In all cases where a discharge has been effected, it is necessary that the individual be reenlisted in order to again establish his National Guard status. Unless otherwise provided in this section, enlisted persons who are discharged will be given a discharge certificate. The discharge of an individual takes effect on the date of notice to him of his discharge, and he will be so notified upon delivery to him of his discharge certificate. Unless discharged from his enlistment as a Reserve of the Army, whenever an enlisted person is discharged from the National Guard he becomes a member of the Army Reserve, and such fact must be reported to the appropriate military district commander.

(2) An enlisted person who is hospitalized, or awaiting disposition because of physical reasons, will be continued in his enlisted status pending final disposition of his case, provided he agrees in writing to such continuation.

(3) An enlisted person awaiting trial or result of trial by court-martial will be retained in his enlisted status pending final disposition of his case.

(b) *Discharge authority.* The authority to discharge enlisted personnel from the National Guard rests with the State. The authority to discharge an enlisted man from an enlistment as a Reserve of the Army rests with the Secretary of the Army and is delegated to

appropriate officers of the National Guard of the United States designated by the State adjutant general concerned for the specific purpose set forth in this section.

(c) *Discharge criteria (concurrent).* An enlisted person discharged from the National Guard under the criteria listed in this paragraph will be concurrently discharged from his enlistment as a Reserve of the Army unless otherwise specifically indicated.

(1) Upon expiration of term of enlistment, when person to be discharged has no service obligation under the Universal Military Training and Service Act, as amended.

(2) When discharged prior to expiration of term of service for any reason is no period of obligated service exists under law or contract, except when the person to be discharged is qualified for service in the Army Reserve and applies for transfer thereto from the National Guard of the United States in accordance with section 706 of the Armed Forces Reserve Act of 1952.

(3) Upon discharge because of:

(i) Physical disability.
(ii) Misconduct or unfitness, including inaptness, failure to possess required degree of adaptability for military service, evidence of traits of character rendering retention undesirable, or mental, moral, and/or character disqualification.

(iii) Fraudulent enlistment when reason other than minority is involved. An enlisted person under age at enlistment but qualified at time of discovery may be continued in the service.

(iv) Conviction by a civil court resulting in a sentence to confinement for more than 1 year.

(v) Disloyal or subversive activity.

(4) *Under the following circumstances.* (Any remaining service obligation under the Universal Military Training and Service Act, as amended, will be carried over for fulfillment into the new military status.)

(i) Upon immediate reenlistment in the National Guard.

(ii) Upon enlistment in a Regular component of any of the Armed Forces of the United States, including the United States Coast Guard.

(iii) Upon induction into the active Armed Forces of the United States.

(iv) Upon enlistment in a Reserve component of the United States Navy, United States Marine Corps, United States Air Force, or United States Coast Guard.

(v) Upon acceptance of appointment as an officer (including warrant officer), cadet, or midshipman in:

(a) An armed force of the United States.

(b) Public Health Service.

(c) Coast and Geodetic Survey.

(d) United States Military Academy.

(e) United States Naval Academy.

(f) United States Coast Guard Academy.

(g) Advanced course AFOTC or NROTC provided evidence of concurrent enlistment in Air Force Reserve or Naval Reserve, as appropriate, is presented.

(vi) Upon discharge for the purpose of reenlisting in order to attend a service school when the unexpired portion of

the current enlistment is less than the length of the course to be attended plus 24 months.

In the cases listed in subdivision (1) through (vi) of this subparagraph, the following statement will be entered on the face of discharge certificate: "This discharge does not relieve the individual named herein from any Reserve or service obligation to which he may be subject under the provisions of the Universal Military Training and Service Act, as amended."

(d) *Discharge criteria (other).* Except as otherwise provided in paragraph (c) (2) of this section an enlisted person will be discharged only from the National Guard under the criteria listed in this paragraph:

(1) An enlisted person having a remaining service obligation under the Universal Military Training and Service Act who does not signify his intention to reenlist on the day following his discharge from the National Guard.

(2) An alien who has not filed a declaration of intent to become a citizen but who has previously served in the Armed Forces of the United States.

(3) When discharged because of continuous and willful absence from military duty.

(4) When discharged because of dishonorable discharge of a unit.

(5) When discharged because of change of residence to another State.

(6) When discharged because of hardship dependency or incompatible occupation.

(7) An enlisted person serving on active duty at the time of expiration of term of enlistment in the National Guard.

(e) *All enlistments conditional—(1) Inspection for Federal recognition.* Persons who have been enlisted for a unit prior to date of inspection of the unit for Federal recognition but who are found at time of inspection to be disqualified for enlistment, under the provisions of §§ 1101.14 through 1101.19, will be discharged immediately.

(2) *Review by State adjutant general.* All applications for enlistment will be reviewed by the State adjutant general, and, in case disqualifying conditions are revealed by this review, such persons as may have been enlisted through error will be discharged.

(3) *Review by the Chief, National Guard Bureau.* The data recorded on the Enlistment Record (DA Form 165) may also be reviewed by the Chief, National Guard Bureau, and all persons failing to meet the requirements set forth in §§ 1101.14 through 1101.19 will be discharged upon request of the Chief, National Guard Bureau.

(f) *Discharge requested by the Chief, National Guard Bureau.* The discharge of an enlisted person of the National Guard may be requested for other reasons by the Chief, National Guard Bureau. In such instances, the reason for discharge will be indicated in each separate request.

(g) *Discharge by State authority.* An enlisted person may be discharged from the National Guard of any State, Territory, Commonwealth of Puerto Rico, or

the District of Columbia for reasons not stated in this part but covered by a law of the State, Territory, Commonwealth of Puerto Rico, or the District of Columbia, not contrary to the provisions of the National Defense Act, as amended, or the Armed Forces Reserve Act.

§ 1101.19 *Discharge certificates.* An enlisted person discharged from the National Guard shall receive a discharge in writing in such form and with such classification as is or shall be prescribed for the Regular Army. (Sec. 72, National Defense Act, as amended, and Sec. 249c, Armed Forces Reserve Act.)

[SEAL] Wm. E. BERGIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 53-8551; Filed, Oct. 6, 1953;
8:51 a. m.]

Chapter XIV—The Renegotiation Board

Subchapter B—Renegotiation Board Regulations Under the 1951 Act

PART 1460—PRINCIPLES AND FACTORS IN DETERMINING EXCESSIVE PROFITS

MINIMUM REFUND

This part is amended by deleting § 1460.5 in its entirety and inserting in lieu thereof the following:

§ 1460.5 *Minimum refund.* With respect to fiscal years ended on or before December 31, 1951, no refund shall, in the absence of unusual circumstances, be required if excessive profits before adjustment for State taxes measured by income amount to less than \$10,000. With respect to fiscal years ended after December 31, 1951, no refund shall, in the absence of unusual circumstances, be required if excessive profits before adjustment for State taxes measured by income amount to less than \$20,000. The provisions of this section shall not apply, however, to subcontracts under section 103 (g) (3) of the act, or to cases where the provisions of § 1458.3 of this subchapter operate to limit the amount of the refund.

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

Dated: October 2, 1953.

NATHAN BASS,
Secretary.

[F. R. Doc. 53-8552; Filed, Oct. 6, 1953;
8:51 a. m.]

TITLE 47—TELECOMMUNICATIONS

Chapter I—Federal Communications Commission

PART 1—PRACTICE AND PROCEDURE

TELEVISION BROADCAST STATIONS; MUTUALLY EXCLUSIVE APPLICATIONS

In the matter of the amendment of Footnote 10, § 1.371 of the rules.

1. The Commission has before it for consideration a particular aspect of its revised procedure, issued July 17, 1953

(FCC 53-889) for processing and designating for hearing applications for new television stations. A brief background statement is desirable.

2. Prior to the revision, the Group B processing line, comprised of applications for stations in cities with television stations in operation or less than 40 miles from an operating station, was subdivided into several subgroups with a particular one—B (2)—affording a priority to communities where all the VHF channels were in operation and only UHF channels remained for application. Under the new procedure, Group B consists of competing applications in cities having one or more operating stations, with subgroups being determined only on the basis of the number of operating stations. The Commission determined, however, (1) that during the period between July 17 and August 24, 1953—the revision's effective date, it would continue processing applications according to the then established procedure; and (2) that the processing of applications, which had been the subject of prehearing letters dispatched pursuant to section 309 (b) prior to August 24th, would be completed, even though extending into the period beyond the 24th. The reason for the first decision was to avoid loss of time during which considerable processing could be effected; the second decision is a natural corollary of the first.

3. The Commission has now encountered a situation which, it believes, necessitates an amendment of the above described procedure. Because cities such as Washington, New York and Los Angeles stood high on the B-2 list, prehearing letters were dispatched prior to August 24, 1953, to competing applicants in these communities. But the completion of processing with respect to these cities, entailing designation for hearing, appears manifestly unfair to applicants and the listening public in communities such as St. Louis, Milwaukee, Houston and the many others at the top of the new B processing list (see Table attached to Public Notice, issued August 24, 1953, FCC 53-1086). Such cities have only one operating station whereas Washington, Los Angeles, and New York have, respectively, 4, 7, and 6.

4. The Commission has accordingly determined to revise its procedure so that it will complete the processing of applications which were the subject of prehearing letters dispatched prior to August 24th under its former procedure, only where the city involved does not have four or more operating stations. As stated, it is believed that the public interest—here, the Commission's obligation to effect an early establishment of television service in areas most in need, requires such a revision.

5. Accordingly, Footnote 10 to § 1.371 of the Commission's rules is amended by the addition of sub-section (4):

(4) Mutually exclusive applications which have been the subject of prehearing letters dispatched prior to the effective date of these provisions (August 24, 1953) will continue to be processed after that date, i. e., designated for hearing: *Provided, however,* That such mutually exclusive applications

for cities having 4 or more operating stations will not be designated for hearing until such designation is appropriate under the new procedure provided for herein.

6. The amendment adopted herein is procedural in nature and notice of proposed rule making pursuant to the provisions of section 4 of the Administrative Procedure Act is unnecessary. Because of the time considerations involved, it is believed imperative that it be made effective immediately.

7. The amendment is issued pursuant to authority contained in section 4 (i), 5 (d) (1), and 303 (r) of the Communications Act of 1934, as amended.

8. *It is ordered*, That, effective immediately, Footnote 10, § 1.371 of the Commission's rules is amended as set forth herein.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended, sec. 5, 66 Stat. 713; 47 U. S. C. 303, 155)

Adopted: September 30, 1953.

Released: October 2, 1953.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 53-8563; Filed, Oct. 6, 1953;
8:54 a. m.]

[Docket No. 10649]

PART 3—RADIO BROADCAST SERVICES

TELEVISION BROADCAST STATIONS; TABLE OF ASSIGNMENTS

In the matter of amendment of § 3.606, *Table of assignments*, rules governing television broadcast stations; Docket No. 10649.

1. The Commission has under consideration its notice of proposed rule making issued on August 21, 1953 (FCC 53-1078), and published in the *FEDERAL REGISTER* on August 28, 1953 (18 F. R. 5148), proposing to assign Channel 58 to Greenfield, Massachusetts, in lieu of Channel 42 and Channel 77 to Brattleboro, Vermont, in lieu of Channel 58.

2. The time for filing comments in this proceeding expired September 24, 1953. No comments were filed opposing these amendments. The Commission finds that the amendments would comply with the Commission's rules, would eliminate a defective assignment spacing in the table of assignments, and would serve the public interest.

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

4. The amended channel assignments adopted herein correct an error in the Television Channel Assignment Table. We find that the public interest would be served by making this amendment effective immediately.

5. In view of the foregoing, *It is ordered*, That effective immediately, the table of assignments contained in § 3.606 of the Commission's rules and regulations is amended as follows:

City:	Channel No.
Greenfield, Mass.	58—
Brattleboro, Vt.	77+

(Sec. 4, 48 Stat. 1066 as amended; 47 U. S. C. 154. Interprets or applies secs. 303, 307, 48 Stat. 1082, as amended, 1084; 47 U. S. C. 303, 307)

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

Adopted: September 30, 1953.

Released: October 2, 1953.

[F. R. Doc. 53-8564; Filed, Oct. 6, 1953;
8:55 a. m.]

[Docket 10583]

PART 17—CONSTRUCTION, MARKING AND LIGHTING OF ANTENNA STRUCTURES PAINTING AND LIGHTING EXISTING STRUCTURES

In the matter of amendment of § 17.43 of the Commission rules concerning the construction, marking and lighting of antenna towers and supporting structures; Docket No. 10583.

1. The Commission has under consideration its notice of proposed rule making issued on July 10, 1953 (FCC 53-846), and published in the *FEDERAL REGISTER* on July 17, 1953 (18 F. R. 4201), proposing to amend § 17.43 of the Commission rules and regulations so as to require (1) that all antenna structures be painted in accordance with § 17.23 either at the next time the structure is repainted, or within a period of six years; and (2) that in those instances where two 25 watt or 40 watt bulbs are installed at the top of the structure, or where only one 100 or 111 watt bulb is in use at one time on the top of the structure, two 100 or 111 watt bulbs shall be installed, both to burn simultaneously, within a period of one year from date of notification of the required change.

2. The time for filing comments in this proceeding expired August 17, 1953. Comments were filed by Central Committee on Radio Facilities of the American Petroleum Institute. This Committee submitted that the uniformity in the painting and lighting of antenna structures which would result from the proposed rule would reduce the possibility of misunderstanding in connection with lighting and painting requirements, and also that the manner in which the uniformity would be accomplished is such that it will involve only a nominal expense to radio station licensees.

3. Authority for the adoption of the proposed amendment is contained in sections 4 (i), 301, 303 (c), (d), (f), (q) and (r) and 307 (b) of the Communications Act of 1934, as amended.

4. In view of the foregoing, *It is ordered*, That effective January 1, 1954, § 17.43 of the Commission rules is amended to read as follows:

§ 17.43 *Painting and lighting existing structures.* (a) All existing antenna structures required to be painted in accordance with the terms of an instru-

RULES AND REGULATIONS

ment of authorization dated prior to March 30, 1953, shall be painted in the manner set forth in § 17.23 at the time when the antenna structure is required to be repainted (see § 17.39) or in no event later than January 1, 1960.

(b) All existing antenna structures required to be lighted in accordance with the terms of an authorization requiring only the following lighting specifications shall be changed to the lighting specifications set forth below as soon as practicable or in no event later than one year from the date of the first instrument of authorization that is issued to the station after January 1, 1954:

Existing Lighting Specifications FCC Form No.	New Lighting Specifications Rule No.
715-1	§ 17.24 (a) (1).
715-2 or B (6)-2	§§ 17.24 (a) (1) and 17.26 (a) (2).
715-4 or B (6)-4	§§ 17.24 (a) (1) and 17.26 (a) (2).

(c) Except as set forth in paragraphs (a) and (b) of this section, nothing in the criteria set forth in §§ 17.11 to 17.17 or this subpart concerning antenna structures or locations shall apply to painting and lighting those structures authorized prior to February 15, 1951 (effective date of this part) except where lighting and painting requirements are

reduced, in which case the lesser requirements may apply.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1084; 47 U. S. C. 301, 303, 307)

Adopted: September 30, 1953.

Released: October 2, 1953.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 53-8565; Filed, Oct. 6, 1953;
8:55 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing
Administration

[7 CFR Part 903]

[Docket No. AO 10-A18]

HANDLING OF MILK IN ST. LOUIS, MISSOURI,
MARKETING AREANOTICE OF HEARING ON PROPOSED AMEND-
MENTS TO TENTATIVE MARKETING AGREE-
MENT AND TO ORDER, AS AMENDED

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Melbourne Hotel, St. Louis, Missouri, beginning at 10:00 a. m., c. s. t., October 12, 1953, for the purpose of receiving evidence with respect to emergency and other economic conditions which relate to the handling of milk in the St. Louis, Missouri, marketing area and to the proposed amendments hereinafter set forth, or appropriate modifications thereof, to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area (7 CFR 903 et seq.). These proposed amendments have not received the approval of the Secretary of Agriculture.

Amendments to the order, as amended, regulating the handling of milk in the St. Louis, Missouri, milk marketing area were proposed as follows:

By Sanitary Milk Producers:

1. Amend § 903.51 (a) (1) to provide an emergency increase in the Class I price differential through March 1954.

2. Amend § 903.51 (a) (2) and (3) to bring about a more current adjustment in the Class I price in accordance with the changes in the relationship between the volume of producer milk and Class I sales.

3. Amend § 903.87 (b) to eliminate administrative assessments on milk subject to the Class I pricing provisions of other Federal orders.

4. Amend § 903.45 (a) (4) by deleting the words "milk received from producers" and substitute therefor the words "approved milk."

By Square Deal Milk Producers Association and Cooperative Milk Producers of Missouri:

5. Provide that the Class I price for milk shall be the basic formula price for the delivery period plus \$2.14 per hundredweight, and that said emergency price provision be made operative through February, 1954.

By Dairy Branch, Production and Marketing Administration:

6. Make such changes as may be required to make the entire marketing agreement and order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and of the order now in effect may be procured from the Market Administrator, 4030 Chouteau Avenue, St. Louis 10, Missouri, or from the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: October 2, 1953, at Washington, D. C.

[SEAL]

ROY W. LENNARTSON,
Assistant Administrator.

[F. R. Doc. 53-8568; Filed, Oct. 6, 1953;
8:55 a. m.]

FEDERAL COMMUNICATIONS
COMMISSION

[47 CFR Part 2]

[Docket No. 10711]

FREQUENCY ALLOCATIONS AND RADIO
TREATY MATTERS

NOTICE OF PROPOSED RULE MAKING

In the matter of amendment of Part 2 of the Commission's rules and regulations; Docket No. 10711.

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

It is proposed to add footnote "NG1" to all frequency bands allocated to the broadcasting service in which the footnote does not now appear. This footnote now appears in Part 2 of the rules and states that "On the condition that harmful interference will not be caused to services operating in accordance with the table of frequency allocations, the following classes of stations may be authorized to use frequencies in this band: (1) Experimental stations engaged solely in scientific or technical radio experiments not related to an existing or proposed service nor intended to develop a proposed service or specific use of radio, (2) contract developmental stations, and (3) export developmental stations."

The proposed amendment is issued pursuant to the authority of sections 303 (c), (f), and (r) of the Communications Act of 1934, as amended.

Any interested party who is of the opinion that the proposed amendment should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before October 16, 1953 a written statement or brief setting forth his comments. Replies to such comments may be filed within ten days from the last date for filing the original comments. The Commission will consider all comments and briefs presented before taking final action in the matter.

In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, brief or comments filed shall be furnished the Commission.

Adopted: September 30, 1953.

Released: October 2, 1953.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 53-8562; Filed, Oct. 6, 1953;
8:54 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

COLORADO RIVER STORAGE AND YUMA
PROJECTS, ARIZONA

ORDER OF REVOCATION

MARCH 5, 1953.

Pursuant to the authority delegated by Departmental Order No. 2515 of April 7, 1949 (14 F. R. 1937) I hereby revoke Departmental Orders of July 2, 1902, January 31, 1903, September 30, 1904, and March 14, 1929, insofar as said orders affect the following described land; provided, however, that such revocation shall not affect the withdrawal of any other lands by said orders or affect any other orders withdrawing or reserving the land hereinafter described.

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 9 S., R. 23 W.,

Sec. 1, Lots 13 and 17.

The above area aggregates 7.36 acres.

G. W. LINEWEAVER,
Assistant Commissioner.

I concur. The records of the Bureau of Land Management will be noted accordingly.

This revocation is made in furtherance of an exchange under section 8 of the act of June 28, 1934, as amended by section 3 of the act of June 26, 1936 (48 Stat. 1272; 49 Stat. 1976; 43 U. S. C. 315g) by which the offered lands will benefit a Federal land program. This restoration is, therefore, not subject to the provisions contained in the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284) as amended, granting preference rights to veterans of World War II and others.

WILLIAM ZIMMERMAN, JR.,
Associate Director,
Bureau of Land Management.

OCTOBER 1, 1953.

[F. R. Doc. 53-8527; Filed, Oct. 6, 1953;
8:45 a. m.]

COLUMBIA BASIN PROJECT, WASHINGTON

FIRST FORM RECLAMATION WITHDRAWAL

JANUARY 30, 1953.

Pursuant to the authority delegated by Departmental Order No. 2515 of April 7, 1949, I hereby withdraw the following described lands from public entry, under the first form of withdrawal, as provided by section 3 of the act of June 17, 1902 (32 Stat. 388):

WILLAMETTE MERIDIAN, WASHINGTON

T. 19 N., R. 23 E.,

Sec. 18, Lot 1 and NW¼NW¼NE¼.

T. 28 N., R. 29 E.,

Sec. 12, NE¼NE¼.

The above areas aggregate approximately 69.25 acres.

G. W. LINEWEAVER,
Assistant Commissioner.

No. 196—3

I concur. The records of the Bureau of Land Management will be noted accordingly.

EDWARD WOOLEY,
Director,

Bureau of Land Management.

SEPTEMBER 16, 1953.

Notice for Filing Objections to Order
Withdrawing Public Lands

Notice is hereby given that for a period of 30 days from the date of publication of this notice, persons having cause to object to the terms of the above order withdrawing certain public lands in the State of Washington, for use in connection with the operation and maintenance of the Grand Coulee Equalizing Reservoir and the Columbia River Wasteway of the Columbia Basin Project, Washington, may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C.

In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

G. W. LINEWEAVER,
Assistant Commissioner.[F. R. Doc. 53-8528; Filed, Oct. 6, 1953;
8:45 a. m.]MISSOURI RIVER BASIN PROJECT,
NEBRASKA

FIRST FORM RECLAMATION WITHDRAWAL

JULY 6, 1953.

Pursuant to the authority delegated by Departmental Order No. 2515 of April 7, 1949, I hereby withdraw the following-described lands from public entry, under the first form of withdrawal, as provided by section 3 of the act of June 17, 1902 (32 Stat. 388):

SIXTH PRINCIPAL MERIDIAN, NEBRASKA

T. 2 N., R. 34 W.,

Section 1, lot 7.

Section 12, lot 7.

The above areas aggregate 35.47 acres.

G. W. LINEWEAVER,
Assistant Commissioner.

I concur. The records of the Bureau of Land Management will be noted accordingly.

EDWARD WOOLEY,
Director,
Bureau of Land Management.

SEPTEMBER 11, 1953.

Notice for Filing Objections to Order
Withdrawing Public Lands

Notice is hereby given that for a period of 30 days from the date of publication of this notice, persons having cause to object to the terms of the above order withdrawing certain public lands in the State of Nebraska, for use in connection with the proposed development of the Missouri River Basin Project, may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C.

In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

G. W. LINEWEAVER,
Assistant Commissioner.[F. R. Doc. 53-8529; Filed, Oct. 6, 1953;
8:46 a. m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T. D. 53350]

DESTRUCTION OF TOBACCO WASTES
INCURRED IN MANUFACTURE OF CIGARS

REFUNDS OF DUTY

OCTOBER 1, 1953.

In the case of Henry Clay and Bock & Co., Ltd. v. United States, C. A. D. 527, the Court of Customs and Patent Appeals ruled that the Government was required to make refunds of duties on account of the destruction of tobacco stems and wastes resulting from the manufacture of cigars in Class 6 bonded manufacturing warehouses, where the destruction had been permitted under customs supervision prior to the issuance of instructions on January 23, 1948, to discontinue such refunds.

In accordance with the court's decision, you are authorized to allow a refund of duty on account of the destruction under customs supervision of tobacco stems and wastes incurred in the manufacture of cigars in bonded Class 6 warehouses in any case in which all requirements, including actual destruction of such wastes under customs supervision, were complied with prior to the issuance of the aforesaid instructions on January 23, 1948, and nothing remained to be done after that date except to calculate or certify such refunds for payment.

You shall refuse to allow refunds for any claim in connection with the de-

struction of such tobacco stems and wastes where actual destruction under customs supervision was not accomplished prior to January 28, 1948. Hereafter, you shall also deny all applications for destruction under customs supervision of any such tobacco stems or wastes.

[SEAL] C. A. EMERICK,
Acting Commissioner of Customs.

[F. R. Doc. 53-8566; Filed, Oct. 6, 1953;
8:55 a. m.]

Foreign Assets Control

IMPORTATION OF IRIKO AND RED BEANS DIRECTLY FROM JAPAN AVAILABLE CERTIFICATIONS

Notice is hereby given that certificates of origin issued by the Ministry of International Trade and Industry of the Government of Japan under procedures agreed upon between that government and the Foreign Assets Control are now available with respect to the importation into the United States directly, or on a through bill of lading, from Japan of the following additional commodities:

Iriko.
Red beans.

[SEAL] ELTING ARNOLD,
Acting Director,
Foreign Assets Control.

[F. R. Doc. 53-8550; Filed, Oct. 6, 1953;
8:51 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

CHIEF, FIELD ENGINEERING AND MONITORING BUREAU

DELEGATION OF AUTHORITY TO ISSUE ORDERS TO SHOW CAUSE WHY CEASE AND DESIST ORDER SHOULD NOT BE ISSUED AND TO ISSUE IN CERTAIN CASES CEASE AND DESIST ORDERS

In the matter of delegation of authority to the Chief, Field Engineering and Monitoring Bureau, to issue, with respect to operation of Industrial, Scientific, and Medical equipment subject to Part 18 of the Commission's rules, orders to show cause why a cease and desist order should not be issued, and to issue in certain cases cease and desist orders.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of September 1953;

The Commission having under consideration the means of expediting the enforcement of Part 18 of its rules; and

It appearing, that section 312 of the Communications Act as amended by Public Law 554 (82d Cong., 2d Session), effective July 16, 1952, provides that the Commission may issue cease and desist orders in accordance with subsection (b) thereof; and

It further appearing, that under section 312 (c) of this act, before issuing a cease and desist order pursuant to section 312 (b), an order to show cause why a cease and desist order should not be issued must be served upon the licensee, permittee or person; and

It further appearing, that under section 312 (c) of the act, if after hearing, or a waiver thereof, the Commission determines that a cease and desist order should issue, it shall issue said order; and

It further appearing, that the sanction specified in the order to show cause may be invoked on the basis of the allegations set forth in such order whenever the respondent fails to respond to such order, or waives a hearing but fails to submit a statement therewith showing why he believes that such sanction should not be invoked; and

It further appearing, that the issuance of orders to show cause why a cease and desist order should not be issued pursuant to section 312 (b), and the issuance of cease and desist orders under the circumstances stated in the preceding clause, are functions which should be delegated to the staff in the interest of expediting enforcement procedures in connection with the administration of Part 18 of the Commission's rules governing the operation of Industrial Scientific and Medical equipment.

It is ordered, Under the authority contained in section 5 (d) (1) of the Communications Act of 1934, as amended, that, effective immediately, authority is delegated to the Chief, Field Engineering and Monitoring Bureau with respect to the operation of Industrial, Scientific, and Medical equipment subject to Part 18 of the Commission's rules, to issue, in accordance with section 312 (c) of the act, (1) orders to show cause why a cease and desist order pursuant to section 312 (b) should not be issued; and (2) cease and desist orders, in those instances in which the allegations of the show cause order are, by regulation of the Commission, deemed to have been admitted.

Released: October 2, 1953.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 53-8555; Filed, Oct. 6, 1953;
8:52 a. m.]

[Docket Nos. 8621, 10699]

TRAVELERS BROADCASTING SERVICE CORP. AND HARTFORD TELECASTING CO., INC.

ORDER DESIGNATING APPLICATIONS FOR CON- SOLIDATED HEARING ON STATED ISSUES

In re applications of The Travelers Broadcasting Service Corporation, Hartford, Connecticut, Docket No. 8621, File No. BPCT-193; Hartford Telecasting Company, Inc., Hartford, Connecticut, Docket No. 10699, File No. BPCT-1540; for construction permits for new television stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of September 1953;

The Commission having under consideration the above-entitled applications, each requesting a construction permit for a new television broadcast station to operate on Channel 3 in Hartford, Connecticut; and

It appearing, that the above-entitled applications are mutually exclusive in that operation by more than one applicant would result in mutually destructive interference; and

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-named applicants were advised by letters dated August 21, 1953, that their applications were mutually exclusive, that a hearing would be necessary, that certain questions were raised as the result of deficiencies of a financial and technical nature in their applications and that the questions of whether their proposed antenna systems and sites would constitute hazards to air navigation were unresolved; and

It further appearing, that upon due consideration of the above-entitled applications, the amendments filed thereto, and the replies to the above letters, the Commission finds that under section 309 (b) of the Communications Act of 1934, as amended, a hearing is mandatory; and that each of the above-named applicants is legally, financially, and technically qualified to construct, own and operate a television broadcast station; and

It further appearing, that the application of The Travelers Broadcasting Service Corporation proposes an antenna location in the vicinity of the antenna of standard broadcast Station WTIC; that the installation and operation of the television antenna as proposed is possible and feasible without adversely affecting the ability of Station WTIC to operate in accordance with the terms of its license; that appropriate proof thereof should be submitted after installation and operation of the said proposed antenna; and that a grant of the application should be subject to a condition in this respect as follows:

During installation of the TV antenna, power of WTIC-AM shall be determined by the indirect method and the directional antenna maintained closely as possible to values appearing on the license. Upon completion of the TV installation, field intensity shall be measured at a minimum of 3 points on each radial and submitted to the Commission with a tabulation of meter readings. The resistance of the non-directional and common point impedance should be remeasured and results submitted to the Commission together with Form 302 if any change is noted.

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-entitled applications are designated for hearing in a consolidated proceeding to commence at 10:00 a. m., on October 30, 1953, in Washington, D. C., to determine on a comparative basis which of the operations proposed in the above-entitled applications would better serve the public interest, convenience or necessity in the light of the record made with respect to the significant differences between the applications as to:

(1) The background and experience of each of the above-named applicants having a bearing on its ability to own and operate the proposed television station.

(2) The proposals of each of the above-named applicants with respect to the management and operation of the proposed station.

(3) The programming service proposed in each of the above-entitled applications.

Released: October 2, 1953.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 53-8556; Filed, Oct. 6, 1953;
#52 a. m.]

[Docket No. 10123]

HIGHLITE BROADCASTING CO.

ORDER DESIGNATING APPLICATION FOR
CONSOLIDATED HEARING ON STATED ISSUES

In re application of W. A. Lee, A. W. Stewart and Franklin T. Wilson d/b as the Highlite Broadcasting Company, Killeen, Texas, Docket No. 10123, File No. BP-8288; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of September 1953;

The Commission having under consideration the above-entitled application for a construction permit for a new station to operate on 1050 kc with 250 w, daytime only at Killeen, Texas;

It appearing, that there are certain questions concerning the legal qualifications of two of the three applicant partners, Alton W. Stewart and Franklin T. Wilson, to be the licensee of a standard broadcast station; and

It further appearing, that the applicant partnership was advised by letter dated May 20, 1953, of the nature of the deficiencies with respect to the legal qualifications of Alton W. Stewart and Franklin T. Wilson; and

It further appearing, that the applicant filed a reply to the aforesaid letter of May 20, 1953; and that the Commission after due consideration of such reply is still unable to conclude that the applicant is legally qualified, and cannot determine that a grant of the above-entitled application would serve the public interest;

It is ordered, That pursuant to section 309 (b) of the Communications Act of 1934, as amended, that the above-entitled application of the Highlite Broadcasting Company is designated for hearing at a time and place to be specified in a subsequent order upon the following issues:

1. To determine whether the applicant partnership is legally qualified to be the licensee of a standard broadcast station.

2. To determine whether Alton W. Stewart or Franklin T. Wilson have intentionally, willfully or deliberately failed to disclose pertinent information about themselves in the above-entitled application and in applications submitted by Eastland County Broadcasting Company for a new station at Eastland, Texas (File No. BP-5688); Comal County Broadcasting Company for a new sta-

tion at New Braunfels, Texas (File No. BP-6741), and Coleman County Broadcasting Company for a new station at Coleman, Texas (File No. BP-5497).

3. To determine whether Alton W. Stewart and Franklin T. Wilson possess character qualifications essential to operate a broadcast station in the public interest.

4. To determine whether it would be in the public interest, convenience and necessity to grant the above-entitled application of the Highlite Broadcasting Company.

Released: October 2, 1953.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 53-8557; Filed, Oct. 6, 1953;
8:53 a. m.]

[Docket No. 10536]

JOHN POOLE BROADCASTING CO. (KBIG)

MEMORANDUM OPINION AND ORDER AMENDING
ISSUES

In re application of John H. Poole, tr/as John Poole Broadcasting Company (KBIG) Avalon, California, Docket No. 10536, File No. BL-4897; for license to cover construction permit.

1. The Commission has before it for consideration (1) a petition filed on July 2, 1953, by Columbia Broadcasting System, Inc. of California (KSBS), seeking an enlargement of the hearing issues in the above-entitled proceeding; (2) a similar petition filed on July 3, 1953, by KMPC, Inc. (KMPC), also seeking an enlargement of the hearing issues; and (3) a response to the pleadings listed above filed on July 27, 1953, by John H. Poole, tr/as John Poole Broadcasting Company (KBIG).

2. This proceeding involves the application of Poole for a license to cover an outstanding construction permit. Poole is the permittee of Station KBIG, Avalon, California, operating on the frequency 740 kc with power of 10 kw, daytime only, utilizing a directional antenna. After the filing of an application for a license to cover his outstanding construction permit, Poole was authorized on May 26, 1953, to commence program test operation. Formal objections against the Station KBIG operation were thereafter lodged by the licensees of Station KCBS, San Francisco, California and Station KMPC, Los Angeles, California, and the Commission, by its memorandum opinion and order of June 12, 1953, designated the Poole license application for hearing on the following issues (the licensees of KCBS and KMPC were made parties to the proceeding):

1. To determine whether the installation and operation of the proposed station would be in compliance with the Commission rules and standards * * * with particular reference to the possibility of overlap of 25 mv/m contours between the proposed station and Station KMPC * * *.

2. (a) To determine whether the operation of KBIG as proposed would involve objectionable interference with Station KCBS * * * and, if so, the nature and ex-

tent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

(b) To determine the areas and populations which may be expected to gain or lose primary service from the operation of KBIG as proposed and the availability of other primary service to such areas and populations.

3. To determine on the basis of the above issues whether a grant of application BL-4879 is in the public interest.

3. In their instant pleadings, KCBS and KMPC have each requested that several additional hearing issues be designated. In summary the requested additional issues are as follows:

a. To determine whether the KBIG proof of performance, filed in connection with its application for a license to cover its outstanding construction permit, is adequate;

b. To determine whether KBIG has constructed and has been operating its station in accordance with the terms and conditions specified in its construction permit;

c. To determine in the light of the issues set forth above whether the authority granted to KBIG to conduct program test operation should be modified or terminated;

d. To determine whether a grant to KBIG would be in the public interest in the light of alternative antenna arrays, including two proposals by CBS, designed to eliminate the alleged overlap and objectionable interference; and

e. To determine the character of the program service to be gained or lost through KBIG's operation and whether the KBIG service would meet the requirements of the populations and areas proposed to be served.

4. In its opposition, KBIG takes the position that "Issue No. 1 specified by the Commission in its June 12 hearing order is broad enough to determine whether Station KBIG is operating in accordance with its construction permit." We take this statement to mean that KBIG has no objection to the admission of evidence pertinent to the issue set forth in Paragraph 3 (b) above, and we are of the opinion that the pleadings have set forth material sufficient to raise a question as to whether KBIG has constructed and has been operating in accordance with its construction permit. We are also of the opinion that, in the interest of clarity, a separate issue should be designated in this regard.

5. We are of the judgment, further, that the issues summarized in Paragraphs 3 (a) and 3 (c) above should not be added. Any evidence which could be introduced with respect to the adequacy of the proof of performance and which is relevant and material to the question of whether a license should issue is admissible in connection with the issue relating to the question of whether KBIG has been constructed in accordance with its construction permit. Nor would any purpose be served by the addition of an issue to determine whether the outstanding program test authorization should be modified or terminated. Section 3.163 of the Commission's rules and regulations provides in pertinent part that "program test authority shall be auto-

matically terminated by final determination upon the application for station license", and decision on the ultimate question of whether a license shall issue will necessarily resolve the question of continued program test authority.

6. It is our view, too, that the requested issue relating to alternative antenna arrays should not be added for the reason that the addition of such an issue, on the basis of the showing made in support of its inclusion, would unduly prolong and complicate the hearing and would not be productive of evidence materially affecting the disposition of the proceeding. Petitioners rely principally upon *Beaumont Broadcasting Corp. v. F. C. C.*, 91 U. S. App. D. C. 111, 202 F. 2d 306, 7 Pike & Fischer, RR 2149 (1952), in support of their position. Briefly reviewing that case, an applicant for a construction permit, Ozarks Broadcasting Company, proposed an operation that would involve objectionable interference to a station licensed to Beaumont Broadcasting Corp. and to another station. Beaumont and the other intervenor offered to prove that it would be possible to afford complete protection to all other stations on the channel without suffering any loss of service coverage by Ozarks, and attempted to introduce evidence as to specific alternative arrays to support this offer. The Commission refused to permit the introduction of the alternative arrays, and the court reversed the Commission on this point, holding that the "issue tendered by this proffer was not whether Beaumont's rather than Ozarks' antenna proposal should have been adopted. It was whether the public interest would be served by a grant to Ozarks with attendant interference when such interference might be eliminated by an antenna design not advanced by Ozarks."

7. We are of the opinion that a compelling consideration for the court was the fact that Beaumont proposed an alternative array which allegedly involved no loss of service to Ozarks. It would be virtually impossible to determine whether the public interest would be served by the grant of an application involving interference in the face of the possibility of designing an array which would eliminate such interference unless the alternative array submitted were to involve a service area substantially the same as that proposed in the application itself. An alternative proposal radically different from that contained in the application would be irrelevant to the question involved in the hearing, which is whether a grant of the application would be in the public interest.¹

8. In this proceeding, both CBS and KMPC have requested an issue with respect to possible alternative antenna arrays, but KMPC has not proposed any specific array, and CBS, although it has proposed two arrays which would allegedly fully protect it and KMPC, has not contended that these arrays would permit KBIG to provide substantially the same service as it is now authorized to

provide pursuant to its construction permit. KBIG contends both that the proposals "would disastrously affect the wide coverage of Southern California * * * granted by the Commission * * *" and that if the alternative proposals involved no substantial change in KBIG's service area "the changes would long since have been made and the instant controversy perhaps resolved." In the absence of a proposal which makes a threshold showing that an alternative array is possible which would provide protection to CBS and KMPC and which is reasonably related to the application under consideration in that the service area proposed in the alternative is substantially the same as that in the application itself, we must decline to add the requested hearing issue.

9. Finally, an additional issue is requested to determine the character of the program service which will be gained or lost through KBIG's operation as proposed. KBIG opposes the addition of such an issue, but we are of the opinion that an inquiry into the value of the program service to be gained and lost in the interference area is relevant and might be material to the disposition of this application. KBIG also contends that "if program matters are to be brought into this proceeding at this point, the program issue should include not only data on the program service presently provided by KBIG but also the program services provided by KCBS and the other stations serving the alleged interference area, with data showing the extent to which KCBS programs meet the needs of the area and the extent to which these needs are not met by programs carried by the other 25 stations serving all or a part of the area in question." We agree that evidence of this nature should also be admissible, and our program issue below is sufficiently broad to encompass it.

10. Accordingly, it is ordered, This 1st day of October 1953, that the above-described petition filed by Columbia Broadcasting System, Inc. of California (KCBS) on July 2, 1953, and the above-described petition filed by KMPC, Inc. (KMPC) on July 3, 1953, are granted, to the extent indicated herein, and in all other respects are denied; and

11. It is further ordered, That the issues upon which this proceeding was designated for hearing in the memorandum opinion and order herein, released June 12, 1953, are deleted, and the following issues are substituted therefor:

1. To determine whether the proposed station has been constructed and operated in accordance with the terms and conditions specified in its construction permit.

2. To determine whether the installation and operation of the proposed station in accordance with the terms and conditions specified in its construction permit would be in compliance with the Commission's rules and standards of Good Engineering Practice Concerning Standard Broadcast Stations with particular reference to the possibility of overlap of 25 mv/m contours between the proposed station and Station KMPC, Los Angeles, California.

3 (a). To determine whether the operation of KBIG as proposed would involve objectionable interference with Station KCBS, San Francisco, California and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3 (b). To determine the areas and populations which may be expected to gain or lose primary service from the operation of KBIG as proposed, the availability of other primary service to such areas and populations, the nature and character of the program service to be gained or lost from the operation of KBIG as proposed, and the extent to which such program service meets the requirements of the populations and areas proposed to gain or lose service.

4. To determine on the basis of the above issues whether a grant of application BL-4879 is in the public interest.

Released: October 2, 1953.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 53-8558; Filed, Oct. 6, 1953;
8:53 a. m.]

[Docket No. 10696]

KITO, Inc.

ORDER DESIGNATING APPLICATION FOR
HEARING ON STATED ISSUES

In re application of KITO, Inc., San Bernardino, California, Docket No. 10696, File No. BMPCT-1042; for additional time to complete construction of a new television broadcast station.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of September 1953;

The Commission having under consideration the above-entitled application for additional time in which to complete construction of a new television broadcast station to operate on Channel 18 in San Bernardino, California; and

It appearing, that on November 5, 1952, a construction permit (BPCT-897) was granted to the above-named applicant authorizing the construction of a new television broadcast station to operate on Channel 18 in San Bernardino, California, and specifying that the authorized construction was to be completed by July 5, 1953; and

It further appearing, that on March 16, 1953, the above-entitled application was filed requesting that the required date of completion of construction be extended to December 1953; and that, on June 25, 1953, the above-named applicant was advised that the Commission was unable to determine that it had been diligent in commencing the authorized construction or that it had been prevented from commencing such construction by causes not under its control; and

It further appearing, that the above-named applicant filed a reply to the above letter; and that the Commission, after due consideration of said reply, is

¹ This is essentially the position we adopted in designating the Beaumont proceeding for further hearing. 9 Pike & Fischer RR 51 (1953).

still unable to determine that the above-named applicant was diligent in commencing construction, that commencement of construction was prevented by causes not under the applicant's control, or that a grant of the above-entitled application would serve the public interest, convenience or necessity;

It is ordered, That the above-entitled application is designated for hearing at a time and place to be later specified, upon the following issues:

1. To determine whether the above-named applicant has been diligent in proceeding with the construction authorized in the construction permit (BPCT-897) granted on November 5, 1952.

2. To determine whether the above-named applicant has been prevented from proceeding with the construction authorized in its construction permit (BPCT-897) by causes not under its control.

3. To determine, in the light of the evidence adduced under the above issues, whether it would serve the public interest, convenience and necessity to grant the above-entitled application.

Released: October 2, 1953.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 53-8559; Filed, Oct. 6, 1953;
8:54 a. m.]

[Docket Nos. 10701, 10702, 10703]

SANGAMON VALLEY TELEVISION CORP. ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Sangamon Valley Television Corporation, Springfield, Illinois, Docket No. 10701, File No. BPCT-589; Capitol City Television Company, Springfield, Illinois, Docket No. 10702, File No. BPCT-1699; WMAY-TV Incorporated, Springfield, Illinois, Docket No. 10703, File No. BPCT-1768; for construction permits for new television stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of September 1953;

The Commission having under consideration the above-entitled applications, each requesting a construction permit for a new television broadcast station to operate on Channel 2 in Springfield, Illinois; and

It appearing, that the above-entitled applications are mutually exclusive in that operation by more than one applicant would result in mutually destructive interference; and

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-named applicants were advised by letters dated August 7, 1953, and September 17, 1953, that their applications were mutually exclusive, that a hearing would be necessary, and that the questions of whether their proposed antenna systems and sites would constitute hazards to air navigation were unresolved; that San-

gamon Valley Television Corporation was advised by a letter dated April 22, 1953, that certain questions were raised as to whether a grant of its application would serve the public interest, convenience or necessity and by the said letter of August 7, 1953, that certain questions were raised as the result of deficiencies of a technical nature in its application; and that WMAY-TV Incorporated was advised by the said letter of September 17, 1953, that certain questions were raised as the result of deficiencies of a technical nature in its application and as to whether its proposed operation meets the requirements of the Commission's rules; and

It further appearing, that upon due consideration of the above-entitled applications, the amendments filed thereto, and the replies to the above letters, the Commission finds that under section 309 (b) of the Communications Act of 1934, as amended, a hearing is mandatory; that Capitol City Television Company is legally, financially and technically qualified to construct, own and operate a television broadcast station; and that Sangamon Valley Television Corporation and WMAY-TV Incorporated are legally and financially qualified to construct, own and operate a television broadcast station and are technically so qualified except as to the matter referred to in issue "1" below; and

It further appearing, that by a letter dated September 25, 1953, Capitol City Television Company requested an additional eight days in which to respond to the 309 (b) letter of September 17, 1953, addressed to Capitol City Television Company and to examine the application of WMAY-TV Incorporated in the light of the 309 (b) letter addressed to WMAY-TV Incorporated; and that the reasons set forth in support of said request do not warrant a grant thereof;

It is ordered, That, the request of Capitol City Television Company for an extension of time to reply to the 309 (b) letter of September 17, 1953, is denied;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-entitled applications are designated for hearing in a consolidated proceeding to commence at 10:00 a. m. on October 30, 1953, in Washington, D. C., upon the following issues:

1. To determine whether the installation of the stations proposed by Sangamon Valley Television Corporation and WMAY-TV Incorporated in their above-entitled applications would constitute hazards to air navigation.

2. To determine on a comparative basis which of the operations proposed in the above-entitled applications would best serve the public interest, convenience or necessity in the light of the record made with respect to the significant differences among the applications as to:

(a) The background and experience of each of the above-named applicants having a bearing on its ability to own and operate the proposed television station.

(b) The proposals of each of the above-named applicants with respect to

the management and operation of the proposed station.

(c) The programming service proposed in each of the above-entitled applications.

Released: October 2, 1953.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 53-8560; Filed, Oct. 6, 1953;
8:54 a. m.]

[Docket Nos. 10704, 10705, 10706]

TEXAN TELECASTING CO. ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Loula Mae Harrison d/b as The Texan Telecasting Company, Amarillo, Texas, Docket No. 10704, File No. BPCT-1410; Plains Empire Broadcasting Company, Amarillo, Texas, Docket No. 10705, File No. BPCT-1437; Charles Henry Coffield d/b/a Panhandle Television Company, Amarillo, Texas, Docket No. 10706, File No. BPCT-1456; for construction permits for new television stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of September 1953;

The Commission having under consideration the above-entitled applications, each requesting a construction permit for a new television broadcast station to operate on Channel 7 in Amarillo, Texas; and

It appearing, that the above-entitled applications are mutually exclusive in that operation by more than one applicant would result in mutually destructive interference; and

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-named applicants were advised by letters dated August 18, 1953, that their applications were mutually exclusive, and that a hearing would be necessary; that Loula Mae Harrison, d/b as The Texan Telecasting Company was advised by the said letter that certain questions were raised as the result of deficiencies of a financial and technical nature in her application and that the question as to whether her proposed antenna system and site would constitute a hazard to air navigation was unresolved; that Plains Empire Broadcasting Company was advised by the said letter that certain questions were raised as the result of deficiencies of a financial nature in its application and that the question of whether its proposed antenna system and site would constitute a hazard to air navigation was unresolved; and that Charles Henry Coffield, d/b/a Panhandle Television Company was advised by the said letter that certain questions were raised as the result of deficiencies of a financial and technical nature in his application; and

It further appearing, that upon due consideration of the above-entitled applications, and the replies to the above

letters, the Commission finds that under section 309 (b) of the Communications Act of 1934, as amended, a hearing is mandatory; that Loula Mae Harrison d/b as The Texan Telecasting Company is legally qualified to construct, own and operate a television broadcast station and is technically so qualified except as to the matters referred to in the issues below; that Plains Empire Broadcasting Company is legally qualified to construct, own and operate a television broadcast station and is technically so qualified except as to the matter referred to in issue "3" below; and that Charles Henry Coffield d/b/a Panhandle Television Company is legally qualified to construct, own and operate a television broadcast station and is technically so qualified except as to the matters referred to in the issues below;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-entitled applications are designated for hearing in a consolidated proceeding to commence at 10:00 a. m. on October 30, 1953, in Washington, D. C., upon the following issues:

1. To determine whether the above-named applicants are financially qualified to construct, own and operate the proposed television broadcast stations.
2. To determine whether the engineering data contained in the above-entitled applications of Loula Mae Harrison d/b as The Texan Telecasting Company and Charles Henry Coffield d/b/a Panhandle Television Company are in accordance with the requirements of § 3.684 of the Commission's rules.
3. To determine whether the installation of the stations proposed by Loula Mae Harrison d/b as The Texan Telecasting Company and Plains Empire Broadcasting Company in their above-entitled applications would constitute hazards to air navigation.
4. To determine the power gain of the antenna system proposed by Charles Henry Coffield d/b/a Panhandle Television Company in his above-entitled application, and the effect thereof on the calculated effective radiated power.
5. To determine the gain and power distribution of the antenna system proposed by Loula Mae Harrison d/b as The Texan Telecasting Company in her above-entitled application and the effect thereof on the calculated effective radiated power.
6. To determine the precise geographic coordinates of the television site proposed by Loula Mae Harrison d/b as The Texan Telecasting Company.
7. To determine on a comparative basis which of the operations proposed in the above-entitled applications would best serve the public interest, convenience or necessity in the light of the record made with respect to the significant differences among the applications as to:
 - (a) The background and experience of each of the above-named applicants having a bearing on its ability to own and operate the proposed television station.
 - (b) The proposals of each of the above-named applicants with respect to

the management and operation of the proposed station.

(c) The programming service proposed in each of the above-entitled applications.

Released: October 2, 1953.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 53-8561; Filed, Oct. 6, 1953;
8:54 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6524]

NIAGARA MOHAWK POWER CORP. AND ST.
LAWRENCE RIVER POWER CO.

NOTICE OF APPLICATION FOR AUTHORIZATION
TO EXPORT ELECTRIC ENERGY

SEPTEMBER 30, 1953.

Notice is hereby given that pursuant to the provisions of section 202 (e) of the Federal Power Act, U. S. C. 824 (a), Niagara Mohawk Power Corporation and the St. Lawrence River Power Company (Applicants), on September 28, 1953 filed with the Commission an application for authorization by the Commission to export to the Hydro-Electric Power Commission of Ontario up to 250,000,000 kilowatt hours of electric energy annually at a maximum rate of 50,000 kwh over a 115,000 volt overhead interconnecting transmission line crossing the St. Lawrence River between Massena, New York, and Maple Grove, Ontario.

Any person desiring to be heard or to make any protest with reference to the application should, on or before October 16, 1953, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-8532; Filed, Oct. 6, 1953;
8:46 a. m.]

[Docket No. G-1935]

MORGANFIELD NATURAL GAS CO.

NOTICE OF ORDER ALLOWING WITHDRAWAL
OF APPLICATION AND TERMINATING PRO-
CEEDING

OCTOBER 1, 1953.

Notice is hereby given that on September 28, 1953, the Federal Power Commission issued its order adopted September 25, 1953, allowing withdrawal of application for a certificate of public convenience and necessity, and terminating proceeding in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 53-8530; Filed, Oct. 6, 1953;
8:46 a. m.]

[Docket No. G-2106]

EL PASO NATURAL GAS CO.

NOTICE OF PETITION TO AMEND CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY

SEPTEMBER 30, 1953.

Take notice that on September 8, 1953, El Paso Natural Gas Company (Applicant), a Delaware Corporation with its principal office in El Paso, Texas, filed a petition to amend the certificate of public convenience and necessity authorized by order issued June 29, 1953, to rearrange its proposed facilities in the Spraberry area of West Texas and make changes in its proposed facilities which would permit Permian Basin Pipeline Company to transport natural gas for applicant from the Spraberry area to Wasson, Texas.

Specifically, Applicant proposes to delete:

- (1) The proposed 30-inch and 24-inch line extending 112 miles which was to have extended from a point 5½ miles NW of the Midkiff compressor station to a point adjacent to the proposed Plains Compressor Station—estimated cost \$6,502,846.
- (2) The proposed 16-inch line extending 5.5 miles from the Midkiff compressor station to a junction with the originally proposed Midkiff-Plains line in item (1) above—estimated cost \$168,487.
- (3) The proposed 16-inch line extending 5.5 miles from the Driver Plant to a junction with the originally proposed Spraberry-Plains line—estimated cost \$168,487.
- (4) The proposed 12¾-inch line extending 13.2 miles from the Pembroke plant to the Midkiff plant—estimated cost \$323,862.
- (5) The proposed Driver dehydration plant and appurtenant facilities—estimated cost \$172,164.
- (6) The proposed Pembroke dehydration plant and appurtenant facilities—estimated cost \$84,969.
- (7) The proposed Driver gasoline absorption plant—estimated cost \$4,565,680.
- (8) The proposed Pembroke gasoline absorption plant and appurtenant facilities—estimated cost \$468,172.
- (9) 12,800 horsepower capacity from the proposed Driver compressor station and appurtenant facilities—estimated savings \$2,905,600.
- (10) 9,900 horsepower capacity from the proposed Pembroke compressor station and appurtenant facilities—estimated savings \$1,694,538.

The estimated cost of the portion of the facilities authorized in Docket No. G-2106 which Petitioner proposes to delete is \$17,054,805.

Applicant also proposes to add:

- (a) A 30-inch line extending 16.7 miles from the proposed Midkiff compressor station to a junction with 30-inch Spraberry-Plains line of Permian Basin Pipeline Company via a connection with Petitioner's existing 12¾-inch line 3 miles south of the Tex-Harvey Plant together with metering facilities—estimated cost \$1,245,207.
- (b) A 26-inch line extending 6.1 miles from the Driver compressor station to the Midkiff Plant—estimated cost \$323,855.
- (c) A 24-inch spiral weld pipeline extending 12.4 miles from the Pembroke plant to a connection with the proposed 26-inch line in item (b) above—estimated cost \$578,770.
- (d) 23,760 compressor horsepower and appurtenant facilities to the previously authorized Midkiff compressor station—estimated cost \$4,535,856.

(e) 179,193 Mcf daily capacity and appurtenant facilities to the previously authorized Midkiff gasoline absorption plant—estimated cost \$5,246,706.

(f) 139,250 Mcf daily capacity and appurtenant facilities to the previous authorized Midkiff dehydration plant—estimated cost \$204,427.

Total proposed additions—\$12,134,821.

To the net savings of \$4,919,984 will be added a saving in contingencies and overheads of 15.5 percent amounting to \$762,598 for an estimated total savings of \$5,682,582 in the facilities to be constructed by Applicant.

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 the 21st day of October 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-8533; Filed, Oct. 6, 1953;
8:47 a. m.]

[Docket No. G-2251]

TEXAS EASTERN TRANSMISSION CORP.

NOTICE OF APPLICATION

SEPTEMBER 30, 1953.

Take notice that Texas Eastern Transmission Corporation (Applicant), a Delaware corporation, with its principal business office at Shreveport, Louisiana, filed an application on September 21, 1953, with the Federal Power Commission pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity authorizing Applicant to sell and deliver to certain of its present firm customers additional firm natural gas under its DCQ Rate Schedules for a period of one year commencing November 1, 1953, and, natural gas available under its WPS Rate Schedule for the period November 1, 1953, through March 31, 1954, as follows:

SHORT TERM FIRM SERVICE UNDER DCQ RATE
SCHEDULE NOV. 1, 1953 THROUGH OCT. 31, 1954

Company	Maximum daily M c f., 14.73 p. s. i. a.	Annual contract M c f., 14.73 p. s. i. a.
Zone C		
Equitable Gas Co.	3,060	1,116,930
National Gas & Oil Corp.	2,040	744,620
Zone D		
The Manufacturers Light & Heat Co. and The Ohio Fuel Gas Co. (subsidiaries of Columbia Gas System, Inc.)	30,601	11,169,296
Philadelphia Electric Co.	10,200	3,723,099
Public Service Electric & Gas Co.	5,100	1,861,549
Total	51,001	18,615,494

Applicant states that its presently authorized facilities and gas supplies are adequate to render the proposed service under both its DCQ and WPS Rate Schedules and that no additional construction or acquisition is contemplated in connection therewith.

WINTER PEAKING SERVICE UNDER WPS RATE SCHEDULE
(NOV. 1, 1953, THROUGH MAR. 31, 1954)

Company	Maximum daily M c f., 14.73 p. s. i. a.	Winter contract M c f., 14.73 p. s. i. a.
City Gas Co. of New Jersey	22.44	1,694
National Gas & Oil Corp.	1,020	77,012
Philadelphia Electric Co.	11,220	847,132
Philadelphia Gas Works Co.	16,320	1,232,193
Public Service Electric & Gas Co.	28,561	2,156,337
Total	57,143.44	4,314,368

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 21st day of October 1953. The applications are on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-8534; Filed, Oct. 6, 1953;
8:47 a. m.]

[Docket No. G-2238]

SOUTHERN CALIFORNIA GAS CO. AND SOUTHERN COUNTIES GAS CO. OF CALIFORNIA

NOTICE OF APPLICATION

OCTOBER 1, 1953.

Take notice that on September 3, 1953, Southern California Gas Company, and Southern Counties Gas Company of California (Applicants), California corporations, 810 South Flower Street, Los Angeles, California, filed a joint application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of certain transmission pipeline facilities for the purpose of delivery and sale of natural gas for use in steam-electric generating plants and as a tie line connecting main facilities, all as hereinafter described.

Applicants propose to construct and operate approximately 28,700 feet of 30-inch pipeline extending in a southerly direction from Applicants' 30-inch pipeline in the city of Los Angeles to a junction with Applicants' 16-inch pipeline in Los Angeles County, California, together with regulating and measuring facilities at the southern terminus of the proposed pipeline.

The estimated cost of the proposed facilities is \$632,760. Applicants' proposed financing is through corporate funds which will be currently available.

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 the 21st day of October 1953. The application is on file with the Commission for public inspection.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 53-8546; Filed, Oct. 6, 1953;
8:50 a. m.]

[Docket No. G-2246]

PACIFIC GAS AND ELECTRIC CO.

NOTICE OF APPLICATION

OCTOBER 1, 1953.

Take notice that on September 14, 1953, Pacific Gas and Electric Company (Applicant), a California corporation having its principal place of business at 245 Market Street, San Francisco, California, filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of certain natural gas transmission pipeline facilities hereinafter described.

Applicant proposes to construct and operate regulating facilities and approximately 1,500 feet of 6 3/4-inch pipeline extending from applicant's 20-inch Hollister-Moss Landing Pipeline to the Kaiser magnesia plant near Moss Landing in Monterey County, California.

Applicant estimates the cost of facilities at \$22,495, and proposes to finance the facilities through corporate funds as part of its continuing construction program.

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 the 20th day of October 1953. The application is on file with the Commission for public inspection.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 53-8547; Filed, Oct. 6, 1953;
8:50 a. m.]

[Project No. 1417]

CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT

NOTICE OF ORDER FURTHER AMENDING
LICENSE (MAJOR)

OCTOBER 1, 1953.

Notice is hereby given that on August 14, 1953, the Federal Power Commission issued its order adopted August 12, 1953, further amending license (Major) in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 53-8531; Filed, Oct. 6, 1953;
8:46 a. m.]

OFFICE OF DEFENSE MOBILIZATION

[Defense Manpower Policy No. 4, Notification 12, Revocation]

PLACEMENT OF PROCUREMENT IN THE IRON MOUNTAIN, MICHIGAN, AREA

NOTIFICATION TO DEPARTMENT OF DEFENSE AND GENERAL SERVICES ADMINISTRATION

The Department of Labor has notified the Surplus Manpower Committee that Iron Mountain, Michigan, is no longer classified as a Group IV, surplus labor area, and is now an unclassified area.

Therefore, in accordance with the standards established by the Secretary of Labor under section III paragraph 2 of Defense Manpower Policy 4, the certification of this area has been withdrawn.

The Department of Defense and the General Services Administration are hereby notified that preference in the placement of Government contracts, in accordance with Defense Manpower Policy No. 4, should no longer be given to the above named area. Effective immediately Notification 12 is revoked.

OFFICE OF DEFENSE
MOBILIZATION,
ARTHUR S. FLEMING,
Director.

[F. R. Doc. 53-8597; Filed, Oct. 5, 1953;
2:34 p. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3118]

NEW ENGLAND GAS AND ELECTRIC ASSN. AND
WORCESTER GAS LIGHT CO.

ORDER REGARDING ISSUANCE AND SALE OF
COMMON SHARES PURSUANT TO RIGHTS
OFFERING TO SHAREHOLDERS; ISSUANCE
AND SALE OF COMMON STOCK BY SUBSIDI-
ARY AND ACQUISITION THEREOF BY PARENT
SEPTEMBER 30, 1953.

New England Gas and Electric Association ("Negea"), a registered holding company and its public utility subsidiary, Worcester Gas Light Company ("Worcester"), having filed a joint application-declaration pursuant to sections 6 (a), 6 (b), 7 and 12 (f) of the Public Utility Holding Company Act of 1935 ("act") and rules thereunder regarding, among other things, (a) the sale by Negea of its common shares under preemptive rights to its shareholders; (b) the issuance and sale by Negea to one or more banks of unsecured promissory notes maturing two years from the date of issue which will be no later than November 2, 1953, such notes to bear interest at the rate of 3 3/4 percent per annum; and (c) the increase of the authorized common stock of Worcester and the issue and sale of shares of such stock to Negea; and

The Commission, by order dated September 3, 1953, having permitted said joint application-declaration to become effective insofar as it relates to the issuance and sale of the promissory notes in the amount of \$2,000,000; and

Negea, in that part of the joint application-declaration presently pending before the Commission, proposes to offer under preemptive rights to its shareholders of record on September 29, 1953, 200,096 additional common shares. The shares are to be offered at \$13.75 per share, the subscription price, on a primary subscription basis of one such additional share for each ten common shares held on the record date. An over-subscription privilege on a pro rata allotment basis is also offered, at the subscription price, for the shares not originally subscribed for. The rights to subscribe are to be evidenced by transferable subscription warrants which will expire on October 16, 1953.

No fractional shares will be issued by Negea. If the number of common shares held of record by any shareholder is not evenly divisible by ten, the warrant issued to such shareholder will entitle him or his transferee to subscribe for one additional common share in excess of the whole number of additional common shares to which he would otherwise be entitled. Accordingly, if said 200,096 shares are insufficient to satisfy the primary subscription right as proposed, Negea proposes to issue such number of additional shares as may be necessary.

The proposed sale of common shares will not be underwritten but Negea will utilize the services of dealers in soliciting subscriptions. Fees of \$0.30 cents per share will be paid to security dealers in those cases where such dealers have been instrumental in obtaining subscriptions, with a limitation of \$300 as the maximum aggregate fee payable to such dealers with respect to common shares issued to any single original holder of record of warrants. First Boston Corporation, which is receiving a fee of \$833 per month as Negea's financial advisor, will serve as manager of the soliciting dealers without additional compensation other than for out-of-pocket expenses. Negea proposes to stabilize the price of its common shares for the purpose of facilitating the offering and distribution of the additional common shares by the purchase, for resale, of not more than 5 percent of the additional common shares offered to its shareholders.

In the pending joint application-declaration Worcester, all of whose common stock is owned by Negea, proposes to increase the amount of its authorized common stock from 331,216 to 350,000 shares and proposes to issue not more than 18,784 shares of such stock to Negea at a price of \$25 per share. Such price has been fixed by Worcester's board of directors, and the issuance and sale of such stock, including the price thereof, has been approved by the Department of Public Utilities of the Commonwealth of Massachusetts.

Negea proposes to apply the proceeds derived from the sale of its common shares to retire \$2,166,100 of its presently outstanding bank indebtedness. Negea proposes to use the balance of the proceeds derived from the sale of its common shares to purchase such number of shares of common stock of Worcester as can be acquired with the amount available, but, as indicated above, in no event more than 18,784 shares of such stock. In the event the proceeds available to Negea from the sale of its additional shares exceed the amount required to purchase said 18,784 common shares, such excess will be set aside by Negea to be invested in additional securities of its subsidiaries when necessary. Worcester proposes to apply the proceeds derived from the sale of its common stock to the partial reimbursement of its Plant Replacement Fund for expenditures made therefrom to finance extensions, additions and improvements to its plant and property.

The fees and expenses to be incurred in connection with the several transactions which are the subject of this joint application-declaration are estimated at \$62,000 and include legal fees for Negea

counsel of \$3,500 to Burns, Blake & Rich, \$1,000 to W. A. Hill, and \$2,000 to Ropes, Gray, Best, Coolidge and Rugg; accountants' fees of \$930 to Patterson, Teele and Dennis, and \$4,200 to Arthur Andersen & Co.; fees of \$22,000 to Old Colony Trust Company as warrant agent; a service fee of \$3,500 to Negea Service Corporation, a subsidiary service company; and

It is represented that no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Due notice of the filing of the joint application-declaration having been given in the form and manner prescribed by Rule U-23, promulgated pursuant to the act, and the Commission not having received a request for a hearing and not having ordered a hearing thereon; and

The Commission finding in respect of the joint amended application-declaration, insofar as it relates to an increase in the authorized shares of the common stock of Worcester, the issuance and sale of shares of such stock and the acquisition thereof by Negea, and the issuance and sale of shares of common stock by Negea pursuant to a rights offering, that the applicable provisions of the act and rules thereunder, are satisfied and observing no basis for making adverse findings in respect of these proposals or the fees and expenses proposed to be paid, and deeming it appropriate in the public interest and in the interest of investors and consumers that said joint application-declaration, as amended, be granted and permitted to become effective:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of said act, that the portion of said amended joint application-declaration now before us, be, and hereby is, granted and permitted to become effective subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 53-8537; Filed, Oct. 6, 1953;
8:48 a. m.]

[File No. 70-3131]

INDIANA & MICHIGAN ELECTRIC CO.

SUPPLEMENTAL ORDER REGARDING ISSUANCE
AND SALE OF PRINCIPAL AMOUNT OF BONDS
AT COMPETITIVE BIDDING

SEPTEMBER 30, 1953.

The Commission by order entered September 21, 1953, having granted an application, as amended, filed pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 ("act") by Indiana & Michigan Electric Company ("Indiana"), a utility subsidiary of American Gas and Electric Company, a registered holding company, regarding, among other things, the issue and sale of (1) 60,000 shares of \$100 par value Cumulative Preferred Stock and (2) \$15,000,000 principal amount of First Mortgage Bonds due 1983, subject to

reservation of jurisdiction with respect to the results of competitive bidding for the First Mortgage Bonds under Rule U-50 and over the payment of all counsel fees and accountants' fees incurred or to be incurred in connection with the proposed transactions; and

A further amendment having been filed on September 30, 1953, setting forth the action taken by Indiana to comply with the requirements of Rule U-50, and stating that, pursuant to the invitation for competitive bids the following bids have been received:

Bidder	Annual interest rate (per cent)	Price to company (percent of principal) ¹	Annual cost to company (per cent)
Union Securities Corp.....	3%	101.6140	3.5372
Halsey, Stuart & Co., Inc.....	3%	101.6100	3.5374
The First Boston Corp.....	3%	101.5799	3.5391
Harriman Ripley & Co., Inc.	3%	101.0199	3.5693
Kuhn, Loeb & Co.....	3%	101.0070	3.5700

¹ Exclusive of accrued interest from Sept. 1, 1953.

The amendment having further stated that Indiana has accepted the bid of the group headed by Union Securities Corporation, as set forth above, and that the bonds will be offered to the public at a price of 102.31 percent of the principal amount thereof, plus accrued interest from September 1, 1953, resulting in an underwriters' spread of .6960 percent of the principal amount or an aggregate of \$104,400; and

The record having been completed with respect to the fees and expenses incident to the issuance and sale of the Cumulative Preferred Stock and First Mortgage Bonds estimated to total \$177,084, of which amount \$110,831 is allocated to the sale of the bonds and \$66,253 to the sale of the preferred stock. Included in these amounts are legal fees proposed to be paid counsel for Indiana as follows: Simpson Thacher & Bartlett, \$12,500; Seebirt, Oare & Deahl, \$2,600; Burns, Hadsell & Mollison, \$2,500; and Winthrop, Stimson, Putnam & Roberts, counsel for the underwriters, \$7,500, and accountants' fees aggregating \$4,800; and

The Commission having examined said amendment, and having considered the record herein, and finding no reason for the imposition of terms and conditions with respect to the terms of competitive bidding for said First Mortgage Bonds and also finding that the fees and expenses incident to the proposed transactions, including the fees for counsel for Indiana, independent counsel for the underwriters, and for the accountants, are not unreasonable, provided they do not exceed the proposed amounts to be paid and that jurisdiction with respect thereto should be released:

It is ordered, That jurisdiction heretofore reserved with respect to the matters to be determined as a result of competitive bidding for said First Mortgage Bonds under Rule U-50 be, and the same hereby is, released, and that said application, as amended, be, and the same hereby is, granted, forthwith, subject to

the terms and conditions prescribed in Rule U-24.

It is further ordered, That jurisdiction heretofore reserved over the payment of all counsel and accountants' fees and expenses incurred in connection with the proposed issue and sale of Preferred Stock and First Mortgage Bonds be, and the same hereby is, released.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

[F. R. Doc. 53-8538; Filed, Oct. 6, 1953; 8:48 a. m.]

[File No. 70-3133]

NORTHERN STATES POWER CO. AND UNITED POWER AND LAND CO.

NOTICE OF FILING REGARDING SALE BY SUBSIDIARY OF CERTAIN UTILITY AND NON-UTILITY ASSETS AND ACQUISITION THEREOF BY PARENT

SEPTEMBER 30, 1953.

Notice is hereby given that Northern States Power Company, a Minnesota corporation ("Northern States"), a registered holding company and a public utility company, and United Power and Land Company ("United"), a wholly-owned utility subsidiary thereof, have filed a joint application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("act") and have designated sections 9 (a) and 10 thereof and Rule U-43 promulgated under said act as applicable to the proposed transactions.

All interested persons are referred to said joint application-declaration which is on file in the offices of this Commission, for a statement of the transactions therein proposed, which are summarized as follows:

United proposes to sell and Northern States proposes to acquire certain assets of United, commonly known as the "Consolidated Hydro-Electric Plant", consisting of seven small hydro-electric generator units, together with the land, except a non-operating parcel, mill power rights, buildings and electrical equipment appurtenant thereto, and to reduce the open account balance due Northern States from United.

Northern States proposes to reflect the purchase of the property on its books by a debit of \$246,707.11 to Account 100.1; Electric Plant in Service, sub-account 391; Electric Plant Purchased, and a debit of \$8,333.60 to Account 110; Other Physical Property; and thereafter to transfer the amount from sub-account 391 to the appropriate subsidiary plant accounts and to credit its open account with United in the amount of \$255,040.71. This property has been and is now operated under lease agreements by Northern States or a former subsidiary, now merged, and the provision for depreciation on such property has been provided on the books of Northern States. It is stated that at May 31, 1953, the portion of Northern States' reserve for depreciation applicable to this property amounted to \$65,699.95. Pursuant

to an order of this Commission dated August 31, 1951, United made certain adjustments necessary to record its electric utility properties at original cost.

United proposes to transfer the original cost (\$2,285.71) of certain land presently included in its utility plant account to the account, Other Physical Property, and to reflect the sale of the property to Northern States by crediting \$246,707.11 to the Electric Plant Account; and by crediting \$8,333.60 to the account, Other Physical Property, and by debiting \$255,040.71 to the account, Advances from Associated Companies (Northern States).

It is stated that the proposed transactions are deemed to be desirable because (1) while it was originally deemed desirable that United take title to the properties because of certain recapture provisions in the agreements covering a portion of the properties acquired and collateral agreements covering their lease and operation, the provisions of such agreements have been satisfied; (2) the Plant has been and now is being operated in the main interconnected system of Northern States, and it is the intention of Northern States to so operate the Plant after its acquisition; (3) upon consummation of this transaction, United no longer will own any public utility properties and will therefore no longer be a public utility company; and (4) the consummation of the transaction will be a step in the adjustment of the affairs of United and will eliminate inter-company transactions arising from the ownership of the Plant by a Subsidiary. In the opinion of Counsel to the Companies, no State Commission has jurisdiction over the proposed transactions.

No commissions are to be paid in connection with the proposed transactions, and it is estimated that total expenses will not exceed \$1,000.

It is requested that the Commission's order herein become effective forthwith upon issuance.

Notice is further given that any interested person may, not later than October 15, 1953, at 5:30 p. m., e. s. t., 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, if any, raised by said joint application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after said date said joint application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transaction as provided in Rule U-20 (a) and Rule U-100 thereof.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

[F. R. Doc. 53-8535; Filed, Oct. 6, 1953; 8:47 a. m.]

[File No. 70-3137]

UNITED GAS CORP. AND UNITED GAS PIPE
LINE CO.NOTICE OF FILING REGARDING ISSUE AND SALE
BY PARENT OF DEBENTURES AT COMPETITIVE
BIDDING AND BY SUBSIDIARY OF DEBENTURES
AND ACQUISITION THEREOF BY PARENT

OCTOBER 1, 1953.

Notice is hereby given that United Gas Corporation ("United"), a gas utility subsidiary of Electric Bond and Share Company, a registered holding company, and United's wholly owned subsidiary, United Gas Pipe Line Company ("Pipe Line"), have filed a joint application-declaration with this Commission designating sections 6, 7, 9, 10, and 12 of the Public Utility Holding Company Act of 1935 ("act") and rules thereunder as being applicable to the following proposed transactions:

(1) United will issue under the provisions of its Debenture Agreement to be dated as of October 1, 1953, made with Irving Trust Company, Trustee, and sell, at competitive bidding, pursuant to the provisions of the Commission's Rule U-50, an aggregate of \$25,000,000 principal amount of its ---- percent Sinking Fund Debentures due 1973. No additional debentures may be issued under such Debenture Agreement. The Debentures of 1973 together with the Corporation's presently outstanding Debentures of 1972, in the principal amount of \$60,000,000, will not be secured by any lien. They will thus be junior to the Corporation's First Mortgage and Collateral Trust Bonds, presently outstanding in the amount of \$214,470,000.

The interest rate of the Debentures (which shall be a multiple of $\frac{1}{8}$ of 1 percent) and the price (exclusive of accrued interest) to be paid United for the Debentures (which shall not be less than the principal amount thereof and not more than 102 $\frac{1}{4}$ percent of such principal amount) will be fixed by proposals to be invited by United which will reserve the right to reject all proposals at or after the opening thereof.

(2) Pipe Line will issue under the provisions of its Debenture Agreement, to be dated as of September 25, 1953, made with Empire Trust Company, Trustee, and sell for cash at par, plus accrued interest, to United, \$10,000,000 principal amount of its 5 percent Sinking Fund Debentures due 1973.

The proceeds from the sale of United's Debentures will be used to purchase Pipe Line's Debentures and for the completion, extension and improvement of its facilities and other general corporate purposes.

The Debentures of Pipe Line to be acquired by United will be retained in its securities portfolio. Each Debenture is to include a statement upon its face that it is non-negotiable and cannot be transferred, assigned, or pledged except to a successor of United under United's mortgage or to the Corporate Trustee thereunder. Pipe Line's Debentures of 1973 together with its presently outstanding Debentures of 1971, all of which are owned by United in the principal amount of \$72,000,000, will be unsecured

and will be junior to Pipe Line's First Mortgage Bonds presently owned by United, in the principal amount of \$138,507,000.

The proceeds to be derived from the sale of Pipe Line's Debentures will be available for the completion, extension and improvement of its facilities, for reimbursement of its treasury in part for expenditures heretofore made for such purposes and for other general corporate uses.

According to counsel for the companies, no State commission or Federal commission or agency other than this Commission has jurisdiction to authorize or approve the proposed transactions.

The estimated expenses submitted in respect of filing fees, taxes, printing, engraving costs, and trustee charges aggregate \$121,550. Other expenses such as legal fees and accountants' charges are to be supplied by amendment.

It is requested that the Commission's initial order be entered as promptly as practicable and become effective upon the issuance thereof.

Notice is further given that any interested person may, not later than October 13, 1953, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by said application-declaration which he desires to controvert, or 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, 425 Second Street NW., Washington 25, D. C. At any time after said date, said application-declaration, as filed or as amended, may be granted and permitted to become effective as provided by Rule U-23 of the rules and regulations promulgated under said act, or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.[F. R. Doc. 53-8536; Filed, Oct. 6, 1953;
8:48 a. m.]INTERSTATE COMMERCE
COMMISSION

[4th Sec. Application 28517]

LIMESTONE FROM CAREY, OHIO, TO
JACKSON, MISS.

APPLICATION FOR RELIEF

OCTOBER 2, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: H. R. Hinsch, Alternate Agent, for carriers parties to tariff listed below.

Commodities involved: Limestone, ground or pulverized; also fluxing stone; carloads.

From: Carey, Ohio.
To: Jackson, Miss.

Grounds for relief: Competition with rail carriers, circuitous routes.

Schedules filed containing proposed rates: L. C. Schuldt, Agent, tariff I. C. C. No. 4510, supp. 27.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.[F. R. Doc. 53-8543; Filed, Oct. 6, 1953;
8:50 a. m.]

[4th Sec. Application 28518]

ALCOHOL AND RELATED ARTICLES FROM
POINTS IN SOUTH AND SOUTHWEST TO
LOUISVILLE, KY., AND INDUSTRY, PA.

APPLICATION FOR RELIEF

OCTOBER 2, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to his tariff listed below.

Commodities involved: Alcohol and related articles, carloads.

From: Points in Arkansas, Louisiana, Oklahoma, and Texas to Industry, Pa.; also from Sterlington, La., to Louisville, Ky.

Grounds for relief: Competition with rail carriers, circuitous routes, market competition, additional routes, additional destination.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, tariff I. C. C. No. 4064, supp. 7.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing,

upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-8544; Filed, Oct. 6, 1953;
8:50 a. m.]

[4th Sec. Application 28519]

THREAD AND YARN FROM SEVIER, N. C., TO
DALLAS, TEX.

APPLICATION FOR RELIEF

OCTOBER 2, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to his tariff listed below.

Commodities involved: Thread and yarn, in mixed carloads.

From: Sevier, N. C.

To: Dallas, Tex.

Grounds for relief: Competition with rail carriers, circuitous routes, additional routes.

Schedules filed containing proposed rates; F. C. Kratzmeir, Agent, tariff I. C. C. No. 3912, supp. 208.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from

the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-8545; Filed, Oct. 6, 1953;
8:50 a. m.]

[Sec. 5a Application 48]

EASTERN CENTRAL MOTOR CARRIERS
ASSOCIATION, INC.

APPLICATION FOR APPROVAL OF AGREEMENT

OCTOBER 2, 1953.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of section 5a of the Interstate Commerce Act.

Filed October 1, 1953, by: Everett H. Russell, Attorney-in-fact, The Eastern

Central Motor Carriers Association, Inc., Akron, Ohio.

Agreement involved: Agreement between and among common carriers by motor vehicle, members of The Eastern Central Motor Carriers Association, Inc., relating to rates, and charges, and rules and regulations pertaining thereto, applicable to the transportation of property between points in New England, and certain eastern and southern States, on the one hand, and, on the other points in certain central, western and southwestern States; and procedures for the joint initiation, consideration, and establishment thereof.

The complete application may be inspected at the office of the Commission in Washington, D. C.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 20 days from the date of this notice. As provided by the general rules of practice of the Commission, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, Division 2.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-8567; Filed, Oct. 6, 1953;
8:55 a. m.]

