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Title 3—THE PRESIDENT

Executive Order 11150

ESTABLISHING THE FEDERAL RECONSTRUCTION AND DEVELOPMENT PLANNING COMMISSION FOR ALASKA

WHEREAS the people of the State of Alaska have experienced death, injury and property loss and damage of staggering proportions as a result of the earthquake of March 27, 1964; and

WHEREAS the President, acting pursuant to authority granted in the Act of September 30, 1950, as amended (42 U.S.C. 1855–1855g), has declared a major disaster in those areas of Alaska adversely affected by the earthquake beginning on March 27, 1964; and

WHEREAS the Federal Government and the State of Alaska desire to cooperate in the prompt reconstruction of the damaged Alaska communities; and

WHEREAS the Federal and State Governments have a common interest in assuring the most effective use of Federal and State programs and funds in advancing reconstruction and the long-range development of the State; and

WHEREAS such effective use is dependent upon coordination of Federal and State programs, including emergency reconstruction activities, which affect general economic development of the State and the long-range conservation and use of natural resources; and

WHEREAS the Governor of Alaska has declared his intention to establish a State commission for reconstruction and development planning:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Establishment of Commission.* (a) There is hereby established the Federal Reconstruction and Development Planning Commission for Alaska (hereinafter referred to as the Commission).

(b) The Commission shall be composed of a Chairman, who shall be designated by the President, the Secretary of Defense, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Administrator of the Federal Aviation Agency, the Housing and Home Finance Administrator, the Administrator of the Small Business Administration, the Chairman of the Federal Power Commission, and, so long as the President's declaration of a major disaster is in effect, the Director of the Office of Emergency Planning. Each agency head may designate an alternate to represent him at meetings of the Commission which he is unable to attend.

(c) The Chairman may request the head of any Federal executive department or agency who is not a member of the Commission under the provisions of subsection (b), above, to participate in meetings of the Commission concerned with matters of substantial interest to such department or agency head.

(d) The President shall designate an Executive Director of the Commission, whose compensation shall be fixed in accordance with the standards and procedures of the Classification Act of 1949, as amended.

SEC. 2. *Functions of the Commission.* (a) The Commission shall develop coordinated plans for Federal programs which contribute to reconstruction and to economic and resources development in Alaska and shall recommend appropriate action by the Federal Government to carry out such plans.

(b) When the Governor of Alaska has designated representatives of the State of Alaska for purposes related to this order, the Commission shall cooperate with such representatives in accomplishing the following:

(1) Making or arranging for surveys and studies to provide data for the development of plans and programs for reconstruction and for economic and resources development in Alaska.

(2) Preparing coordinated plans for reconstruction and economic and resources development in Alaska deemed appropriate to carry out existing statutory responsibilities of Federal, State, and local agencies. Such plans shall be designed to promote optimum benefits from the expenditure of Federal, State, and local funds for consistent objectives and purposes.

(3) Preparing recommendations to the President and to the Governor of Alaska with respect to both short-range and long-range programs and projects to be carried out by Federal, State, or local agencies, including recommendations for such additional Federal or State legislation as may be deemed necessary and appropriate to meet reconstruction and development needs.

SEC. 3. *Commission procedures.* (a) The Commission shall meet at the call of the Chairman.

(b) The Commission may prescribe such regulations as it deems necessary for the conduct of its affairs, and may establish such field committees in Alaska as may be appropriate.

(c) Personnel assigned to the Commission shall be directed and supervised by the Executive Director of the Commission. Activities of the staff shall be carried out, under the general direction and supervision of the Chairman, in accordance with such policies and programs as may be approved by the Commission.

(d) The Chairman of the Commission shall report to the President from time to time on progress and accomplishments.

SEC. 4. *Agency cooperation.* (a) Each Federal agency represented on the Commission shall, consonant with law, cooperate with the Commission to expedite and facilitate its work. Each such agency shall, as may be necessary, furnish assistance to the Commission in accordance with the provisions of section 214 of the Act of May 3, 1945 (59 Stat. 134; 31 U.S.C. 691).

(b) Other Federal agencies shall, to the extent permitted by law, furnish the Commission such information or advice bearing upon the work of the Commission as the Chairman may from time to time request.

SEC. 5. *Construction.* Nothing in this order shall be construed as subjecting any Federal agency or officer, or any function vested by law in, or assigned pursuant to law to, any Federal agency or officer, to the authority of the Commission or of any other agency or officer, or as abrogating any such function in any manner.

LYNDON B. JOHNSON

Approved:

THE WHITE HOUSE,
April 2, 1964.

[F.R. Doc. 64-3378; Filed, Apr. 3, 1964; 9:56 a.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Office of Emergency Planning

Section 213.3326 is amended to show the addition of a new position, Legal Adviser. Effective upon publication in the FEDERAL REGISTER, subparagraph (4) is added to paragraph (a) of § 213.3326 as set out below.

§ 213.3326 **Office of Emergency Planning.**

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

(4) Legal Adviser.

* * * * *

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218)

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

[F.R. Doc. 64-3292; Filed, Apr. 3, 1964; 8:47 a.m.]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Tree Nuts), Department of Agriculture

[Navel Orange Reg. 58]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.358 **Navel Orange Regulation 58.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 2, 1964.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., April 5, 1964, and ending at 12:01 a.m., P.s.t., April 12, 1964, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 700,000 cartons;

(iii) District 3: Unlimited movement;

(iv) District 4: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: April 3, 1964.

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

[F.R. Doc. 64-3407; Filed, Apr. 3, 1964; 11:24 a.m.]

[Valencia Orange Reg. 77]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.377 **Valencia Orange Regulation 77.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908; 27 F.R. 10089), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not

require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 2, 1964.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., April 5, 1964, and ending at 12:01 a.m., P.s.t., April 12, 1964, are hereby fixed as follows:

(i) District 1: 249,487 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: 225,000 cartons.

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

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

Dated: April 3, 1964.

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

[F.R. Doc. 64–3408; Filed, Apr. 3, 1964; 11:24 a.m.]

[Valencia Orange Reg. 78]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.378 Valencia Orange Regulation 78.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908; 27 F.R. 10089), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the past week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 26, 1964.

(b) *Order.* (1) During the period beginning at 12:01 a.m., P.s.t., April 5, 1964, and ending at 12:01 a.m., P.s.t., January 31, 1965, no handler shall handle any Valencia oranges grown in District 2 which are of a size smaller than 2.20 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit, except that not to exceed 5 percent, by count, of the oranges in any type of container may measure smaller than 2.20 inches in diameter.

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

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

Dated: April 3, 1964.

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

[F.R. Doc. 64–3409; Filed, Apr. 3, 1964; 11:24 a.m.]

[Lemon Reg. 105]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.405 Lemon Regulation 105.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 27 F.R. 8346), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 31, 1964.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., April 5, 1964, and ending at 12:01 a.m., P.s.t., April 12, 1964, are hereby fixed as follows:

(i) District 1: 4,650 cartons;

(ii) District 2: 186,000 cartons;

(iii) District 3: Unlimited movement.

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

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

Dated: April 2, 1964.

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

[F.R. Doc. 64–3353; Filed, Apr. 3, 1964; 8:51 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER E—AIRSPACE [NEW]

[Airspace Docket No. 63-EA-19]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

Alteration of Control Zones and Designation of Transition Areas

On July 18, 1963, a notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 7350) stating that the Federal Aviation Agency (FAA) proposed to alter the Oceana, Norfolk (Norfolk Municipal), Norfolk (NAS Norfolk), Hampton Roads, Newport News, Va., control zones and designate the Norfolk and Franklin, Va., transition areas.

Subsequent to the publication of the notice, the FAA determined that the control zone surrounding Felker AAF should be place-name identified Fort Eustis, Va., control zone rather than Hampton, Va., as proposed in the notice. Also, a restricted area, R-5301B, was designated (28 F.R. 11451) which, in part, coincides with the portion of the Norfolk transition area proposed with a floor of 1,200 feet above the surface.

The actions taken herein reflect the aforementioned place-name change and provide for the exclusion of R-5301B in the description of the Norfolk transition area.

Interested persons were afforded an opportunity to participate in the making of the rules herein adopted. All comments received were favorable.

The substance of the proposed amendments having been published and for the reasons stated herein and in the notice, the following actions are taken:

1. In § 71.171 (29 F.R. 1101) the following actions are taken:

a. The Oceana, Va., control zone is amended to read:

Oceana, Va.

Within a 5-mile radius of NAS Oceana, Va., (latitude 36°49'30" N., longitude 76°01'50" W.), within 2 miles each side of the Navy Fentress VOR 033° radial, extending from the 5-mile radius zone to the VOR, within 2 miles each side of the 034° bearing from the Navy Fentress RBN, extending from the 5-mile radius zone to the RBN, within 2 miles each side of the NAS Oceana TACAN 225° radial, extending from the 5-mile radius zone to 8 miles SW of the TACAN, and within a 3-mile radius of ALF Fentress (latitude 36°41'45" N., longitude 76°08'05" W.), excluding the portion within R-6606.

b. The Norfolk, Va. (Norfolk Municipal), control zone is amended to read:

Norfolk, Va. (Norfolk Municipal).

Within a 5-mile radius of Norfolk Municipal Airport (latitude 36°53'45" N., longitude 76°12'15" W.) and within 2 miles each side of the Navy Norfolk RR E course, extending from the RR to 4.5 miles E of the RR, excluding the portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Norfolk, Va. (NAS Norfolk) control zone.

c. The Norfolk, Va. (NAS Norfolk), control zone is amended to read:

Norfolk, Va. (NAS Norfolk).

Within a 5-mile radius of NAS Norfolk (latitude 36°56'15" N., longitude 76°17'15" W.) and within 2 miles each side of the NAS Norfolk RR W course, extending from the 5-mile radius zone to 8 miles W of the RR, excluding the portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Norfolk, Va (Norfolk Municipal), control zone, and excluding the portion within a 1-mile radius of Walker AAF, Hampton, Va. (latitude 37°00'55" N., longitude 76°18'10" W.).

d. The Hampton Roads, Va., control zone is amended to read:

Hampton Roads, Va.

Within a 5-mile radius of Langley AFB, Hampton Roads, Va. (latitude 37°05'05" N., longitude 76°21'25" W.), within 2.5 miles NW and 2 miles SE of the 066° bearing from the Morrison RBN, extending from the 5-mile radius zone to the RBN, within 2 miles each side of the Langley AFB TACAN 078° radial, extending from the 5-mile radius zone to 6 miles E of the TACAN, excluding the portion within a 1-mile radius of Walker AAF, Hampton, Va. (latitude 37°00'55" N., longitude 76°18'10" W.).

e. The Newport News, Va., control zone is amended to read:

Newport News, Va.

Within a 5-mile radius of Patrick Henry Airport, Newport News, Va. (latitude 37°07'47" N., longitude 76°29'46" W.) and within 2 miles each side of the Patrick Henry Airport ILS localizer SW course, extending from the 5-mile radius zone to 7 miles SW of the OM, excluding the portion within the Hampton Roads, Va., control zone.

f. The following control zone is added:

Fort Eustis, Va.

Within a 3-mile radius of Felker AAF, Fort Eustis, Va. (latitude 37°07'55" N., longitude 76°36'30" W.), within 2 miles each side of the 320° bearing from the Felker AAF RBN (latitude 37°08'28" N., longitude 76°37'07" W.), extending from the 3-mile radius zone to 5 miles NW of the RBN, and within 2 miles each side of the Felker AAF Runway 13 extended centerline, extending from the 3-mile radius zone to 4 miles NW of the NW end of the Runway 13, excluding the portion within the Newport News, Va., control zone.

2. In § 71.181 (29 F.R. 1160) the following transition areas are added:

Norfolk, Va.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 37°10'35" N., longitude 76°17'35" W., to latitude 36°49'45" N., longitude 75°52'05" W., to latitude 36°29'25" N., longitude 76°09'40" W., to latitude 36°35'40" N., longitude 76°18'40" W., to latitude 36°54'00" N., longitude 76°27'30" W., to latitude 36°54'00" N., longitude 76°36'15" W., to latitude 37°10'30" N., longitude 76°46'00" W., to latitude 37°14'40" N., longitude 76°39'50" W., thence to the point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 36°38'15" N., longitude 77°19'15" W., to latitude 37°55'30" N., longitude 76°46'00" W., to latitude 37°38'30" N., longitude 75°31'30" W., thence S along the W boundary of W-108 and W-386 to latitude 36°19'00" N., longitude 75°44'45" W., to latitude 36°03'15" N., longitude 76°02'15" W., to latitude 36°13'25" N., longitude 76°47'30" W., thence clockwise along the arc of a 55-mile radius circle centered at latitude 36°57'44" N., longitude 76°24'44" W., to the point of beginning, excluding the portions within R-4006, R-5309, R-6606, R-6609, R-5301B, W-386, and the portion below 2,000 feet MSL outside the United States. The portion within R-6610 shall be used only after obtaining prior approval from the appropriate authority.

b.

Franklin, Va.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Franklin Municipal Airport (latitude 36°41'50" N., longitude 76°54'15" W.), within 2 miles each side of the Franklin VOR 101° radial, extending from the 5-mile radius area to the VOR, and within 2 miles each side of the 083° bearing from the Franklin Municipal Airport, extending from the 5-mile radius area to 6 miles E of the airport.

These amendments shall become effective 0001 e.s.t., May 28, 1964.

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

Issued in Washington, D.C., on March 27, 1964.

DANIEL E. BARROW,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64-3274; Filed, Apr. 3, 1964; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket C-722]

PART 13—PROHIBITED TRADE PRACTICES

Aansworth, Ltd., et al.

Subpart—Furnishing false guaranties: § 13.1053 *Furnishing false guaranties;* § 13.1053-80 *Textile Fiber Products Identification Act.* Subpart—Misbranding or mislabeling: § 13.1212 *Formal regulatory and statutory requirements;* § 13.1212-85 *Textile Fiber Products Identification Act.* Subpart—Neglecting, unfairly or deceptively to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements;* § 13.1852-70 *Textile Fiber Products Identification Act.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 72 Stat. 1717; 15 U.S.C. 45, 70) [Cease and desist order, Aansworth, Ltd., et al., New York, N.Y., Docket C-722, Mar. 16, 1964]

In the Matter of Aansworth, Ltd., a Corporation, Trading as Cos Cob & Co., and William M. Perry, Jr., Individually and as an Officer of Said Corporation

Consent order requiring New York City manufacturers of textile fiber products to cease violating the Textile Fiber Products Identification Act by failing to label or otherwise identify some of such products, and furnishing false guaranties that certain of the products were not misbranded or falsely invoiced.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Aansworth, Ltd., a corporation, trading as Cos Cob & Co., and its officers, and William M. Perry, Jr., individually and as an officer of Aansworth, Ltd., and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, ad-

vertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by failing to affix labels to such textile fiber products showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

B. Furnishing false guaranties that textile fiber products are not misbranded or falsely invoiced under the provisions of the Textile Fiber Products Identification Act.

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

Issued: March 16, 1964.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 64-3303; Filed, Apr. 3, 1964; 8:48 a.m.]

[Docket 7352 o.]

PART 13—PROHIBITED TRADE PRACTICES

Benrus Watch Co., Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees;* § 13.155 *Prices;* § 13.155–25 *Coupon, certificate, check, credit voucher, etc., values;* § 13.155–40 *Exaggerated as regular and customary;* § 13.170 *Qualities or properties of product or service;* § 13.170–84 *Shock-resistant.* Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception;* § 13.1055–50 *Pretricketing merchandise misleadingly.* Subpart—Misbranding or mislabeling: § 13.1280 *Price.* Subpart—Misrepresenting oneself and goods—Prices: § 13.1790 *Coupons, credit vouchers, etc., of specified value;* § 13.1805 *Exaggerated as regular and customary;* § 13.1811 *Fictitious pretricketing.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition.* (Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Benrus Watch Company, Inc., et al., New York, N.Y., Docket 7352, Feb. 28, 1964]

In the Matter of Benrus Watch Company, Inc., a Corporation; Belforte Watch Company, Inc., a Corporation; S. Ralph Lazrus, Oscar M. Lazrus, and Benjamin Lazrus, Individually and as Officers of Aforesaid Corporations; and Harvey M. Bond, Stanley M. Karp, Norman Slater, Samuel M. Feldberg, Jay K. Lazrus, Robert Weil, Martin J. Rasnow, Robert Gasser, Clifford L. J. Sieg-Meister, Leo Hyman, and Julian Lazrus, Individually and as Officers of Benrus Watch Company, Inc.

Order requiring two New York City associated distributors of watches to wholesalers, retailers and premium users for resale to the public, to cease using—in pretricketing their watches, and in price lists, catalogs, newspaper and magazine and other advertising—excessive amounts, represented thereby as the usual retail prices; setting forth fictitious amounts as retail prices from which reductions were to be made for trade-ins, allowance certificates and other reduction offers, and representing falsely that dealers would make such reductions against the indicated retail price; representing falsely that their watches were guaranteed and "shock proof"; failing to disclose the true metal content of watch cases of base metal treated to simulate precious metal; and placing in the hands of purchasers for resale means for misleading the purchasing public in the above respects.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Benrus Watch Company, Inc., a corporation, Belforte Watch Company, Inc., a corporation, and their officers, Oscar M. Lazrus and Benjamin Lazrus, individually and as officers of the above-named corporations, and Harvey M. Bond, Stanley M. Karp, Samuel M. Feldberg, Jay K. Lazrus, Robert Weil, Clifford L. J. Siegmeister, and Julian Lazrus, individually and as officers of Benrus Watch Company, Inc., and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of watches or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. The act or practice of pretricketing merchandise at an indicated retail price, or otherwise setting forth an indicated retail price as to merchandise in any material disseminated or intended for dissemination to the public when the indicated retail price is in excess of the generally prevailing retail price for such merchandise in the trade area or when there is no generally prevailing retail price for such merchandise in the trade area.

2. The act or practice, in connection with the use of trade-in allowances, allowance certificates, coupons, or other promotions offering price reductions, of setting forth an indicated retail price for which reductions or allowances are to be made unless there is a generally prevailing retail price in the market in which the act or practice is engaged in, and such indicated retail price is not in excess of the generally prevailing retail price in said market.

3. Representing, directly or by implication:

a. That their merchandise is guaranteed unless the nature and extent of the guarantee and the manner in which the guarantor shall perform thereunder are clearly and conspicuously disclosed.

b. That their watches are "shock proof" or "shock protected" or otherwise representing that their watches possess greater shock resistance than is a fact.

c. That dealers in their merchandise will allow a certain amount against the indicated retail price thereof upon the presentation of an allowance certificate or coupon or for any reason in connection with the purchase of said merchandise, unless such allowance is granted without exception.

4. Offering for sale or selling watches, the cases of which are in whole or in part composed of base metal which has been treated to simulate precious metal, without clearly and conspicuously disclosing on such cases the true metal composition of such treated cases or parts.

5. Offering for sale or selling watches, the cases of which are in whole or in part composed of base metal which has been treated with an electrolytically applied flashing or coating of precious metal of less than 0.0015 of an inch over all exposed surfaces after completion of all finishing operations, without clearly and conspicuously disclosing on such cases or parts that they are base metal which have been flashed or coated with a thin and unsubstantial coating.

6. Supplying to, or placing in the hands of, any jobber, retailer, dealer, or other purchaser, means and instrumentalities by and through which they may deceive and mislead the purchasing public in respect to practices prohibited in paragraphs 1 through 5 above.

It is further ordered, That the complaint be, and it hereby is, dismissed as to respondent Robert Gasser and as to respondent S. Ralph Lazrus, who is deceased.

It is further ordered, That the complaint be, and it hereby is, dismissed as to respondents Norman Slater, Martin J. Rasnow and Leo Hyman in their individual capacities.

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

Issued: February 28, 1964.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 64-3304; Filed, Apr. 3, 1964; 8:48 a.m.]

[Dockets 8558, 8559]

PART 13—PROHIBITED TRADE PRACTICES

Central Linen Service Co., Inc., Et Al.

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets:* § 13.5–20 [1] *Federal Trade Commission Act.* Subpart—Combining or conspiring: § 13.388 *To control allocation and solicitation of customers;* [2] § 13.395 *To control marketing practices and conditions;* § 13.407 *To disparage competitors or their products;* § 13.410 *To eliminate competition in conspirators' goods.* Subpart—Cutting off access to customers or market: § 13.587 *Selling competitive product at reduced or below cost price.* Subpart—Dealing on exclusive and tying basis: § 13.670 *Dealing on exclusive and tying basis:* § 13.670–20 *Federal Trade Commission Act.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Central Linen Service Co., Inc., Washington, D.C., Docket 8558, Mar. 13, 1964; American Linen Service Co., Inc. (Washington, D.C.) et al., Docket 8559, Mar. 13, 1964]

In the Matters of: Central Linen Service Co., Inc., a Corporation; American Linen Service Co., Inc., a Corporation; C & C Linen Service, Inc., a Corporation; Capitol Towel Service Company, Inc., a Corporation; District Linen Service Company, Incorporated, a Corporation; Elite Laundry Company of Washington, D.C., Incorporated, a Corporation; Modern Linen Service, Inc., a Corporation; National Laundry and Linen Service, Inc., a Corporation; Palace Laundry, Inc., a Corporation; Palace Linens, Inc., a Corporation; Quick Service Laundry Company, a Corporation; Standard Linen Supply, Inc., a Corporation; The Tolman Laundry, a Corporation, Doing Business as Washington Linen Service

Consent order—entered March 6, 1963 and deferring service on respondents in Docket 8559 until issuance of the identical order in the litigated proceeding in Docket 8558 involving the same issues and the same conspiracy—and such litigated order itself, requiring 13 corporations engaged in the linen supply business in the District of Columbia, Maryland and Virginia, to cease cooperating to allocate and trade customers among themselves, to refuse to service competitors' customers except with such competitors' permission, and to notify competitors when certain of their accounts had asked for service; to grant price concessions in reprisal against non-cooperating linen suppliers, and to falsely disparage competitors and their operations; and further requiring said linen suppliers to cease entering into exclusive contracts requiring customers to obtain all their requirements from respondents for a period longer than one year—or for two years in the case of special articles—with provision for automatic renewal for six months; to refrain from acquiring the business of any competitor in the metropolitan Washington, D.C. area for five years without advance notice to the Commission, with the exception of accommodation sales; to refrain from placing owners or employees of acquired linen rental concerns under restrictive covenants not to compete for three years and not to solicit former customers for five years; and to refrain from permitting any officer or employee to serve at the same time as officer or employee of a competitor.

The order to cease and desist is as follows:

It is ordered, That American Linen Service Co., Inc., C & C Linen Service, Inc., Capitol Towel Service Company, Inc., District Linen Service Company, Incorporated, Elite Laundry Company of Washington, D.C., Incorporated, Modern Linen Service Inc., National Laundry and Linen Service, Inc., Palace Laundry Inc., Palace Linens, Inc., Quick Service Laundry Company, Standard Linen Supply, Inc., The Tolman Laundry, doing business as Washington Linen Service, Central Linen Service Co., Inc., their subsidiaries and successors and their officers, representatives, agents and employees, directly, indirectly, or through any corporate or other device in connection with the furnishing of linen supplies in the metropolitan Washington, D.C. area, do forthwith cease and desist from entering into, cooperating in, carrying out or continuing any conspiracy, understanding, combination or agreement between any two or more of said respondents or between one or more of said respondents and others not a party hereto, to do or perform any of the following acts, practices or things:

1. Controlling the solicitation and allocation of customers.

2. Agreeing not to solicit the customers of their competitors.

3. Instructing salesmen not to solicit the accounts of competitors.

4. Refusing to service customers of competitors even though such customers requested their services.

5. Requesting and securing permission of certain of their competitors to service the customers of such competitors.

6. Trading customers between and among themselves.

7. Warning competitors that certain of their accounts had approached respondent for service in order that such competitors could take measures to hold such accounts.

8. Offering or granting price concessions for the purpose of taking reprisals against linen suppliers not adhering to agreements relating to the control of solicitation and allocation of customers or for the purpose of impairing the ability of other linen suppliers to compete.

9. Making statements falsely disparaging a competitor's business integrity, quality of service, or ability to stay in business.

It is further ordered, That aforesaid respondents, their subsidiaries and successors, individually, and their officers, representatives, agents and employees, directly, or through any corporate device, in connection with the furnishing of linen supplies in the metropolitan Washington, D.C., area (and in the case of respondent in Docket 8558) while cooperating in, carrying out or continuing any conspiracy, combination, understanding or agreement between it and one or more of corporations not made respondents herein or between it and others not a party hereto—do forthwith cease and desist from:

1. Entering into contracts with their customers which require their customers to obtain all of their linen supply requirements generally or all their requirements of the linen supply articles listed on the contract from respondents unless the periods of such contracts do not exceed one year, except contracts which provide for the supplying of special articles (not usable by another customer) in which event such contracts may be for a period of not more than two years, and provided further that all contracts may contain provision for periods of automatic renewal not to exceed six months.

2. Acquiring directly or indirectly, by purchase, lease or otherwise, the business, including customer accounts, good will, capital stock, financial interest or physical assets, or any part thereof, of any competitive linen supplier, located in the metropolitan Washington, D.C. area, for a period of five years from the date of this Order, unless the Commission is given 60 days' notice in writing in advance of the date of the proposed acquisition. Provided, however, that nothing in this paragraph 2 shall apply to accommodation sales (sales occurring when one linen company purchases used linens or surplus inventory of new linens from another linen company) and the acquisitions of such linens do not impair the ability of the seller to compete.

3. Placing under restrictive covenants not to compete in the linen supply business for periods exceeding three years, owners, officers and employees of linen rental concerns, which they have acquired.

4. Placing owners, officers and employees of linen rental concerns which they have acquired under restrictive covenants which prohibit them from soliciting customers formerly served by them for a period in excess of five years.

5. Permitting any of their officers, directors, or employees to serve at the same time as an officer, director or employee of any competitive linen supply concern.

By "Decision of the Commission", etc., further order requiring report of compliance is as follows:

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

Issued: March 13, 1964.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 64–3305; Filed, Apr. 3, 1964; 8:48 a.m.]

[1] New.
[2] New.

[Docket 8455 o.]

PART 13—PROHIBITED TRADE PRACTICES

Gruen Industries, Inc., and Gruen Watch Co.

Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception;* § 13.1055–50 *Preticketing merchandise misleadingly.* Subpart—Misrepresenting oneself and goods—Prices: § 13.1811 *Fictitious preticketing.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Gruen Industries, Inc. trading as Gruen Watch Company, New York, N.Y., Docket 8455, Feb. 28, 1964]

In the Matter of Gruen Industries, Inc., a Corporation, Trading as Gruen Watch Company

Order requiring a leading manufacturer of watches to cease the practice of attaching to its watches or placing in conjunction therewith, tickets or tags bearing excessive amounts which were represented thereby to be the usual retail prices in the trade areas where the representations were made.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is further ordered, That respondent, Gruen Industries, Inc., a corporation doing business under the name of Gruen Watch Company or under any other name, and its officers, representatives, agents, employees, successors and assigns, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of watches, or any other merchandise, in commerce, do forthwith cease and desist from:

(1) Advertising, disseminating or distributing any list, preticketed or suggested retail price that is not established in good faith as an honest estimate of the actual retail price or that appreciably exceeds the highest price at which substantial sales are made in respondent's trade area;

(2) Furnishing any distributor, dealer or retailer with any means whereby to deceive the purchasing public in the manner forbidden by subparagraph (1) of this order.

It is further ordered, That respondent shall file with the Commission, within sixty (60) days of receipt of this order, a written report setting forth in detail the manner and form of its compliance with the order.

Issued: February 28, 1964.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 64–3306; Filed, Apr. 3, 1964; 8:49 a.m.]

[Docket 8396]

PART 13—PROHIBITED TRADE PRACTICES

Waltham Watch Co. Et Al.

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees;* § 13.155 *Prices;* § 13.155–40 *Exaggerated as regular and customary;* § 13.175 *Quality of product or service;* § 13.235 *Source or origin;* § 13.235–50 *Maker or seller, etc.;* § 13.235–60 *Place;* § 13.235–60(e) *Imported products or parts as domestic.* Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception;* § 13.1055–50 *Preticketing merchandise misleadingly.* Subpart—Misrepresenting oneself and goods—Prices: § 13.1811 *Fictitious preticketing.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1900 *Source or origin;* § 13.1900–35 *Foreign product as domestic.* Subpart—Using misleading name—Goods: § 13.2300 *Identity.* Subpart—Using misleading name—Vendor: § 13.2305 *Identity.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Waltham Watch Company et al., Chicago, Ill., Docket 8396, Feb. 28, 1964]

In the Matter of Waltham Watch Company, a Corporation, and Harry Aronson, Ben Cole and Morris Draft, Individually and as Officers of Said Corporation

Order requiring Chicago importers from Switzerland of watches, and of watch movements, cases and attachments which they assembled, to cease showing excessive amounts as regular retail prices, on attached tickets, in price lists, catalogs, magazine and newspaper advertisements and in other advertisings representing falsely in such advertising that their watches were "fully guaranteed", "lifetime guaranteed", etc., and on guaranty certificates that they would be serviced for one dollar; advertising as "21" and "25" jewel watches, 17 jewel watch movements from Switzerland to which they added a device containing 4 or 8 synthetic jewels that were not functional; and representing falsely that their watches were manufactured in the United States by the old and well-known Waltham Watch Company of Waltham, Mass.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents, Harry Aronson, Ben Cole, and Morris Draft, individually and as officers of Waltham Watch Company, their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of watches in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing in any manner, directly or indirectly, including any use of a number in the name or names of their watches, that watches manufactured or sold by them contain a designated number of jewels, unless said watches actually contain the stated number of jewels, each and every one of which serve a purpose of protecting against wear from friction by providing a mechanical contact with a moving part at a point of wear.

2. Using the name "Waltham" in advertising or in labeling to designate or describe watches manufactured or sold by them, without expressly, clearly, conspicuously, and prominently stating in immediate connection therewith the country of origin of each component of said watches which is not entirely manufactured in the United States.

3. Using, in advertising or labeling watches manufactured or sold by them, the terms "Waltham Watches—timing the nation since 1850", "Waltham Premier, a famous name, part of the American scene since 1850", or any similar

word or expression, to describe respondents or such watches.

4. Furnishing any means or instrumentality to others whereby the public may be misled as to any of the matters or things prohibited by the above provisions of this order.

It is further ordered, That Waltham Watch Company, a corporation, and its officers and Harry Aronson, Ben Cole and Morris Draft, individually and as officers of said corporation, and their agents, representatives and employees, directly or through any corporate or other device in connection with the sale and distribution of watches or other merchandise in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, disseminating or distributing any list, preticketed or suggested retail price that is not established in good faith as an honest estimate of the actual retail price or that appreciably exceeds the highest price at which substantial sales are made in respondents' trade area.

2. Representing that their merchandise is guaranteed unless the nature, extent and conditions of the guarantee and the manner in which the guarantors will perform thereunder are clearly set forth in conjunction with the representation of guarantee.

3. Furnishing any distributor, dealer or retailer with any means whereby to deceive the purchasing public in the manner forbidden by the above provisions of this order.

It is further ordered, That the hearing examiner's initial decision, as modified herein, be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That Waltham Watch Company, a corporation, and Harry Aronson, Ben Cole and Morris Draft shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: February 28, 1964.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 64-3307; Filed, Apr. 3, 1964; 8:49 a.m.]

Title 25—INDIANS

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

SUBCHAPTER M—FORESTRY

PART 144—SALE OF FOREST PRODUCTS, RED LAKE INDIAN RESERVATION, MINN.

Revision

On page 14431 of the FEDERAL REGISTER of December 28, 1963, there was published a notice and text of proposed amendment of Part 144 of Title 25, Code of Federal Regulations.

The purpose of the amendment is to incorporate numerous editorial changes to conform with the procedure adopted for other related parts in 25 CFR Chapter I, Subchapter M—Forestry.

Interested persons were given 30 days within which to submit comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received, and the proposed amendment is hereby adopted and is set forth below. This amendment shall become effective at the beginning of the 30th calendar day following the date of publication in the FEDERAL REGISTER.

STEWART L. UDALL, *Secretary of the Interior.*

MARCH 31, 1964.

Part 144 of 25 CFR is revised to read as follows:

Sec.

AUTHORITY: The provisions of this Part 144 issued under sec. 9, 39 Stat. 137, as amended; 5 U.S.C. 22, 41 U.S.C. 6b.

CROSS REFERENCE: For General Forest Regulations, see 25 CFR Part 141.

§ 144.1 Definitions.

(a) "Secretary" means the Secretary of the Interior or his authorized representative.

(b) "Red Lake Indian Mills" means the tribal enterprise, established under section 9 of the act of May 18, 1916 (39 Stat. 137), as amended, for the purpose of producing forest products.

(c) "Forest Products" means lumber, lath, shingles, crating, ties, bolts, logs, bark, pulpwood, or other marketable materials manufactured or produced by the Red Lake Indian Mills.

(d) "Red Lake Indian Reservation, Minnesota" means the Red Lake Indian Forest and all other forest lands held in trust for the Red Lake Band of Chippewa Indians.

§ 144.2 Purpose of regulations.

The regulations in this Part 144 prescribe the terms and conditions under which forest products produced by the Red Lake Indian Mills may be sold without compliance with section 3709 of the Revised Statutes.

§ 144.3 Applicability of regulations.

The regulations in this Part 144 apply only to the Red Lake Indian Mills.

§ 144.4 Sale in open market.

The forest products produced by the Red Lake Indian Mills may be sold in the open market at such prices as may be realized through the methods in this Part 144.

§ 144.5 Advertisement in trade journals and newspapers.

The Secretary may advertise forest products of the Red Lake Indian Mills for sale in trade journals of general circulation among persons, companies, or corporations interested in buying and selling of forest products, and in news-

papers in cities that may afford a favorable market for such forest products.

§ 144.6 Advertising contracts.

The Secretary may, as he determines, make advertising contracts, provided that such contracts shall not be executed for periods of more than one year.

§ 144.7 General advertisement.

Advertisement of forest products may also be made by direct and circular letters and through personal interviews with the trade: *Provided*, That travel expense incident thereto shall not be incurred without specific authority from the Secretary.

§ 144.8 Proposals for purchase.

Proposals for the purchase of forest products may be made to the Secretary, and he is authorized to quote prices and consummate sales at such times and/or such terms as are consistent with the regulations of this Part 144.

§ 144.9 Proposals to Government departments.

Proposals may be made by the Secretary to sell to municipalities, counties, States, or the United States and prices may be quoted to such agencies. Terms and payment in connection with such sales may be formulated in accordance with the general practice of such agencies.

§ 144.10 Cash sales.

All forest products of the Red Lake Indian Mills shall be sold for cash f.o.b. mill or other point of delivery, except as provided in §§ 144.9 and 144.11. Adjustments and allowances on shipments of forest products after delivery to the buyer are authorized in accordance with generally accepted trade practices, when such adjustments are essential by reason of off-grade shipments or errors in volume.

§ 144.11 Payments, discounts, and credit sales.

Shipments of forest products on open account shall be made only to persons or companies who have an acceptable credit rating. Credit on shipment of forest products sold on open account shall not be extended beyond 60 days from date of receipt by the buyer. A cash discount in accordance with general trade practice and usually not exceeding two percent of mill value may be allowed when the shipment is paid for within ten days of receipt by the consignee as evidenced by the original paid freight bill or other acceptable evidence.

§ 144.12 Commission sales agents.

Sales may be made through commission sales agents, for which they may be paid a commission on f.o.b. mill value of the shipment at approved rates. Sales may be made to wholesalers on which a discount at approved rates may be allowed.

§ 144.13 Deposits.

On all agreements to purchase for future delivery a deposit may be required. Such a deposit may be forfeited if the purchaser does not comply with the terms of sale. No agreement for sale and future delivery shall be made for a longer period than 90 days, except with approval of the Secretary.

§ 144.14 Purchase of timber by the Red Lake Indian Mills.

The Secretary may purchase, harvest, and manufacture timber or forest products standing on or severed from lands other than the Red Lake Indian Reservation, Minnesota, at such times as it may be considered economically feasible, provided that such purchases are consistent with approved operating schedules and budget allowances and subject also to such limitations on expenditures as may be prescribed in annual appropriation acts.

§ 144.15 Appeals.

Any action taken by an approving officer exercising delegated authority from the Secretary may be appealed to the Secretary. Such appeal shall not stay any action taken unless otherwise directed by the Secretary. Appeals will be filed in accordance with applicable general regulations covering appeals appearing in this Title 25.

[F.R. Doc. 64-3276; Filed, Apr. 3, 1964; 8:45 a.m.]

SUBCHAPTER T—OPERATION AND MAINTENANCE

PART 221—OPERATION AND MAINTENANCE CHARGES

Fort Belknap Indian Irrigation Project, Montana

There was published in the FEDERAL REGISTER on February 5, 1964 (29 F.R. 1736), notice to amend § 221.30 of the Code of Federal Regulations, Title 25—Indians, dealing with the adjustment of irrigation operation and maintenance assessment rates on the various units of the Fort Belknap Indian Irrigation Project. The amendment also establishes per-acre assessment rates for Indian owned and operated lands based on the financial ability of the Indian landowners or water users as a whole to pay such assessments.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. Two communications objecting to the proposed increase in the assessment rates for non-Indian owned land within the Brown Unit were received within the specified period. The two objections have been thoroughly considered and discussed and as a result thereof it has been determined to continue to use the existing assessment rate for the Brown Unit for both Indian and non-Indian owned lands. Accordingly the proposed amendment is hereby adopted without change, except for the adjustment in the assessment rate for the Brown Unit and is set forth below:

Section 221.30 is amended to read as follows:

§ 221.30 Charges.

Pursuant to the provisions of the Act of May 18, 1916 (39 Stat. 142) and the Acts of August 1, 1914, and March 7, 1928 (38 Stat. 583, 45 Stat. 210; 25 U.S.C. 385, 387), the basic annual charges for operation and maintenance against the irrigable lands to which water can be delivered under the constructed works of the Fort Belknap Indian Irrigation Project in Montana are hereby fixed for calendar year 1964 and each succeeding year until further order (a) for the Milk River and White Bear Units, including lands under pumping contract with the Fort Belknap Indian Irrigation Project, at $2.65 per acre against lands in Indian ownership not under lease to a non-Indian, and at $3.88 per acre against lands in non-Indian ownership and lands in Indian ownership under lease to a non-Indian; (b) for the Three Mile Unit at $3.20 per acre against lands in Indian ownership not under lease to a non-Indian, and at $4.43 per acre against lands in non-Indian ownership and lands in Indian ownership under lease to a non-Indian; (c) for the Brown Unit at $2.00 per acre for Indian and non-Indian owned lands; and (d) for the Peoples Creek (Hays) and Ereaux Units at $2.00 per acre for Indian and non-Indian owned lands.

STEWART L. UDALL,
Secretary of the Interior.

MARCH 31, 1964.

[F.R. Doc. 64-3277; Filed, Apr. 3, 1964; 8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER C—PERSONNEL

PART 719—NONJUDICIAL PUNISHMENT, NAVAL COURTS AND CERTAIN FACT-FINDING BODIES

SUBCHAPTER E—CLAIMS

PART 750—NAVY GENERAL CLAIMS

PART 751—NAVY PERSONNEL CLAIMS

Miscellaneous Amendments

Scope and purpose. The amendments are intended (1) to revise § 719.102 dealing with letters of censure; (2) to indicate the authority of the Director, Office of the Judge Advocate General, West Coast, San Bruno, California, for certain types of claims and to increase from $1,000 to $2,500 the amount of claims for medical expenses under the cognizance of several of the officers listed in § 750.45 (a); and (3) to update addresses or other data in §§ 750.45 and 751.21(c)(1). Corresponding amendments to the Manual of the Judge Advocate General will be distributed to Navy and Marine Corps commands in due course.

1. Section 719.102 is revised to read as follows:

§ 719.102 Letters of censure.

(a) *General.* "Censure" is a generic term applicable to adverse reflection upon or criticism of an individual's character, conduct, performance or military appearance. Censure may be punitive or nonpunitive. Punitive censure is im-

posed under article 15 of the Code (commanding officer's nonjudicial punishment) or as the result of a sentence by court-martial. Hereafter in increasing order of severity there are two degrees of punitive censure, namely, admonition and reprimand. Nonpunitive censure is provided for in paragraph 128, MCM 1951, and in § 719.101(c). When imposed upon officers, punitive admonition or reprimand is required to be by written communication. If imposed upon enlisted personnel, punitive admonition or reprimand may be by either oral or written communication. Copies of punitive letters of admonition or reprimand will, unless withdrawn or set aside, be filed in the official records of the individuals to whom addressed and recorded in Departmental records. As provided in § 719.101(i), once a letter of admonition or reprimand has been received by the individual to whom addressed, it may not be increased in severity or withdrawn to impose a more severe punishment. The remaining provisions of this section do not apply to oral censures of enlisted personnel or, unless specifically noted, to court-martial sentences involving admonition or reprimand.

(b) *Administrative letters of censure by the Secretary of the Navy.* In addition to censures as discussed in paragraph (a) of this section, the Secretary of the Navy may by means of a written communication administratively censure persons in the naval service without reference to article 15 of the Code. Unless otherwise directed, a copy of the communication will be filed in the official record of the person censured and recorded in Departmental records. A person censured by the Secretary of the Navy may not appeal under article 15 of the Code but may submit a request for reconsideration or a written statement; in which event articles 1404.2 and 3, U.S. Navy Regulations 1948, apply.

(c) *Internal departmental responsibility.* Correspondence, records, and files in the Department of the Navy that relate to letters of admonition or reprimand are personnel matters under the primary cognizance of the Commandant of the Marine Corps or the Chief of Naval Personnel, as appropriate.

(d) *Procedure*—(1) *Issuing authority.* Where an officer has committed an offense which warrants a punitive letter of admonition or reprimand, the immediate commanding officer may, at his discretion, but subject to paragraph 132, MCM 1951, issue the letter or refer the matter through the chain of military command normally to the superior who exercises general court-martial jurisdiction and who has military command over the prospective addressee. (See § 719.101(a)(2).) Consideration must be given to the fact that the degree of severity and effect of punitive admonition or reprimand increases proportionately with the degree of superiority of the officer in command who issues the letter.

(2) *Hearing requirement.* Subject to the provisions of article 15(a) of the Code, paragraph 132, MCM 1951, and § 719.101(b) regarding demand for trial, a punitive letter may be issued, or its issuance recommended to higher authority, on the basis of an investigation or court of inquiry for acts or omissions for which the individual was accorded the rights of a party or on the basis of mast or office hours prescribed in paragraph 133b, MCM 1951 (see § 719.101(d)). When mast or office hours is conducted, the officer conducting the hearing shall prepare a report thereof. The report will include a summary of the testimony of witnesses, statements and affidavits submitted to the officer holding the hearing, and a description of items of information in the nature of physical or documentary evidence considered at the hearing.

(e) *Content of letter*—(1) *General.* A punitive letter of admonition or reprimand issued pursuant to article 15 of the Code may be imposed only for minor offenses (par. 128b MCM 1951). Such offenses include only those acts or omissions constituting offenses under the punitive articles of the Code. The letter must set forth the facts constituting the offense, but need not refer to any specific punitive article of the Code nor need it satisfy the tests for legal sufficiency required of court-martial specifications. Each letter should contain sufficient specific facts, without regard to the existence of other documents, to apprise a reader thereof of all the relevant facts and circumstances surrounding the offense. General conclusions, as "gross negligence," "unofficer-like conduct," or "dereliction of duty" are valueless unless accompanied by specific facts upon which they are based.

(2) *References.* Reference should be made in all punitive letters of admonition or reprimand to all prior proceedings and correspondence upon which they are based, and to applicable laws and regulations, including the MCM 1951 and this section. Particular reference should be made to the hearing afforded the offender. The letter will include a statement (where applicable, see article 15(a) of the Code) that the recipient has been advised that he has the right to demand trial by court-martial in lieu of nonjudicial punishment and that he has not demanded such trial.

(3) *Classification (Security).* Every reasonable effort will be made to exclude from punitive letters of admonition or reprimand specific details which require security classification. Unless it contains classified matter, a letter of censure shall be designated "For Official Use Only".

(4) *Notification of right to appeal and right to submit statement.* All punitive letters of admonition or reprimand, except letters issued in execution of a court-martial sentence as described in § 719.117(d), shall contain the following paragraphs:

> You are hereby advised of your right to appeal this action to the next superior authority in accordance with the provisions of article 15(e) of the Uniform Code of Military Justice, paragraph 135 of the Manual for Courts-Martial, United States, 1951, and section 0102f of the Manual of the Judge Advocate General [§ 719.102(f)].
>
> If, upon full consideration, you do not desire to avail yourself of this right to appeal, you are directed so to inform the (Chief of Naval Personnel) (Commandant of the Marine Corps) through official channels. You are directed to reply without delay, through official channels, and to state therein the date of receipt of this communication, and the approximate time when either an appeal or notice of decision not to appeal may be expected. Any subsequent request for additional time shall contain adequate justification therefor.
>
> Unless withdrawn, or set aside by higher authority, a copy of this letter will be placed in your official record in (the Bureau of Naval Personnel) (Headquarters, U.S. Marine Corps). You are therefore privileged, pursuant to article 1701.8, U.S. Navy Regulations, 1948, to forward within fifteen days after receipt of final determination of your appeal or after the date of your notification of your decision not to appeal, whichever may be applicable, such statement concerning this letter as you may desire, also for inclusion in your record. (Omit ", pursuant to article 1701.8, U.S. Navy Regulations, 1948," in cases involving enlisted personnel.) If you elect not to submit a statement, you shall state so officially in writing within the time above prescribed. In connection with your statement, attention is directed to article 1404.2 and 3, U.S. Navy Regulations, 1948. Your reporting senior is required to make notation of this letter in your fitness report submitted next after the issuance of this letter has become final, either by decision of higher authority upon appeal or by your decision not to appeal. (Omit last sentence in cases involving enlisted Navy personnel.)

(f) *Appeals.* The following special rules are applicable to appeals involving punitive letters of admonition or reprimand (in addition to those rules contained in § 719.101(f):

(1) A copy of the report of mast or office hours shall be provided the individual upon his request except where the interests of national security may be adversely affected, and in any event a copy thereof shall be made available to him for his use in preparation of a defense or appeal. See § 719.101(f) for similar rules concerning a copy of the record of an investigation or court of inquiry.

(2) In forwarding an appeal from a punitive letter of admonition or reprimand (see § 719.101(f)(4)), the officer who issued the letter shall attach to the appeal a copy of the punitive letter and the record of investigation or court of inquiry or report of hearing on which the letter is based. The appeal shall be forwarded via the chain of command to the superior to whom the appeal is made. The superior to whom the appeal is made may direct additional inquiry or investigation into matters raised by the appeal if he deems such action necessary in the interests of justice.

(3) The "next superior authority" to whom appeal from a letter of admonition or reprimand is authorized by article 15(e) of the Code is the next superior to the issuing authority in the chain of military command. In cases where it may be inappropriate for the immediate "next superior" to act, as where an identity may exist of persons or staff with the command taking the action appealed from, such fact may be noted in reforwarding the appeal to the next superior in the chain of military command.

(4) Upon determination of the appeal, the superior shall advise the appellant of the action taken via his immediate commanding officer with copies of the action to officers in the chain of command through whom the appeal was forwarded.

He shall also return all papers directly to the commander who issued the letter.

(g) *Forwarding letter to Department.* (1) Upon adverse determination of any appeal taken, the lapse of a reasonable time after issuance (see § 719.101(f)) or upon receipt of the addressee's statement that he does not desire to appeal, together with such statement as he may desire to make or his written declaration that he does not desire to make a statement, a copy of the punitive letter of censure, and such other documents as may be required by the Chief of Naval Personnel or the Commandant of the Marine Corps (Bureau of Naval Personnel Manual or Marine Corps Personnel Manual) shall be forwarded via the chain of command to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate. If the letter of censure is not sustained on appeal, a copy of the letter will not be filed in the official record of the member concerned; the Bureau of Naval Personnel Manual and the Marine Corps Personnel Manual are applicable in this respect.

(2) It is the responsibility of the command issuing a letter of admonition or reprimand to assemble and forward at one time all the foregoing documents. A copy of the forwarding letter shall be provided for each via addressee (U.S. Navy Regulations, article 1610.1).

(h) *Cancellation.* (1) Except in certain highly infrequent situations, material properly placed in an officer's or enlisted member's official records is not removed therefrom or destroyed. In those instances where it becomes necessary to cancel a letter of admonition or reprimand issued under article 15 of the Code and filed in the addressee's official records when factual error occurred or for other sound reasons indicating that the punishment resulted in a clear injustice, the officers referred to in § 719.101(j) may cancel or direct cancellation of letters of admonition or reprimand. The authority, i.e., the office as distinguished from the former incumbent, which issued such a letter of admonition or reprimand may also subsequently cancel such a letter. In these cases, cancellation will be accomplished by issuing a second letter to the officer concerned announcing the cancellation of the letter of admonition or reprimand and setting forth in detail the reason prompting such cancellation. Copies of the letter of cancellation will be forwarded to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, and any other addressees to whom copies of the original letter of censure may have been directed; the copy of the letter of censure and any reference thereto filed in the recipient's official records will then be removed and destroyed.

(2) If a letter of admonition or reprimand is canceled by seniors in the chain of command before a copy of the original of such letter has been received by the Chief of Naval Personnel or the Commandant of the Marine Corps, copies of the letters of admonition or reprimand will not be filed in the member's official record; the Bureau of Naval Personnel Manual and the Marine Corps Personnel Manual are applicable in this respect. If the cancellation occurs after the copy of the letter of admonition or reprimand has been forwarded to the Department, a copy of the letter of cancellation shall be forwarded to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate. Upon receipt of the copy of the letter of cancellation, copies of the letters of admonition or reprimand will not be filed in or will be removed from, as appropriate, the member's official record and will be destroyed. In other cases, physical removal of letters of admonition or reprimand and other documents in official records will normally be accomplished only by the Secretary of the Navy acting through the Board for the Correction of Naval Records (see Part 723 of this chapter). However, if a letter of censure is filed inadvertently by reason of clerical error or mistake of fact, such document may be removed as authorized by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate.

(i) *Public reprimands—Private reprimands.* For historical purposes and understanding of the captioned types of censure, brief comment is supplied thereon. Under article 24 of the Articles for the Government of the Navy (superseded by the Uniform Code of Military Justice), "private reprimand" was one of the punishments specified as being within the authority of a commanding officer to impose upon officers under his command. The word "private" was employed to distinguish a formal letter of reprimand addressed to an individual officer without general publicity from a "public reprimand," i.e., one published verbatim throughout the naval service. Omission of the word "private," preceding "admonition or reprimand" in article 15 of the Code does not constitute authority to commanding officers to issue "public reprimands," which are looked upon with disfavor by the Department of the Navy.

2. Section 750.44 is revised to read as follows:

§ 750.44 Payment of claims.

Claims approved by the Secretary of the Navy, the Judge Advocate General, the Deputy Judge Advocate General, the Assistant Judge Advocate General (International and Administrative Law), the Director, Litigation and Claims Division, Office of the Judge Advocate General, or the Assistant Director, Litigation and Claims Division, Office of the Judge Advocate General, as provided in § 750.41 shall be forwarded to the U.S. Navy Finance Center, Washington, D.C., 20390, for payment from appropriations designated for that purpose. Claims approved by the Director, Office of the Judge Advocate General, West Coast, the Officer in Charge, U.S. Sending State Office for Italy, the Officer in Charge, U.S. Sending State Office for Australia, the Legal Officer, U.S. Naval Base, Newport, Rhode Island, the Legal Officer, U.S. Naval Submarine Base, New London, Groton, Connecticut, or a Commandant or Commander or District or Staff Legal Officer as provided in § 750.41 shall be forwarded to such disbursing officer as may be designated by the Comptroller of the Navy for payment from appropriations designated for that purpose.

3. Paragraphs (a), (c) and (d)(2) of § 750.45 are revised to read as follows:

§ 750.45 Claims in favor of the United States.

(a) *Determination and assertion.* Demands for the payment of all claims in favor of the United States shall be made by the Judge Advocate General or his designee, and in the case of claims for medical care and treatment furnished under circumstances creating a tort liability upon a third person, by the Director, Office of the Judge Advocate General, West Coast, the Commandant of a Naval District (and in Guam, Commander Naval Forces Marianas) or the District or Staff Legal Officer, provided that an aggregate claim may not exceed $2,500. In the case of claims for damage to Government property, when the amount of the claim does not exceed $1,000, demands for the payment thereof shall be asserted by the Director, Office of the Judge Advocate General, West Coast, the Commandant of a Naval District (and in Guam, Commander Naval Forces Marianas) or the District or Staff Legal Officer. In cases where it is determined that a valid claim exists in favor of the United States for medical expenses in excess of $2,500 or for property damage in excess of $1,000, or for other than medical expenses or property damage, the record, together with appropriate recommendations, shall be forwarded to the Judge Advocate General for action.

* * * * *

(c) *Reimbursement for repairs or medical care.* In the event the private party, or the insurer of such private party, tenders full payment for repairs or medical care accomplished or to be accomplished at the expense of the Government, such payments should be made in the form of a check, draft or money order payable to the order of the Judge Advocate General. Upon request a release will be executed by the Judge Advocate General or his designee. (Exception: Where repairs to property have been paid for out of the Navy Industrial Fund, such payment may be deposited locally to such Fund (Navy Comptroller Manual, paragraph 043114)). A notation that the claim is based upon a payment from the Navy Industrial Fund or any similar revolving account should be included whenever appropriate on all claims forwarded to the Judge Advocate General for collection.

(d) *Execution of releases.* * * *

(2) The Director, Office of the Judge Advocate General, West Coast, the Commandant of the Naval District (and in Guam, Commander Naval Forces Marianas) or the District or Staff Legal Officer, (i) in all cases involving payment in full of claims within the limits of the authority granted by paragraph (a) of this section, (ii) upon the completion of repairs to Government property or the termination of medical care, and payment in full therefor in accordance with paragraph (b) of this section, (iii) upon local deposit to the Navy Industrial Fund of full payment for damage to Govern-

ment property, and (iv) in any case in which the Director, Office of the Judge Advocate General, West Coast, the Commandant of a Naval District (and in Guam, the Commander Naval Forces Marianas) or the District or Staff Legal Officer is authorized to compromise or settle a claim.

* * * * *

4. Section 751.21(c)(1) is revised to read as follows:

§ 750.21 Action of Claims Investigating Officer in transportation losses.

* * * * *

(c) *Approval or denial of concurrent claim by carrier or insurer*—(1) *Denial of claim by carrier or insurer.* The Commanding Officer will report all carrier or insurer denials to the U.S. Navy Finance Center, Washington, D.C., 20390, or the Disbursing Officer, Marine Corps Disbursing Office, Arlington, Va., 22206, as appropriate, by speedletter as shown in subparagraph (3) of this paragraph using the optional speedletter paragraph 5.

* * * * *

(R.S. 161, secs. 2671–2680, 62 Stat. 982–984, secs. 801–940, 2732, 2733, 5031, 70A Stat. 36–78, 152, 153, 278, as amended, 75 Stat. 488, 76 Stat. 448, 593, 767; 5 U.S.C. 22, 10 U.S.C. 801–940, 2733, 2736 (as added by Pub. Law 87–769), 5031, 28 U.S.C. 2671–2680, 42 U.S.C. 2651–2653; E.O. 10214 (3 CFR 1949–53 Comp.) as amended; E.O. 11060 (27 F.R. 10925); E.O. 11081 (28 F.R. 945); 28 CFR 43 (27 F.R. 11317, 28 F.R. 11535); 28 F.R. 11516–11517, 12104)

Dated: March 31, 1964.

By direction of the Secretary of the Navy.

ROBERT D. POWERS, Jr.,
Rear Admiral, U.S. Navy,
Acting Judge Advocate General.

[F.R. Doc. 64-3330; Filed, Apr. 3, 1964; 8:50 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 1—RULES OF PRACTICE AND PROCEDURE

Interpretations of Fee Rules and Procedures

MARCH 27, 1964.

In Part 1, Appendix—A Plan of Cooperative Procedure in Matters and Cases Under the Provisions of Section 410 of the Communications Act of 1934, is designated as Appendix A.

A new Appendix B is added to Part 1, reading as follows:

APPENDIX B—INTERPRETATIONS OF FEE RULES AND PROCEDURES

Implementation of the Commission's schedule of filing fees has resulted in a number of questions requiring interpretations of the rules and administrative procedures applicable to the fee schedule. In view of the fact that many of these interpretations should serve as useful guidance to the general public, periodic releases of such interpretations will be made. The first group of questions and interpretations are set forth below:

1. *Question.* An application is originally submitted before the effective date of the fees but is returned to the applicant as incomplete. If the corrected application is resubmitted after the effective date of the fee schedule, will the prescribed fee be required?

Interpretation. Applications which were originally submitted before the effective date of the fee schedule and returned for corrections etc., will not be required to be accompanied by the prescribed fee when resubmitted subsequent to the effective date of the fee schedule. However, if the resubmission is made on a new form, the original application must be enclosed to verify that the original application was submitted before the effective date of the fee schedule.

2. *Question.* Will refunds be made to the applicant or to the attorney, manufacturer, or other representative who might have submitted payment?

Interpretation. All refunds will be made payable to the applicant, irrespective of the fact that payment of the fee may have been received from an attorney, manufacturer, or other representative.

3. *Question.* Will applications receive a preliminary screening to determine whether the appropriate fee has been paid, or will this determination be made only after the application has awaited its turn in the processing line?

Interpretation. Applications will be screened upon receipt in the processing division to determine whether the appropriate fee has been paid. The application will not take its place on the processing line until the full amount of the prescribed fee has been paid.

4. *Question.* When will fee credit be accorded to an applicant?

Interpretation. Fee credit will be accorded only in those instances where the application is returned for additional information or corrections, e.g., the application is undated or unsigned, applicable questions are unanswered, inconsistency in spelling of names, necessary frequency coordination committee letter has been omitted, etc. (However, the fact that a fee credit will be allowed upon the resubmission of an application which has been returned as incomplete will not be construed to mean that the original application was accepted for filing.) No credit will be accorded an applicant whose application has been dismissed, e.g., the applicant is an alien, he is not eligible for a license in the service in which he has applied, or the applicant has requested dismissal. See § 1.1103 (d) of the rules.

5. *Question.* An application for a radio license is returned to the applicant for correction after the fee has been paid. Applicant decides to abandon his application, and he either gives or sells his returned application bearing the fee payment stamp to a friend. The friend then applies for the same type of radio license enclosing the first applicant's returned application as credit towards the prescribed fee. Will the Commission accept this as payment?

Interpretation. The fee credit accorded to an applicant in connection with the resubmission of an application is a credit extended to the applicant of record and is not transferable to another party. Therefore, the application bearing the fee payment stamp is not acceptable as payment in this instance, and the second applicant must submit the appropriate fee with his application.

6. *Question.* Who must pay the fee required to accompany applications in the Broadcast Services for assignment of license or transfer of control?

Interpretation. The rules require only that such applications be accompanied by the prescribed fee. The parties involved in the assignment or transfer must determine amongst themselves how the fee should be paid. If both parties to the application are exempt under § 1.1111(b) of the rules, no fee will be required. However, where only one party may be exempt under § 1.1111(b), the application must be accompanied by the full amount of the prescribed fee.

7. *Question.* A licensee in the Industrial Radio Services holds a license for a base mobile system in a particular area. He subsequently applies for an additional base station in the same area to communicate with the same mobile units. Commission procedures require that he also file one application for the existing base station and one for a license to cover the existing group of mobile units. Will the applicant be required to pay fees for each of the three applications which are required?

Interpretation. The applicant will be required to submit the prescribed fee with each of the three applications. By applying for an additional base station, the applicant is concurrently modifying his existing base station license and applying for a license to cover his group of mobile stations (where more than one base station serves a group of mobile stations, the mobile stations must be covered by a separate license).

8. *Question.* Will a fee be required to accompany an application to modify an aircraft station license to add crash beacon equipment?

Interpretation. Under §§ 1.1115(a) and 87.53(a) of the Commission's rules, all applications for modification of an aircraft station license must be accompanied by the prescribed fee. However, under the Commission's rules, an initial application for an aircraft station license can include crash beacon equipment even though the applicant may not plan to install the beacon equipment at the time the license is issued.

9. *Question.* Will the holder of a Novice, Technician, or Conditional Class Amateur license who is required to appear for an additional examination pursuant to § 97.35 of the rules be required to pay a fee?

Interpretation. No fee will be required with respect to examinations held pursuant to § 97.35 of the rules because no application is involved. Furthermore, in no event will the holder of a Novice Class license be required to pay an application filing fee. See §§ 1.1115(b)(6) and 97.55(b) of the rules, wherein Novice Class licensees are exempted from the payment of fees.

10. *Question.* Will fees be required for amendments to applications?

Interpretation. No fee will be required for an amendment to an application provided that the amendment does not constitute, in effect, a new application. However, if an application, as amended, would require a higher fee than originally paid, an amount equal to the difference must accompany the amendment. (E.g., an applicant files for a base mobile license in the Business Radio Service and pays the prescribed $10 fee. He then submits an amendment to his application to request, instead, an authorization for an operational fixed microwave radio station in the same radio service. Therefore, he must accompany his amendment with a $20 fee, the difference between the original fee paid and the $30 fee prescribed for applications for operational fixed microwave station authorizations.)

11. *Question.* When will an amendment be considered as a new application for purposes of the fee schedule?

Interpretation. In determining when an amendment will be considered a new application for purposes of the fee schedule, the following guide lines will be used:

a. In the Common Carrier Services and the Public Safety, Industrial, and Land Transportation Services, an amendment will be considered a new application if it changes the original application to another radio service, e.g., from the Rural Radio Service to the Domestic Public Land Mobile Radio

Service, or from the Special Industrial Radio Service to the Business Radio Service.

b. In the Citizens Radio Service, an amendment will be considered a new application if it changes an application from either a Class B, C, or D station to an application for a Class A station, or, conversely, if it changes an application for a Class A station to an application for either a Class B, C, or D station. Amendments involving only changes between Class B, C, or D stations will not be considered as new applications and no fees will be required.

c. In the Aviation and Marine Radio Services, an amendment will be considered a new application if it changes the application to a different class station requiring a different application form.

d. In the Broadcast Services, an amendment to an application for renewal, assignment and/or transfer of control will be considered as a new application if it amounts to a major amendment as set forth in § 1.578(a) and (b) of the Commission's rules.

An amendment to a standard broadcast application will be considered as a new application if it requires the original application to receive a new file number pursuant to § 1.571(j) of the Commission's rules.

An amendment to a television broadcast application will be considered as a new application if it effects a major change as defined in § 1.572(a)(1) of the Commission's rules.

An amendment to an FM broadcast application will be considered as a new application if it effects a major change as defined in § 1.573(a)(1) of the Commission's rules.

12. *Question.* Where applications for a construction permit and a covering license for a broadcast auxiliary station are filed simultaneously, will a fee be required for each application?

Interpretation. When applications for a construction permit and a covering license for a broadcast auxiliary station are filed simultaneously, one fee will suffice for both applications.

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

[F.R. Doc. 64-3321; Filed, Apr. 3, 1964; 8:52 a.m.]

[Docket No. 15175; FCC 64-243]

PART 93—LAND TRANSPORTATION RADIO SERVICES

Frequencies Available for Base and Mobile Stations

In the matter of amendment of § 16.252[1] of the Commission's rules governing the Motor Carrier Radio Service; Docket No. 15175, RM-431.

1. By reason of our order in this document—Five frequencies in the 43 Mc/s band are being made available for regular assignment to single frequency mobile radio systems in the Motor Carrier Radio Service.

2. This report and order concludes a rule making proceeding that was instituted in September of 1963, in response to a petition for amendment of rules filed by the American Trucking Associations, Inc. (hereinafter ATA), on March 29, 1963.

3. Our notice of proposed rule making in this proceeding was published in the October 2, 1963, edition of the FEDERAL REGISTER at volume 28, page 10582.

4. The time within which original and reply comments might be filed has expired. The ATA was the only party who filed comments. No reply comments were filed. Except for a suggested minor editorial change, the ATA's comments were in support of the rules changes proposed.

5. This proceeding has related basically to the use of the dual or two-frequency method of mobile radio operation in the Motor Carrier Radio Service; and certain of the "mobile only" frequencies devoted to this method of operation. As originally written, our rules governing the trucking industry's use of the dual-frequency method provided that, five "mobile only" frequencies, specifically 43.86, 43.88, 43.90, 43.92, and 43.94, all megacycles, be used in conjunction with 5 companion or parallel frequencies that are available for base as well as mobile stations assignments.

6. In the petition that provided the basis for this proceeding, the ATA pointed out that the trucking industry has not been employing the dual-frequency method of operation in numbers that had originally been anticipated. Indeed, since 1960, when rules were adopted allowing the dual-frequency method of operation, something on the order of a 20 to 1 ratio between single frequency and dual-frequency systems authorizations has been noted. Less than 7 percent of the total number of licensees in the Motor Carrier Radio Service operate dual-frequency systems.

7. As a result of the trucking industry's non-employment of the dual-frequency method of operation, the 5 "mobile only" frequencies noted above in paragraph 5 are virtually or relatively unused in the Motor Carrier Radio Service. At the same time, other frequencies available to the trucking industry—for single frequency system assignments—have become increasingly crowded as new assignments have been made. In order to effect a broader and better utilization of the 5 subject "mobile only" frequencies, the ATA, in its petition, asked that we eliminate the dual-frequency provisions of our rules and thereby make the subject frequencies available for assignment to base as well as mobile stations in the Motor Carrier Radio Service.

8. In our notice in this proceeding, we proposed that the subject frequencies be made available for base as well as mobile stations assignments; but we did not propose elimination of the dual-frequency method of operation. By so proposing, the substance of the relief requested by the ATA could be accomplished, and, at the same time, those persons eligible in the Motor Carrier Service who have a need for a dual frequency type of operation could retain or obtain it, albeit on a basis of no protection from interference to their mobile units.

9. In view of the information submitted by the ATA, in its petition and comments, the Commission concludes that a more efficient and effective use of the 5 frequencies under consideration may be realized if the rules proposed in this proceeding were adopted.

10. One of the results of our order in this proceeding is the requirement that all dual-frequency systems in the Motor Carrier Radio Service be operated according to the frequency pairing scheme noted at § 93.252(d) (old § 16.252(d)) of the rules. It will be recalled that, prior to the institution of this proceeding, all dual-frequency system licensees in the Motor Carrier Radio Service were to be required to conform their systems to the frequency pairing plan contained in the above referenced section of the rules by November 1st, 1963; but because of the pendency of this proceeding, a general waiver of the November 1st conversion date was granted all nonconforming dual-frequency systems. We noted in the last sentence of paragraph 6 of our notice that "* * * insofar as these nonconforming licensees are concerned, the effect of our waiver is simply to afford them additional time within which to convert to a frequency pair specified in § 16.252(d)." In view of this notice or warning, all nonconforming dual-frequency system licensees, if they desire to continue their dual-frequency operations, must file appropriate license modification requests with the Commission no later than the effective date of the rules amendments ordered in this document.

11. In the light of the foregoing: *It is ordered,* That effective May 4, 1964, Part 93 of the Commission rules is amended as set forth below.

12. Authority for the amendments adopted herein is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

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

Adopted: March 25, 1964.

Released: March 31, 1964.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

In Part 93, Land Transportation Radio Services, § 93.252 of the Motor Carrier Radio Service Rules is revised by amending paragraph (d) to read as follows; and by deleting paragraph (h):

§ 93.252 Frequencies available for base and mobile stations.

* * * * *

(d) The frequencies and frequency pairs set forth in the tables contained in this paragraph are available to the Motor Carrier Radio Service for assignment to Base and Mobile stations of common or contract carriers of property operating between urban areas: *Provided,* That each application for assignment of any of these frequencies shall be accompanied by a statement signed by the applicant in which it is agreed (1) that any authorization for the use of such frequencies will be accepted with the express understanding of the applicant that such frequencies are shared with other licensees and may be subject to interference both local and long range,

[1] Subsequent to the initiation of this proceeding, the subject section was redesignated § 93.252.

[2] Commissioners Henry, Chairman; and Hyde absent.

and (2) that no more than the minimum power or antenna height required for the satisfactory technical operation of the system will be employed, commensurate with the area to be served and the local conditions affecting radio transmission and reception. However, only one of these frequencies or frequency pairs may be assigned to the stations of a licensee operated in a given area except upon a showing satisfactory to the Commission that the assignment of an additional frequency or frequency pair is essential to the operation of the transportation system involved.

SINGLE FREQUENCIES

BASE AND MOBILE

Mc	Mc	Mc	Mc
43.86	44.02	44.18	44.34
[1] 43.88	[1] 44.04	[1] 44.20	[1] 44.36
43.90	44.06	44.22	44.38
[1] 43.92	[1] 44.08	[1] 44.24	[1] 44.40
43.94	44.10	44.26	44.42
[1] 43.96	[1] 44.12	[1] 44.28	[1] 44.44
43.98	44.14	44.30	
[1] 44.00	[1] 44.16	[1] 44.32	

FREQUENCY PAIRS [2]

Base Mc	Mobile Mc
[1] 44.36	43.86
44.38	[1] 43.88
[1] 44.40	43.90
44.42	[1] 43.92
[1] 44.44	43.94

[1] Secondary frequency, see § 93.8

[2] These frequency pairs are available to base and mobile stations for the two frequency method of operation.

[F.R. Doc. 64-3319; Filed, Apr. 3, 1964; 8:49 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 25—DRESSINGS FOR FOODS

Mayonnaise, French Dressing, Salad Dressing; Confirmation of Effective Date of Order Listing Calcium Disodium EDTA and Disodium EDTA as Optional Ingredients

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.90; 29 F.R. 471) notice is given that no objections were filed to the order published in the FEDERAL REGISTER of February 12, 1964 (29 F.R. 2382) amending the standards for mayonnaise, french dressing, and salad dressing by listing calcium disodium EDTA and disodium EDTA as optional flavor-preserving ingredients. Accordingly, the amendments promulgated by that order will become effective April 12, 1964.

Dated: March 31, 1964.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 64-3308; Filed, Apr. 3, 1964; 8:49 a.m.]

PART 29—FRUIT BUTTERS, FRUIT JELLIES, FRUIT PRESERVES, AND RELATED PRODUCTS; DEFINITIONS AND STANDARDS OF IDENTITY

Jellies and Preserves; Order Amending Identity Standards To Permit Certain Antifoaming Agents as Optional Ingredients

In the matter of amending the standards of identity for fruit jellies and fruit preserves to permit the optional addition during processing of specified antifoaming agents:

No comments were received in response to the notice of proposed rulemaking in the above-identified matter published in the FEDERAL REGISTER of February 6, 1964 (29 F.R. 1807). In consideration of the information submitted in the petition, and other relevant information available, it is concluded that it will promote honesty and fair dealing in the interest of consumers to adopt the amendments proposed. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.90; 29 F.R. 471): *It is ordered,* That the standards of identity for fruit jellies (21 CFR 29.2) and fruit preserves (21 CFR 29.3) be amended as indicated below:

1. Section 29.2 is amended by adding a new paragraph (a)(8), as follows:

§ 29.2 Fruit jelly; identity; label statement of optional ingredients.

(a) * * *

(8) The antifoaming agents butter, oleomargarine, lard, corn oil, coconut oil, cottonseed oil, mono- and diglycerides of fat-forming fatty acids, in a quantity not greater than reasonably required to inhibit foaming.

* * * * *

2. Section 29.3 is amended by adding to paragraph (a) a new subparagraph (6), as follows:

§ 29.3 Preserves, jams; identity; label statement of optional ingredients.

(a) * * *

(6) The antifoaming agents butter, oleomargarine, lard, corn oil, coconut oil, cottonseed oil, mono- and diglycerides of fat-forming fatty acids, in a quantity not greater than reasonably required to inhibit foaming.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing, and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

* * * * *

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Secs. 409, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: March 31, 1964.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 64-3309; Filed, Apr. 3, 1964; 8:49 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 33—SPORT FISHING

Santee National Wildlife Refuge, South Carolina; Correction

In F.R. Doc. 64-2391, appearing at page 3307 of the issue for March 12, 1964, § 33.5(c) is corrected as follows:

(c) Daily creel limit: Largemouth black bass, striped bass (rockfish), no more than an aggregate of 10. Not more than 25 game fish other than bass.

WALTER A. GRESH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

[F.R. Doc. 64-3278; Filed, Apr. 3, 1964; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 24]

REIMBURSEMENT OF CHARGES FOR SERVICES AND EXPENSES

Customs Employees

Notice is hereby given pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003), that under the authority of R.S. 161, as amended, 251, sec. 501, 65 Stat. 290, sec. 555, 624, 46 Stat. 743, 759 (5 U.S.C. 22, 140; 19 U.S.C. 66, 1555, 1624), it is proposed to amend § 24.17 (a), (c), and (d) of the Customs Regulations.

Section 24.17 enumerates circumstances where services are performed by customs employees at the request of a party-in-interest. Each of the circumstances, depending on the law or regulation upon which it is based, requires the party-in-interest to reimburse the customs appropriation for the compensation or expenses or both, which is paid to the customs employee.

When any of these enumerated services are performed by a customs employee on a customs overtime assignment (19 U.S.C. 267, 1451), the Bureau of Customs has not charged the party-in-interest for any expense of travel or transportation incurred by the employee. Customs employees have been required to place themselves at such assignments when on a customs overtime basis at their own expense.

It has been determined that in those circumstances described in § 24.17 of the Customs Regulations where authority exists to obtain reimbursement from the party-in-interest for expenses incurred, a customs employee shall be paid for any authorized expenses he incurs and reimbursement shall be obtained from the party-in-interest whether the work is performed during regular hours of duty or on a customs overtime assignment. Accordingly, it is proposed to amend that portion of § 24.17(a) preceding subparagraph (1), and paragraphs (c) and (d), and add new paragraph (e) as tentatively set forth below:

§ 24.17 Other services of officers; reimbursable.

(a) Amounts of compensation and expenses chargeable to parties-in-interest in connection with services rendered by customs officers or employees during regular hours of duty or on customs overtime assignments (19 U.S.C. 267, 1451), under one or more of the following circumstances shall be collected from such parties-in-interest and deposited by collectors of customs as repayments to the appropriation from which paid.

* * * * *

(c) The charge for any service enumerated in this section for which expenses are required to be reimbursed shall include actual transportation expenses of a customs employee within the port limits and any authorized travel expenses of a customs employee, including per diem, when the services are performed outside the port limits irrespective of whether the services are performed during a regular tour of duty or during a customs overtime assignment. No charge shall be made for transportation expenses when a customs employee is reporting to as a first daily assignment, or leaving from as a last daily assignment, a place within or outside the port limits where he is assigned to a regular tour of duty. No charge shall be made for transportation expenses within the port limits or travel expenses, including per diem, outside the port limits in connection with a customs overtime assignment for which reimbursement of expenses is not covered by this section.

(d) The reimbursable charge for regular compensation shall be computed in accordance with § 19.5(b) of this chapter.

(e) The reimbursable charge for customs overtime compensation shall be computed in accordance with § 24.16.

(Secs. 456, 524, 557, 562, 46 Stat. 716, 741, as amended, 744, as amended, 745, as amended, sec. 1, 24 Stat. 79, as amended; 19 U.S.C. 1456, 1524, 1557, 1562, 46 U.S.C. 331, secs. 5, 36 Stat. 901, as amended, secs. 450, 451, 452, 46 Stat. 715, as amended, sec. 6, 49 Stat. 1385, as amended; 19 U.S.C. 261, 267, 1450, 1451, 1452, 46 U.S.C. 382b)

Prior to the issuance of the proposed amendment, consideration will be given to any relevant data, views, or arguments pertaining thereto which are submitted to the Commissioner of Customs, Bureau of Customs, Washington, D.C., 20226, and received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

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

Approved: March 26, 1964.

JAMES A. REED,
Assistant Secretary of the Treasury.

[F.R. Doc. 64-3312; Filed, Apr. 3, 1964; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 81]

POULTRY AND POULTRY PRODUCTS

Proposed Amendments Relating to Inspection

Notice is hereby given that the United States Department of Agriculture is considering amendments to the regulations governing the Inspection of Poultry and Poultry Products (7 CFR Part 81) pursuant to authority contained in the Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.).

Statement of considerations. The proposed changes in the sections concerning application for inspection service, facilities required at processing plants, and ice and water chilling of poultry would be made principally to clarify the regulations and make them more descriptive of the actual requirements of the regulations. Corrections would be made in certain words to make them technically accurate.

Photographs or prints of drawings would be required to show building elevations of new constructions and existing structures having elevations affected by remodeling. This additional requirement would further assure that an approved facility is adequate.

Minimum cooking temperatures would be established for all heat processed poultry rolls in order to provide protection against nonspore forming pathogenic bacteria.

Present regulations provide that small quantities of imported poultry and poultry products entering this country exclusively for the personal use of the consignee are excepted from the requirements of foreign inspection certificates and port of arrival inspection. The proposed amendments would extend this exception to include imported poultry and poultry products used for display or laboratory analysis, clarify the fact such excepted articles may be moved across State lines to the consignee, and specifically limit the excepted importations to quantities of less than ten pounds. Experience has indicated that these changes would be desirable to relieve unnecessary restrictions and that they would assure that the exception does not become a means of evading the usual requirements of the regulations.

The proposed amendments would also specify the average basis weight, moisture absorption and size of giblet wrapping paper.

All persons who desire to submit written data, views or arguments for consideration in connection with the proposed amendments should file them with the Chief, Standarization and Marketing Practices Branch, Poultry Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C., 20250, not later than 15 days following publication of this notice in the FEDERAL REGISTER.

The proposed amendments are as follows:

1. Change §§ 81.14(a) (1), (2) and (5), (b)(2), (c)(13) and (e)(2) to read, respectively:

§ 81.14 Approval of application for inspection.

* * * * *

(a) *Prints of drawings and specifications to be furnished.* (1) Applicants for inspection service may request and obtain information or assistance from

the Inspection Service with respect to the requirements before submitting prints of drawings and specifications.

(2) Four prints of drawings showing the features specified in this section shall be submitted to the Administrator. Photostats of drawings are not acceptable. The drawings and prints shall be legible, made with sharp, clear lines, and properly drawn to scale and shall consist of complete floor plans and a plot plan. Elevations of all sides of all buildings shall be shown on the drawings, or four copies of photographs showing all sides of all buildings shall accompany the original submission. Submissions consisting of more than one sheet shall be bound together at the left margin in sets.

* * * * *

(5) The sheets of paper on which prints of drawings are made shall not exceed a size of 34" x 44". The drawings, other than of the plot plan, shall be made to a scale of ⅛" per foot. The plot plan may be drawn to a scale of not less than 1/32" per foot. The drawings shall indicate the scale used and shall also indicate the floor shown (e.g. basement, first, or second).

(b) *Features required to be shown on floor plan.* * * *

(2) The name of the firm and address of the plant by street and street number, or by other means properly identifying the location of the plant, shall be shown on each drawing the same as shown on the application for service (Form PY 500).

* * * * *

(c) *Specifications.* * * *

(13) Approximate rate of production—for slaughtering and/or eviscerating establishments, indicate hourly rate of slaughter and/or evisceration for each class of poultry, and for other types of establishments, indicate pounds of each class of poultry products processed per hour.

* * * * *

(e) *Changes in drawings.* * * *

(2) Pasters of minor changes which may be affixed to the affected areas on the previously approved drawings in a manner not obscuring essential data. Paster drawings shall be prepared to the same scale and presented on a background similar to that of the originally approved drawing.

* * * * *

2. Change § 81.33(a) to read:

§ 81.33 Rooms and compartments.

* * * * *

(a) *Refuse rooms.* A separate refuse room, or other equally adequate facilities, shall be required in official establishments where accumulations of refuse occur. Refuse rooms shall be entirely separate from other rooms in the establishment, have tight fitting doors, be properly ventilated, and have adequate drainage and cleanup facilities, and the floors and walls to a height of six feet above the floor shall be impervious to moisture, and walls above that height, and ceilings, shall be moisture resistant.

(3) Change §§ 81.35(b) (1), (2) and (3) to read, respectively:

§ 81.35 Draining and plumbing.

* * * * *

(b) *Sewage and plant wastes.* (1) The sewer system shall have adequate slope and capacity to remove readily all waste from the various processing operations and to minimize or, if possible, prevent stoppage and surcharging of the system.

(2) Interceptor traps which are connected with the sewer system shall be suitably located, and not near any edible products department or in any area where products are unloaded from or loaded into vehicles. To facilitate cleaning, such traps shall have inclined bottoms and be provided with suitable covers.

(3) Each floor drain shall be equipped with a deep seal trap, and the plumbing shall be installed so as to prevent sewage from backing up and flooding the floor.

* * * * *

4. In § 81.50 make the following changes:

a. Change § 81.50(b) (3) (ii) to read:

§ 81.50 Temperatures and cooling and freezing procedures.

* * * * *

(b) *Ice and water chilling.* * * *

(3) * * *

(ii) Poultry washing, chilling and draining procedures shall be such as will minimize moisture absorption and retention and result in poultry not absorbing moisture in excess of 12 percent at any time during such procedures. The inspector will make such weight tests as he deems necessary to assure compliance with these requirements.

b. In § 81.50(d), delete the last sentence and substitute in lieu thereof the following:

(d) *Cooling giblets.* * * * When tested in accordance with Technical Association of the Pulp and Paper Industry (T.A.P.P.I.) standard T410, the average basis weight of giblet wrapping material shall be not more than 30 pounds per standard ream (24" x 36"—500 sheets) and the moisture absorption shall not exceed 200 percent of the dry weight. Giblet wrappers shall not exceed the following sizes or equivalents: Chickens and Ducks, 9" x 12"; Turkeys, 12" x 14".

5. Change the center heading preceding § 81.100 to read: "Canning or Cooking Requirements"; and add a new § 81.101 to read:

§ 81.101 Cooking of poultry rolls required.

When poultry rolls are heat processed in any manner, cured and smoked poultry rolls shall reach an internal temperature of at least 155° F. prior to being removed from the cooking media, and all other poultry rolls shall reach an internal temperature of at least 160° F. prior to being removed from the cooking media.

6. Change § 81.311 to read:

§ 81.311 Small importations for consignee's personal use, display, or laboratory analysis.

Any product (other than dressed poultry which is forbidden entry by other Federal law or regulation) which is offered for importation in quantities of less than 10 pounds, exclusively for the personnel use of the consignee, or for display or laboratory analysis by the consignee, and not for sale or distribution; which is sound, healthful, wholesome, and fit for human food; and which is not adulterated and contains no substance not permitted by the Act or regulations in this part, may be admitted into the United States without a foreign inspection certificate, and such product is not required to be inspected upon arrival in the United States and may be shipped to the consignee without further restriction under this part: *Provided*, That the Department may, with respect to any specific importation, require that the consignee certify that such product is exclusively for the personal use of said consignee, or for display or laboratory analysis by said consignee, and not for sale or distribution.

Done at Washington, D.C., this 31st day of March 1964.

G. R. GRANGE,
Deputy Administrator,
Agricultural Marketing Service.

[F.R. Doc. 64-3288; Filed, Apr. 3, 1964; 8:46 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 93 [New]]

[Notice 64-19; Docket No. 4085]

VALPARAISO, FLA., TERMINAL AREA

Proposed Special Air Traffic Rule

The Federal Aviation Agency has under consideration a proposal to amend Part 93 of the Federal Aviation Regulations to require all pilots operating aircraft between Restricted Areas R-2914 and R-2915 in the vicinity of Valparaiso, Florida, to obtain prior authorization from air traffic control for each flight conducted during daylight hours, Monday through Saturday.

Interested persons may participate in the making of the proposed rule by submitting such written information, views, or arguments as they may desire. Communication should be sent in duplicate to the Docket Section of the Federal Aviation Agency, Room A-103, 1711 New York Avenue NW., Washington, D.C., 20553. All communications received on or before June 4, 1964 will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Docket Section for examination by interested persons at any time.

Restricted Areas R-2914 and R-2915 were designated for the use of the Eglin Air Proving Ground Center. They consist of approximately 798 and 358 nautical square miles, respectively, being designated from the surface to flight level 500. They extend offshore into the Gulf of Mexico to the three-mile limit where they are bordered by Warning Area 151. An air corridor approximately 10 miles wide and 26 miles long has been preserved between these restricted areas to

serve primarily as an access route for itinerant civil traffic en route to and from Destin Airport at the coast. There are approximately 50 flights of this type on peak days during the tourist and fishing season from April to November. These operations are expected to increase. Most of the aircraft are radio equipped. Destin Airport recorded 1300 different aircraft landing there in 1962. However, actual operations would be substantially higher since many of these aircraft made several flights and not all of this traffic would use the air corridor to enter the area, some entering via the coastline.

At the present time, there are three areas of conflict between the military operations and the VFR nonparticipating traffic in the Valparaiso terminal area. The first of these involves military jet flights which are made during the daylight hours, Monday through Saturday. They originate in R–2914, cross the corridor, and terminate at a highly instrumented range in R–2915. Approximately 65 of these flights are made each day. Any altitude from 500 feet to 50,000 feet may be used, but the majority are conducted below 5,000 feet and most of these are below 3,000 feet. The flights are made at supersonic or high subsonic speeds under conditions which prevent the pilot from observing other traffic. A chase plane is employed and a NOTAM is published in the Airman's Guide, advising all pilots of these tests and urging them to contact the Crestview Flight Service Station for specific information. Relocation of the range would cost an estimated $2,000,000 and create a delay which is unacceptable to the Proving Ground Center.

The high speed operations across the corridor are made at a relatively constant altitude and require a 2,000 foot strata, 1,000 feet above and below the test aircraft. The minimum weather conditions required are a 3,500 foot ceiling and visibility of five miles. The Air Force has expressed a doubt regarding the ability of the pilots of these flights to effectively see and avoid nonparticipating VFR traffic because of the speeds involved and the time interval required between a chase pilot's warning and the test pilot's evasive maneuver.

The second area of conflict involves monthly tactical exercises utilizing up to 200 military aircraft during a three to five day period. Some of these operations will be conducted at high speeds, involve several aircraft and cross the air corridor at random locations. Because of the possible high speeds and traffic density attendant with this aerial operation, it is necessary to take into account these operations in such manner as to assure the highest degree of safety by segregating such activity from nonparticipating VFR traffic.

A control zone has been designated for Eglin Air Force Base within the air corridor. The corridor also contains transition areas with floors of 700 and 1,200 feet. The only uncontrolled airspace within the corridor is that below the floors of the transition areas. Consequently, the traffic conflict between the military aircraft crossing the corridor and other traffic employing the corridor as an access route exists, as a practical matter, only for VFR traffic.

The third area of conflict involves the military firing of rockets from launch sites on Santa Rosa Island within Restricted Area R–2915. These rockets frequently cross controlled airspace south of the shore line over the Gulf of Mexico. Launchings have been safely conducted up to the present time by use of controlled firing. However, a military need now exists to avoid the delays required by this method when nonparticipating aircraft enter the area. There have been 15 such delays in the approximately 400 firings conducted in the past four years. While the rockets may be fired day or night, regardless of weather conditions, separation is already provided for IFR traffic in the area and the protection which this rule would provide for VFR traffic should adequately satisfy the military need in view of the number of delays to date and the smaller amount of civil air traffic at night.

The regulation under consideration here would be applicable only to operations in the air corridor between Restricted Areas R–2914 and R–2915. The required air traffic control approval could be obtained by contacting Eglin Approach Control, Eglin Tower, or the Crestview Flight Service Station. The provisions of such approval will be in accordance with terms and procedures specified by the Air Route Traffic Control Center having jurisdiction in this area. Pilots of aircraft without two-way radios could receive the approval by telephone or in person. Pilots could expect expeditious approval of their requests together with information, where appropriate, as to the altitudes or area which they must avoid. While separation would not be provided between nonparticipating VRF aircraft, traffic advisories would be issued whenever controller workload permitted.

Adoption of this proposal would initiate a new concept in air traffic control. It might represent a more efficient method of utilization of airspace in which a hazard possibly exists for certain types of aircraft operations. If adopted, therefore, the operation and effect of this rule would be carefully studied.

In consideration of the foregoing, it is proposed to amend Part 93, Federal Aviation Regulations, by adding a new subpart to read as follows:

Subpart F—Valparaiso, Florida, Terminal Area

§ 93.81 Applicability.

This subpart applies to aircraft operated between sunrise and sunset, Monday through Saturday, in the airspace extending upward from the suface to the base of the overlying positive control airspace, bounded by a line beginning at latitude 30°42′50″ N., longitude 86°38′-02″ W.; thence to latitude 30°43′10″ N., longitude 86°27′37″ W.; thence along the western boundary of R–2914 to latitude 30°19′45″ N., longitude 86°23′45″ W.; thence three nautical miles from and parallel to the shoreline to latitude 30°-20′50″ N., longitude 86°38′50″ W.; thence along the eastern boundary of R–2915 to the point of beginning.

§ 93.83 Aircraft operations.

No person may operate an aircraft in flight in the area described in § 93.81 of this subpart except as authorized by an air traffic clearance or in acccordance with a specific authorization from air traffic control.

This amendment is proposed under the authority of section 307 of the Federal Aviation Act, 49 U.S.C. 1348.

Issued in Washington, D.C., on March 30, 1964.

CLIFFORD P. BURTON,
Acting Director,
Air Traffic Service.

[F.R. Doc. 64–3275; Filed, Apr. 3, 1964; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 15396; FCC 64–258]

FRAUDULENT BILLING PRACTICES OF STANDARD, FM AND TELEVISION BROADCAST STATIONS

Notice of Proposed Rule Making

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

2. The Commission has received complaints that some broadcast stations have been engaging in the practice of "double billing", i.e., submitting to a local advertiser two bills, one in the amount agreed upon for advertising material broadcast, the other in a larger amount to be submitted by the local advertiser to a manufacturer or national advertiser to support a claim for reimbursement pursuant to a cooperative advertising agreement. The issuance of the second false bill is part of a scheme to defraud the manufacturer or national advertiser. Therefore, in a public notice entitled "Broadcast Licensees Warned Against Engaging in Double Billing" released on March 7, 1962 (FCC 62–272), the Commission announced that it regarded the practice of double billing as contrary to the public interest and that appropriate proceedings would be instituted in cases where evidence of double billing by licensees is found to exist.

3. The essence of the fraudulent practice commonly called double billing is the existence of a scheme to defraud a manufacturer, his distributor, jobber or advertising agent or any other party, by deceiving him as to the amount actually charged by a broadcaster for the cooperatively sponsored advertising for which the manufacturer makes part payment. The same principle applies when a broadcaster engages in a scheme to permit an advertising agency to mislead its clients as to the amount charged by the station for advertising and thereby to induce them to reimburse the advertising agency upon the basis of a fictitious advertising rate.

4. In spite of the public notice, it appears that certain licensees are persisting in the practice of fraudulent billing.

The Commission is therefore proposing rules as set forth below to regulate such practices. The Commission proposes to add new §§ 73.124, 73.299, and 73.678 to the rules. In our judgment, the proposed rules are appropriate and necessary means to carry out our functions under the public interest standard of the Communications Act.

5. The Commission proposes also to set forth and issue its interpretations in an Appendix A to Part 73 titled "Applicability of Fraudulent Billing Rule", as shown below. We also invite comments upon our interpretations at this time.

6. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested persons may file comments on or before May 4, 1964, and reply comments on or before May 19, 1964. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

7. Authority for the amendments proposed herein is contained in sections 4(i) and 307 of the Communications Act of 1934, as amended.

8. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Attention is directed to the provisions of paragraph (c) of § 1.419 which requires that any person desiring to file identical documents in more than one docketed rule making proceeding shall furnish the Commission two additional copies of any such document for each additional docket unless the proceedings have been consolidated.

Adopted: March 25, 1964.

Released: March 31, 1964.

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

1. Sections 73.124, 73.299 and 73.678 are added to read as follows:

§ 73.124 Fraudulent billing practices.

(a) No licensee of a standard broadcast station shall knowingly issue to any local, regional or national advertiser, advertising agency, station representative, manufacturer, distributor, jobber or any other party, any bill, invoice, affidavit or other document which falsely states the amount actually charged by the licensee for the broadcast advertising for which the bill issued or which misrepresents the nature or content of such advertising.

NOTE: Commission interpretations in connection with this rule may be found in Appendix A to this Part 73, entitled "Applicability of Fraudulent Billing Rule" and such supplements thereto as are issued from time to time.

§ 73.299 Fraudulent billing practices.

(a) No licensee of an FM broadcast station shall knowingly issue to any local, regional or national advertiser, advertising agency, station representative, manufacturer, distributor, jobber or any other party, any bill, invoice, affidavit or other document which falsely states the amount actually charged by the licensee for the broadcast advertising for which the bill is issued or which misrepresents the nature or content of such advertising.

NOTE: Commission interpretations in connection with this rule may be found in Appendix A to this Part 73, entitled "Applicability of Fraudulent Billing Rule" and such supplements thereto as are issued from time to time.

§ 73.678 Fraudulent billing practices.

(a) No licensee of a television broadcast station shall knowingly issue to any local, regional or national advertiser, advertising agency, station representative, manufacturer, distributor, jobber or any other party, any bill, invoice, affidavit or other document which falsely states the amount actually charged by the licensee for the broadcast advertising for which the bill is issued or which misrepresents the nature or content of such advertising.

NOTE: Commission interpretations in connection with this rule may be found in Appendix A to this Part 73, entitled "Applicability of Fraudulent Billing Rule" and such supplements thereto as are issued from time to time.

2. An Appendix A is added to Part 73, reading as follows:

APPENDIX A—APPLICABILITY OF FRAUDULENT BILLING RULE

Interpretations of fraudulent billing practices. The fraudulent billing practices prohibited by §§ 73.124, 73.299 and 73.678 of the Commission's rules and regulations include all practices commonly referred to as "double billing." Most "double billing" as practiced in the past has been designed to deceive and defraud manufacturers into paying a larger share of a local dealer's cooperative advertising expenditure than was stipulated in their agreements with such local dealers. However, there may have been other cases in which the manufacturers reimbursed a dealer on the basis of a bill for cooperative advertising which the manufacturer knew to be inflated or fictitious, because the manufacturer wished to use this scheme to violate section 13a of the Robinson-Patman Antidiscrimination Act (15 U.S.C. 13a) which Act makes it unlawful for a manufacturer or distributor engaged in commerce to give discriminatory discounts, rebates or advertising allowances to its dealers. Any information coming to the Commission's attention indicating possible violations of the Robinson-Patman Act will be considered by this Commission and referred to the Federal Trade Commission for appropriate action by that agency. As previously stated by this Commission, participation by a licensee in a scheme to violate a federal statute reflects seriously upon his qualifications.

Since fraudulent billing practices may take many forms, the following list of examples should not be considered as all-inclusive. It is provided merely to supply illustrations of certain fraudulent practices with which the Commission already is familiar. It should be remembered that the essential element in "double billing" is the deception of any party contributing to the payment of broadcast advertising as to the amount actually charged by licensee for such advertising or as to the nature or content of such advertising.

Examples. 1. A station or an employee thereof issues a bill or invoice to a local dealer for 50 commercial spots at a rate of $5.00 each for a total of $250. In connection with the same 50 commercial spots, the station also supplies the local dealer or an advertising agency, jobber, distributor or manufacturer of products sold by the local dealer, another affidavit, memorandum, bill or invoice which indicates that the amount charged the local dealer for the 50 spots was greater than $5.00 per spot.

Interpretation. This is fraudulent billing, since it tends to deceive the manufacturer, jobber, distributor or advertising agency to which the inflated bill eventually is sent, as to the amount actually charged and received by the station for the advertising.

2. A station or employee thereof issues a bill or invoice to a local dealer for 50 commercial spots at $5.00 each and the bill, invoice or accompanying affidavit indicates that the 50 spots were broadcast on behalf of certain cooperatively advertised products, whereas some of the spots did not advertise the specified products, but were used by the local dealer solely to advertise his store or other products for which cooperative sponsorship could not be obtained.

Interpretation. This is fraudulent billing, even though the station actually receives $5.00 each for the 50 spots, because, by falsely representing that the spots advertised certain products, the licensee has enabled the local dealer to obtain reimbursement from the manufacturer, distributor, jobber or advertising agency for advertising on behalf of its products which was not actually broadcast.

3. A licensee sends, or permit its employees to send, blank bills or invoices bearing the name of licensee or his call letters to a local dealer or other party.

Interpretation. A presumption exists that licensee is tacitly participating in a fraudulent scheme whereby a local dealer, advertising agency or other party is enabled to deceive a third party as to the rate actually charged by licensee for advertising, and thereby to collect reimbursement for such advertising in an amount greater than that specified by the agreement between the third party and the local dealer. It is the licensee's responsibility to maintain control over the issuance of bills and invoices in the licensee's name, to make sure that fraud is not practiced by means thereof.

4. A licensee submits bills or invoices to an advertising agency, station representative, or other party indicating that licensee's rate per spot is $50.00, whereas the licensee actually receives only $5.00 or $10.00 per spot in actual payment from the agency, representative or other party. Licensee claims that the remaining 80 or 90 per cent of its original invoice has been deducted by the agency as "commission" and therefore no "double billing" is involved.

Interpretation. This is fraudulent billing. The agency discount does not customarily exceed 15 per cent and the supplying of bills and invoices by the licensee to agencies which indicate that the licensee is charging several times as much for advertising as he actually receives constitutes participation in a fraudulent scheme.

5. A licensee submits a bill or invoice to a local dealer or other party for 50 commercial spots at $5.00 each for a total of $250. However, the bottom of the bill or invoice carries an addendum, so placed that it may be cut off of the bill or invoice without leaving any indication that the invoice originally carried such an addendum. The addendum specifies a "discount" to the advertiser based on volume, frequency or other consideration, so that the amount actually billed at the bottom of the page is less than $5.00 for each spot.

Interpretation. The preparation of bills or invoices in a manner which seems designed primarily to enable the dealer to deceive a cooperative advertiser as to the amount actually charged for cooperative ad-

[1] Commissioner Hyde absent.

vertising raises a presumption that the licensee is participating in a "double billing" scheme.

6. A licensee submits a bill or invoice to a local dealer for 50 spots involving cooperative advertising of a certain product or products at a rate of $5.00 each, and actually collects this amount from the dealer. However, as a "bonus" the licensee "gives" the dealer 50 additional spots in which the product or products named on the original invoice are not advertised, so that the dealer actually obtains the benefit of 100 spots in return for payment to the station of the $250 billed for the 50 cooperative spots.

Interpretation. If the 50 "bonus" spots were broadcast as the result of any agreement or understanding, express or implied, that the dealer would receive such additional advertising in return for contracting for the first 50 spots at $5.00 each, the so-called "bonus" spots were in fact a part of the same deal, and the licensee, by his actions, is participating in a scheme to deceive and defraud a manufacturer, jobber, distributor or advertising agency.

7. A local appliance dealer agrees to purchase 1,000 spots per year from a station and thereby earns a discount which reduces his rate per spot from $10.00 to $5.00. During the course of the year, the dealer purchases 100 spots from the station which advertise both the dealer and "Appliance A" and for which the dealer pays $5.00 per spot. Since the station's rate per spot for 100 spots is $10, the dealer asks the station to supply him with an invoice for the 100 spots on behalf of "Appliance A" at $10 per spot, claiming that if the manufacturer of the appliance had purchased the 100 spots, or if the dealer himself had purchased only these 100 spots within the course of a year, the $10 rate would apply, and that, therefore, the manufacturer should be required to reimburse the dealer at the $10 rate.

Interpretation. This practice constitutes fraudulent billing unless the dealer can provide satisfactory evidence that the manufacturer of "Appliance A" is aware that the dealer actually paid only $5.00 per spot because of the volume discount. If the dealer can persuade the manufacturer to alter their agreement so that manufacturer's contribution to the dealer's cooperative advertising is based upon a higher rate than the dealer actually pays, then there is no fraud upon the manufacturer. (But see Examples 8 and 9 for possible violation of statute.) Absent evidence of such an agreement, licensee is engaging in "double billing" when he issues a bill for the higher amount.

8. A licensee issues a bill or invoice to a dealer for commercial spots which were never broadcast.

Interpretation. This practice, prima facia, involves fraud, either against the dealer or against a third party which the dealer expects to provide partial reimbursement for the non-existent advertising. Moreover, even if the dealer and the manufacturer or his jobber, distributor or agent know that the advertising so billed never was broadcast, a strong presumption exists that the dealer and the manufacturer intend to use the fictitious invoice for the purpose of violating Section f3a of the Robinson-Patman Antidiscrimination Act, which makes it unlawful for a manufacturer to give discriminatory discounts, rebates or advertising allowances to its dealers. Therefore, the licensee, by participating in such a scheme may be presumed either to be engaging in fraudulent practices or to be conspiring with others to violate a Federal law. A licensee's participation in such a scheme will raise serious questions as to his qualifications.

9. The facts are the same as in Examples 1 through 7, except that the dealer furnished the licensee with conclusive evidence that the manufacturer or his distributor, jobber or agent is aware that "double billing" is being practiced, and still is willing to pay its part of the inflated bill for cooperative advertising.

Interpretation. No fraud against the manufacturer, distributor, jobber or agent exists under such circumstances, but there is a strong presumption that the dealer and manufacturer are conspiring to violate section 13a of the Robinson-Patman Antidiscrimination Act. (See Example 8 above.)

[F.R. Doc. 64-3320; Filed, Apr. 3, 1964; 8:51 a.m.]

[47 CFR Parts 89, 91, 93]

[Docket No. 15399; FCC 64-267]

SECONDARY FREQUENCY ASSIGNMENTS IN CALIFORNIA

Notice of Proposed Rule Making

In the matter of temporarily amending Parts 89, 91 and 93 of the Commission's rules and regulations to test the principle of secondary frequency assignments in the State of California.

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

2. As one means of relieving the problem of frequency congestion now existing in certain of the land mobile services, the Commission proposes to test the secondary assignment concept in the State of California. This proposal involves the sharing of uncongested land mobile frequencies by services other than those to which the frequencies are allocated. With the exceptions noted below, all licensees operating under Parts 89, 91 and 93 of the rules and regulations would be invited to participate in the experiment. In the larger metropolitan areas of California, the Business and Taxicab Radio Services are heavily congested. They have few (if any) frequencies which might be used on a secondary basis by licensees in other services. In our judgment, their participation would unbalance the experiment and inhibit the development of the information which is needed with respect to the problems involved in interservice sharing of secondary frequencies among the many other diverse radio services. It is doubtful, moreover, whether the frequency difficulties of these services could be alleviated materially in California in the context of this experiment. Thus, although data derived from the experiment may well provide a basis for providing relief to these services through the medium of secondary assignments, they would be excluded from participation in the experiment itself. Under the proposal, the State Guard, Special Emergency and Relay Press Radio Services would also be excluded from participation. These services lack organized frequency advisory committees; State Guard and Relay Press have no frequencies allocated in the bands under study; and the few frequencies available to Special Emergency would contribute little to the program since, in general, its frequencies in the range 150.8–162 Mc/s are 15 kc/s tertiary frequencies.

3. The objective of the test proposed herein is to determine the effect, both in terms of relief attainable and of administrative workload encountered, which this approach will have on improving frequency utilization in the land mobile radio services. The State of California has been proposed as the limited test area for the following reasons:

(a) The various metropolitan areas of California currently experience varying degrees of congestion believed to be representative of similar situations elsewhere in the nation; and

(b) The extent of land mobile frequency usage in adjacent states is such that border problems during the test period are expected to be minimal.

4. It is proposed to grant a total of no more than 500 authorizations for secondary frequency assignments in order to keep the test within administratively manageable limits. This is necessary because substantially greater manpower is expected to be required per application, including time and attention by members of the Commission's limited professional staff and by the applicant and/or his representatives.

5. A proposed condition for obtaining a secondary frequency assignment is that the applicant not only be in possession of a valid primary assignment on a frequency allocated to the service in which he is eligible, but that the applicant must certify to having operated for a minimum period of ninety days in the proposed area of operation on the primary assignment and to having obtained unsatisfactory performance from the system due to frequency congestion. A further proposed condition is that the applicant retain the capability for reverting to operation on his primary assignment in not more than fifteen days after receipt of notice from the Commission to vacate the secondary assignment. This will require retention of a complete set of crystals by the licensee for his primary frequency assignment and will require that both the primary and secondary frequencies be within the tuning range of his equipment. The reason for these proposed conditions is that the Commission believes it to be unwise to "lend" a frequency from one service to another without establishing the strongest of safeguards to assure its prompt return should it be required by a prospective licensee in the service to which it is allocated on a primary basis. New stations added to an existing system operating under the secondary concept will be required to meet all criteria except the 90-day use of the licensee's primary frequency.

6. The holder of a secondary frequency assignment would have no rights to a frequency as against primary users—present or prospective. Neither would the secondary frequency licensee possess any rights against another secondary frequency licensee. In view of this, and noting the prevalence of long-distance interference by way of ionospheric reflection during portions of the eleven year solar cycle, land mobile service frequencies in the range 25–50 Mc/s are not proposed for inclusion in the experiment. Further, because the State Guard, Special Emergency, Business, Relay Press and Taxicab Radio Services are being excluded from participation in the test, frequencies allocated to those services are not available for secondary assignment to other services.

7. It is proposed that each licensee taking a secondary assignment be assured of five years of operation on the frequency, subject to normal legal constraints associated with licensing procedures, unless interference is caused to or the frequency is required by a primary user, regardless of whether the experiment which is the subject of this proposal is abandoned, modified or continued without change after evaluation of experience gained with the maximum of 500 authorizations involved in the proposed experiment.

8. Fundamental to the proposal is the establishment of a policy to determine when a frequency is, in fact, available for secondary assignment in a particular area. The Commission believes a conservative policy should be adopted during at least the initial phases of the test period. Accordingly, it is proposed that each prospective applicant for a secondary frequency assignment must either: (1) Submit a statement obtained from the area frequency advisory committee(s) for the primary service(s) certifying that there is no objection to the proposed secondary assignment, or (2) submit a statement that the separation between any co-channel primary base station or a fixed station assigned to a primary user and the proposed secondary base station exceeds 125 miles.[1] In the case of the 150.8–162 Mc/s band, the applicant should also submit a statement that there are no primary assignments within 15 kc/s of the requested frequency within a radius of 25 miles from the proposed base station location. Before approaching an advisory committee, a prospective applicant for the secondary assignment should have made a preliminary study to determine the potential availability of the assignment. No frequency advisory committee should be asked to find a secondary frequency. In making such assignments, it is further proposed that no fixed relay, repeater, or control station (other than control stations which are a part of a mobile relay system) will be permitted on secondary frequency assignments.

9. A related matter on which comment is desired is whether a prospective applicant for a secondary assignment should be required to confirm his frequency selection by actual monitoring to verify that the channel is in fact clear of primary users. If so, how much monitoring should be required, and under what controlled conditions, if any? Another issue on which comment is desired is whether a secondary assignment in the band 150.8–162 Mc/s should be granted an applicant if there are frequencies unused and available to the applicant on a primary basis in the 450–470 Mc/s band.

10. Also to be established in this proceeding are the criteria to be followed by the Commission in withdrawing a secondary assignment from a particular licensee. (In the attached proposed rules, this subject has not been treated pending receipt of comments in this proceeding.) Although secondary operating authority will be withdrawn during the five year term of the experimental plan should the Commission determine that harmful interference is being caused by a secondary licensee to a primary licensee, the Commission cannot undertake to conduct formal proceedings whenever a dispute arises between the parties over the existence of harmful interference. If a hearing were to be required in such circumstances, the provisional plan could not, and would not, be undertaken. Consequently, it is proposed that secondary licenses will be issued subject to the condition that the secondary licensee waives any right to a formal hearing to which he might otherwise be entitled. Such a condition is similar to §§ 89.213, 91.207 and 93.207 of the Commission's rules. Secondary licenses would be issued under section 303(g) of the Communications Act of 1934, as amended, for a period not to exceed five years, subject to prior termination upon notice by the Commission that harmful interference is being caused, or that the primary service has a requirement for the frequency within interference range of the secondary user. It is also proposed that the holder of a secondary frequency assignment who has been directed by the Commission to discontinue operation on the secondary frequency within fifteen days, and fails to do so for any reason, will not be permitted to hold a substitute secondary assignment.

11. Operational conditions which apply to the primary service will also apply to the user of the secondary assignment unless the secondary user's service rules are more restrictive. In that case, the latter rules will apply. Further, because of the nature of the experiment, upon activation of the secondary assignment, the licensee will not be permitted to use his primary frequency until (a) he voluntarily relinquishes his secondary assignment or (b) he is directed by the Commission to discontinue operation on the secondary frequency.

12. It is also proposed that secondary assignments on a particular frequency would not be made as a matter of right. There may be circumstances involving particular frequencies which make them unsuitable for secondary use, at least during the test period, even though the frequency is temporarily unused in the local area concerned. The purpose of withholding assignment would be to avoid what appears to the Commission to be short-term availability. This is intended to avoid unnecessary expense by the secondary user. An example might be representations by a primary user of the frequency elsewhere that his operations shortly will be extended into the area involved.

13. In the 150.8–162 Mc/s band, it is proposed that no secondary assignments will be made for operation on the 15 kc/s tertiary frequencies. The reasons for this prohibition are the variation in base station separation criteria between the rule parts involved, the fact that such tertiary frequencies are not general throughout the land mobile radio service and to facilitate administrative handling of the applications. Within the 450–470 Mc/s band, the matter of tertiary frequencies does not arise.

14. If the Commission decides to proceed with the secondary assignment experiment in California after reviewing the comments which may be filed, it is proposed that the application stage of the experiment be continued for a maximum period of two years, noting that if 500 authorizations have been made prior to that time, additional applications will not be accepted. If evaluation of the test results is favorable, the secondary assignment principle may be extended both nationally and to other segments of the land mobile service. There also exists the future possibility of borrowing frequencies from services other than land mobile if the Commission's licensees demonstrate good faith and cooperation in relinquishing a borrowed frequency promptly when it is needed by the primary user. However, the secondary assignment technique is not proposed as a substitute for periodic modification of the Table of Frequency Allocations (nationally, regionally or locally), but is intended to be complementary to outright changes in the allocation pattern.

15. The text of the proposed rule changes is reflected below. It should also be noted that, although the Commission is excluding the State Guard, Special Emergency, Business, Relay Press and Taxicab Services from participation in the trial of the secondary assignment principle, it is recognized that the test will not be complete until those services are included. At this time, however, the Commission prefers to take a cautious approach. It must be abundantly clear that the success or failure of this proposal depends almost entirely on the cooperative attitude of the licensees concerned. As an adjunct to the program, in order to provide as much assistance as possible, the Commission will prepare and make available to the frequency advisory committees copies of the Commission's frequency listings in the 150.8–162 and 450–470 Mc/s bands in the State of California.

16. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's rules, interested persons may file comments on or before June 1, 1964, and reply comments on or before June 11, 1964. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

17. Authority for the proposals set forth herein is contained in sections 303 (a), (c), and (g) of the Communications Act of 1934, as amended.

18. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements,

[1] In proposing the 125 mile separation criterion, it should be made clear that such a standard is not binding upon the frequency advisory committees, which may employ smaller or greater separation distances on a case-by-case basis, as appropriate, to preclude interference to a primary licensee.

briefs or comments filed shall be furnished the Commission.

Adopted: March 26, 1964.

Released: March 27, 1964.

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

1. Part 89 is amended by adding a new Subpart D in proper sequence to read as follows:

Subpart D—Secondary Frequency Assignment

Sec.
89.221 Purpose.
89.223 Scope.
89.225 Frequency selection and assignment.
89.227 Operating limitations.
89.229 Preparation and filing of applications.
89.231 Secondary licenses.

Subpart D—Secondary Frequency Assignments

§ 89.221 Purpose.

The purpose of this subpart is to establish the procedures and conditions for a limited trial of the practicability of making secondary frequency assignments in the land mobile services. The objective is to determine whether the secondary assignment principle can be used successfully as a device for obtaining greater efficiency of frequency utilization. It is intended for application only in cases where all frequencies normally available for assignment to an applicant already are used in the area and band concerned, and where the applicant is prepared to pay the extra costs to obtain at least temporary use of a more satisfactory channel. In conducting the trial, the Commission will grant a total of no more than 500 authorizations in this part and in Parts 91 and 93 of this chapter combined. Applications for secondary frequency assignments will be accepted until _____ unless 500 secondary assignments have been made prior to that date, in which case no further applications will be accepted for filing.

§ 89.223 Scope.

(a) This subpart is applicable only to certain land mobile service radio operations now located, or to be located, wholly within the State of California.

(b) Persons eligible to operate in the Local Government, Police, Fire, Highway Maintenance, and Forestry-Conservation Radio Services are eligible to file for secondary frequency assignments pursuant to the provisions of this subpart.

(c) Any assignable frequency in the bands 150.8–162 Mc/s and 450–470 Mc/s which presently is allocated to the Public Safety, Industrial, or Land Transportation Radio Services on a primary basis may be requested as a secondary assignment, except for those frequencies allocated to the State Guard, Special Emergency, Business, Relay Press, and Taxicab Radio Services; except for the 15 kc/s tertiary frequencies in the 150.8–162 Mc/s band; and except for those frequencies designated for itinerant use only.

[1] Commissioner Hyde absent.

§ 89.225 Frequency selection and assignments.

(a) The applicant for a secondary assignment must submit a statement that all assignable frequencies in his own service and in the band concerned (except tertiaries) are already assigned and in use within 75 miles of his base station location. Further, the applicant must have a valid primary assignment on which he has operated for a minimum period of 90 days, and he must state that operation on his primary assignment has been unsatisfactory because of frequency congestion. (This requirement does not apply to the addition of stations to a system previously authorized on a secondary basis. See § 89.229 (c).) The secondary frequency selected must be within tuning range of the applicant's primary frequency.

(b) To minimize the possibility of harmful interference, the applicant for a secondary assignment must submit one of the following:

(1) A statement from the area frequency advisory committee(s) for the radio service(s) to which the frequency is allocated on a primary basis interposing no objection to the proposed secondary assignment; or

(2) His own statement that no co-channel base or fixed station assignments to a primary service licensee exist within 125 miles of the secondary base station location and, in the case of the 150.8–162 Mc/s band, that no primary assignments exist within 15 kc/s of the requested frequency within a radius of 25 miles from the secondary base station location.

(c) A prospective applicant for a secondary assignment should not communicate with the area frequency advisory committee until he has made his own frequency search and has good reason to believe he has found an available frequency.

(d) In the 150.8–162 Mc/s band, only one secondary frequency assignment per system will be made per applicant per area during the trial period.

(e) In the 450–470 Mc/s band, not more than two secondary frequency assignments will be permitted, in order to allow mobile relay or duplex operation.

(f) Secondary assignment will not be made to base stations authorized for operation at temporary locations, to mobile stations not associated with one or more base stations, or to fixed relay, repeater, or control stations (except control stations which are part of a mobile relay system operation in the 450–470 Mc/s band).

(g) In California there are a number of assignments to stations in the fixed service in the bands 150.8–162 Mc/s and 450–470 Mc/s. By rule, such fixed relay, repeater, and control stations are assigned on the basis of noninterference to the land mobile service. However, for the purpose of this experiment, persons seeking a secondary assignment in the land mobile service shall regard these fixed station assignments as though they have primary status.

(h) Applications for a secondary frequency assignment will not be granted, despite compliance with the provisions of paragraphs (a) to (g) of this section, if, in the judgment of the Commission, denial is warranted. Further, applications for secondary assignments will be accepted for filing with the understanding that, should the application be denied, the applicant waives any right to a formal hearing to which he might otherwise be entitled.

§ 89.227 Operating limitations.

(a) Upon activation of his secondary assignment, the licensee will not be permitted to use his primary frequency until:

(1) He voluntarily relinquishes his secondary assignment; or

(2) He is directed by the Commission to discontinue operation on his secondary frequency.

(b) Operational conditions which apply to the service to which the secondary frequency is allocated on a primary basis will apply to the secondary user unless the operational conditions of his own service are more restrictive, in which case the latter will apply.

(c) A licensee of a secondary frequency must, at all times during the term of the authorization:

(1) Be capable of reverting to his primary assignment within 15 days after receipt of written notice from the Commission, and

(2) Retain a complete set of crystals for his primary frequency assignment, and

(3) Utilize equipment with a tuning range encompassing his primary and secondary frequency assignments.

(d) Every application for a secondary assignment shall be accompanied by a statement signed by the applicant in which he agrees that any authorization issued pursuant thereto will be accepted with the express understanding of the applicant that it is subject to change in any of its terms, or to cancellation in its entirety at any time, upon reasonable notice, but without a hearing, if, in the judgment of the Commission, circumstances should so require.

§ 89.229 Preparation and filing of applications.

(a) All applications for a secondary frequency assignment shall be prepared and submitted on FCC Form _____, Application for Secondary Frequency Assignment.

(b) Licensees wishing to request a secondary frequency assignment shall complete and submit a copy of FCC Form _____, for each base and/or mobile station already licensed in the system for operation on a primary frequency for which a secondary assignment is desired.

(c) Applications for new stations to be added to an existing system operating under the secondary concept shall be filed on FCC Form 400 in accordance with Subpart A of this part. FCC Form _____, specifying the desired secondary frequency, should be filed as a supplement to each FCC Form 400.

§ 89.231 Secondary licenses.

(a) A license to operate on a secondary frequency under the experimental program provided for in this subpart will be issued to run concurrently with the primary authorization and may be renewed simultaneously with the primary

assignment. However, a secondary frequency assignment will not be made for a total period in excess of five years.

(b) An authorization to use a secondary frequency will be issued subject to the following conditions:

(1) The licensee will cease operation on the secondary assignment within 15 days after being directed to do so by the Commission.

(2) The secondary authorization will expire simultaneously with the expiration of the primary assignment.

(3) The secondary license may be withdrawn, modified, or suspended by the Commission upon reasonable notice, and without a hearing, if, in the judgment of the Commission, such action should be required.

(c) No subsequent secondary frequency assignment will be granted to a licensee who has previously held such an assignment and failed to cease operation within 15 days after having been notified by the Commission to do so.

2. Part 91 is amended by adding a new Subpart N in proper sequence to read as follows:

Subpart N—Secondary Frequency Assignments

Sec.
91.651 Purpose.
91.652 Scope.
91.653 Frequency selection and assignments.
91.654 Operating limitations.
91.655 Preparation and filing of applications.
91.656 Secondary licenses.

Subpart N—Secondary Frequency Assignments

§ 91.651 Purpose.

The purpose of this subpart is to establish the procedures and conditions for a limited trial of the practicability of making secondary frequency assignments in the land mobile services. The objective is to determine whether the secondary assignment principle can be used successfully as a device for obtaining greater efficiency of frequency utilization. It is intended for application only in cases where all frequencies normally available for assignment to an applicant already are used in the area and band concerned, and where the applicant is prepared to pay the extra costs to obtain at least temporary use of a more satisfactory channel. In conducting the trial, the Commission will grant a total of no more than 500 authorizations in this Part and in Parts 89 and 93 of this chapter combined. Applications for secondary frequency assignments will be accepted until _____ unless 500 secondary assignments have been made prior to that date, in which case no further applications will be accepted for filing.

§ 91.652 Scope.

(a) This subpart is applicable only to certain land mobile service radio operations now located, or to be located, wholly within the State of California.

(b) Persons eligible to operate in the Power, Petroleum, Forest Products, Motion Picture, Special Industrial, Manufacturers and Telephone Maintenance Radio Services are eligible to file for secondary frequency assignments pursuant to the provisions of this subpart.

(c) Any assignable frequency in the bands 150.8–162 Mc/s and 450–470 Mc/s which presently is allocated to the Public Safety, Industrial, or Land Transportation Radio Services on a primary basis may be requested as a secondary assignment, except for those frequencies allocated to the State Guard, Special Emergency, Business, Relay Press, and Taxicab Radio Services; except for the 15 kc/s tertiary frequencies in the 150.8–162 Mc/s band; and except for those frequencies designated for itinerant use only.

§ 91.653 Frequency Selection and Assignments.

(a) The applicant for a secondary assignment must submit a statement that all assignable frequencies in his own service and in the band concerned (except tertiaries) are already assigned and in use with 75 miles of his base station location. Further, the applicant must have a valid primary assignment on which he has operated for a minimum period of 90 days, and he must state that operation on his primary assignment has been unsatisfactory because of frequency congestion. (This requirement does not apply to the addition of stations to a system previously authorized on a secondary basis. See § 91.655(c).) The secondary frequency selected must be within tuning range of the applicant's primary frequency.

(b) To minimize the possibility of harmful interference, the applicant for a secondary assignment must submit one of the following:

(1) A statement from the area frequency advisory committee(s) for the radio service(s) to which the frequency is allocated on a primary basis interposing no objection to the proposed secondary assignment; or

(2) His own statement that no co-channel base or fixed station assignments to a primary service licensee exist within 125 miles of the secondary base station location and, in the case of the 150.8–162 Mc/s band, that no primary assignments exist within 15 kc/s of the requested frequency within a radius of 25 miles from the secondary base station location.

(c) A prospective applicant for a secondary assignment should not communicate with the area frequency advisory committee until he has made his own frequency search and has good reason to believe he has found an available frequency.

(d) In the 150.8–162 Mc/s band, only one secondary frequency assignment per system will be made per applicant per area during the trial period.

(e) In the 450–470 Mc/s band, not more than two secondary frequency assignments will be permitted, in order to allow mobile relay or duplex operation.

(f) Secondary assignment will not be made to base stations authorized for operation at temporary locations, to mobile stations not associated with one or more base stations, or to fixed relay, repeater, or control stations (except control stations which are part of a mobile relay system operation in the 450–470 Mc/s band).

(g) In California there are a number of assignments to stations in the fixed service in the bands 150.8–162 Mc/s and 450–470 Mc/s. By rule, such fixed relay, repeater, and control stations are assigned on the basis of non-interference to the land mobile service. However, for the purpose of this experiment, persons seeking a secondary assignment in the land mobile service shall regard these fixed station assignments as though they have primary status.

(h) Applications for a secondary frequency assignment will not be granted, despite compliance with the provisions of paragraphs (a) to (g) of this section, if, in the judgment of the Commission, denial is warranted. Further, applications for secondary assignments will be accepted for filing with the understanding that, should the application be denied, the applicant waives any right to a formal hearing to which he might otherwise be entitled.

§ 91.654 Operating limitations.

(a) Upon activation of his secondary assignment, the licensee will not be permitted to use his primary frequency until:

(1) He voluntarily relinquishes his secondary assignment; or

(2) He is directed by the Commission to discontinue operation on his secondary frequency.

(b) Operational conditions which apply to the service to which the secondary frequency is allocated on a primary basis will apply to the secondary user unless the operational conditions of his own service are more restrictive, in which case the latter will apply.

(c) A licensee of a secondary frequency must, at all times during the term of the authorization:

(1) Be capable of reverting to his primary assignment within 15 days after receipt of written notice from the Commission, and

(2) Retain a complete set of crystals for his primary frequency assignment, and

(3) Utilize equipment with a tuning range encompassing his primary and secondary frequency assignments.

(d) Every application for a secondary assignment shall be accompanied by a statement signed by the applicant in which he agrees that any authorization issued pursuant thereto will be accepted with the express understanding of the applicant that it is subject to change in any of its terms, or to cancellation in its entirety at any time, upon reasonable notice, but without a hearing, if, in the judgment of the Commission, circumstances should so require.

§ 91.655 Preparation and filing of applications.

(a) All applications for a secondary frequency assignment shall be prepared and submitted on FCC Form _____, Application for Secondary Frequency Assignment.

(b) Licensees wishing to request a secondary frequency assignment shall complete and submit a copy of FCC Form _____ for each base and/or mobile sta-

tion already licensed in the system for operation on a primary frequency for which a secondary assignment is desired.

(c) Applications for new stations to be added to an existing system operating under the secondary concept shall be filed on FCC Form 400 in accordance with Subpart A of this part. FCC Form ------, specifying the desired secondary frequency, should be filed as a supplement to each FCC Form 400.

§ 91.656 Secondary licenses.

(a) A license to operate on a secondary frequency under the experimental program provided for in this subpart will be issued to run concurrently with the primary authorization and may be renewed simultaneously with the primary assignment. However, a secondary frequency assignment will not be made for a total period in excess of five years.

(b) An authorization to use a secondary frequency will be issued subject to the following conditions:

(1) The licensee will cease operation on the secondary assignment within 15 days after being directed to do so by the Commission.

(2) The secondary authorization will expire simultaneously with the expiration of the primary assignment.

(3) The secondary license may be withdrawn, modified, or suspended by the Commission upon reasonable notice, and without a hearing, if, in the judgment of the Commission, such action should be required.

(c) No subsequent secondary frequency assignment will be granted to a licensee who has previously held such an assignment and failed to cease operation within 15 days after having been notified by the Commission to do so.

3. Part 93 is amended by adding a new Subpart G in proper sequence to read as follows:

SUBPART G—SECONDARY FREQUENCY ASSIGNMENTS

Sec.
93.301 Purpose.
93.302 Scope.
93.303 Frequency selection and assignments.
93.304 Operating limitations.
93.305 Preparation and filing of applications.
93.306 Secondary licenses.

Subpart G—Secondary Frequency Assignments

§ 93.301 Purpose.

The purpose of this subpart is to establish the procedures and conditions for a limited trial of the practicability of making secondary frequency assignments in the land mobile services. The objective is to determine whether the secondary assignment principle can be used successfully as a device for obtaining greater efficiency of frequency utilization. It is intended for application only in cases where all frequencies normally available for assignment to an applicant already are used in the area and band concerned, and where the applicant is prepared to pay the extra costs to obtain at least temporary use of a more satisfactory channel. In conducting the trial, the Commission will grant a total of no more than 500 authorizations in this part and in Parts 89 and 91 of this chapter combined. Applications for secondary frequency assignments will be accepted until ---------- unless 500 secondary assignments have been made prior to that date, in which case no further applications will be accepted for filing.

§ 93.302 Scope.

(a) This subpart is applicable only to certain land mobile service radio operations now located, or to be located, wholly within the State of California.

(b) Persons eligible to operate in the Motor Carrier, Railroad, and Automobile Emergency Radio Services are eligible to file for secondary frequency assignments pursuant to the provisions of this subpart.

(c) Any assignable frequency in the bands 150.8–162 Mc/s and 450–470 Mc/s which presently is allocated to the Public Safety, Industrial, or Land Transportation Radio Services on a primary basis may be requested as a secondary assignment, except for those frequencies allocated to the State Guard, Special Emergency, Business, Relay Press, and Taxicab Radio Services; except for the 15 kc/s tertiary frequencies in the 150.8–162 Mc/s band; and except for those frequencies designated for itinerant use only.

§ 93.303 Frequency selection and assignments.

(a) The applicant for a secondary assignment must submit a statement that all assignable frequencies in his own service and in the band concerned (except tertiaries) are already assigned and in use within 75 miles of his base station location. Further, the applicant must have a valid primary assignment on which he has operated for a minimum period of 90 days, and he must state that operation on his primary assignment has been unsatisfactory because of frequency congestion. This requirement does not apply to the addition of stations to a system previously authorized on a secondary basis. See § 93.305(c). The secondary frequency selected must be within tuning range of the applicant's primary frequency.

(b) To minimize the possibility of harmful interference, the applicant for a secondary assignment must submit one of the following:

(1) A statement from the area frequency advisory committee(s) for the radio service(s) to which the frequency is allocated on a primary basis interposing no objection to the proposed secondary assignment; or

(2) His own statement that no cochannel base or fixed station assignments to a primary service licensee exist within 125 miles of the secondary base station location and, in the case of the 150.8–162 Mc/s band, that no primary assignments exist within 15 kc/s of the requested frequency within a radius of 25 miles from the secondary base station location.

(c) A prospective applicant for a secondary assignment should not communicate with the area frequency advisory committee until he has made his own frequency search and has good reason to believe he has found an available frequency.

(d) In the 150.8–162 Mc/s band, only one secondary frequency assignment per system will be made per applicant per area during the trial period.

(e) In the 450–470 Mc/s band, not more than two secondary frequency assignments will be permitted, in order to allow mobile relay or duplex operation.

(f) Secondary assignment will not be made to base stations authorized for operation at temporary locations, to mobile stations not associated with one or more base stations, or to fixed relay, repeater, or control stations (except control stations which are part of a mobile relay system operation in the 450–470 Mc/s band).

(g) In California there are a number of assignments to stations in the fixed service in the bands 150.8–162 Mc/s and 450–470 Mc/s. By rule, such fixed relay, repeater, and control stations are assigned on the basis of noninterference to the land mobile service. However, for the purpose of this experiment, persons seeking a secondary assignment in the land mobile service shall regard these fixed station assignments as though they have primary status.

(h) Applications for a secondary frequency assignment will not be granted, despite compliance with the provisions of paragraphs (a) to (g) of this section, if, in the judgment of the Commission, denial is warranted. Further, applications for secondary assignments will be accepted for filing with the understanding that, should the application be denied, the applicant waives any right to a formal hearing to which he might otherwise be entitled.

§ 93.304 Operating limitations.

(a) Upon activation of his secondary assignment, the licensee will not be permitted to use his primary frequency until:

(1) He voluntarily relinquishes his secondary assignment; or

(2) He is directed by the Commission to discontinue operation on his secondary frequency.

(b) Operational conditions which apply to the service to which the secondary frequency is allocated on a primary basis will apply to the secondary user unless the operational conditions of his own service are more restrictive, in which case the latter will apply.

(c) A licensee of a secondary frequency must, at all times during the term of the authorization:

(1) Be capable of reverting to his primary assignment within 15 days after receipt of written notice from the Commission, and

(2) Retain a complete set of crystals for his primary frequency assignment, and

(3) Utilize equipment with a tuning range encompassing his primary and secondary frequency assignments.

(d) Every application for a secondary assignment shall be accompanied by a statement signed by the applicant in which he agrees that any authorization issued pursuant thereto will be accepted with the express understanding of the

applicant that it is subject to change in any of its terms, or to cancellation in its entirety at any time, upon reasonable notice, but without a hearing, if, in the judgment of the Commission, circumstances should so require.

§ 93.305 **Preparation and filing of applications.**

(a) All applications for a secondary frequency assignment shall be prepared and submitted on FCC Form ____, Application for Secondary Frequency Assignment.

(b) Licensees wishing to request a secondary frequency assignment shall complete and submit a copy of FCC Form _____ for each base and/or mobile station already licensed in the system for operation on a primary frequency for which a secondary assignment is desired.

(c) Applications for new stations to be added to an existing system operating under the secondary concept shall be filed on FCC Form 400 in accordance with Subpart A of this part. FCC Form _____, specifying the desired secondary frequency, should be filed as a supplement to each FCC Form 400.

§ 93.306 **Secondary licenses.**

(a) A license to operate on a secondary frequency under the experimental program provided for in this subpart will be issued to run concurrently with the primary authorization and may be renewed simultaneously with the primary assignment. However, a secondary frequency assignment will not be made for a total period in excess of five years.

(b) An authorization to use a secondary frequency will be issued subject to the following conditions:

(1) The licensee will cease operation on the secondary assignment within 15 days after being directed to do so by the Commission.

(2) The secondary authorization will expire simultaneously with the expiration of the primary assignment.

(3) The secondary license may be withdrawn, modified, or suspended by the Commission upon reasonable notice, and without a hearing, if, in the judgment of the Commission, such action should be required.

(c) No subsequent secondary frequency assignment will be granted to a licensee who has previously held such an assignment and failed to cease operation within 15 days after having been notified by the Commission to do so.

[F.R. Doc. 64-3240; Filed, Apr. 3, 1964; 8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 107]

SMALL BUSINESS INVESTMENT COMPANIES

Withdrawal of Proposed Amendments Requiring Additional Information in Certain Investment Company Financial Reports

On December 6, 1963, notice of proposed rule making regarding proposed amendments to §§ 107.802(c) and 107.802 (d) relating to inclusion of Federal Tax numbers for designated persons on SBA Forms 468 and 478 was published in the FEDERAL REGISTER (28 F.R. 13267). The reasons therefor were set forth in the notice and comments or suggestions pertaining to the proposal were invited. On January 11, 1964, notice was given of an extension of time for submitting comments and suggestions (29 F.R. 297).

Comments and suggestions received by the Small Business Administration have raised questions as to the effect of the proposed amendments on the small business investment company program which require further study of the matter. Accordingly, it has been determined that adoption of the proposed amendments is not appropriate at this time.

The withdrawal of this notice of proposed rule making constitutes only such action and does not preclude the Administration from issuing another notice in the future should further study warrant such action.

In consideration of the foregoing, the notices of proposed rule making, entitled "Proposed Amendments to Regulations Requiring Additional Information in Certain Investment Company Financial Reports" published in the FEDERAL REGISTER, December 6, 1963 (28 F.R. 13267), is hereby withdrawn.

Dated: March 31, 1964.

EUGENE P. FOLEY,
Administrator.

[F.R. Doc. 64-3297; Filed Apr. 3, 1964; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 191]

[Ex Parte No. MC-40]

QUALIFICATIONS OF DRIVERS

Qualifications and Maximum Hours of Service of Employees of Motor Carriers and Safety of Operation and Equipment

At a session of the Interstate Commerce Commission, Motor Carrier Board No. 2, held at its office in Washington, D.C., on the 25th day of March A.D. 1964.

The matter of disqualifications of drivers under the Motor Carrier Safety Regulations prescribed by order of April 14, 1952, being under consideration; and

It appearing, that continuing study, investigation and experience have established facts which warrant amendment of Part 191 of the Motor Carrier Safety Regulations relating to qualifications of drivers;

It further appearing, that due to technological advancement in prosthesis and the use of prosthetic devices, and the opinion of certain medical specialists, it is reasonable to establish conditions upon which the ability of individual persons to drive a motor vehicle in interstate or foreign commerce may be evaluated and authorization, subject to controls, may be issued for them to operate specified type vehicles, therefore;

It is ordered, That pursuant to section 4(a) of the Administrative Procedure Act (60 Stat. 237, 5 U.S.C. 1003) notice is hereby given of the Commission's proposal to amend § 191.2. *Minimum requirements* now in effect, by substituting the following language for the introductory paragraph thereof, and to add a new paragraph (e) authorizing the granting of waivers, under specified conditions, with respect to persons handicapped through loss of limb and further providing sufficient safeguards to assure reasonable controls and safety standards, as follows:

§ 191.2 **Minimum requirements.**

Except as provided in paragraph (e) of this section, no person shall drive, nor shall any motor carrier require or permit any person to drive any motor vehicle unless such person possesses the following minimum qualifications:

* * * * *

(e) Any person failing to meet the requirements of paragraph (a) (1) or (3) of this section may be permitted to drive a vehicle, other than a vehicle transporting passengers or explosives Class A and B, if the Commission finds that a waiver may be granted consistent with safety and the public interest, on the basis of an application meeting all the following requirements:

(1) The application must be submitted jointly by a person seeking relief to permit him to drive and by a carrier wishing to employ such person as a driver, who both agree to fulfilling all conditions of the waiver;

(2) The application must be accompanied by reports of medical examinations satisfactory to the Commission and recommendations by at least two medical examiners, at least one of whom shall have been selected and compensated by the carrier. Such reports and examinations must indicate the opinions of the medical examiners as to the ability of the driver to safely operate a commercial vehicle of the type to be driven by him.

(3) The application shall contain a description, satisfactory to the Commission of the type, size, and special equipment (if any) of the vehicle or vehicles to be driven, the territory and roads to be used, the distances and time periods contemplated, the nature of the commodities to be transported, and their method of loading and securing, and the experience (if any) of the applicant in driving vehicles of the type to be driven by him.

(4) The application shall specify agreement by both the person and the carrier that the carrier will file promptly with the Director, Bureau of Motor Carriers, such periodic reports as are required and that such reports will contain complete and truthful information as to the extent of the person's driving activity, any accidents in which he may have been involved, and any arrests, suspensions, or convictions in which the person has been involved.

(5) The applicants shall agree that the waiver shall authorize driving in interstate commercial service for the applicant carrier only, that any arrests or convictions for violations of laws or ordinances, and any revocation or sus-

pension of driving privileges will be reported to the Director, Bureau of Motor Carriers immediately on occurrence.

(6) The waiver shall not exceed two years and will be renewable, upon submission of a new application, if approved by the Commission.

(7) The waiver may be suspended at any time at the discretion of the Commission and may be cancelled by it after the applicant has been given reasonable opportunity to show cause, if any, why such cancellation should not be made.

(Sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304)

It is further ordered, That prior to final adoption of such regulations, consideration will be given to any written statements containing data, views, or arguments concerning the subject matter hereof which are submitted on or before 30 days after the service date of this order; that no oral hearing is contemplated and any request for oral hearing shall be supported by an explanation as to why evidence to be presented cannot reasonably be submitted in written form. One original signed copy and 5 additional copies of such written statements containing data, views, or arguments shall be submitted in accordance with the Commission's general rules of practice.

It is further ordered, That notice of this proceeding shall be given to motor carriers, other persons of interest and to the general public by depositing a copy thereof in the office of the Secretary of the Interstate Commerce Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Motor Carrier Board No. 2.

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

[F.R. Doc. 64-3293; Filed, Apr. 3, 1964; 8:47 a.m.]

[49 CFR Part 192]

[Ex Parte MC-40]

DRIVING OF MOTOR VEHICLES

Qualification and Maximum Hours of Service of Employees of Motor Carriers and Safety of Operation and Equipment

At a session of the Interstate Commerce Commission, Motor Carrier Board No. 2, held at its office in Washington, D.C., on the 27th day of March A.D. 1964.

The matter of driving of motor vehicles under the Motor Carrier Safety Regulations prescribed by order of April 14, 1952, being under consideration; and

It appearing, that continuing study, investigation and experience have established facts which warrant amendment of Part 192 of the Motor Carrier Safety Regulations relating to driving of motor vehicles;

It further appearing, that due to the serious accidents occurring at rail-highway grade crossings, it is reasonable and necessary to establish stopping requirements of a more encompassing and strict nature as stated in the Commission's Report in No. 33440, dated January 22, 1964, Prevention of Rail-Highway Grade-Crossing Accidents Involving Railway Trains and Motor Vehicles, therefore;

It is ordered, That pursuant to section 4(a) of the Administrative Procedure Act (60 Stat. 237, 5 U.S.C. 1003) notice is hereby given of the Commission's proposal to amend § 192.10 *Railroad grade crossings; stopping required* and § 192.11 *Railroad grade crossings; slowing down required* in their entirety, as follows:

§ 192.10 Railroad grade crossings; stopping required.

(a) Except as provided in paragraph (c) of this section, the driver of every motor vehicle described in subparagraphs (1) through (7) of this section, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, and shall not proceed until such precautions have been taken.

(1) Every bus transporting passengers,

(2) Every motor vehicle transporting any quantity of explosives, Class A or Class B,

(3) Every motor vehicle transporting any quantity of poison gas, Class A,

(4) Every motor vehicle which in accordance with the Commission's regulations is required to be marked or placarded with one of the following markings:

(i) Dangerous.

(ii) Compressed gas.

(iii) Dangerous—Radioactive materials.

(5) Every cargo tank, whether loaded or empty, used for the transportation of any liquid having a flash point below 200° F, as determined by a Standard Method of Test for Flash Point of the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa., 19103.

(6) Every cargo tank transporting a commodity which at the time of loading has a temperature above its flash point.

(7) Every cargo tank, whether loaded or empty, transporting any commodity under special permit in accordance with the provision of § 73.22 of this chapter.

(b) Every motor vehicle described in subparagraphs (1) through (7) of paragraph (a) of this section shall be equipped with a sign on the rear, in red retroflective letters at least 3 inches high on a background of contrasting color, reading "This Vehicle Stops at Railroad Crossings."

(c) A stop need not be made at:

(1) A street car crossing, or railroad tracks used exclusively for industrial switching purposes, within a business district as defined in § 190.12 of this chapter,

(2) A railroad grade crossing where a police officer or crossing flagman directs traffic to proceed,

(3) A railroad grade crossing where a stop and go traffic light controls movement of traffic,

(4) An abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned,

(5) An industrial or spur line railroad grade crossing marked with a sign reading "Exempt Crossing." Such "Exempt Crossing" signs shall be erected only by or with the consent of the appropriate state or local authority.

§ 192.11 Railroad grade crossings; slowing down required.

The driver of every motor vehicle other than those listed in § 192.10, upon approaching a railroad grade crossing, shall drive at a speed not greater than 25 miles per hour at all distances between 200 feet and the nearest rail of such railroad and shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, and shall not drive upon or over such crossing until such precautions have been taken.

(Sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304)

It is further ordered, That prior to final adoption of such regulations, consideration will be given to any written statements containing data, views, or arguments concerning the subject matter hereof which are submitted on or before May 7, 1964; that no oral hearing is contemplated and any request for oral hearing shall be supported by an explanation as to why evidence to be presented cannot reasonably be submitted in written form. One original signed copy and 5 additional copies of such written statements containing data, views, or arguments shall be submitted in accordance with the Commission's general rules of practice.

It is further ordered, That notice of this proceeding shall be given to motor carriers, other persons of interest and to the general public by depositing a copy thereof in the office of the Secretary of the Interstate Commerce Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Motor Carrier Board No. 2.

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

[F.R. Doc. 64-3294; Filed, Apr. 3, 1964; 8:47 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Coast Guard

[CGFR 64–15]

NEW LONDON HARBOR

Closure to Navigation During Launching of "USS Greenling"

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order 120 dated July 31, 1950 (15 F.R. 6521) and Executive Order 10173, as amended, by Executive Orders 10277 and 10352, I hereby affirm for publication in the FEDERAL REGISTER the order of J. H. Wagline, Captain, United States Coast Guard, Acting Commander, Third Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

SPECIAL NOTICE NEW LONDON HARBOR

Pursuant to the request of the Commander, Submarine Force, U.S. Atlantic Fleet, U.S. Navy, and acting under the authority of the Act of June 15, 1917, (40 Stat. 220) as amended, and the regulations in Part 6, Chapter I, Title 33, Code of Federal Regulations, I hereby order that the waters of New London Harbor, New London, Connecticut, between the latitudes of 41 degrees 20 min. 32 sec. North and 41 degrees 21 min. 03 sec. North, be closed to all persons and vessels on Saturday, 4 April 1964, from 2:30 p.m. eastern standard time, until the "USS Greenling" is made fast to the wetdock at the Electric Boat Division of the General Dynamics Corporation, Groton, Connecticut. The launching of the "USS Greenling" is scheduled for 3:00 p.m. eastern standard time, on 4 April 1964. The northern and southern limits of this area will be marked by ranges located on the eastern shore. Coast Guard vessels will be anchored off these ranges between the shore line and the main ship channel.

All persons and vessels are directed to remain outside of the closed area. This order will be enforced by the Captain of the Port, New London, Connecticut, and by U.S. Coast Guard vessels under his command. The aid of other Federal, State and Municipal agencies may be enlisted to assist in the enforcement of this order.

Penalties for violation of the above order: Section 2, Title II of the Act of June 15, 1917, as amended, 50 U.S.C. 192, provides as follows: If any owner, agent, master, officer or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this title, or obstructs or interferes with the exercise or any power conferred by this title * * * Or if any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this title, or knowingly obstructs or interferes with the exercise of any power conferred by this title, he shall be punished by imprisonment for not more than ten years and may, at the discretion of the court, be fined not more than $10,000.00.

Dated: March 31, 1964.

[SEAL] E. J. ROLAND,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 64–3311; Filed, Apr. 3, 1964; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

MARCH 30, 1964.

The Federal Aviation Agency has filed an application, Serial Number Fairbanks 031968, for withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining laws, mineral leasing laws, grazing laws, and disposal of materials under the Materials Act of 1947, as amended. The applicant desires the land for establishing a VORTAC Air Navigational Facility, under section 303c of the Federal Aviation Act of 1958, Public Law 85–726 (72 Stat. 748) and (63 Stat. 377; 40 U.S.C. 471).

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Fairbanks Land Office, P.O. Box 1150, Fairbanks, Alaska.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn as requested by the Federal Aviation Agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

TRACT B

Commencing at the point of beginning of the State of Alaska, Division of Aviation Tract V, proceed N. 26°30'00" E. 2,597.52 feet along the West Boundary of Tract V to a point; thence S. 79°15'00" E. 1,845.61 feet along the North Boundary of Tract V to the true point of beginning of this description; thence N. 10°45'00" E. 1,344.37 feet to a point; thence S. 79°15'00" E. 4,154.39 feet to a point; thence S. 10°45'00" W. 1,344.37 feet to the Northeast Corner of Tract V; thence N. 79°-15'00" W. 4,154.39 feet along the North Boundary of Tract V to the point of beginning.

The areas described aggregate approximately 128.215 acres.

TRACT C

Commencing at the point of beginning of the State of Alaska, Division of Aviation's Tract V, proceed S. 79°15'00" E. 3,609.35 feet along the South Boundary of Tract V to the true point of beginning of this description; thence continue S. 79°15'00" E. 1,982.66 feet along said South Boundary line to a point; thence S. 10°45'00" W. 255.63 feet to a point; thence N. 79°15'00" W. 1,982.66 feet to a point; thence N. 10°45'00" E. 255.63 feet to the point of beginning.

The areas described aggregate approximately 11.635 acres.

DANIEL A. JONES,
Manager.

[F.R. Doc. 64–3315; Filed, Apr. 3, 1964; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

RUDNICK LIVESTOCK SALES CO., INC., ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Name and location of stockyard and date of posting

Rudnick Livestock Sales Company, Inc., Dover, Del., October 28, 1959.
Marshall County Community Sale Barn, Plymouth, Ind., June 17, 1959.
Benkelman Sales Company, Inc., Benkelman, Nebr., January 8, 1947.
Madras Livestock Auction Market, Madras, Oreg., September 22, 1959.
Rogue Valley Livestock Auction, Inc., Phoenix, Oreg., October 2, 1959.
Louisa Stockyard, Louisa, Va., July 7, 1959.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not deposting promptly a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This

notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 31st day of March 1964.

H. L. JONES,
Chief, Rates and Registrations Branch, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 64-3289; Filed, Apr. 3, 1964; 8:47 a.m.]

Office of the Secretary

NORTH DAKOTA AND WISCONSIN

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of North Dakota and Wisconsin, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

NORTH DAKOTA

Dunn. Oliver.
Mercer.

WISCONSIN

Marinette.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after December 31, 1964, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 1st day of April 1964.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 64-3318; Filed Apr. 3, 1964; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

LOUIS F. FRAZZA

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the past six months:

A. Deletions: none.
B. Additions: none.

This statement is made as of March 5, 1964.

Dated: March 5, 1964.

LOUIS F. FRAZZA.

[F.R. Doc. 64-3273; Filed, Apr. 3, 1964; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-216]

New York University

Notice of Application for Facility License

Please take notice that New York University, New York, New York, has filed an application under section 104c of the Atomic Energy Act of 1954, as amended, for a license to possess, but not to operate, the Model AGN-201M nuclear reactor ("the reactor") which is currently owned and has been operated under Facility License No. R-27 by the U.S. Naval Hospital, National Naval Medical Center, Bethesda, Maryland.

This application is for possession only of the reactor at its present location in Bethesda, Maryland. The applicant has stated its intention to apply for authority to transfer the reactor to a site on New York University's campus at a later date.

A copy of the application is available for public inspection at the Atomic Energy Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 27th day of March 1964.

For the Atomic Energy Commission.

ROBERT H. BRYAN,
Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 64-3279; Filed, Apr. 3, 1964; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Agreements CAB 14782 etc.; Order E-20633]

ALASKA AIRLINES, INC., ET AL.

Order Granting Motion for Leave To Reply and Inviting Comments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of March 1964.

Agreements between each of the following Alaska Airlines, Inc., Agreements CAB 14782; Eastern Air Lines, Inc., Agreements CAB 16171 and A1; Pan American World Airways, Inc., Agreements CAB 16218; Riddle Airlines, Inc., Agreements CAB 16231; The Flying Tiger Line, Inc., Agreements CAB 16384 and A1; The Slick Corporation, Agreements CAB 16571; Transportation Corporation of America, Agreements CAB 16894 and A1; Agreements CAB 16916; Agreements CAB 16922; Agreements CAB 16929; and Railway Express Agency, Inc., Docket 14445, relating to joint air-surface transportation of property.

The Board, by Order E-20332, January 2, 1964, disapproved certain agreements purportedly relating to joint air-surface transportation of property between Railway Express Agency, Inc. (REA) and the air carriers listed in the above caption.[1]

REA petitioned for reconsideration of Order E-20332 and several answers were filed in response thereto. The Slick Corporation (Slick) in its answer to REA's petition for reconsideration posed alternatives and questions not heretofore specifically considered by the Board or raised by the parties to the agreements. Thus, the carrier suggests that the following alternative adjustments, both of which it claims are regulatorily sound, warrant further consideration by the Board: (1) The establishment of two terminal areas, one within which joint rate service can be performed, and a second more limited one within which joint rate service cannot be performed,[2] or (2) restricting REA to existing terminal limits by permitting the carrier, on a modest, experimental basis, to charter all-cargo aircraft. Slick states with regard to the second proposal, that the Board could maintain full control and supervision over these charters by requiring the air carrier involved to apply for an individual exemption from the charter definition in Part 207 of the Board's Economic Regulations (as would have to be done today) but indicating that it would favorably consider such applications under certain specified conditions.[3] Slick also urges the Board, in the event it finds it in the public interest on reconsideration to approve some revised forms of these arrangements, to consider limiting domestic carriage of the REA traffic encompassed by the agreements to the all-cargo carrier industry as a step toward delineation of roles in the air cargo industry.

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[1] The Board's disapproval of the already implemented "off-shore" agreements was not to become effective until 30 days from the date of service of Order E-20332. However, the Board, by subsequent order (E-20420), further stayed the effectiveness of the order of disapproval insofar as it pertained to the off-shore agreements until 20 days after the date of service of the Board's order on reconsideration in this matter.

[2] Slick asserts that if REA transportation is, as to it, line-haul in character, it could be considered by the Board as surface transportation, regardless of normal terminal area limits. Thus, the carrier suggests that REA's haul within the commercial zone of a city, as defined for surface carriers by the ICC, might be construed as terminal service for air transportation, while hauls beyond these commercial zones could be viewed as line-haul in character, regardless of conventional pick-up and delivery terminal limits.

[3] Slick maintains that by this means the Board would retain intact its present joint rate concept, while allowing REA to airlift its vast terminal area to terminal area surface volumes under a controlled experiment that could be stopped or modified by the Board at any time.

On February 24, 1964, REA filed a motion for leave to reply to Slick's answer and asked for 90 days within which to file such reply. REA, in support of its motion, alleges, in substance, that Slick's proposals and suggestions, both with respect to the possible charter by REA of all-cargo aircraft and to the proper delineation of the air carriers' roles in the airfreight market, are sufficiently promising as to warrant further exploration and comment before a final attempt is made to solve the problem posed by this proceeding and that since the proposals have far reaching and important economic and conceptual implications which require careful and factual exploration, a 90-day period within which to file its reply appears reasonable.

The alternate Slick proposals do not appear to meet the objections to the agreements disapproved by Order E–20332 since they also would require the grant to REA of additional operating authority by the Board. Nevertheless, we believe the proposals warrant further consideration in the public interest and we shall authorize REA and the carriers to submit replies thereto. We would expect REA to set forth in its reply the nature and extent of any additional operating authority for which it would apply. REA shall be granted 30 days within which to file its reply to Slick's answer.[4] Moreover, since no other party to the agreement or other interested persons have addressed themselves to the matters raised by Slick, we will also afford such persons a 30-day period within which to file their written views with respect to Slick's proposals and suggestions.[5]

Accordingly, it is ordered:

1. That REA be, and it hereby is, granted 30 days from the date of service of this order within which to reply to the answer of The Slick Corporation filed in this cause;

2. That, except to the extent granted herein, REA's motion for leave to reply, be and it hereby is, denied; and

3. That any other interested persons may, within 30 days from the date of service of this order, file with the Board written comments and views with respect to the proposals raised by Slick in its answer to REA's petition for reconsideration of Order E–20332.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 64–3328; Filed, Apr. 3, 1964; 8:49 a.m.]

[Docket No. 14838]

THRIFT CLASS FARE INVESTIGATION

Notice of Hearing

In the matter of an investigation of the existing coach fares and provisions, the jet "economy coach" fares of United Air Lines, Inc., and the jet "thrift" fares of Pan American World Airways, Inc., between Honolulu, on the one hand, and Los Angeles and San Francisco, on the other hand, to determine whether said fares and provisions are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful to determine and prescribe the lawful fares and provisions.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that a hearing in the above-entitled proceeding will be held on April 28, 1964, at 10 a.m. e.d.s.t., in Room 725, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the undersigned Hearing Examiner.

For further information concerning the issues in this proceeding, interested persons are referred to the Examiner's prehearing conference and supplemental prehearing conference reports and to Orders Nos. E–20137 and E–20211 issued by the Board, which are on file in the above docket in the Docket Section of the Board.

Dated at Washington, D.C., March 31, 1964.

[SEAL] LESLIE G. DONAHUE, *Hearing Examiner.*

[F.R. Doc. 64–3329; Filed, Apr. 3, 1964; 8:50 a.m.]

[Docket 12474; Order No. E–20637]

KODIAK AIRWAYS, INC.

Service Mail Rates; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of April, 1964.

The Board, acting in response to a petition by Kodiak Airways, Inc. (Kodiak), fixed temporary rates of compensation for Kodiak of $11,018 per annum beginning December 5, 1960, for the transportation of mail by aircraft.[1] It was further ordered that the proceeding remain open until the entry of an order fixing final rates.

By petition filed December 17, 1963, Kodiak requests amendment of its temporary service mail rates fixed by Order E–17107. The carrier seeks to be paid on the basis of the service mail rate of $2.50 per mail ton-mile which the Board has established for the smaller intra-Alaska carriers and requests that its service mail compensation be adjusted retroactively and prospectively as follows:

Fiscal year:	*Total temporary service mail compensation*
1962	$16,400
1963	17,500
1964	18,700

The petition also requests temporary service mail compensation for periods subsequent to fiscal year 1964 at the rate of $18,700 per annum.

By answer of January 15, 1964, the Postmaster General indicated agreement that Kodiak should receive service mail pay at the above levels of compensation. However, the answer construes Kodiak's petition as a request for a final service mail rate for the period December 5, 1960, through June 30, 1963, and for a temporary service mail rate for the period on and after July 1, 1963.

Counsel for Kodiak has been advised that the carrier has lost all but two aircraft and that its ground facilities at its main base at Kodiak have been demolished and its records swept away in the Alaska disaster. The carrier obviously has a critical and urgent need for cash.

By order E–7721, September 16, 1953, inter alia, the Board established initial service mail rates for the larger intra-Alaska carriers of $1.29 per mail ton-mile and $2.50 per mail ton-mile for the smaller carriers. Kodiak is one of the smaller intra-Alaska carriers.[2] The present temporary service mail compensation of $11,018 per annum was established with the intention of yielding $2.50 per mail ton-mile. The carrier's yields in fact have been substantially less than the $2.50 per mail ton-mile that the Board contemplated for the smaller intra-Alaska carriers and are tending to decline.

Since the carrier's yield from its temporary service mail pay is less than the $2.50 per mail ton-mile level contemplated by the Board for the smaller intra-Alaska carriers and there appears to be no equitable justification for Kodiak's lesser yield, the Board finds that the current temporary service mail rate requires an adjustment to the level of approximately $2.50 per mail ton-mile. The Postmaster General apparently has no objection to a temporary service mail rate at this level for the period on and after July 1, 1963, and a final mail rate at this level for earlier periods.

The Board finds, based upon a rate of approximately $2.50 per mail ton-mile, that the fair and reasonable temporary rates of compensation to be paid Kodiak for the periods specified hereunder on and after December 5, 1960, for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the points which the carrier, by its certificate of public convenience and necessity or exemption order, has been, is presently or hereafter may be authorized to transport mail, are:

Period	*Temporary service mail compensation*
December 5, 1960–June 30, 1961	$7,000
July 1, 1961–June 30, 1962	16,400
July 1, 1962–June 30, 1963	17,500
Per annum on and after July 1, 1963	18,700

The compensation provided herein shall be in lieu of, and not in addition to, the service mail compensation heretofore received by Kodiak for mail transported on and after December 5, 1960.

[4] While we appreciate that the proposals will require careful scrutiny, we believe that a 30-day period is more than adequate under the circumstances.

[5] Petitions for reconsideration of this order will not be entertained.

[1] Order E–17107, July 5, 1961.

[2] Kodiak's total operating revenue was $425,000 for the twelve months ended September 30, 1963, compared with $3,326,000 for Alaska Coastal-Ellis and $1,288,000 for Cordova, both of whose service mail rates are $2.50 per mail ton-mile.

Rule 305(b) of the rules of practice provides that the Board may specify different times for notice of objection or answer than those set out in that rule. In view of Kodiak's critical need, the exigencies of the situation, and the support of Kodiak's petition by the Postmaster General, we have concluded that the customary periods for filing notices of objection and answers should be reduced.

In event that no notice of objection, or after such notice, no answer is filed within the time designated herein, a final order will be entered to make the proposed rates specified herein effective at the earliest practicable date.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof, and pursuant to the regulations promulgated in 14 CFR Part 302,

It is ordered, That:

1. Kodiak is directed to show cause why the Board should not fix, determine, and publish the aforesaid rates as the fair and reasonable temporary rates of compensation to be paid Kodiak for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith over the carrier's entire system on and after December 5, 1960;

2. All further procedure herein shall be in accordance with the rules of practice (14 CFR Part 302) and, if there is any objection to the temporary service mail rates specified herein, notice thereof must be filed within 7 days and, if notice is filed, written answer and supporting documents must be filed within 15 days, after the date of the service of this order;

3. If notice of objection to a rate specified herein is not filed within 7 days, or if notice is filed and answer is not filed within 15 days, after service of this order, all parties shall be deemed to have waived all further procedural steps before final decision, and the Board may enter an order fixing the temporary service mail rates specified herein as to which notice of objection and answer have not been received;

4. If any answer is filed, the issues involved in determining the fair and reasonable temporary service mail rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice; and

5. This order be served upon Kodiak Airways, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 64-3370; Filed, Apr. 3, 1964; 8:52 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 64-266]

ADVISORY COMMITTEE FOR LAND MOBILE SERVICE

Establishment

MARCH 27, 1964.

The Commission today adopted a report and order terminating its inquiry into the allocation of frequencies between 25 and 890 Mc/s in Docket No. 11997. While recognizing that there are serious frequency problems affecting the land mobile service that must be resolved, the Commission believes that improvement in this regard may be achieved by a number of steps taken singly or in combination, without involving the reallocation of spectrum space between 25 and 890 Mc/s from other non-Government radio services to the land mobile service for exclusive use.

To explore various possibilities for resolving these problems, and to mobilize effectively the best available talent for that purpose, the Commission, as of this date, in accordance with section 3(b) of Executive Order 11007, is establishing an advisory committee to be known as the Advisory Committee for the Land Mobile Service, under the chairmanship of Commissioner Kenneth A. Cox. Mr. James E. Barr, Chief of the Commission's Safety and Special Radio Services Bureau, is named as Vice-Chairman. A copy of Executive Order 11007 is attached. This Executive Order makes it clear that the work of such a committee must be controlled by the Commission. The Commission anticipates that its staff will participate actively in the work of the Committee.

The role of the Advisory Committee will include, but will not necessarily be limited to, the collection and analysis of information pertaining to the following subjects: (1) the current usage of land mobile service channels; (2) service growth predictions; (3) the extent to which harmful interference exists in various parts of the country on various frequencies in the several land mobile service categories; (4) technical and operational measures that could be used to reduce harmful interference or to increase spectrum utilization efficiency; (5) the possible use of frequencies above 890 Mc/s by the land mobile service; and (6) ways in which this Commission might improve the administrative and frequency assignment procedures and rules now applicable to the several categories of the non-Government land mobile service, both common carrier and private.

The following examples represent but a few of the many areas in which the committee could be expected to make helpful recommendations:

(A) Should the rules be amended to limit the maximum effective radiated power authorized for use by stations in the land mobile service?

(B) Should the rules be amended to specify that the maximum authorized effective radiated power shall be an inverse function of antenna height?

(C) What benefits could be expected from a requirement for power limitations, site selection and antenna directivity designed to limit the system coverage more closely to the area to be served?

(D) What benefits could be expected from a requirement for licensees to operate in frequency bands having propagation capabilities commensurate with the area normally served?

(E) What receiving system characteristics should be assumed in land mobile allocation and assignment planning?

(F) What benefits could be expected from a requirement for variable-power base station transmitters to ensure automatically that low power would be used when the desired mobile unit is close to the base station?

(G) Should operation of common base station facilities by multiple private users be encouraged?

(H) Should channel loading ceilings be established, on an area basis, with a view to using such ceilings as criteria for initiating reallocation proceedings affecting the area concerned, to benefit the congested services at the expense of lightly loaded services? If so, what per-channel loading ceilings should be applied to each of the several services?

In the area of purely technical standards for the land mobile service, attention is invited to the notice of inquiry in Docket No. 15393 adopted this date by the Commission. Initially, at least, it is assumed the Committee would concentrate its efforts on other facets of the over-all problem although comments of individual members in response to the inquiry would be welcomed.

In the area of frequency allocations, the Committee is to be limited to reallocation recommendations involving only spectrum space already allocated nationally to the various categories of service and sub-service in Rule Parts 21, 89, 91, 93, and 95.

In the conduct of its work, it is believed that the Committee will find useful the results of a detailed analysis of the Commission's land mobile service frequency assignment records now being made by the Land Mobile Section of the Electronic Industries Association. This EIA study is expected to become available in the near future.

Based upon information gathered and studies made, it will be the task of the Advisory Committee to recommend to the Commission courses of action which may alleviate the present and anticipated congestion in the land mobile service, consistent with the public interest. Also, Committee comments will be welcomed in response to the Notice of Proposed Rule Making adopted this date in Docket No. 15399 as well as with respect to other Notices which may hereafter be issued.

The Commission wishes to emphasize that, although the Committee will be advisory only, its recommendations are expected to be most helpful to all persons concerned with improving the present posture of the non-Government land mobile service.

It is anticipated that the membership of the Advisory Committee will consist of, but not be limited to, persons who are licensees of the Commission in the land mobile service, persons representing such licensees, persons representing manufacturers of electronic equipment and representatives of associations of such licensees or manufacturers.

Persons desiring to participate in the work of the Committee should advise the Chairman of the Committee, Commissioner Kenneth A. Cox, in writing to that effect by May 1, 1964, stating therein their relationship to the land mobile radio industry.

An organizational meeting will be held at a time and place to be specified in a later notice.

Adopted: March 26, 1964.

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

EXECUTIVE ORDER 11007

PRESCRIBING REGULATIONS FOR THE FORMATION AND USE OF ADVISORY COMMITTEES

WHEREAS the departments and agencies of the Government frequently make use of advisory committees; and

WHEREAS the information, advice and recommendations obtained through advisory committees are beneficial to the operations of the Government; and

WHEREAS it is desirable to impose uniform standards for the departments and agencies of the Government to follow in forming and using advisory committees in order that such committees shall function at all times in consonance with the antitrust and conflict of interest laws:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The regulations prescribed in this order for the formation and use of advisory committees shall govern the departments and agencies of the Government to the extent not inconsistent with specific law.

SEC. 2. As used herein.

(a) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, that is formed by a department or agency of the Government in the interest of obtaining advice or recommendations, or for any other purpose, and that is not composed wholly of officers or employees of the Government. The term also includes any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, that is not formed by a department or agency, but only during any period when it is being utilized by a department or agency in the same manner as a Government-formed advisory committee.

(b) The term "industry advisory committee" means an advisory committee composed predominantly of members or representatives of a single industry or group of related industries, or of any subdivision of a single industry made on a geographic, service or product basis.

SEC. 3. No advisory committee shall be formed or utilized by any department or agency unless

(a) specifically authorized by law or

(b) specifically determined as a matter of formal record by the head of the department or agency to be in the public interest in connection with the performance of duties imposed on that department or agency by law.

SEC. 4 Unless specifically authorized by law to the contrary, no committee shall be utilized for functions not solely advisory, and determinations of action to be taken with respect to matters upon which an advisory committee advises or recommends shall be made solely by officers or employees of the Government.

SEC. 5. Each industry committee shall be reasonably representative of the group of industries, the single industry, or the geographical, service, or product segment thereof to which it relates, taking into account the size and function of business enterprises in the industry or industries, and their location, affiliation, and competitive status, among other factors. Selection of industry members shall, unless otherwise provided by statute, be limited to individuals actively engaged in operations in the particular industry, industries, or segments concerned, except where the department or agency head deems such limitations would interfere with effective committee operation.

SEC. 6. The meetings of an advisory committee formed or used by a department or agency shall be subject to the following rules:

(a) No meeting shall be held except at the call of, or with the advance approval of, a full-time salaried officer or employee of the department or agency, and with an agenda formulated or approved by such officer or employee.

(b) All meetings shall be under the chairmanship, or conducted in the presence of, a full-time salaried officer or employee of the Government who shall have the authority and be required to adjourn any meeting whenever he considers adjournment to be in the public interest.

(c) For advisory committees other than industry advisory committees, minutes of each meeting shall be kept which shall, as a minimum, contain a record of persons present, a description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the committee. The accuracy of all minutes shall be certified by a full-time salaried officer or employee of the Government present during the proceedings recorded.

(d) A verbatim transcript shall be kept of all proceedings at each meeting of an industry advisory committee, including the names of all persons present, their affiliation, and the capacity in which they attend: *Provided*, That where the head of a department or agency formally determines that a verbatim transcript would interfere with the proper functioning of such a committee or would be impracticable, and that waiver of the requirement of a verbatim transcript is in the public interest, he may authorize in lieu thereof the keeping of minutes which shall, as a minimum, contain a record of persons present, a description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the committee. The accuracy of all minutes shall be certified to by a full-time salaried officer or employee of the Government present during the proceedings recorded.

(e) Industry advisory committees shall not be permitted to receive, compile, or discuss data or reports showing the current or projected commercial operations of identified business enterprises.

(f) In the case of advisory committees other than industry advisory committees, the department or agency head may waive compliance with any requirement contained in subsection (a), (b) or (c) of this section when he formally determines that compliance therewith would interfere with the proper functioning of such a committee or would be impracticable, that adequate provisions are otherwise made to insure that committee operation is subject to Government control and purpose, and that waiver of the requirement is in the public interest.

SEC. 7. The head of each department or agency sponsoring an advisory committee may prescribe additional regulations, consistent with the provisions and purposes of this order, to govern the formation or use of such committees, or the appointment of members thereof.

SEC. 8. An advisory committee whose duration is not otherwise fixed by law shall terminate not later than two years from the date of its formation unless the head of the department or agency by which it is utilized determines in writing not more than sixty days prior to the expiration of such two-year period that its continued existence is in the public interest. A like determination by the department or agency head shall be required not more than sixty days prior to the end of each subsequent two-year period to continue the existence of such committee thereafter. For the purpose of this section, the date of formation of an advisory committee in existence on the date of publication of this order shall be deemed to be July 1, 1960, or the actual date of its formation, whichever is later.

SEC. 9. The requirements of this order shall not apply:

(a) to any advisory committee for which Congress by statute has specified the purpose, composition and conduct unless and to the extent such statute authorizes the President to prescribe regulations for the formation or use of such committee;

(b) to any advisory committee composed wholly of representatives of State or local agencies or charitable, religious, educational, civic, social welfare, or other similar nonprofit organizations;

(c) to any local, regional, or national committee whose sole function is the dissemination of information for public agencies, or to any local civic committee whose primary function is that of rendering a public service other than giving advice or making recommendations to the Government.

SEC. 10. (a) Each department and agency utilizing advisory committees shall publish in its annual report, or otherwise publish annually, a list of such committees, including the names and affiliations of their members, a description of the function of each committee and a statement of the dates of its meetings: *Provided*, That the head of the department or agency concerned may waive this requirement where he determines that such annual publication would be unduly costly or impracticable, but shall make such information available, upon request, to the Congress, the President, or the Attorney General.

(b) A copy of each such report shall be furnished to the Attorney General, and all records and files of advisory committees, including agenda, transcripts or notes of meetings, studies, analyses, reports or other data compilations or working papers, made available to or prepared by or for any such advisory committee, shall be made available, upon request by the Attorney General, to his duly authorized representatives, subject to such security restrictions as may be properly imposed on the materials involved.

SEC. 11. This order supersedes the directive of February 2, 1959, entitled "Standards and Procedures for the Utilization of Public Advisory Committees by Government Departments and Agencies," and all provisions

[1] Commissioner Hyde absent.

of prior Executive orders to the extent they are inconsistent herewith.

JOHN F. KENNEDY

THE WHITE HOUSE,
February 26, 1962.

[F.R. Doc. 64-3243; Filed, Apr. 3, 1964; 8:45 a.m.]

[Docket No. 15398; FCC 64-265]

LAND MOBILE SERVICE

Frequency Spacing and Sharing

In the matter of an inquiry into the optimum frequency spacing between assignable frequencies in the Land Mobile Service and the feasibility of frequency sharing by television and the Land Mobile Service.

1. The Commission today adopted a report and order terminating its inquiry into the allocation of frequencies between 25 and 890 Mc/s in Docket No. 11997. For reasons set forth in the report and order, the Commission concluded, among other things, that most frequency problems now confronting the land mobile service would have to be resolved through more effective utilization of available spectrum space, rather than through the medium of allocating additional space on an exclusive basis to that service. This inquiry is instituted pursuant to that objective.

2. The frequency spacing between assignable channels specified in the Commission's land mobile service rules today derives as much from convenience in implementation as from advances in the state of the art. In other words, initial developments in the vicinity of 150 Mc/s were based upon 120 kc/s separation between assignable channels. As the state of the art progressed and the demand for additional channels developed, this spacing was halved to 60 kc/s and subsequently halved again to 30 kc/s. Through this same process came the 15 kc/s splits or "tertiaries". The controlling factor was thus convenience rather than what the optimum spacing might be to achieve maximum usage of the band. This factor should be studied, with initial emphasis being placed on the frequency band 150.8–162 Mc/s.

3. Although initial Commission studies are not encouraging (see Office of Chief Engineer Report No. R–6306), the feasibility of the land mobile service sharing frequencies now allocated to television broadcasting must also be studied. However, because the UHF television allotment plan is more fluid than is the VHF plan with its relatively stable pattern of usage and well established assignments in areas where congestion now exists in many of the land mobile services, it is believed the question of sharing should be limited to Channels 2 through 13 at this time. The National Association of Manufacturers (NAM) petition (RM–566) filed on February 3, 1964, proposes shared use of TV Channels 14 and 15 with the land mobile service on a geographical basis. The NAM petition will remain in pending status and be studied further by the Commission.

4. While not limiting the range of interested parties in this inquiry, the Commission is hopeful that technical groups such as the Joint Technical Advisory Committee (JTAC) and Electronic Industries Association (EIA) will respond to the following questions:

A. In the frequency band 150.8–162 Mc/s, assuming same-area operation and without being limited by the 15 kc/s or 30 kc/s spacings now specified in the Commission's rules, what is the minimum practicable channel spacing in the present state of technology for FM systems with no marked degradation in quality of comunication service for:

1. Older equipment now in service and operating on the basis of 30 kc/s channelling?

2. Equipment in current production?

3. Equipment which could be available four years hence, but based upon today's technology?

B. In the frequency band 150.8–162 Mc/s, assuming 15 kc/s spacing between assignable channels:

1. To what extent should geographical separation be considered with respect to adjacent channel assignments to ensure no marked degradation in quality of communication service?

2. Is there any net advantage in making 15 kc/s assignments, at least in some services, without regard to geographical separation from adjacent channel assignments, even though some adjacent channel interference is caused?

C. In the bands 150.8–162 and 450–470 Mc/s, disregarding administrative considerations, is there any net technical advantage to random selection of frequencies, on an engineered basis, taking into account the geographical separation from adjacent channel users? As an example, assume assignments A and B are 30 kc/s apart. Should applicant C be assigned a frequency 20 kc/s from A and 10 kc/s from B if physically closer to A in order to equalize mutual interference among A, B and C?

D. To what extent is the sharing by the land mobile service of television Channels 2 through 13 feasible, with specific answers to the following questions:

1. What technical criteria/parameters must be developed and imposed upon the proposed sharing operations?

2. What other restrictions (time, proximity, etc.) should be imposed?

3. What mutual interference effects via ionospheric propagation may be expected for Channels 2 through 6?

4. Should only mobile or only base stations be permited to share television channels thus requiring a cross-band type of operation?

5. Assuming a given metropolitan area (e.g., New York, Chicago or Los Angeles) what degree of relief, in terms of usable spectrum space under a given set of technical conditions, could be expected for the land mobile service by techniques designed to provide maximum sharing of television Channels 2 through 13?

5. Interested parties filing comments in response to this inquiry are requested to file an original and fourteen copies with the Secretary of the Commission on or before October 1, 1964.

Adopted: March 26, 1964.

Released: March 27, 1964.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-3242; Filed, Apr. 3, 1964; 8:45 a.m.]

[Docket No. 11997; FCC 64-264]

ALLOCATION OF FREQUENCIES

Report and Order

In the matter of statutory inquiry into the allocation of frequencies to the various non-Government Services in the radio spectrum between 25 and 890 Mc/s; petition for allocation of 840–890 Mc/s band for Common Carrier Fixed Operations; amendments of Parts 2 and 10 of the Commission's rules to allocate a single UHF–TV Channel in the upper portion of the UHF–TV range to the Public Safety Radio Services for operations of public safety entities; inquiry into the problem of additional frequency space for Land Mobile Services; an inquiry into the present and future requirements of the Public Safety Radio Services for the allocation of radio frequencies; Docket No. 11997, RM 51, RM 251, RM 370.

Preliminary statement. 1. This inquiry into the allocation of frequencies in the 25–890 Mc/s band was instituted by the Commission on its own initiative in April of 1957 (FCC 57–365, April 5, 1957; 22 F.R. 2684, April 17, 1957). Comments in response to the order of inquiry were submitted on behalf of most of the major radio services, either by user groups or by other entities having an interest in those services. Interested groups were given a further opportunity to present their views during 14 days of hearings before the Commission en banc during June of 1959. The record in this proceeding consists of the written comments, written testimony and exhibits, statements of proposed testimony, and the transcript of the hearing sessions.

2. Although some of the matters raised during the inquiry have been resolved since 1959 and other events have transpired affecting the use of the spectrum between 25 and 890 Mc/s, the Commission considers a review of this proceeding and public pronouncement of certain policies emanating therefrom to be appropriate.

3. In this document, we are confining ourselves to consideration of issues I and II raised in the order of inquiry. That is, we are reviewing the utilization of the frequency spectrum by the various services and are considering the frequency requirements of existing and potential radio users. Information submitted on other aspects of this inquiry, though not discussed herein, will be considered by the Commission in the future, and will be drawn upon, as the need arises. The

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[1] Commissioner Hyde absent.

discussion that follows will be based partly on the information submitted in this proceeding and partly on data that have become available since then and on events that have subsequently taken place.

4. The portion of the spectrum from 25 to 216 Mc/s is now very heavily used. It contains the most heavily used land mobile radio frequencies, the FM broadcast band, the VHF television band, frequency segments allocated to the Aviation services, a small amount of space available to the Marine services, space available to amateurs, and some interspersed bands allocated to the Government services. The band from 216 to 470 Mc/s, contains primarily Government spectrum space with some interspersed amateur allocations and the increasingly important block assigned to the land mobile services, 450–470 Mc/s. The remaining band 470–890 Mc/s, is assigned to UHF television.

5. The majority of those filing comments represented the land mobile services in the Safety and Special Radio Services, which will be referred to hereafter as the private land mobile services. These services are divided by user category into the Industrial Radio Service (Part 91 of the Commission's rules), the Public Safety Radio Service (Part 89), and the Land Transportation Radio Service (Part 93). Approximately 38 Mc/s have been allocated to these services in the band 25–890 Mc/s. The total consists of segments of the three land mobile bands 25–50 Mc/s, 150.8–162 Mc/s and 450–470 Mc/s. During the 1947–1957 decade, the number of authorized transmitters in those services increased from approximately 35,000 to 875,500. (In the period 1957–1962, an additional 826,760 transmitters were authorized, thus making a total of 1,702,260 outstanding at the end of June, 1962.) It is clear that the use of radio by the private land mobile services has been interwoven into the economic and social fiber of our society. Unquestionably, its use renders vital service and direct benefit not only to the users, but to the public at large. Public utilities, manufacturing, petroleum, trucking, railroads and aviation are but a few of the companies/industries that utilize its capacity.

6. Both Motorola, Inc. and the Land Mobile Section of the Electronic Industries Association (EIA) submitted data reflecting the channel occupancy of typical frequency assignments in the various services. Based upon 1958 overall figures of number of channels available versus number of assignments, an average of 800 assignments per channel nationwide was derived. It was then estimated that, by 1963, even with the availability of split channels, the average number would rise to over 1000 assignments per channel. In order to meet projected growth of the land mobile service through 1968, EIA estimated that a requirement for 2576 channels would exist. In order to meet this additional requirement of 1200 channels, EIA proposed a reallocation of 40.8 Mc/s of spectrum to be apportioned from the following bands:

Below 100 Mc/s, 4.8 Mc/s, 240 channels, 20 kc/s channel spacing.
100–300 Mc/s, 18.0 Mc/s, 600 channels, 30 kc/s channel spacing.
Above 300 Mc/s, 18.0 Mc/s, 360 channels, 50 kc/s channel spacing.

No suggestions as to the possible source of spectrum or as to which services should be deleted or reallocated were proffered, however.

7. Motorola indicated that the land mobile service should have twice the amount of spectrum available by 1967 as was available in 1957. It was predicted that, by 1967, the number of stations would be approximately four times as large as in 1957 and that, although channel splitting would take care of half of the growth, additional frequencies would be required. It was suggested that the additional frequencies should be adjacent to the bands presently allocated to the services in question. Motorola recommended that 55 additional megacycles be allocated to private land mobile services to meet further growth predictions. Specifically, it was recommended that the bands 50–72 Mc/s, 140–150 Mc/s and 162–166 Mc/s and 470–489 Mc/s be allocated for that purpose and that television be allocated to the 174–354 Mc/s region.

Industrial Radio Services. 8. *Petroleum Radio Service.* Presentations on behalf of the Petroleum Radio Service were made by the Central Committee on Radio Facilities of the American Petroleum Institute (Central Committee), by the American Gas Association (AGA) and by the Texas Gas Transmission Corporation (Texas Gas). Considerable information was presented describing extensively the use of radio by the petroleum, and gas and pipeline industries. Central Committee stated in detail that the petroleum industry employs radio in all phases of its operations, in geophysical exploration, well drilling, oil field operation, pipelining and distribution. Exploration and drilling is carried out in sparsely settled areas, such as off-shore, as in the marshes of Louisiana and in remote areas of Montana, Wyoming and North Dakota, where telephone communications are unavailable. In connection with pipelines, laid across sparsely populated areas, radio is used to report gauge measurements, leakage, breaks and in connection with the operation and maintenance of pipelines in general. Texas Gas described the use of radio in connection with the transmission of gas by pipelines. In the petroleum industry, the heaviest use of radio was shown to be in one area consisting of Texas, Louisiana, Arkansas and Mississippi.

9. Central Committee stated that the period 1950–1958 reflected a four-fold increase in the number of station assignments and transmitters. In view of the growth experienced prior to this proceeding, it was anticipated that 40–50,000 new units would need to be accommodated by 1968 in addition to meeting the needs of existing users of from 65–85,000 units. To meet these requirements, Central Committee asked for 25 to 30 additional exclusive frequencies in the 25–50 Mc/s area and 10 to 15 additional exclusive frequencies in the 150–173 Mc/s region. Although the need for frequencies in the 450–470 Mc/s band was not clearly predictable, an estimate of an additional 10 pairs was considered to be conservative.

10. *Forest Products Radio Service.* The Forest Products Radio Service, which shares many of the frequencies with the Petroleum Radio Service, was represented by the Forest Industries Radio Communications (FIRC), an industry association. In addition to the frequencies shared with petroleum, exclusive frequencies are available in the 29 Mc/s region. According to FIRC, of the outstanding authorizations, 36 percent were operating in the 152 Mc/s area and 64 percent on frequencies below 50 Mc/s. FIRC reported that the 152 Mc/s frequencies were used primarily in the West because high mountain locations are available. Because of the relatively flat terrain, those frequencies are not used in the South. Additionally, it was reported that, except for control and repeater operations, frequencies in the 450 Mc/s area are useless to the forestry industries because of propagation characteristics, foliage absorption, etc. FIRC maintained that their primary need for frequencies is in the area below 100 Mc/s because their communication requirements are primarily mobile-to-base and mobile-to-mobile operation with a wide area coverage. Based upon estimates of growth, FIRC estimated that 20 exclusive frequencies below 50 Mc/s would be required by 1968. In the 125–174 Mc/s and 450–460 Mc/s regions, it was stated that at least twice and even as many as three times the number of frequencies presently available would be required to accommodate further expansion.

11. *Special Industrial Radio Service.* Presentations concerning the Special Industrial Radio Service were made by the Special Industrial Radio Service Association (SIRSA); American Iron Ore Association (AIOA); American Mining Congress (AMC); Hawaiian Sugar Planters Association (HSPA); Pineapple Growers Associaton of Hawaii (PGAH); Mesabi Radio Corporation (Mesabi); National Ready Mixed Concrete Association (Concrete); National Sand and Gravel Association (National); Petroleum Equipment Suppliers Association (PESA); Potter-DeWitt Corporation (Potter); West Machinery Company, Inc. (West); and by the Seismograph Service Corporation (SSC).

12. The Special Industrial Radio Service has been allocated frequencies in the 35–50 Mc/s band, in the 150–162 Mc/s area and in the 450–470 Mc/s region. SIRSA and the others described in considerable detail that the frequencies are utilized in conjunction with nearly all aspects of farm management, mining and of all types of ores, liquefied gas distribution, construction of highways, bridges, docks, dams, large buildings, etc. They are also used by the petroleum service and supply entities which provide special services to the oil industry. Such services include concreting, logging, acidizing, sampling, core analyses, perforating and directional drilling. Many of these operations take place in areas where telephones are not

readily accessible such as remote and rugged areas and in offshore areas such as the Gulf of Mexico.

13. Testimony and comments filed during the course of this proceeding reflected a heavy demand for additional frequencies in this service. SIRSA stated that the Special Industrial Radio Service would require 42 additional channels in the 25–50 Mc/s band; 38 in the 150.8–162 Mc/s band; and 17 more in the 450–470 Mc/s band. Although it was considered desirable to provide the frequencies from spectrum adjacent to existing land mobile bands, allocations from other portions of the spectrum would be acceptable. Three possible sources of such frequencies given were: (1) return of the 49 Mc/s band to the special industrial radio service from non-Government transatlantic scatter operations; (2) frequencies in the 450–470 Mc/s band (then little used); and (3) reallocation to non-Government use of certain Government bands alleged to be lying fallow. These needs, according to the SIRSA witness were based upon projected growth in the number of transmitters in use by 1968.

14. The AMC stated that it was difficult to calculate the needs of the Special Industrial Service; but that special consideration should be given to allocations in areas in which the assigned frequencies would be used. Concrete and NSGA asserted only that the use of radio will expand, but did not submit projected requirements. Mesabi requested only that "an adequate number of frequencies in the 27–50 Mc/s, 72–76 Mc/s, 150–162 Mc/s and 450–460 Mc/s bands should be protected" for special industrial use. AIOA recommended that the Commission adopt rules and make such allocations as necessary to insure full and complete satisfaction of the iron ore mining industry needs. Further, it was asserted that the method of block allocation of frequencies to specific industrial services is wasteful of radio spectrum. The HSPA and PGAH stated that present allocations were adequate and would continue to be so due to the separation of the individual islands and of Hawaii from the mainland.

15. *Manufacturers Radio Service.* The Manufacturers Radio Service presentation was made by the National Association of Manufacturers, Committee on Manufacturers Radio Use (NAM). This service, established on August 1, 1958, was only a year old when oral testimony was presented. Consequently, extensive concrete information on utilization was not yet available. In general, according to NAM, the use of radio in the Manufacturers Radio Service was confined to plant areas. Within small areas, it is used for dispatching and controlling material, component parts and finished product vehicles. Powers of three watts or less are adequate for these purposes. Radio was also being used for control of vehicles between the separate areas of the same plant and between plants operated by the same company or subcontractors. Consequently, higher power and mobile relays may also be necessary.

16. Despite the paucity of data reflecting actual growth requirements, testimony indicated a need for 18 additional channels in the 152–162 Mc/s band. This total is derived from: four needed for low power use within the plant, which may be shared with the Forest Products and Petroleum Services; 10 shared frequencies to provide for growth; and four exclusive frequencies to meet manufacturers' need for reliable communications in basic production control and to accommodate systems in the areas where sharing is not feasible. In the 460–470 Mc/s band, 10 additional exclusive pairs were requested for growth and to permit development of mobile relay systems. A need for two exclusive pairs in this band was also foreseen to meet plant security and emergency purposes.

17. *Power Radio Service.* The National Committee for Utilities Radio, representing the gas, electric and water companies operating in the Power Radio Service, submitted data showing that 133,039 transmitters were authorized to operate on 83 available channels in 1959. Thus, these channels (consisting of 54 in the 30–50 Mc/s band, 19 in the 152–174 Mc/s band, and 10 in the 450–460 Mc/s band) had a nationwide average loading of over 1600 transmitters per channel. To meet long range requirements, a need was expressed for an additional 29 channels in the 30–50 Mc/s band, 4 in the 152–174 Mc/s band and 10 in the 450–460 Mc/s band.

Public Safety Radio Services. 18. *General.* Comments concerning the Public Safety Radio Services were submitted by the State of California, California Public Safety Radio Association (CPRA), and by Kern County and Los Angeles County, California, in a combined discussion of all public safety users within their respective political subdivisions. The presentations generally dealt with conditions existing in the Los Angeles area. While, in a sense, the presentation of congestion is somewhat distorted when compared with the service on a nationwide basis, a picture of the situation generally prevailing in major metropolitan areas was set forth.

19. The 36 frequencies available for police in the 152–162 Mc/s band reportedly were all assigned in the Los Angeles area. The same situation was said to exist for the 12 frequencies available for fire licensees in the area. Loading varied from 40 to 600 cars per channel, according to submitted figures. Comparable loading data were not given for 25–50 and 450–470 Mc/s. In the San Francisco area, loading and utilization is less heavy although most of the frequencies in the 150 Mc/s and 450 Mc/s bands are in use. CPRA indicated that, in the 14 Southern California counties in which it operates, the 47 channels available in the 150 Mc/s band to the Police and Fire Services combined supported a total of 248 base, 5,877 mobile, 37 control and 10 mobile relay stations. Kern and Los Angeles Counties allied themselves with comments filed by the State of California and with CPRA.

20. In view of the prevalent congestion in the land mobile bands, a general reallocation of frequencies was proposed for the 25–890 Mc/s bands. The State of California (despite a conflicting statement from Governor Brown to the effect that the State does not support the view) recommended that VHF–TV should be moved to UHF and the present VHF channels allocated to the land mobile radio services. Additionally, it was proposed that the 50–88 Mc/s should be allocated to land mobile, that Amateur be moved from 50–54 to 46–50 Mc/s; that the 25–46 Mc/s band be reserved for Citizens, Amateur, ISM and Government, including scatter; that frequencies between 150 and 200 Mc/s be reallocated to land mobile with the Government services moved to 200–216 Mc/s; and that 400–410 Mc/s be allocated to Government and meteorological services, 410–430 Mc/s to Amateur and 430–470 Mc/s to the land mobile radio service.

21. Further, California recommended that police allocations receive top priority in eliminating interference. Other general recommendations included: (1) a pool system of allocations to Public Safety should be set up only if the Commission appointed coordinating groups for recommending assignments on a geographical basis; (2) broadband transmission techniques could be used on an engineered basis in large metropolitan areas; (3) protective contour methods should be employed in making public safety assignments; and (4) that growth in the use of personalized transceivers, closed circuit television and teleprinters should be anticipated. The aforementioned comments were also endorsed by the CPSRA and by Kern and Los Angeles counties presentations.

22. *Police Radio Service.* The associated Police Communications Officers, Inc. (APCO), Eastern States Police Radio League and the International Association of Chiefs of Police made presentations on behalf of the Police Radio Service.

23. APCO stated that in 1958 there were authorized 10,239 base and 156,500 mobile units in the Police Radio Service. In the 150–160 Mc/s band, an average of 101 mobile units are authorized per assignment. However, they (APCO) consider that loading of over 50 units per channel threatens degradation of the service significantly. Furthermore, population growth and population shifts and the resulting increase in crime require that present communication systems must expand and that new systems be established. Requirements for intersystem and interzone communications and coordination have been constantly increasing. Subminiature receivers and transmitters are available and can be carried in the pocket of an officer's uniform. Use of "walkie-talkie" equipment, which is not subminiature in size, is on the increase. Both of these types of equipment employ low power and require the use of frequencies other than those on which higher power normal base and mobile systems operate.

24. APCO stated that at that point they could not tell precisely how much additional frequency space would be needed for future requirements. It was urged that the 34 split channels in the police 150 Mc/s region be made available to the service as soon as possible although those frequencies alone would not fully meet the frequency problems then existing. APCO also requested eight fre-

quencies in the 150–160 Mc/s band for state police use on a non-interference basis for mobile and control operation. Generally, APCO stated that existing public safety uses would require 118 additional frequencies for police, 47 for fire, 30 for highway maintenance and 6 for the control of devices such as traffic signals, telemetering and signaling within the next ten year period (through 1968). Local Government was alleged to require 80 frequencies. The most desirable spectrum space was stated to be that between 40 and 200 Mc/s; however, 40–500 Mc/s or 40–600 Mc/s would be suitable.

25. The Eastern Police Radio League (EPRL) described in considerable detail the present and future uses of radio by police. Such uses include voice communications between base and mobile, mobile-to-mobile, base-to-base, interdepartmental communications, radio links, radio telegraph, local, state and nationwide teletype, traffic control and traffic lights control, radar, facsimile for exchange of pictures and fingerprints, and, for the future, local, state and nationwide police television systems. EPRL foresaw expansion of police communications systems to include district attorneys and prisons. To meet present minimum needs, the frequencies gained by channel splitting should be made available. Additional frequencies above 450 Mc/s should be made available for new uses. New frequencies should be provided for police television and radar speed control, among others.

26. The International Association of Chiefs of Police endorsed the position of APCO and presented further justification for the need of police radio. It stated that the crime rate is increasing four times faster than the population. In 1958, the crime rate was 56.2 percent over that in 1950. Nationwide motor vehicle registration increased from 38 million in 1947 to over 67 million in 1957. During this period the population of the United States increased by 18 percent. To cope with the increasingly complex job of law enforcement, the police rely heavily on radio communications. From 1947 to 1958 the number of authorized police radio stations increased from 4132 to 10,239. The authorized mobile units, during the same period, increased from 32,000 to 156,000. Their need for expanded facilities, new facilities and for new uses of radio will require more frequency space.

27. *Fire Radio Service.* The Fire Radio Service presentation was made primarily by the International Municipal Signal Association (IMSA), which described at some length the use of radio in fire fighting and fire prevention operations. It stated that the use of mobile radio and related fixed control systems has become such an integral part of firefighting organizations that the National Board of Fire Underwriters include radio requirements in their grading schedule. Additionally, municipal civil defense agencies have requirements for associating themselves with the local fire department communication nets. To meet long range requirements, IMSA has stated a need for 30 additional base-mobile channels in the 100–890 Mc/s range, four pairs of control channels with 10 Mc/s of spacing between pairs in the 450–890 Mc/s range, eight channels to supplement the wire-line needs of civil defense, 20 additional channels in the range 100–890 Mc/s for the Local Government Radio Service, including civil defense liaison circuits with point-to-point permitted on at least six of the 20, and four channels (above 500 Mc/s) to be used by emergency mobile units in controlling traffic signals.

28. *Forestry-Conservation Radio Service.* The Forestry-Conservation Communications Association (FCCA), in setting forth the status of the Forestry-Conservation Radio Service, indicated that the bands 30.86–31.98 Mc/s, 46.54–46.82 Mc/s, 72.14–75.98 Mc/s, 156.87–161.13 Mc/s, 170.425–172.375 Mc/s and 453.65–458.65 Mc/s then allocated were being used by 19,894 assignments in 1958. This represented a growth of approximately 4500 units over the previous year. It was estimated that a requirement for 30,000 stations would exist by 1967, a figure that was supported by the Ohio Division of Wildlife, Department of Natural Resources (Ohio).

29. To meet these requirements, the FCCA believed that a minimum of 10 additional 150 Mc/s channels would be required by 1967. It was claimed that the limited propagation range at 150 Mc/s necessitates more base stations per unit area, thus requiring more channels. Ohio requested that the split interspersed channels in the 44.64 through 45.04 Mc/s band and the frequencies in the 150.8 to 152 Mc/s band be made available to the members of FCCA.

30. *Highway Maintenance Radio Service.* The needs of the Highway Maintenance Radio Service were presented by the Department of Commerce, Committee on Use of Radio in Highway Departments and by the following State highway departments: Florida, Michigan, Mississippi, North Carolina, Texas, Virginia and Wyoming. The service had available 20 channels in the 40 Mc/s region and 28 channels in the 150.8–162 Mc/s band. These channels were supporting 27,543 authorizations on January 1, 1959, with much of the growth resulting from the impetus of Federal Aid to Highway Acts in 1956 and 1958. Interference problems due to long-range skip are prevalent in the 25–50 Mc/s region; for that reason, much of the usage has been concentrated in the higher band. There was general agreement that frequencies in each of the three land mobile bands are required for the service, with the 30–50 Mc/s frequencies advantageous for states and some large counties in providing wide area coverage. The 150 and 450 Mc/s frequencies are more suitable for use by counties and cities or for control and repeater circuits. The needs of the respective state highway departments generally reflected their individual requirements and consequently cannot be considered in a proceeding of this type except in relation to the service needs.

31. *Local Government Radio Service.* The Local Government Radio Service requirements were presented by the American Municipal Association (AMA). The AMA stated categorically that additional frequencies are needed in certain areas and, in view of the fact that frequencies are interspersed between fire and police services, there is difficulty in coordination. A minimum of five additional frequencies in the 150 Mc/s band was allegedly required to meet the future demands of governmental service in metropolitan areas of 500,000 population or more and having satellite communities. AMA believed, however, that a more realistic view would be for 15 additional frequencies in the 150 Mc/s band, excluding the tertiary (15 kc/s split) channels. The communities represented by AMA have no need for frequencies in the 45 Mc/s region and it was recommended that they be reserved for larger governmental entities such as counties and states. The AMA recommended that 84 Mc/s of currently allocated UHF TV spectrum be reallocated to land mobile radio use.

Land Transportation Radio Services.

32. *Railroad Radio Services.* The Association of American Railroads (AAR) and the Southern Railway Company (Southern) spoke for the railway industry. The Railroad Radio Service has available exclusive frequencies in the 160 Mc/s range and in the 450 Mc/s range, and access to certain other shared bands. Both AAR and Southern described in detail the use of radio by the railroad industry and stated that radio had become an integral part of railroad operations. It is used for communications between the engine and caboose, train-to-train, point-to-point, for yard and terminal service and for miscellaneous communications such as railroad police, maintenance trucks, wreckers, supply trains, etc. Both AAR and Southern indicated that no additional frequencies were required; however, both requested the Commission to continue the existing allocations. It was pointed out that existing frequencies were required in order to meet demands for communications in large terminal areas such as Chicago and Kansas City and for foreseeable growth or new needs. The potential new needs include: communications between operators of mechanized equipment used for repairing rights-of-way, automatic hot-box detectors, automatic devices for warning of unsafe track conditions, etc.

33. *Motor Carrier Radio Service.* The Motor Carrier Radio Service is subdivided into three groups: Intercity carriers of passengers, urban transit, and motor carriers of property. Presentations on behalf of these groups were made by National Bus Communications, Inc. (NABCO), by the American Transit Association (ATA), and by the American Trucking Associations (Trucking).

34. NABCO stated that the 7 exclusive frequencies and 3 shared frequencies then assigned for intercity motor carriers of passengers were used in connection with the efficient and safe operation of intercity buses. Radio is used for coordinating the movement and use of buses in the field, especially at peak operating times, and for communication between dispatcher and driver, and between dispatchers and between drivers.

NABCO did not indicate a need for additional frequencies, but stated that the present frequencies would be necessary to provide a geographically coordinated service to minimize the adverse effect of skip interference and to provide the maximum utilization of the single frequency assigned in each region. A future requirement set forth in connection with the service was for ground passenger carriers associated with the airlines.

35. The frequencies available for urban transit use are, for the most part, shared with other land mobile services. Consequently, most usage is concentrated on the exclusive frequencies in the 44 Mc/s region. Usage is generally confined to maintaining regularity of service, vehicle re-routing and dispatching of emergency trucks. ATA stated that statistics were not available to justify a request for additional frequencies; however, a potential requirement for 30 assignable channels was ventured. Reasons for the estimate were stated as: (1) the improved economic position of transit companies because of the expanding use of public transportation facilities, and (2) the increasing advantages of using radio in vehicles. Additionally, the need for thirty channels was derived from the fact that the New York metropolitan area contains several hundred franchised public transit operations alone, of which at least thirty companies would be of sufficient size to warrant a separate frequency assignment.

36. The American Trucking Associations (Trucking) stated that the exclusive frequencies available to the motor carriers of property in the 43–44 Mc/s band had a per-channel occupancy of about 50 base stations and 1135 mobile units. The frequencies in the 150.8–162 Mc/s band, made available in September, 1958, had, after the first six months availability, a per-channel occupancy of 1.5 base and 30 mobile assignments, despite the fact that only 12 frequencies in the band were assigned primary (60 kc/s spacing) while 12 were assigned on a secondary (30 kc/s spacing) and 24 on a tertiary (15 kc/s spacing) status. The five exclusive pairs in the 450 Mc/s range reflected a loading of 34 base and 1420 mobile stations per pair. Trucking indicated that most of the use at the time of filing was in connection with local pick-up and delivery operations. However, the growing tendency was to equip over-the-road vehicles with radio, primarily for coordination of incoming loads with local delivery and for more efficient scheduling of unloading facilities.

37. Trucking estimated that, by 1967, there would be 56,000 radio-equipped vehicles—an increase of about 33% over the number in 1957. To accommodate these requirements, it was requested that the present allocations in the 25–50 Mc/s and 150.8–162 Mc/s bands be retained and that seven additional frequency pairs should be made available in the 450–470 Mc/s band.

38. *Taxicab Radio Service.* The Taxicab Radio Service presentations made by American Taxicab Association (ATA) and by National Association of Taxicab Owners (NATO) indicated that the four pairs of frequencies assigned exclusively to the service in the 150 Mc/s band (plus three more pairs in the band for cities having a population in excess of 500,000) and the 10 pairs of frequencies in the 450 Mc/s band were accommodating about 105,000 transmitters. An average of 142 vehicles was being served per channel according to a survey of 60 cities made in 1957. To alleviate this congestion and to provide some flexibility in assignments, the Commission was requested to allocate a minimum of 10 additional VHF frequencies to the taxicab industry, primarily for metropolitan area relief.

39. *Automobile Emergency Radio Service.* The number of frequencies presently allocated to the Automobile Emergency Radio Service was considered generally adequate by the American Automobile Association (AAA), the California State Automobile Association (CSAA) and the Automobile Club of New York (ACNY). Two frequency pairs in the 450–460 Mc/s band and three in the 150–160 Mc/s band for automobile club use exclusively and three in the 157 Mc/s range, primarily for public garages but also available for auto club use under certain conditions are allocated for the service. The frequencies are used primarily to dispatch and control emergency road service vehicles and to relay traffic information between the vehicles and the central offices. For the metropolitan areas only, availability of two additional frequencies was recommended, with the 150 Mc/s band considered desirable.

Other Safety and Special Radio Services. 40. *Citizens Radio Service.* Comments on behalf of the Citizens Radio Service were filed by Vocaline Company of America with respect to Class B stations, and by the Academy of Model Aeronautics with respect to Class C stations. Subsequent to the release of the Commission's decision in Docket Nos. 11991 and 11994, Vocaline Company withdrew from this proceeding. The Academy of Model Aeronautics, commenting upon the Class C (remote control operation) Citizens Radio Service, stated that 20,000 model airplane flyers were using the frequency 27.255 Mc/s in 1958. Besides the five other frequencies in the 27 Mc/s band made available for such operation in 1958, the Academy indicated a need for six additional frequencies, with at least 2% separation between frequencies, in the 30–200 Mc/s region to meet requirements in the near future.

41. *Aviation Radio Services.* The Aviation Radio Services presentation was made by Aeronautical Radio, Inc. (ARINC); Alaska Aviation Radio, Inc. (AARI); and by the Aeronautical Flight Test Coordinating Council (AFTCC). Also, the Department of Commerce, Civil Aeronautics Board, filed comments in the form of a letter to the Chairman of the Commission.

42. ARINC and AARI described in some detail the use of the frequencies allocated to the aviation services. The frequencies in the 118–128.8 and 132–136 Mc/s area are used for air traffic control by Government and non-Government users and those in the 128–132 Mc/s band are used for en route communications. According to ARINC, the 29.80–30.00 Mc/s band is used for communications between aeronautical fixed stations. The stations operated by ARINC have one terminal in the United States and the other in foreign countries or territories and are used primarily during periods of high sun-spot activity. The 40 Mc/s bands were originally proposed for use in ionospheric scatter circuits over the North Atlantic; however, agreement concerning the use of a submarine cable had changed the plans. ARINC recommended the retention of the frequencies for the same use in the foreseeable future. Due to the requirement that interference protection be afforded to television Channels 4 and 5, little use had been made of the 72–74.58 Mc/s band. The 74.58–75.42 Mc/s band is used for marker beacons on the national airways throughout most of the United States. Radionavigation devices are also employed in the 328.6–335.4 Mc/s and 420–450 Mc/s shared Government bands with the former used for glide slope devices and the latter employed for radio altimeters. Omni-range radionavigation devices in the United States and at many airports throughout the world utilize the 108–118 Mc/s band. Frequencies in the 123.1–123.55 Mc/s band are allocated for aeronautical flight test and flying school communications.

43. ARINC and AARI recommended that the then existing allocations to the aviation services (Part 9) be retained. AARI recommended that additional frequencies in the band 123.7–131.9 Mc/s be made available in Alaska for aeronautical en route communications. It was also recommended that frequencies in the 170–172 Mc/s region should be made available to non-Government stations in Alaska and that the 46.51–46.60 Mc/s and 49.51–49.60 Mc/s bands be retained. Other recommendations included: that frequencies in the 156–162 Mc/s and 450–460 Mc/s range be made available for operational fixed use in Alaska; and that the band 132–136 Mc/s be made available to FAA. Two other aeronautical recommendations which are or have been under consideration in separate rule making proceedings include the establishment of an Aviation Terminal Mobile Service in either the 150.8–162 Mc/s or the 450–470 Mc/s band, but preferably in the 450–470 Mc/s band (Docket No. 13847); and establishment of a Public Radiotelephone Service to aircraft in the frequency range 125–500 Mc/s (Docket No. 14615).

44. *Marine Services.* Comments pertinent to issues under consideration were submitted by Western Union, RCA Communications, Inc. and by the American Telephone and Telegraph Company. Western Union stated that it employed the frequency 156.9 Mc/s for ship and departure service. AT&T stated that the VHF Maritime Mobile Service would grow substantially and that additional frequency space should be provided to accommodate its growth. RCA Communications, Inc. recommended that the frequencies in the 72–76 Mc/s band be retained for operational fixed use on the present non-interference basis to television broadcast service.

45. *Amateur Radio Services.* With respect to the Amateur Radio Service, the American Radio Relay League, Inc., summarized the uses to which the amateur frequencies were being put. ARRL stated that the 28 Mc/s band carries a heavy load of communications and is used widely when skywave communications can be achieved. Extensive use is made of the band. The 50–54 Mc/s band is used by the beginner and by those interested in studying propagation phenomena. The band 144–148 Mc/s has been used for moon-probe experimentation and is used extensively for short range communications. The higher bands, 220–225 Mc/s and 420–450 Mc/s, are primarily in a developmental stage but are growing in importance. The presently allocated bands were considered satisfactory for the continued growth and development of the service and no changes were recommended.

46. The Federal Civil Defense Administration stated that amateur and RACES frequencies should be continued and that more RACES frequencies should be allocated. No specific requirements were offered; however, the FCDA believed that any reallocation of frequencies to the public safety and land transportation services should not be undertaken without considering mobilization plans.

Common Carrier Radio Services. 47. Turning now to the needs of the common carrier industry and the Domestic Public Land Mobile Radio Service, the major requirement was for a band of frequencies in the upper band of spectrum now allocated for UHF television. The American Telephone and Telegraph Company (AT&T), supported by the United States Independent Telephone Association (USITA), General Telephone and Electronics (GT&E), and the Lenkurt Electric Company (Lenkurt), recommended that the 765–840 Mc/s band be reallocated for the establishment of a one-thousand channel broad-band type of public mobile service to subscribers on a nationwide basis with a portion of the channels set aside to provide a public air-ground communication service for private aircraft and commercial airlines. Secondarily, the band would be employed, according to the proposal, for common carrier fixed service.

48. In addition to the request for spectrum between 765 and 840 Mc/s, requests were received from AT&T, Hawaiian Telephone Company, GT&E, USITA and Lenkurt to reallocate the 840–890 Mc/s band from UHF television to the common carrier fixed service. Such action, it was stated, would compensate for replacement of the band 890–940 Mc/s reallocated to Government use in 1958.

49. Below 500 Mc/s, needs for additional frequencies were expressed by three entities. Associated Telephone Exchanges, Inc. requested that four additional frequencies be authorized for radio paging service, increasing to eight the number of frequencies available to common carriers for that purpose. RCA Communications, Inc. recommended that 90 kc/s of spectrum be allocated in the 35, 38 and 40 Mc/s bands for reflection and scatter propagation in the International Fixed Service. Finally, the Lenkurt Electric Company proposed that an additional 10 pairs of frequencies below 500 Mc/s be established for use by the rural radio service on a secondary basis when other available frequencies are in use by the primary allottee, the domestic public land mobile radio service. The domestic public air-ground radiotelephone service proposed by AT&T, and referred to earlier in paragraph 43, was considered in Docket No. 14615 proceedings.

Broadcast Radio Services. 50. Broadcasting stations utilize portable and mobile stations to provide on-the-spot coverage of sporting events, parades, conventions, religious services, fairs, disasters and other newsworthy events. The effective use of the channels requires that they be free of interference and capable of providing a reasonable degree of "naturalness" or fidelity. Broadcast programs are fitted into precise and pre-determined time periods and program material lost due to interference is usually unrecoverable. Consequently, sharing of channels with stations in other services is not feasible. Of the 65 channels currently allocated to the remote broadcasting pickup service, 3 are in the 1600 kilocycle band and are virtually unusable at night because of skywave interference; 26 are in the 26 Mc/s portion of the spectrum and are also subject to sporadic long distance interference, particularly during periods of high sunspot activity; and, 9 are in the 153 Mc/s region of the spectrum and are shared with various non-broadcast services. In populous areas where the demand for non-broadcast and remote pickup facilities is highest, these 9 frequencies are all but unusable. There are nearly 6,000 remote pickup stations authorized, many of which are assigned more than one channel to enable them to switch to another channel should interference crop up during a remote broadcast. The National Association of Broadcasters, on behalf of the broadcasting industry, requested that 10 exclusive channels in the 152–162 Mc/s band be made available and that the present allocation of two 1 megacycle bands separated by 5 megacycles in the 450–460 Mc/s portion of the spectrum, be retained.

General Requests and Subsequent Petitions. 51. In addition to the predicted needs of the individual services, as outlined above, the Commission also received requests for initiation of new radio services. Those requests are set forth below:

(a) *Electronic Protection Incorporated*—Requested bandwidth of 1 megacycle at 465 Mc/s for use on emergency vehicles to control traffic lights ahead of the vehicle while traveling to the scene of an emergency. Equipment would operate with .235 watt and radiate a distance of 150 feet.

(b) *American Hospital Association*—Requested the Commission to establish eligibility standards for hospitals and hospital associations, and to reserve two frequencies in the 40–50 Mc/s band and three in the 150–450 Mc/s band. Such a service could be accommodated under the Special Emergency Radio Service or the Business Radio Service.

(c) *Central Station Electrical Protection Association*—Contemplated a radio point-to-point system for TV and tone signals. The system would require two to four megacycles plus guard bands for an FM visual detection system and 0.5 megacycles plus guard bands for tone signaling. Three channels were requested at 152–162 Mc/s and two channels above 450 Mc/s.

(d) *Central Station Electrical Protection Association*—Requested the Commission to allot a band of frequencies for exclusive use by those engaged in furnishing fire, burglary and other protective services.

(e) *American Rocket Society*—Requested space in the 25–50 Mc/s band for telemetering and for ionospheric research. Additionally, it was requested that the 107.948–107.959 Mc/s band be allocated for ionospheric research.

(f) *American District Telegraph Company* and the *Central Station Protection Association*—Requested the establishment of a protection alarm communication service and the allocation of a block of frequencies below 890 Mc/s for the exclusive use of that service. (It should be noted that the latter request is being considered in Docket No. 13847 proceedings.)

52. Directly related to issues I and II in this proceeding are the following petitions which we believe should be considered and disposed of at this time:

(a) RM–51 Lenkurt Electric Company, petition filed August 20, 1958, for reallocation of 840–890 Mc/s band to the Domestic Public Radio Services.

(b) RM–251 International Association of Fire Chiefs and International Municipal Signal Association, petition filed April 11, 1961, for reallocation of a high UHF television channel to the Public Safety Radio Services.

(c) RM–370 Electronic Industries Association, petition filed October 1, 1962, for reallocation of television Channels 14 and 15 (470–482 Mc/s) to the Land Mobile Radio Services.

(d) United States Independent Telephone Association petition filed July 16, 1958, for reallocation of the 840–890 Mc/s band to common carrier fixed operations.

(e) Associated Public Safety Communications Officers, petition filed December 5, 1962, for institution of a formal inquiry into the frequency needs of the Public Safety Radio Services.

53. The Lenkurt and the USITA petitions requested reallocation of the 840–890 Mc/s band to the Domestic Fixed Public Radio Services as compensation for the loss of the 890–942 Mc/s band to the Government as a result of action taken by the Commission in a Memorandum Opinion and Order adopted April 16, 1958 (FCC 58–379).

54. RM–251, filed by the International Association of Fire Chiefs and International Municipal Signal Association, requested the allocation of a high UHF band television channel to the Public Safety Radio Services, primarily for instructional use in the fire and police services.

55. In RM–370, the Land Mobile Section of EIA requested the Commission to allocate the frequency spectrum known

as television Channels 14 and 15 to the land mobile services. It argued that these services are suffering highly crowded conditions seriously impairing the effective use of their land mobile communications. EIA pointed out that, apart from the limited relief to be provided from the additional frequencies to be derived from the channel splitting proceedings in Docket No. 14503,[1] no other means are available for creating additional frequencies from the present land mobile allocations. It further stated that the state-of-the-art does not permit, for the present, splitting the 450 Mc/s frequencies and that it is not practical to utilize higher frequencies in the spectrum for land mobile operations within the foreseeable state-of-the-art. The reallocation of TV Channels 14 and 15, EIA states, would afford immediate, as well as future, relief. EIA's petition was generally supported by land mobile interests and was opposed by broadcasters.

56. In its petition APCO requested that the Commission institute a formal inquiry to review the present and future requirements of the Public Safety Radio Services for the allocation of additional frequency space to meet their needs. APCO described the importance of radio in the conduct of police activities, referred to the statements concerning the need for frequencies made by Public Safety spokesmen at the hearing in this proceeding, pointed out population trends and its concentration in metropolitan areas, referred to crime trend statistics published by the FBI, noted the increase in automobile registration and stated that these, and other factors, should be explored in a formal inquiry.

57. The foregoing describes the frequency requests and requirements submitted during the fact-finding portion of this proceeding and petitions on file which are directly related to the inquiry. These requests are summarized in Appendix A. It is readily apparent that requests for spectrum space in the band 25–890 Mc/s far exceed the amount of space available.

Frequency Utilization. 58. A summary of spectrum presently allocated to the various services in the 25–890 Mc/s band is reflected in the following table:

Service	Frequency Space—Mc/s
Television Broadcasting	492
FM Broadcasting	20
Government	216.54
Amateur	*44.7
Aviation	[1] 35.6
Shared Government/Non-Government	9.14
Land Mobile	40.975
Fixed/Maritime/Mobile/Citizens	6.135

*35 Mc/s of this space is shared with Government services.

[1] Almost entirely shared with Government aviation services.

59. A great deal of information concerning frequency utilization was submitted by the several private land mobile user groups. This information reflected the situation existing in 1957–1958. The discussion that follows is based upon that information and upon statistical data in the Commission's files at the end of fiscal 1963. For purposes of arriving at some idea of actual frequency utilization in the private land mobile services, an attempt has been made to estimate the number of transmitters in actual operation. The estimate was determined by weighting the number of authorized transmitters by a factor obtained from the results of a survey conducted by the Commission in 1955. In that survey, inquiries were distributed to over 18,000 licensees of whom about 61% responded. Questions were asked concerning the number of transmitters actually installed, the number authorized, and the operational nature of their use. From the responses, a ratio of "in use" versus "authorized" transmitters was derived. This ratio has been used to derive our estimate of the numbers of transmitters in use both in 1958 and 1963. It should be pointed out, however, that we do not consider that the figures for transmitters in use so derived represent the actual situation. The actual figures probably lie somewhere between those and the figures for authorized transmitters and, thus, the figures for transmitters in use represent a conservative estimate.

60. Using those figures of estimated transmitters in use and figures for authorized transmitters, theoretical channel loading figures for the land mobile services have been computed. We also recognize that these loading figures are of limited value since they represent only average channel loading on a national basis and do not consider density patterns, operational differences or service requirements. With the above limitations in mind, the statistics are nevertheless instructive in that they indicate overall growth trends and channel loading relationships among services. Although charts reflecting these statistics are contained in Appendix B, a discussion of each of the private land mobile services follows in paragraphs 61 through 99. It should be noted that certain changes resulting from adoption of the Report and Order in Docket 14503 on October 9, 1963 (FCC 63–906, 28 F.R. 11213) have not been included.

Public Safety Radio Services. 61. *Police.* In the 25–470 Mc/s area, radio in the Police Radio Service is used mainly for base and mobile operations in connection with official police activities. Radio is an indispensable tool to police departments. There are now available 185 exclusive and 38 shared frequencies to the Police Radio Service. In 1958, there were 12,450 outstanding police authorizations, 166,739 authorized and 103,378 estimated transmitters in use. At the end of fiscal 1963, there were 15,919 outstanding police authorizations, 207,902 authorized transmitters and 128,899 estimated transmitters in use. From 1958 to 1963, the number of transmitters in the Police Radio Service increased by 24.7%. In 1963, there were 932.2 authorized and 578 estimated actual transmitters per each available frequency channel. In this proceeding, APCO stated that actual loading of over 50 units per channel in the same area threatens degradation of service. Some frequencies are more occupied than the average, especially in metropolitan areas. For example, in 1958, on 158.9 Mc/s there were 56 communications systems consisting of 65 base and 2,497 mobile units authorized. Undoubtedly, on some frequencies in other areas of the country a much smaller occupancy exists.

62. Motorola submitted some figures on channel usage, or calls per day, supplied by what it calls typical licensees. These figures, taken by either mechanical count, or message counts from the station logs, show that the Police Departments in Portland, Oregon, and Dallas, Texas, with 1 base and 165 mobile units and 1 base and 220 mobile units, respectively, made 4,320 and 5,494 calls, also respectively, during one sample day.

63. APCO stated that 118 additional frequencies would be required in the Police Radio Service for the ten year period 1958–1968.

64. *Fire.* The Fire Radio Service provides radio frequencies in the 25–470 Mc/s area for fire departments mainly for base and mobile radio operations for communication essential to fire fighting and fire protection activities. Radio is used for, among other things, dispatching and controlling mobile fire equipment and for communication with individuals at the scene of a fire. As with police, radio has become an indispensable tool to fire departments.

65. 69 exclusive and 38 shared frequencies are available to the Fire Radio Service. In 1958 there were 4,725 fire station authorizations, 58,385 authorized, and 32,695 estimated transmitters in use. At the end of fiscal 1963, there were 8,312 outstanding fire station authorizations, 100,659 authorized and 56,369 estimated transmitters in use. From 1958 to 1963, the number of transmitters increased by 72.4 percent. In 1963, there were 940.7 authorized and 526.8 estimated transmitters in use per assignable channel in the Fire Radio Service. Channel occupancy, in terms of calls made, does not appear to be as high in the Fire Radio Service as is in the Police, mainly because of operational differences. For example, according to Motorola, in a sample day, the Chicago Fire Department with 2 base and 202 mobile units made 300 calls. 38 additional frequencies were requested for the Fire Radio Service.

66. *Forestry-Conservation.* This service provides frequencies mainly to state and local governmental entities for communication in connection with forestry and game and wildlife conservation activities. In the 25–470 Mc/s area, radio is used mainly for base and mobile communications. Radio is essential to forestry conservation activities, especially for safety. 95 exclusive and 38 shared (the 38 shared frequencies are shared by all Public Safety Services except Special Emergency) frequencies are available to the Forestry-Conservation Radio Service. In 1958 there were 3,264 outstanding Forestry-Conservation station authorizations, 33,618 authorized and 24,541 transmitters in use. At the end of fiscal 1963, there were 4,177 outstanding authorizations, 44,443 authorized and 31,333 estimated transmitters in use.

[1] Although action in Docket 14503 has now been completed, the frequency dispositions made in that proceeding are not considered herein.

From 1958 to 1963 the number of transmitters increased by 32.2 percent. In 1963 there were 334.1 authorized and 234.9 estimated transmitters in use per each assignable channel. Approximately 10 additional frequencies were requested for this service.

67. *Local Government.* The Local Government Radio Service provides radio facilities for non-federal government entities. The Local Government Radio Service was created in 1958. Thus, comparative statistics are not available. In 1963, there were 77 exclusive and 38 shared frequencies available in this Service. At the end of fiscal 1963, there were 4,650 outstanding Local Government authorizations, and 64,961 authorized transmitters, or 564.9 authorized transmitters per assignable frequency. 20 to 30 additional frequencies were requested.

68. *Highway Maintenance.* In this service radio facilities are provided for local governmental entities for communications essential to official highway activities. 64 exclusive and 44 shared frequencies are available to the Highway Maintenance Radio Service. In 1958 there were 3,264 outstanding Highway Maintenance Station authorizations, 27,543 authorized and 16,112 estimated transmitters in use. At the end of fiscal 1963, there were 4,978 authorizations, 51,174 authorized and 29,936 estimated transmitters in use. From 1958 to 1963 the number of transmitters increased by 85.8 percent. In 1963, there were approximately 474 authorized and 277 estimated transmitters in use per assignable frequency. 6 to 8 additional frequencies were requested for this service.

69. *Special Emergency.* In the Special Emergency Radio Service, frequencies are provided for use by hospitals, disaster relief organizations, physicians and veterinarians, ambulance operators and rescue organizations, beach patrols, school buses, persons operating communication circuits for standby communication facilities and persons maintaining establishments in isolated areas where public communication facilities are not available. 23 exclusive and 6 shared (shared with Highway Maintenance) frequencies are available to the Special Emergency Radio Service. In 1958 there were 3,325 outstanding Special Emergency Station authorizations, 13,122 authorized and 7,348 estimated transmitters in use. At the end of fiscal 1963, there were 5,115 authorizations, 21,023 authorized and 11,772 estimated transmitters in use. From 1958 to 1963, the number of transmitters increased by 60.2 percent. At the end of fiscal 1963, there were 724.9 authorized and 277.9 estimated transmitters in use per assignable frequency.

70. In summary, with the exception of Special Emergency, representatives of users in all Public Safety Radio Services requested additional frequencies (in the order of 200) to improve the conditions then existing and to permit future expansion.

71. The statistics thus indicate that the channel loading in the Public Safety Radio Service, with the exception of Special Emergency, is somewhat lower now than it was in 1958. In Special Emergency, the channel loading is somewhat higher today. The highest channel loading exists in the Police and Fire Radio Services. The lowest loading exists in the Forestry-Conservation Radio Service. In Highway Maintenance, the loading, somewhat higher than in Forestry-Conservation, is approximately one half of that prevailing in the Police and Fire Radio Services.

Industrial Radio Service. 72. *Power.* In the Power Radio Service, radio facilities are made available to the nation's electric, gas, water and steam utilities. Radio is used for safety and operational communications in connection with the conduct of the activities of the utility licensee. 73 exclusive and 10 shared frequencies (shared on a geographical basis) are available to the Power Radio Service. In 1958, there were 11,320 power station authorizations, 133,039 authorized and 83,149 estimated transmitters in use in this service. At the end of fiscal 1963, there were 13,932 authorizations, 166,348 authorized and 103,967 estimated transmitters in use, an increase in transmitters over 1958 of 25 percent. At the end of fiscal 1963, there were 2,004.2 authorized and 1,252 estimated transmitters in use per assignable channel, discounting the fact that the 10 shared frequencies are not available in six states. These statistics indicate heavy loading of the frequencies whether we consider the authorized transmitter or estimated actual transmitter figures. 43 additional frequencies were requested in this proceeding.

73. *Petroleum.* Radio in the Petroleum Radio Service is available to the petroleum industry. It is used in connection with prospecting for oil, well drilling operation, oil field production, operation of pipelines, refining, and distribution. Especially in the exploration and well drilling stages, and in pipelines laid across sparsely populated areas, radio is often the only communication medium available. 14 exclusive and 88 shared frequencies are available to the Petroleum Radio Service. At the end of fiscal 1958, there were 7,151 authorized petroleum station authorizations, 47,903 authorized and 23,952 estimated transmitters in use in this service. At the end of fiscal 1963, there were 9,289 authorizations, 83,602 authorized and 41,801 estimated transmitters in use, an increase in transmitters over 1958 of 74.5 percent. At the end of fiscal 1963, there were 819.6 authorized and 409.8 estimated transmitters in use per available frequency.

74. Central Committee on Radio Facilities stated that approximately 50 percent of all transmitters were being operated in one area consisting of Texas, Louisiana, Arkansas, and Mississippi. APT stated that loading of 175 units per channel in the 25 Mc/s area is the maximum tolerable, that the then existing 278 units per channel in the 30 Mc/s band was excessive and the then existing 500 to 600 units per channel loadings in the 33 and 48 Mc/s area were too high. The average loading shown above exceeds the maximums set by the Central Committee. Central Committee estimated that, assuming improvement of the frequency situation, existing and potential users would add between 60,000 to 80,000 new transmitters to the service, an increase of close to 200 percent during the next 10 years (1958–1968 period). To accommodate present users and to permit the predicted growth, Central Committee requested 55 to 65 additional frequencies. As noted earlier, the number of transmitters increased by nearly 75 percent during the past 5 year period.

75. *Forest Products.* The Forest Products Radio Service provides radio facilities to those engaged in commercial forest operation, such as tree farming, tree logging and related activities. These operations are carried on in isolated areas where radio is often the only available means of communication. 2 exclusive and 73 shared frequencies are available to the Forest Products Radio Service. At the end of fiscal 1958, there were 1,648 Forest Product authorizations, 15,013 authorized and 6,005 estimated transmitters in use in this service. At the end of 1963, there were 2,321 authorizations, 23,442 authorized and 9,377 estimated transmitters in use, an increase of transmitters over 1958 of 56.1 percent. At the end of 1963, there were 312.6 authorized or 125 estimated transmitters in use per assignable frequency. Approximately 40 additional frequencies were requested, to permit future expansion to approximately 15,000 transmitters by 1968. Forest Industries Radio Communications (FIRC), the spokesman of the forest products industry, stated that approximately 64 percent of all radio systems in this service operated on frequencies below 50 Mc/s, because communication requirements in the industry are for relatively long distances. The frequencies in the 152 Mc/s area are used, according to FIRC, primarily in the west where there exist suitable high mountain locations, while these frequencies are practically unused in the flat terrain of the south. FIRC stated also that the industry's communication needs are for distances of 30–70 miles and, in some areas, for distances of over 100 miles.

76. *Special Industrial.* The Special Industrial Radio Service accommodates a host of diverse industries, such as ranchers, farmers, vegetable growers and processors, the mining industry, liquified petroleum distributors, heavy construction industry, petroleum and gas service and supply industry, the ready mixed concrete industry, and others.

77. 47 exclusive and 6 shared frequencies are available to the Special Industrial Radio Service. At the end of fiscal 1958, there were 17,107 outstanding Special Industrial station authorizations, 192,478 authorized and 92,389 estimated transmitters in use in this service. At the end of fiscal 1963, there were 30,147 authorizations, 317,749 authorized and 152,519 estimated transmitters in use, an increase in transmitters over 1958 of 65.1 percent. There were 5,957.5 authorized and 2877.7 estimated transmitters in use per assignable frequency at the end of fiscal 1963. This is the highest per channel loading in the Safety and Special Radio Services, with the exception of the Citizens Radio Service. The significance of this per channel loading, however, is tempered by the apparent

moderate channel usage in terms of calls made. For example, according to samples of channel occupancy, submitted by Motorola, a Special Industrial licensee with 1 base and 20 mobile units made 500 calls per day, another with 3 base and 10 mobile units made 75 calls per day. The Special Industrial Radio Service Association requested 97 additional frequencies for this service.

78. *Manufacturers.* The Manufacturers Radio Service makes available frequencies to those engaged in manufacturing activities. Radio is used primarily within manufacturing plants. 20 exclusive and 15 shared frequencies are available to the Manufacturers Radio Service. This service was established in 1958 and, therefore, comparative statistics are not available. At the end of fiscal 1963, there were 891 outstanding manufacturers station authorizations, and 21,740 authorized transmitters, or 621.1 authorized transmitters per assignable frequency. Based on the anticipated needs of the new service, the National Association of Manufacturers requested approximately 40 additional frequencies.

79. *Business.* The Business Radio Service was established in 1958 and provides radio facilities to anyone engaged in a commercial activity, educational and philanthropic institutions, clergymen and ecclesiastic institutions, hospitals, clinics and medical associations. Thus, it has open-end eligibility provisions. 103 exclusive and 56 shared frequencies (6 shared with taxicab and 50 with citizens) are available to the Business Radio Service. At the end of fiscal 1963, there were 49,973 outstanding Business authorizations and 384,792 transmitters, or 2420.1 authorized transmitters per assignable frequency. Although at present channel loading is not as high as in other land mobile services (for example Special Industrial), Business is the fastest growing service, save the Citizens Radio Service.

80. *Telephone Maintenance.* The Telephone Maintenance Radio Service is available only to communications common carriers providing wire-line service to the public. Radio is used mainly in connection with the construction, maintenance, repair and operation of rights-of-way and plant facilities. This is also one of the new services for which comparative figures are not available. 14 exclusive frequencies are available to the Telephone Maintenance Radio Service. At the end of fiscal 1963, there were 671 outstanding telephone maintenance station authorizations and 21,721 authorized transmitters, or 1551.5 authorized transmitters per assignable channel. Additional frequencies have not been requested for this service.

81. *Motion Pictures.* The Motion Pictures Radio Service is available to those engaged in the production or filming of motion pictures. Users in this service did not participate in this proceeding. 10 shared (6 shared with Special Industrial, 4 with Relay Press) frequencies are available to the Motion Picture Radio Service. At the end of fiscal 1958, there were 71 outstanding motion picture authorizations, 698 authorized and 370 estimated transmitters in use. At the end of fiscal 1963, there were 48 authorizations, 854 authorized and 453 estimated transmitters in use, an increase in transmitters over 1958 of 22.4 percent. At that time, there were 85.4 authorized or 45.3 estimated transmitters in use per assignable channel.

82. *Relay Press.* In the Relay Press Radio Service frequencies are made available to those engaged in the publication of newspapers and to established press associations. 4 shared frequencies are available to Relay Press Radio Service. At the end of fiscal 1958, there were 130 outstanding relay press authorizations, 1,585 authorized and 586 estimated transmitters in use in this service. At the end of fiscal 1963, there were 186 authorizations, 2,586 authorized and 957 estimated transmitters in use, an increase in transmitters over 1958 of 63.2 percent. There are 646.5 authorized or 239.2 estimated transmitters in use per assignable channel.

83. In summary, spokesmen for the major industrial radio services claimed frequency congestion in these services and requested additional frequencies to relieve then existing congestion and to permit future expansion. The maximum number of additional frequencies requested is approximately 285. The minimum number is considerably lower.

84. By far, the heaviest loading now exists in the Special Industrial Radio Service. In Business and Power, although approximately half of that in Special Industrial, the loadings are also heavy. In Special Industrial, from 1958 to 1963, the number of transmitters per assignable frequency has just about doubled. In Power, Petroleum and Forest Products the situation is about the same, although in Power the loading is somewhat lower now than it was in 1958. In Motion Picture, although a number of frequencies have been taken away, the channel loading situation is still comparatively very low. Among the new services, Business has the heaviest loading, followed by Telephone Maintenance.

Land Transportation. 85. *Railroad.* The Railroad Radio Service provides frequencies for the nation's railroads. Frequencies (in the 160 Mc/s area principally) are used for safety and operational communications in connection with the operation of trains. Radio is used mainly to communicate between the caboose and the locomotive of trains, between passing trains, from trains to base stations along the right-of-way, and in yards and terminals. 50 exclusive frequencies are available to the Railroad Radio Service. In 1958, there were 2,265 railroad authorizations, 65,230 authorized and 32,615 estimated transmitters in use in this service. At the end of fiscal 1963, there were 4,179 authorizations, 137,907 authorized, and 68,054 estimated transmitters in use, an increase in the number of transmitters over 1958 of 111.41 percent. There were 2758.1 authorized and 1379 estimated transmitters in use for assignable channel in 1963. The Association of American Railroads and Southern Railroad requested no additional frequencies in the course of this proceeding.

86. *Taxicab.* Radio in the Taxicab Radio Service is used primarily for dispatch purposes. 28 exclusive and 6 shared (shared with Business, Taxicab priority in cities) frequencies are available to the Taxicab Radio Service. In 1958, there were 4,733 outstanding taxicab authorizations, 100,735 authorized and 58,930 estimated transmitters in use. At the end of fiscal 1963, there were 4,999 authorizations, 168,716 authorized and 98,699 estimated transmitters in use, an increase in transmitters over 1958 of 67.5 percent. At the end of fiscal 1963, there were 4962 authorized and 2903 estimated transmitters in use per assignable channel. Representatives of taxicab interests stated that an average of 142 cabs are served per channel and, on an average basis, complete messages are transmitted at a rate of 1.16 messages per minute and 2.81 messages during peak periods. Large cab companies, such as Yellow Cab of Kansas City, during a 24-hour period handled an average of 5.4 calls per minute, or one call every 11 seconds. 10 VHF frequencies were requested to relieve the then existing conditions.

87. *Motor Carrier (Truck).* Within the Motor Carrier Service separate frequencies are made available for the trucking industry. Radio is used by truckers primarily for local pick-up and delivery operations. 54 exclusive and 10 shared (with other motor carriers) frequencies are available to the motor carriers of property. In 1958, there were 675 outstanding truck authorizations, 12,480 authorized and 4,992 estimated transmitters in use. At the end of fiscal 1963, there were 3,191 authorizations, 61,838 authorized and 24,735 estimated transmitters in use, an increase in transmitters over 1958 of 395 percent. At that time, there were 966.2 authorized or 380.4 estimated transmitters in use per assignable channel. The American Trucking Association, at the hearing, estimated that by 1967 there would be 56,000 radio-equipped vehicles, and to accommodate the needs of the trucking industry and to permit the anticipated expansion, ATA requested 7 additional frequencies.

88. *Motor Carrier (Intercity Bus).* Separate radio facilities are also available to the intercity bus industry within the Motor Carrier Service. Radio is used for communications between dispatchers and drivers, between dispatchers and between drivers on the highway. 8 exclusive and 10 shared frequencies are available to intercity motor carriers of persons. In 1958 there were 59 outstanding authorizations, 727 authorized and 582 estimated transmitters in use in this service. In 1963, there were 68 authorizations, 667 authorized and 534 estimated transmitters in use, a decrease in transmitters of 9 percent. In 1963 there were 37.1 authorized and 29.6 estimated transmitters in use per assignable frequency.

89. *Motor Carrier (Urban Transit).* Urban transit is the third industry accommodated within the Motor Carrier Radio Service. Radio is used to dispatch repair vehicles, to maintain regularity of service, and to reroute passenger carrying vehicles. Only in the City of

Rochester, New York, has radio been installed in all buses as well as in supervisory and emergency vehicles. 8 exclusive and 23 shared frequencies (10 shared with other motor carriers, 13 shared with Petroleum and Forest Products) are available to urban transit. In 1958, there were 110 urban transit station authorizations, 2,940 authorized and 2,122 estimated transmitters in use. At the end of fiscal 1963, there were 421 authorizations, 3,275 authorized and 2,374 estimated transmitters in use, an increase in transmitters over 1958 of 11.4 percent. At the end of fiscal 1963, there were 105.6 authorized and 76.6 estimated transmitters in use per assignable channel.

90. *Automobile Emergency.* Frequencies assigned to the Automobile Emergency Radio Service are available to Automobile Clubs and to garages which provide emergency road service to disabled vehicles. Radio is used primarily to dispatch road service vehicles. Auto clubs use radio also to report traffic conditions. There are 12 exclusive frequencies available to the Automobile Emergency Radio Service. In 1958, there were 962 automobile emergency station authorizations, 8,992 authorized and 4,496 estimated transmitters in use in this service. At the end of fiscal 1963, there were 1521 authorizations, 15,880 authorized and 7,940 estimated transmitters in use, and increase in transmitters over 1958 of 77 percent. At the end of fiscal 1963, there were 1323.3 authorized and 661.7 estimated transmitters in use per assignable frequency. 2 additional frequencies were requested for use mainly in large metropolitan areas.

91. In summary, a total of 19 additional frequencies were requested for the Land Transportation Radio Services. At the time of the hearing in this proceeding, representatives of the Taxicab and, to some extent, of Automobile Emergency Services described frequency congestion.

92. By far the heaviest loading today, as in 1958, exists in the Taxicab Radio Service. Heavy loading also exists in the Railroad Radio Service, which has practically doubled during the past five years.

93. The foregoing is a summary discussion of the utilization of the frequency space available to the private land mobile services. With some exceptions, the frequencies appear to be in heavy use. Also, with some notable exceptions, the frequency loading situation seems to be about the same as it was in 1958. The additional frequencies made available by splitting the frequencies in the 45 and 150 Mc/s regions seem to have relieved the situation somewhat and accommodated growth up to now.

94. The Land Mobile Section of EIA, which made a presentation on behalf of the land mobile services, predicted that by 1963 there would be approximately 1,390,000 transmitters in these services; by 1968, 2,650,000; and by 1978, 5,000,000 transmitters, based on marketing surveys conducted by EIA member companies. Motorola, which also participated on behalf of the land mobile services, predicted 2,000,000 transmitters by 1968. At the end of fiscal 1963, there were 1,680,003 fixed and mobile transmitters authorized in the private land mobile services, including 384,792 in the Business Radio Service but excluding Citizens Radio Service transmitters of any class. Weighing this figure by a 60 percent factor (a rough estimate of the average ratio of transmitters in use to transmitters authorized), we estimate that, at the end of fiscal 1963, there were 1,014,000 transmitters in use in these services.

95. On the basis of estimates of growth in the land mobile services, EIA suggested allocation of 40 Mc/s and Motorola suggested 55 Mc/s of additional space to the land mobile services. The combined requests of representatives of users in these services were for a maximum of approximately 450 to 500 frequencies or, depending upon their location in the spectrum, 15 to 25 Mc/s of space.

Other Radio Services. 96. *Aviation.* In the Aviation Radio Services, the band 29.80–30.0 Mc/s is available for aeronautical fixed use. There are 3 station assignments in this band, and according to ARINC, these stations are used for long distance communications during the high sunspot cycle. The 74.58–75.42 Mc/s band is used for aeronautical marker beacons, and is available to both government and non-government users. The 76–100 Mc/s band, also government/non-government, is available in Alaska and is used for transmitter link and control functions. The 108–118 Mc/s band, available to government and non-government users, is used for radionavigation. The 118–128.8 Mc/s band, also government/non-government, is used for air traffic control, except for the 123.1–123.5 Mc/s band, which is available for flight test and flight school users. The 128.825–132.0 Mc/s band, a non-government band subject to certain limitations, is used for operational and enroute communications by the aviation industry. The 132–136 Mc/s band, government/non-government, is used for air traffic control. The 154.04–154.46 and 161.40–161.85 Mc/s band are available for aeronautical fixed operations in Puerto Rico and Virgin Islands. The 328–335 Mc/s band, a government/non-government band, is used for glide slope radionavigation, and the 420–460 Mc/s band, a government/non-government band, of which 420–450 Mc/s is allocated to the Amateur Radio Service, is used for radio altimeters. In addition to these bands, certain discrete frequencies in the 25–890 Mc/s area are available for use by the Civil Air Patrol.

Transmitters authorized in the Aviation Services at the end of fiscal 1963 were as follows:

Aeronautical and Fixed Group	7,739
Aircraft Group	134,831
Aviation Auxiliary Group	2,987
Aviation Radionavigation	532
Civil Air Patrol	23,733
Total	169,822

97. *Amateur.* The following frequencies are available to the Amateur Radio Service:

28.0–29.7	or	1.7 Mc/s exclusive.
50.0–54.0	or	4.0 Mc/s exclusive.
144–148	or	4.0 Mc/s exclusive.
220–225	or	5.0 Mc/s Government/Non-Government.
420–450	or	30.0 Mc/s Government/Non-Government.
Total		44.7 Mc/s

44 megacycles of space is available for use by the Amateur Radio Service in the 25–890 Mc/s area. This is in addition to frequencies in the 4, 7, 14 and 21 Mc/s regions, the bands in heaviest use. At the end of fiscal 1963, there were 255,140 amateur station authorizations outstanding, and 15,267 RACES authorizations. Although it appears that a larger portion of frequency spectrum in the 25–890 Mc/s band is available to amateurs than is available to the private land mobile services, it should be noted that 35 Mc/s (i.e. 220–225 Mc/s and 420–450 Mc/s) are shared with Government services.

98. *Citizens.* There are four classes of stations in the Citizens Radio Service. 48 frequencies in the 462, 463, and 465 Mc/s band are available for use by Class A stations. Class B stations using equipment type accepted for Class A stations may also use these frequencies. At the end of fiscal 1963, there were approximately 5,500 Class A stations authorized and approximately 12,000 Class B stations. 5 exclusive frequencies and 1 shared frequency in the 26–27 Mc/s band are available to Class C stations. At the end of fiscal 1963, there were approximately 54,000 Class C stations authorized. Class C stations are used to control objects, such as model airplanes, garage doors, locomotives, pumps. 22 exclusive frequencies and 1 shared frequency are available to Class D stations in the 26–27 Mc/s region. The Class D station category was established in 1958. At the end of fiscal 1963, there were 446,590 outstanding citizens authorizations and 1,442,932 authorized transmitters, the overwhelming majority of which (nearly 380,000 authorizations) belong in the Class D category.

99. *Marine.* 23 frequencies are allocated to the Marine Services in the 156.25–157.45 and 161.775–162 Mc/s bands. The frequency 121.5 Mc/s is shared with Aviation and the frequency 27.255 Mc/s is shared with a number of other services. Eleven frequencies in the 25 Mc/s area have been allocated internationally to the Marine Services (Geneva, 1959), but these allocations have not been implemented by amendment of the Commission's rules. At the end of fiscal 1963, there were approximately 4,300 VHF transmitters authorized in the Marine Services. The Commission has been encouraging the use of VHF frequencies in the Marine Services to reduce frequency congestion in the 2 Mc/s area.

100. As was previously indicated in para. 60, it should again be pointed out that only limited conclusions as to frequency congestion in the land mobile services can be drawn from the preceding material. Nation-wide average channel loading statistics do not indicate actual frequency loading in given geographical areas and in given radio services. Clearly, however, the record of the pro-

ceeding showed a picture of the land mobile services not only making extensive use of their available frequencies for various purposes beneficial to the nation involving commerce, industry, public safety, and protection of life and property, but also looking forward to a continuation and vast expansion of such uses. In this light, the extent of the demand by the land mobile services for additional usable frequencies was such as to indicate that if it was to be met by making additional spectrum space available, such space would have to be withdrawn from the television frequency allocation. The reallocation of UHF television channels was at least worthy of consideration in 1957 under the situation then prevailing and at the time this proceeding was initiated. Development of the UHF television spectrum had been retarded by economic and technical problems and its future was uncertain. UHF television spectrum could not be released for non-broadcasting purposes, however, until it could be determined either (1) that adequate substitute allocations permitting a competitive national television system could be made, or (2) that the practical and technical problems confronting UHF television could not be solved. Thus, a determination with respect to the allocations future of television and the feasibility of the expanded television system which had been a central facet of Commission policy since 1952 was required before this proceeding could be concluded.

101. Careful studies of the television problem led to the Commission's announcement, in April 1959, that it would be necessary to seek solutions among five alternate modes of allocating spectrum space to television.[2] Three of these solutions contemplated expansion of the number of VHF channels allocated for television broadcasting. The fourth contemplated a 70 channel UHF-only system, while the fifth looked toward more effective use of the present 82 channel VHF–UHF system. Negotiations with the Government were undertaken looking toward the possibility of obtaining additional frequencies in the VHF and lower UHF portions of the radio spectrum. It was concluded by the Department of Defense and the Office of Civilian and Defense Mobilization (now Office of Emergency Planning), that such additional spectrum space could not be released by the Government for television broadcasting.

102. The announcement of that conclusion made it clear that fulfillment of the Commission's television goals could be achieved only through much fuller utilization of the 70 UHF channels, either alone or in conjunction with the 12 VHF channels allocated to television broadcasting. Accordingly, in July of 1961, the Commission instituted a rule making proceeding (FCC 61–993, Docket No. 14229) for the purpose of exploring various technical and operational proposals designed to improve the prospects of UHF television. The eventual possibility of a UHF only system had not been completely discarded although the prospect of effecting such a change appeared remote. In order to achieve fuller utilization of the UHF channels, the Commission pursued two parallel projects, apart from proceedings in Docket No. 14229, which have now been completed and which should enhance the prospects for UHF television.

103. The first such project, the New York City UHF–TV project, involved a comprehensive evaluation of the potential utilization of UHF frequencies under the most difficult transmission conditions—a heavily built-up metropolitan area. Data from the completed project show that for the area within 25 miles of the station, while Channel 31 was somewhat inferior to Channels 2 and 7 when indoor antennas were employed, the differences almost always disappeared when outside antennas were installed and, on the whole, the services could be considered as comparable. These results should, in great part, allay past fears concerning the technical inferiority of UHF for this purpose.

104. As its second project, the Commission proposed legislation directed to the basic problem of receiver incompatibility. Public Law 87–529 was passed by the Congress and signed by the President on July 10, 1962. As implemented by Commission rules, this law requires that all television receivers (except those used in connection with an in-school educational television instruction program) manufactured after April 30, 1964, be capable of adequately receiving all of the 82 channels now allocated to television broadcasting. Thus, it is clear that the problem of receiver incompatibility will be gradually eliminated.

105. We have reason to expect that these developments, together with other measures being taken by the Commission (such as the establishment of the Committee for Full Development of All-Channel Broadcasting on February 7, 1963) will provide the impetus for expanded use of the frequencies allocated to UHF television, especially as this is the only foreseeable way in which the important and unique benefits of a fully competitive national television system can be obtained or in which adequate channels for educational television can be provided.

106. Since 1961, moreover, it has become increasingly clear that a television system adequate to meet the expanding needs of the public will require full utilization of both the 12 VHF and the 70 UHF channels assigned to television broadcasting. The twelve VHF channels are virtually saturated with some 550 VHF educational and commercial authorizations outstanding and few VHF assignments remain idle except in areas of low population density in the Middle and Far West. The UHF band of frequencies, with only some 200 authorizations outstanding (out of 1559 proposed assignments) and of these only 120 actually active, provides the only remaining space for the future growth of television broadcasting so long as current technical standards remain unchanged.

107. This is particularly important to educational interests since it is clear that the future of educational television is dependent upon utilization of UHF channels. The National Association of Educational Broadcasters has in fact requested over 800 new educational television reservations on UHF channels. Most of this requirement can be satisfied only if the 70 UHF channels continue to be available. Enactment of Public Law 87–477 to provide federal funds on a matching basis for the construction of educational television facilities doubtless will provide a strong stimulus for implementing the plans of educators to construct television stations, thus emphasizing our conclusion that educational television constitutes a service whose needs, as a matter of national policy, must be met.

108. Quite apart from the use of UHF channels for education, future commercial television expansion is tied to maintenance and development of the UHF band. Commercial television is firmly established today, largely in the VHF band, and the first priority of our 1952 Sixth Report and Order, to provide at least one television service to all people, has essentially been met. Despite this accomplishment, there are insufficient commercial television outlets available to most of the country to provide both for a desirable diversity of news, information and entertainment and for sufficient outlets for the origination of local programs which should flow from a successful utilization of allotted television channels. Primarily, this situation obtained from the receiver-incompatibility problem which will in time be solved by implementation of the all-channel legislation. These factors, along with our exploding population, will lead to an increasing demand for UHF channels to fill out the need for more commercial television service and outlets which cannot be met with VHF channels. This process is already discernible in the filing of mutually exclusive applications for UHF channels in Paterson, N.J.; Toledo, Ohio; Cleveland, Ohio; Chicago, Illinois; Houston, Texas; and Boston, Massachusetts. Our allocation studies in Docket No. 14229 further indicate that serious shortages of television channels may occur with respect to some communities in such areas as the New England States, Southern California and throughout the Ohio-Indiana-Michigan-Illinois area where major population centers are too close together to permit all to have the number of channels that might otherwise be available to them.

109. These facts, in our opinion, dictate maintenance of an 82-channel television system as against usage of this frequency space for the other various purposes considered in this proceeding. Moreover, it is clear from the legislative history of the all-channel receiver legislation that Congress favors an 82-channel system as a matter of policy and that the all-channel receiver authority was enacted on that basis. Thus, for example, the Report of the Senate Committee

[2] These alternatives were considered to be the only ones which might offer the possibility of achieving the nationwide competitive television system that the Commission, in its Sixth Report and Order (Dockets 8736, 8975, 8976 and 9175, published May 2, 1952, 17FR3905), found to be required in the public interest.

on Commerce on the all-channel receiver bill (H.R. 8031) states:

> Many Members of Congress have testified in support of this legislation, which is designed to implement the Congress' and Commission's long-range policy of developing an 82-channel system.
>
> We emphasize that the aim of this measure is an inter-mixed television system using both 12 VHF and 70 UHF channels. (S. Rep. No. 1526, May 24, 1962, at p. 7.)

110. Requests submitted by the non-broadcast, non-Government services during the course of this proceeding were predicated, at least implicitly, upon the possibility of a major reallocation of the frequency bands now available for television broadcasting. Subsequent developments as outlined in preceding paragraphs have now eliminated this possibility; and it is, therefore, apparent that major allocation relief cannot be provided for those services in the 25–890 Mc/s band. During the intervening period, moreover, system operating characteristics have been altered and technological improvements affecting spectrum utilization have been made. It is also apparent that spectrum needs will have changed substantially during this period. Consequently, express consideration of allocation requests and supporting data submitted in this proceeding would now be fruitless and unrealistic. Therefore, while recognizing the existence of significant and important requirements for the non-broadcast services, our attention must be directed toward measures which offer a promise of more efficient utilization of the remaining portions of the spectrum between 25 Mc/s and the lower level of microwave frequencies in the light of conditions as they exist today, without resorting to a major reallocation of additional exclusive spectrum space to the land mobile service at the expense of other non-Government radio services.

111. Three general avenues of approach are being followed at this time to achieve increased efficiency in spectrum usage. The first involves areas in which the information on hand appears sufficient to warrant specific proposals for rule changes. Action in this regard will be found in the notice of proposed rule making adopted this date by the Commission in Docket No. 15399 wherein it is proposed to amend Parts 89, 91 and 93 of the rules by instituting a trial under which land mobile licensees in the State of California in certain services would be given secondary sharing rights to unused frequencies of other services. The second approach, reflected in the Notice of Inquiry adopted this date in Docket No. 15398, is designed to gather technical data looking toward optimum spacing between assignable channels in the land mobile service and to study the feasibility of the land mobile service sharing Channels 2 through 13 with television broadcasting. The third approach, looking toward a study of technical and administrative steps which might be taken to resolve problems confronting the land mobile service, is treated in detail in the Public Notice adopted this date establishing an Advisory Committee for the Land Mobile Service.

112. It should be emphasized that the instant proceeding was primarily of a legislative fact-finding nature and the determinations made herein are the result of an analysis of information received during the course of this proceeding, combined with information derived from other sources.

113. In view of the foregoing: *It is ordered*, That the following petitions are hereby denied:

(a) RM–51 Lenkurt Electric Company, petition filed August 20, 1958, for reallocation of 840–890 Mc/s band to the Domestic Public Radio Service.

(b) RM–251 International Association of Fire Chiefs and International Municipal Signal Association, petition filed April 11, 1961, for reallocation of a high UHF television channel to the Public Safety Radio Services.

(c) RM–370 Electronic Industries Association, petition filed October 1, 1962, for reallocation of television Channels 14 and 15 (470–482 Mc/s) to the Land Mobile Radio Services.

(d) United States Independent Telephone Association petition, filed July 16, 1958, for reallocation of the 840–890 Mc/s band to common carrier fixed operations.

The question of the use of television Channel 37 for radio astronomy purposes (RM–180) has been considered in the Report and Order, Docket No. 15022, adopted October 4, 1963.

114. With respect to the petition of the Associated Public Safety Communications Officers filed December 6, 1962, most if not all of the areas suggested by APCO for inquiry were explored in this proceeding and the needs for additional frequencies for the Public Safety Radio Services have been made known to the Commission in this and in other proceedings (for example Docket No. 14503). Furthermore, the Commission, as indicated previously in this document, will continue to study the needs of all of the private mobile services. Thus, a separate formal inquiry into the needs of the Public Safety Radio Services at this time does not appear necessary and the petition is hereby denied.

115. The Communications Committee of the National Association of Manufacturers (NAM) filed a petition (RM–566) dated February 3, 1964 which proposes shared use of TV channels 14 and 15 by the television broadcasting service and the land mobile service on a geographic basis. Since this filing is of comparatively recent date, and since it differs in material respects from the Electronic Industries Association petition RM–370 denied herein (Paragraph 113(c) above), the NAM petition will remain in pending status and be studied further by the Commission.

116. *It is further ordered*, That all other specific requests for reallocation of frequency spectrum filed or received in this proceeding are hereby denied: *Provided, however*, That this action is without prejudice to the disposition of similar or related requests filed in other rule making proceedings now pending before the Commission.

117. *It is further ordered*, That the proceedings in Docket 11997 are hereby terminated.

Adopted: March 26, 1964.

Released: March 30, 1964.

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

[1] Commissioner Hyde absent.

FREQUENCY REQUESTS SUBMITTED IN DOCKET NO. 11997

Organization	Space requested
Academy of Model Aeronautics	6 frequencies separated by greater than 2 percent between 30 Mc/s and 200 Mc/s.
Aeronautical Radio, Inc. (ARINC)	150.8–162 Mc/s or 450–470 Mc/s band for Aeronautical Terminal Mobile Service. Air-Ground Radiotelephone Service below 500 Mc/s.
American Automobile Association	3 additional frequencies in the 150 Mc/s band.
Alaska Aviation Radio, Inc.	Additional frequencies for aeronautical enroute stations in Alaska between 123.7–131.9 Mc/s (no reallocation involved) and
Do	Make frequencies in the 152–162 Mc/s and 450–460 Mc/s bands available for Operational Fixed use in Alaska.
American Municipal Association	Stated need for 15 additional frequencies, excluding 15 kc/s splits, for Local Government Radio Service.
American Petroleum Institute, Central Committee on Radio Facilities.	25 to 30 additional exclusive channels in the 25-50 Mc/s band, 10 to 15 channels in the 150.8–162 Mc/s band and 10 channel pairs at 450 Mc/s.
American Rocket Society	25.6–25.65 Mc/s (G) for worldwide telemetering; additional space would be required later.
Do	38.981–38.985 Mc/s (G) or 40.982–40.984 Mc/s (G) and 39.980–39.984 Mc/s for ionospheric research.
Do	107.948–107.959 Mc/s for ionospheric research.
Do	1 Mc between 100–150 Mc/s for tracking.
Do	148–150.8 Mc/s for command function.
Do	225–235 Mc/s for telemetering.
Do	250–260 Mc/s for telemetering.
Do	399.80–399.84 Mc/s for ionospheric research.
Do	390–400 Mc/s for telemetering.
Do	410–420 Mc/s for telemetering.
Do	430–435 Mc/s for control, astronautic navigation, and telemetering.
Do	10 Mc/s between 800–890 Mc/s for telemetering.
American Telephone and Telegraph Co. (AT&T).	765–840 Mc/s for common carrier fixed and public mobile.
Do	840–890 Mc/s common carrier fixed.
Do	Augment present allocations for VHF maritime public correspondence to conform with the Hague allocation table. Involves 9 additional VHF frequency pairs on the 156 Mc/s range, will change present authorized usage.
American Trucking Association	7 additional channels in the 450–470 Mc/s band.
Associated Telephone Answering Service	4 additional frequencies for radio paging.
California State Automobile Service	2 additional frequencies for emergency road service in northern California.
Central Station Electrical Protection Association.	4 Mc/s plus guard bands for FM visual detection systems and 0.5 Mc/s plus guard bands for tone signalling.

FREQUENCY REQUESTS SUBMITTED IN DOCKET NO. 11997—Continued

Organization	Space requested
Forest Industries Radio Communications	Twice as many low band frequencies as now used within the next 10 years.
General Telephone and Electronic Corp	765–840 Mc/s for common carrier fixed and mobile.
	840–890 Mc/s for common carrier fixed.
Hawaiian Telephone Co.[1]	840–890 Mc/s for common carrier fixed.
International Municipal Signal Association	30 mobile channels in the 100–890 Mc/s band.
Do	4 frequency pairs in the 450–860 Mc/s band.
Do	4 exclusive frequencies for control of traffic signals by emergency mobile units.
Do	4 exclusive frequencies for control of traffic signal networks and to provide point-to-point communications.
Kern County and State of California	25–46 Mc/s for amateur, citizens, ISM, Government (G, NG).
Do	46–50 Mc/s band for amateur.
Do	50–88 Mc/s band for land mobile.
Do	150–200 Mc/s band for land mobile.
Do	200–216 Mc/s band for Government.
Do	400–410 Mc/s (G) meteorological aids.
Do	410–430 Mc/s band for amateur.
Do	430–470 Mc/s band for land mobile.
Do	Existing VHF TV stations would move to UHF.
Lenkurt Electric Co	10 channels below 500 Mc/s for rural radio service—primary basis, continue present secondary allocation.
Do	765–840 Mc/s band for common carrier mobile—primary basis and fixed on secondary basis.
Do	840–890 Mc/s band for common carrier fixed.
Motorola, Inc	50–72 Mc/s band for land mobile.
Do	72–76 Mc/s band for amateur NIB w/markers.
Do	76–88 Mc/s band for Government.
Do	136–138 Mc/s band—amateur NIB with space.
Do	138–140 Mc/s band—amateur.
Do	162–166 Mc/s band for land mobile.
Do	174–354 Mc/s band for television broadcasting.
Do	390–390 Mc/s band for space.
Do	392–400 Mc/s band for glidepath.
Do	460–461, 462.525–463.225, 464.725–466.475 and 470–489 Mc/s bands for land mobile service.
Do	489–490 Mc/s band for non-Government telemetering.
Do	490–790 Mc/s band for Government.
Do	790–800 Mc/s band for space.
Do	800–875 Mc/s band for common carrier.
Do	875–889 Mc/s band for operational fixed.
Do	889–890 Mc/s band for telemetering.
National Association of Manufacturers Committee on Mfg's Radio Use.	14 additional frequencies in the 152–162 Mc/s band shared with forest products and petroleum.
Do	4 exclusive frequencies in the 152–162 Mc/s band.
Do	14 additional frequency pairs in the 460 Mc/s band area.
National Association of Taxicab Owners, Inc	3 additional frequency pairs in the 152–162 Mc/s band.
National Committee for Utilities Radio	29 additional channels in the 30–50 Mc/s band.
Do	4 channels in the 152–174 Mc/s band.
Do	10 channels in the 45–460 Mc/s band (present access 83 frequencies).
Petroleum Equipment Supplies Association	30 exclusive frequencies in the 25–50 Mc/s band.
Do	4 exclusive frequencies in the 152–162 Mc/s band.
Do	Unspecified number in the 450–470 Mc/s band (srevice gained 29 splits on shared basis).
RCA Communications, Inc	90 kc/s each in the 35, 38 and 40 Mc/s bands for ionospheric reflection and scatter propagation (international fixed public).
Special Industrial Radio Service Association	42 additional frequencies in the 30–50 Mc/s band.
Do	38 frequencies in the 150 Mc/s region.
SIRSA	17 frequencies in the 450 Mc/s region (present access 48 frequencies).
United States Independent Telephone Association (USITA).	From 1963–1968 will need an additional 240 20-kc/s channels below 100 Mc/s, 600 30-kc/s channels between 100 and 300 Mc/s and 360 50-kc/s channels above 300 Mc/s.
National Association of Broadcasters (NAB)	10 exclusive channels near 161 Mc/s for remote pickups tations.
Do	2 bands of 10 channels each w/5-Mc/s separation in the 450 Mc/s region for remote pickup stations.

See footnotes at end of table.

FREQUENCY REQUESTS SUBMITTED IN DOCKET NO. 11997—Continued

Organization	Space requested
PETITIONS INVOLVING THE DOCKET NO. 11997 PROCEEDING	
American Telephone & Telegraph Co	Allocation of additional frequencies between 60 and 500 Mc/s to provide for AT&T land mobile service requirements.
United States Independent Telephone Association (USITA).	Reallocation of the 840–890 Mc/s band to the common carrier fixed service.
Lenkurt Electric Co	Reallocation of the 840–890 Mc/s band to the common carrier fixed service.
O. R. Cote Co., et al	Requests that the date (Dec. 31, 1959) upon which certain special industrial radio service licensees must discontinue operation in the 49.60–50.00 Mc/s band, be extended until 90 days after action is taken on the petition of T. L. James and Co., R. B. Tyler Co. et al., for reallocation of the 49.51–49.60 Mc/s band to the special industrial radio service. Granted in part Nov. 16, 1959.
Kaar Engineering Corp. (July 23, 1958)	Reconsideration of the First Report and Order, June 18, 1958, in Docket No. 11991 and requesting the Commission to: limit the power on all business service frequencies below 450 Mc/s to 3 watts; retain all citizens radio service frequencies or in the alternative, retain as a minimum the 462–468 Mc/s band with a 10-watt power limit; or in lieu of the above-mentioned action, Kaar requested that action in this matter be postponed pending completion of the proceedings in Docket No. 11997.
Radio Technical Committee, U.S. Power Squadron (Oct. 19, 1956).[2]	Amend Parts 7 and 8 to make 156.95 Mc/s available exclusively to noncommercial boats for ship-to-ship and ship-to-shore communications.
Vocaline Company of America, Inc. (July 23, 1958).[3]	Requesting reconsideration of Commission action in the First Report and Order, June 18, 1958, in Docket No. 11991, to set aside said Report and Order insofar as it allocates Class B citizens radio service frequencies in the 462–468 Mc/s band to any other radio service or provides for use of such frequencies by Class A citizens radio stations.
Vocaline Company of America, Inc. (Sept. 2, 1958).	Requesting reconsideration of Commission action in the Second Report and Order, July 31, 1958, in Docket No. 11994, to set aside said Report and Order insofar as it allocates Class B citizens radio service frequencies in the 462–468 Mc/s band to any other radio service or provides for use of such frequencies by Class A Citizens radio stations.
Vocaline Company of America, Inc. (July 23, 1958).	Requesting reconsideration of Commission action in the Third Memorandum Report and Order of June 18, 1958, in Docket No. 11959, to set aside said Memorandum Report and Order insofar as it allocates Class B Citizens Radio Service frequencies in the 462–468 Mc/s band to any other radio service or provides for use of such frequencies by Class A Citizens radio stations.
Aeronautical Radio, Inc. (ARINC) (Oct. 18, 1957)	Requests the establishment of an "Aviation Terminal Mobile Service" in the 152–162 Mc/s or 450–460 Mc/s bands.
Hawaiian Telephone Co. (Sept. 26, 1958)[1]	Requests reallocation of the 840–890 Mc/s band to the common carrier fixed service in Hawaii only.
Radar-Eye Corp. (Oct. 9, 1958)	Requests modification of Parts 15, 18 and 19 of the Commission's rules to reduce the radiation limitation for Radar-Eye transmitters and allow Radar-Eye to operate as an ISM device, or in the citizen bands, 460–470 Mc/s.
American Medical Association (AMA) (June 11, 1959).	Requests finalization of Docket No. 11959 proposals to reallocate the band 161.645–161.325 Mc/s to remote pickup exclusively.
Special Industrial Radio Services Association (SIRSA) (Aug. 24, 1959).	Requests reallocation of the frequencies 49.52, 49.54, 49.56 and 49.58 Mc/s to the special industrial radio service.
Do	Requests reallocation of at least 25 frequency pairs in the 462.525–463.225 Mc s and 465.275–466.475 Mc/s bands to the special industrial radio service.
T. L. James and Co., R. B. Tyler Co. et al. (Sept. 28, 1959).	Requests the reallocation of the frequencies 49.52, 49.54, 49.56 and 49.58 Mc/s to the special industrial radio service.
Forestry Conservation Communications Association (Dec. 14, 1959).	Requests the reallocation of the frequency band 46.51–46.60 Mc/s to the forestry-conservation service for use by State agencies only.

[1] Withdrawn May 14, 1963.
[2] Considered in Docket No. 14375, Report and Order dated July 13, 1962.
[3] Denied Aug. 20, 1958.

PUBLIC SAFETY RADIO SERVICES

Radio services	Number of assignable frequencies available: Exclusive/Shared / total	Number of authorizations outstanding: June 30, 1958	Number of authorizations outstanding: June 30, 1963	Number of transmitters authorized: June 30, 1958	Number of transmitters authorized: June 30, 1963	Percentage of authorized transmitters in use	Estimated number of transmitters in use: June 30, 1958	Estimated number of transmitters in use: June 30, 1963	Number of transmitters per frequency as of—: Estimated transmitters in use	Number of transmitters per frequency as of—: Authorized transmitters	Percent of increase in authorized transmitters from 1958–1963	Additional number of frequencies requested in Docket 11997
Police	(152) 185/[1] 38 / 223	12,450	15,919	166,739	207,902	62	103,378	128,899	(680) 578.0	(1097) 932.2	24.7	118.
Fire	(61) 69/[1] 38 / 107	4,725	8,312	58,385	100,659	56	32,695	56,369	(536) 526.8	(957) 940.7	72.4	38.
Forestry Conservation	(70) 95/[1] 38 / 133	3,264	4,177	33,618	44,443	73	24,541	32,443	(351) 243.9	(480) 334.1	32.2	10.
Local Government	(NA)[2] 77/[1] 38 / 115	(2)	4,650	(2)	64,961	(2)	(2)	(2)	(NA) (2)	(NA) 564.9	(2)	20 to 30.
Highway Maintenance	(40) 64/[1] 38 0/[3] 6 / 108	3,264	4,978	27,543	51,174	58.5	16,112	29,936	(403) 277.2	(689) 473.8	85.8	6 to 8.
Special Emergency	(23) 24/[3] 6: / 30	3,325	5,115	13,122	21,023	56	7,348	11,772	(319) 352.4	(571) 700.7	60.2	None stated.

NOTE: Figures in parentheses indicate 1958 statistics.

[1] Shared by all Public Safety Services; except Special Emergency.
[2] Not available since the service was created in 1958.
[3] Shared by Highway Maintenance.

INDUSTRIAL RADIO SERVICES

Radio services	Number of assignable frequencies presently available: Exclusive/Shared / Total	Number of authorizations outstanding: June 30, 1958	Number of authorizations outstanding: June 30, 1963	Number of transmitters authorized: June 30, 1958	Number of transmitters authorized: June 30, 1963	Percentage of authorized transmitters in use	Estimated number of transmitters in use: June 30, 1958	Estimated number of transmitters in use: June 30, 1963	Number of transmitters per channel: Estimated transmitters in use	Number of transmitters per channel: Authorized transmitters	Percent of increase in authorized transmitters from 1958–1963	Additional number of frequencies requested in Docket 11997
Power	(62) 73/[2] 10 / 83	11,320	13,932	133,039	166,348	62.5	83,149	108,967	(1341) 1,252	(2162) 2,004.2	25.0	43
Petroleum	(64) 14/[1] 58 None/[2] 10 None/[3] 15 None/[4] 5 / 102	7,151	9,289	47,903	83,602	50	23,952	41,801	(373) 409.8	(749) 819.6	74.5	55 to 65
Forest Products	(43) 2/[1] 58 None/[2] 10 None/[3] 15 / 85	1,648	2,321	15,013	23,442	40	6,005	9,377	(139.7) 110	(349) 276	56.1	40
Special Industrial	(69) 47/[5] 6 / 53	17,107	30,147	192,478	317,749	48	92,389	152,519	(1338) 2,877.7	(2789) 5,995	65.1	97
Manufacturers	(—) 20/[3] 15 / 35	(6)	891	(6)	21,740	(6)	(6)	(6)	(—) (6)	(—) 621.1	(6)	40
Business	(—) 103/[7] 50 / 159	(6)	49,973	(6)	384,792	(6)	(6)	(6)	(—) (6)	(—) 2,420.1	(6)	None submitted.
Telephone Maintenance	(—) 14/None / 14	(6)	671	(6)	21,721	----------	(6)	(6)	(—) (6)	(—) 1,551.5	(6)	None submitted.
Motion pictures	(36) None/[3] 6 [8] 4 / 10	71	48	698	854	53	370	453	(10) 45.3	(45) 85.4	22.4	None submitted.
Relay press	(24) None/[3] 4 / 4	130	186	1,585	2,586	37	586.4	956.8	(4) 239.2	(293) 646.5	63.2	None submitted.

NOTE: Figures in parentheses are for 1958.

[1] Shared by Petroleum, Forest Products. (For purposes of this table shared frequencies are treated as exclusive.)
[2] Shared by Petroleum, Forest Products, Power, and Manufacturers on geographical basis.
[3] Shared by Petroleum, Forest Products, and Manufacturers.
[4] Shared by Petroleum and Urban Transit.
[5] Shared by Special Industrial and Motion Pictures.
[6] Shared by Business and Taxicab.
[7] Shared by Business and Citizens.
[8] Shared by Motion Pictures and Relay Press.
[9] Not available.

LAND TRANSPORTATION RADIO SERVICES

Radio service	Number of assignable frequencies presently available: Exclusive/Shared / total	Number of authorizations outstanding: June 30, 1958	Number of authorizations outstanding: June 30, 1963	Number of transmitters authorized: June 30, 1958	Number of transmitters authorized: June 30, 1963	Percentage of authorized transmitters in use	Estimated number of transmitters in use: June 30, 1958	Estimated number of transmitters in use: June 30, 1963	Number of transmitters per channel: Estimated transmitters in use	Number of transmitters per channel: Authorized transmitters	Percent of increase (or decrease) in authorized transmitters from 1958–1963	Additional number of frequencies requested in Docket 11997
Railroad	(48) 46/4 / 50	2,265	4,179	65,230	137,907	50	32,615	68,954	(679.5) 1379	(1358.9) 2758.1	111.41	None.
Taxicab	(18) 28/[1] 6 / 34	4,733	4,999	100,735	168,716	58.5	58,930	98,699	2903. (3274)	4962. (5597)	67.5	10[2]
Motor Carriers (Truck)	(20) 54/[2] 10 / 64	675	3,191	12,480	61,838	40	4,992	24,735	(249.6) 386.4	(624) 966.2	495.1	7.
Intercity Bus	(10) 8/[2] 10 / 18	59	68	727	667	80	582	534	(58.2) 29.6	(72.7) 37.1	−9.0	None.
Urban Transit	(17) 8/[2] 10 None/[3] 13 / 31	110	421	2,940	3,275	72.5	2,122	2,374	(124.7) 76.6	(172.9) 105.6	11.4	None.
Automobile Emergency	(4) 12/None / 12	962	1,521	8,992	15,880	50	4,496	7,940	(1128) 661.7	(1985) 1323.3	77	2.

NOTE: Figures in parentheses are for 1958.

[1] Shared by Taxicab and Business.
[2] Shared by all Motor Carriers.
[3] Shared by Urban Transit, Petroleum, and Forestry Products.

[F.R. Doc. 64-3241; Filed, Apr. 3, 1964; 8:45 a.m.]

[Docket No. 15393]

JOSEPH F. LEWIS, JR.

Order To Show Cause

In the matter of Joseph F. Lewis, Jr., Dorchester, Massachusetts, Docket No. 15393, order to show cause why the license for Citizens Radio Station KBC-5513 should not be revoked.

The Commission, by the Chief, Safety and Special Radio Services Bureau, under delegated authority, having under consideration certain alleged violations in connection with the operation of Citizens radio station KBC-5513;

It appearing, that, licensee failed to reply to Official Notices of Violation mailed on December 17, 1963, and February 7 and 20, 1964, and to a revocation warning letter mailed on January 9, 1964, in violation of § 1.89 (formerly § 1.76) of the Commission's rules; and

It further appearing, that, on December 13, 1963, and February 7, 1964, the licensee's radio station was operated with transmitting equipment not authorized by the Commission (excessive antenna height), in violation of § 95.37(c) (formerly § 19.25(c)) of the Commission's rules; and

It further appearing, that, on or about November 25 and December 5, 1963, the licensee's radio station was used for the transmission of communications containing obscene, indecent or profane language, in violation of Title 18, United States Code, section 1464; and

It further appearing, that (on or about November 25, and December 5, 1963, and February 6 and 7, 1964, the licensee's radio station was used for the transmission to other Citizens radio stations of communications which were not necessary for the exchange of substantive messages related to the business or personal affairs of the individuals concerned, in violation of § 19.61(a) (now § 95.81(a)) of the Commission's rules; and

It further appearing, that, in view of the foregoing, the subject radio station has been repeatedly operated in violation of §§ 95.37(c) and 95.81(a) of the Commission's rules, the licensee has repeatedly violated § 1.89 of the Commission's rules, and the subject radio station has been operated in willful violation of Title 18, United States Code, section 1464; and

It further appearing, that, based on the usage made of captioned radio station by the licensee on or about November 25, and December 5, 1963, the Commission would be warranted in refusing to grant an application from this licensee for the same class of radio station license if the original application were now before it;

It is ordered, This 26th day of March 1964, pursuant to section 312 (a) (2), (4) and (6) and (c) of the Communications Act of 1934, as amended, and § 0.331 (b) of the Commission's rules, that the licensee show cause why the license for the captioned radio station should not be revoked and appear and give evidence with respect thereto at a hearing to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this order by certified mail—return receipt requested (air mail) to the licensee at his last known address of 28 Balsam Street, Dorchester 24, Masachusetts.

Released: March 26, 1964.

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

[F.R. Doc. 64-3325; Filed, Apr. 3, 1964; 8:51 a.m.]

[Docket No. 15395; FCC 64-255]

BLACKHAWK BROADCASTING CO. (WSDR)

Order Designating Application for Hearing on Stated Issues

In re application of Blackhawk Broadcasting Company (WSDR), Sterling, Illinois, Docket No. 15395, File No. BMP-10504, has Lic. 1240 kc, 100 w, U, Class IV, has CP. 1240 kc, 100 w, 500 w-LS, U, Class IV, Req. 1240 kc, 250 w, 500 w-LS, U, Class IV; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 25th day of March 1964;

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

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

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

1. According to data submitted by the applicant, WSDR would receive daytime interference assuming it and all other Class IV's were operating with 250 watts which would result in a 16.5 percent population loss.

2. On September 26, 1962 William C. Forrest, licensee of Station WIBU, Poynette, Wisconsin, filed a Pre-Grant Petition to Deny; on October 9, 1962, WSBC Broadcasting Company, licensee of Station WSBC filed a Pre-Grant Petition to Deny; and, in a letter dated October 18, 1962 WTAX, Inc., licensee of Station WTAX requested that the instant proposal be denied. In their requests for denial they claim that a grant of this

proposal would cause nighttime interference to each of their existing operations. Stations WIBU and WSBC also requested that in the alternative, the application be designated for hearing.

3. The amount of population lost due to interference received daytime raises a question as to whether WSDR is adequately separated from co-channel stations for operation with increased nighttime power as proposed. The intent of our rules is that this question be resolved on the basis of whether the degree of interference received daytime would be excessive pursuant to § 73.28(d)(3) assuming that Station WSDR and all co-channel stations operate daytime with power not exceeding 250 watts and utilize non-directional antennas. Issue No. 2, infra, is to be construed in light of the foregoing considerations.

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

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

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

2. To determine whether interference received from existing stations would affect more than 10 percent of the population within the normally protected daytime primary service area (250w) in contravention of § 73.28(d)(3) of the rules, and, if so, whether circumstances exist which would warrant a waiver of this section to permit the proposed increase in nighttime power.

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

It is further ordered, That, the Pre-Grant Petition to Deny filed by William C. Forrest, the Pre-Grant Petition to Deny filed by WSBC Broadcasting Company are granted to the extent indicated herein and are denied in all other respects; and, the letter in the form of a request to deny from WTAX, Inc., is denied.

It is further ordered, That, William C. Forrest, WSBC Broadcasting Company and WTAX, Inc., licensees of Stations WIBU, WSBC and WTAX, respectively, are made parties to the proceeding.

It is further ordered, That, in the event of a grant of the application, the construction permit shall contain the following condition:

Permittee shall accept such interference as may be imposed by existing 250 watt Class IV stations in the event they are subsequently authorized to increase daytime power from 250 watts to 1 kilowatt.

It is further ordered, That, to avail itself of the opportunity to be heard, the applicant and parties respondent herein, pursuant to § 1.221(c) of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That, the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Released: March 30, 1964.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 64-3322; Filed, Apr. 3, 1964; 8:50 a.m.]

[Docket No. 15395; FCC 64M-274]

BLACKHAWK BROADCASTING CO. (WSDR)

Order Scheduling Hearing

In re application of Blackhawk Broadcasting Company (WSDR), Sterling, Illinois, Docket No. 15395 File No. BMP-10504, for construction permit.

It is ordered, This 30th day of March 1964, that Charles J. Frederick will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on May 28, 1964, in Washington, D.C.: *And it is further ordered*, That a prehearing conference in the proceeding will be convened by the presiding officer at 9:00 a.m., April 24, 1964.

Released: March 31, 1964.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 64-3323; Filed, Apr. 3, 1964; 8:50 a.m.]

[Docket Nos. 15265, 15266; FCC 64R-175]

COMMUNITY BROADCASTING SERVICE INC., ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of Community Broadcasting Service, Inc., Vineland, New Jersey, Docket No. 15265, File No. BPH-3949; Mortimer Hendrickson and Vivian Eliza Hendrickson, Vineland, New Jersey, Docket No. 15266, File No. BPH-4165; for construction permits.

1. The petitioner, Community Broadcasting Service, Inc., requests that the Review Board enlarge the issues in this proceeding to inquire into the financial qualifications of Mortimer and Vivian Eliza Hendrickson (Hendricksons).[2]

2. Petitioner and the Hendricksons each own existing AM broadcast facilities in Vineland, New Jersey. In this proceeding, each seeks a new FM broadcast station in Vineland. Their applications were designated for hearing in a consolidated proceeding in an Order released January 21, 1964 (Mimeo No. 46004) and published in the FEDERAL REGISTER on January 24, 1964 (29 F.R. 623). Petitioner alleges that the order of designation erroneously found the Hendricksons to be financially qualified to construct, own, and operate the proposed FM facility in Vineland, New Jersey. Petitioner claims that the Hendricksons, on the face of their application, failed to show total available resources sufficient to meet the total cost of construction and estimated cash expenditures for operation for the first year.

3. Specifically, petitioner points to the financial section of the Hendricksons' application wherein estimated costs of construction of $15,623.75 and estimated operating expenses for the first year of $25,000 are balanced against $4,000 cash deposits, a $5,000 proposed bank loan, a $13,373.75 deferred payment credit from RCA, and available personal income. Petitioner contends that the proposed loan of $5,000 cannot be considered as an available resource because of a unilateral determination to be made in the future by the bank of the acceptability of Hendricksons' financial statement. The amount of deferred credit available shown by Hendricksons is also attacked by petitioner since a total of 25 percent of stated amount must be paid before construction, leaving an available credit of only $10,030. The petitioner further contends that the unspecified item of "personal income" in the application cannot be considered because of uncertainty in its determination as a financial resource and because the purported balance sheet of the Hendricksons is incomplete in that it fails to show liabilities. As a result, petitioner alleges that a deficiency exists between total costs of construction of $15,623.75 and total available resources of $14,030 ($4,000 cash deposits and $10,030 deferred credit); that, even on a cash expenditure basis, total ex-

[1] Commissioner Hyde absent; Commissioner Bartley dissenting; dissenting statement of Commissioner Lee filed as part of original document.

[2] The Review Board has before it for consideration the following pleadings: (1) Petition to enlarge issues, filed February 10, 1964, by Community Broadcasting Service, Inc.; (2) Opposition, filed February 24, 1964, by Mortimer and Vivian Eliza Hendrickson; (3) Support of Petition, filed February 25, 1964, by the Broadcast Bureau; and (4) Reply by petitioner, filed March 3, 1964. The Broadcast Bureau has also filed a petition for acceptance of late filing on February 25, 1964. The petition will be granted for good cause shown and the Bureau's pleading in support of the petition to enlarge issues will be accepted as filed on February 25, 1964.

penditures of $36,217 [2] exceed total revenues ($5,000 cash deposits plus $30,000 anticipated revenues for first year); and that the assumed expenses of $25,000 for the combined AM–FM operation for the first year are "highly doubtful" in light of average broadcast expenses published by the Commission and of affidavits attached by petitioner from its general manager and a radio engineer dealing with the estimated costs of power, maintenance, and operation for such a proposed FM station.

4. The Hendricksons oppose the petitioner's request to add a financial qualifications issue. The Hendricksons maintain that any bank commitment to make a loan at an indefinite time in the future is conditioned on possible changes and that the Commission has consistently recognized such practice and approved commitments, despite such reservations, as sufficient indication of the availability of loan funds. Without taking account of personal income, and accepting the corrected figure for deferred credit, the Hendricksons allege that they will have available resources of $19,030 ($4,000 cash deposits, $5,000 loan, and $10,030 deferred credit) with which to offset anticipated expenditures of $18,048,[3] and that they can also meet a test of financial qualification on a cash expenditure basis. The Hendricksons contend that allegations of average operating costs are meaningless without a specific showing of costs in the Vineland, New Jersey, area and that the affidavits submitted by petitioner with respect to such costs fail to provide supporting information and are based merely on the opinion of petitioner's general manager, an interested party. The Hendricksons supply an affidavit of Mortimer Hendrickson indicating the basis upon which the estimated expense of operation of $25,000 is constructed.[4]

5. The Broadcast Bureau supports the petition to enlarge issues in the proceeding. The Bureau states that the Hendricksons' application reflects estimated construction costs of $15,623.75 and estimated operating expenses of $6,250 for a period of three months or a total cost of construction and operation for three months of $21,873.75. The Bureau points out that available resources total only $19,030 (including $4,000 cash deposits, $5,000 bank loan, and $10,030 deferred credit); therefore, the application, on its face, fails to make a proper financial showing. The Bureau also supports the petitioner in questioning the availability of the bank loan because of the conditional nature of the letter of intent submitted by the bank to the Hendricksons.

6. In its reply pleading, petitioner supports the stated views of the Broadcast Bureau and further questions the adequacy and accuracy of the proposed cost estimates furnished by Mortimer Hendrickson with respect to the staffing of the FM facility.

7. Upon consideration of the petition to enlarge issues and related pleadings and the financial proposals contained in the Hendricksons' application, the Review Board is of the opinion that the addition of a financial qualifications issue is warranted. The Hendricksons' proposal anticipates estimated construction costs of $15,623.75, from which figure $10,030 in deferred credit may be subtracted to arrive at an initial construction cost of $5,593.75. Operating expenses of a combined AM–FM broadcast facility [5] for the first three months would total $6,250; therefore, a total of $11,843.75 would be required to construct and operate the station for the initial three month period without regard to potential revenues. The available resources to finance construction and operation for the first three months include $4,000 cash deposits and a $5,000 bank loan [6] or a total of $9,000. In the Hendricksons' opposition the deferred credit of $10,030 is listed as an available source of liquid funds with which to finance the construction expenses of the initial three month period. This inclusion is in error since the deferred credit ($10,030) was previously deducted from the estimated construction costs and is not available to reduce the total liquid funds necessary to finance the Hendricksons' proposal. The unspecified item of personal income listed as a source of available funds cannot be considered by the Board. On the face of their application, the Hendricksons have failed to show available funds sufficient to construct and operate the proposed FM station for an initial three month period; therefore, the financial qualifications issue, as requested by the petitioner, will be added to the proceeding.

Accordingingly, it is ordered, This 27th day of March 1964, that the petition for acceptance of late filing, filed February 25, 1964, by the Broadcast Bureau, and that the petition to enlarge issues, filed February 10, 1964, by Community Broadcasting Service, Inc., are granted; and

It is further ordered, That the issues in this proceeding are enlarged by the addition of the following issue: To determine whether Mortimer and Vivian Eliza Hendrickson are financially qualified to construct and operate the FM broadcast station as proposed.

Released: March 31, 1964.

FEDERAL COMMUNICATIONS COMMISSION,[7]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64–3324; Filed, Apr. 3, 1964; 8:50 a.m.]

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[2] Total cash expenditures, as alleged in the petition to enlarge issues, include the following:

Professional services	$2,250
RCA downpayment	3,343
Principal payments to RCA	5,434
Interest payments to RCA	190
Cost of operation (estimated)	25,000
Total expenditures, end of first year	36,217

[3] The Hendricksons' opposition claims total expenditures for construction and the first three months of operation in the following amounts:

Professional services	$2,250
RCA downpayment	3,343
RCA principal	5,015
RCA interest	190
Bank loan principal	1,000
3 months' operating expense (¼ of $25,000)	6,250
Total	18,048

[4] The affidavit submitted by Mortimer Hendrickson estimates first year operational costs for combined AM–FM facilities at $18,815. No account is given of the difference between this figure and the $25,000 estimated costs contained in the Hendricksons' application.

[5] The Review Board must employ the estimated costs of operation indicated in the Hendricksons' application even though the figure includes expenses attributable to a combined AM–FM operation since there is no assessment of FM operational costs as a separate item.

[6] We do not agree with the petitioner or with the Broadcast Bureau that the bank's commitment is so burdened with a condition of acceptability to the bank that it is unreliable for the Commission's purposes.

[7] Review Board Member Nelson dissenting.

[Docket No. 14974; FCC 64M–273]

SALEM BROADCASTING COMPANY

Order Scheduling Hearing

In re application of Salem Broadcasting Company, Salem, Ohio, Docket No. 14974, File No. BP–13950; for construction permit.

Pursuant to a prehearing conference held this date: *It is ordered,* This 30th day of March 1964, that the date for exchanging engineering exhibits herein shall be on or before May 18, 1964;

It is further ordered, That the date for the notification of witnesses desired for cross-examination shall be June 5, 1964;

It is further ordered, That the hearing herein be and the same is hereby scheduled for June 10, 1964, 10:00 a.m., in the Commission's Offices, Washington, D.C.

Released: March 31, 1964.

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

[F.R. Doc. 64–3326; Filed, Apr. 3, 1964; 8:51 a.m.]

[Docket Nos. 15204–15207; FCC 64M–276]

WHDH, INC. (WHDH–TV) ET AL.

Statement and Order After Further Prehearing Conference

In re applications of WHDH, Inc. (WHDH–TV), Boston, Massachusetts, Docket No. 15204, File No. BRCT–530, for renewal of license; Charles River Civic Television, Inc., Boston, Massachusetts, Docket No. 15205, File No. BPCT–3164; Boston Broadcasters, Inc., Boston, Massachusetts, Docket No. 15206, File No. BPCT–3170; Greater Boston TV Co., Inc., Boston, Massachusetts, Docket No. 15207, File No. BPCT–3171; for construction permits for new VHF television broadcast stations.

At the further prehearing conference today, among other things the following changes and supplements were made in the schedule:

1. The further prehearing conference of April 9, 1964 is canceled.

2. The hearing now scheduled for April 13, 1964, at 10 a.m. will begin instead at

2 p.m. on that day. (April 20, 1964, at 10 a.m. is the date already reserved for the beginning of the introduction of the applicants' direct cases.)

3. By May 19, 1964, WHDH, Inc. will furnish to counsel for the other parties and the Hearing Examiner the information described in the Review Board's Memorandum Opinion and Order enlarging the issues, released March 12, 1964 (FCC 64R–128).

So ordered, This 31st day of March 1964.

Released: April 1, 1964.

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

[F.R. Doc. 64–3327; Filed, Apr. 3, 1964; 8:51 a.m.]

FEDERAL MARITIME COMMISSION

UNITED STATES LINES CO. AND ISTHMIAN LINES, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that Agreement No. DC–10 has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Agreement No. DC–10 between United States Lines Company (USL) and Isthmian Lines, Inc. (Isthmian), provides that (1) USL will assent to and concur in Freight tariffs applying from Hawaii to Atlantic Coast ports which Isthmian may publish and file, (2) Isthmian will name USL as a concurring carrier in such tariffs, (3) The parties may discuss rates or other tariff matter which may affect both carriers, with final decision as to such matter reserved to Isthmian, (4) The agreement may be cancelled on not less than forty-five days' notice in writing, and (5) The agreement shall become effective when approved by the Commission pursuant to section 15, and by the Maritime Administration pursuant to Article II–18(c) of the subsidy agreement of USL.

Interested parties may inspect this agreement and obtain copies thereof at the Bureau of Domestic Regulation, Federal Maritime Commission, Washington 25, D.C., and may submit within 20 days after publication of this notice in the FEDERAL REGISTER, written statements stating a position as to approval, disapproval, or modification of the agreement together with a request for hearing should one be desired.

Dated: April 1, 1964.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 64–3299; Filed, Apr. 3, 1964; 8:48 a.m.]

UNITED STATES LINES CO. AND MATSON NAVIGATION CO.

Notice of Termination of Agreement No. DC–5

Notice is hereby given that effective May 1, 1964, Agreement No. DC–5 between United States Lines Company (USL) and Matson Navigation Company (Matson) is being cancelled by agreement of the parties. Under the Agreement, which was approved on December 3, 1963, pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814), (1) USL concurs in tariffs filed by Matson applying from Hawaii to Atlantic Coast ports of the United States, (2) Matson names USL as a participating carrier in such tariffs, (3) The parties are permitted to discuss rates or other tariff matters which might affect both carriers, with final decision thereon reserved to Matson, and (4) Either party is permitted to cancel the agreement on not less than 45 days' notice in writing.

Dated: April 1, 1964.

By order of the Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 64–3300; Filed, Apr. 3, 1964; 8:48 a.m.]

FARRELL LINES INC. AND DELTA STEAMSHIP LINES, INC.

Notice of Filing of Agreement

Notice is hereby given that the following described agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733; 75 Stat. 763; 46 U.S.C. 814):

Agreement 9339 between Farrell Lines Incorporated and Delta Steamship Lines, Incorporated establishes a Conference to be known as the "U.S./Canada-West Africa Freight Conference" to operate in the Eastbound and Westbound trades between Atlantic and St. Lawrence River ports of Canada/U.S. Atlantic and Gulf of Mexico ports and West African ports (south of the southerly border of Rio de Oro, Spanish Sahara and north of the northerly border of Southwest Africa), including the Atlantic islands of the Azores, Madeira, Canary and Cape Verde, also the islands of Fernando Po, Principe, and Sao Tome in the Gulf of Guinea, under terms and conditions set forth in the agreement.

Interested parties may inspect this agreement and obtain copies thereof at the Bureau of Foreign Regulation, Federal Maritime Commission, Washington, D.C., 20573, or may inspect a copy at the offices of the District Managers of the Commission in New York, N.Y., New Orleans, La., and San Francisco, Calif., and may submit to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with a request for hearing, should such hearing be desired.

Dated: April 1, 1964.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 64–3298; Filed, Apr. 3, 1964; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G–19417 etc.]

PAN AMERICAN PETROLEUM CORP. ET AL.

Order Severing Proceedings, Approving Proposed Settlements, and Issuing Certificates of Public Convenience and Necessity

MARCH 30, 1964.

Pan American Petroleum Corporation, et al., Docket Nos. G–19417, et al.; Pan American Petroleum Corp., Docket No. G–19417, CI61–516; Shell Oil Company (Operator), et al., Docket No. CI61–524; The Atlantic Refining Company, Docket No. CI61–752; Union Texas Petroleum, A Division Allied Chemical Corporation, et al., Docket No. CI61–1275; Pan American Petroleum Corporation, Docket No. CI61–1772; Continental Oil Company, Docket No. CI62–1100; The Atlantic Refining Company, Docket No. CI62–1511; The Pure Oil Company, Docket No. CI 63–148; Pan American Petroleum Corp., Docket Nos. CI63–286, CI63–328, CI63–336, CI63–337; Marathon Oil Company, Docket No. CI63–356; Gulf Oil Corporation, Docket No. CI63–459; Phillips Petroleum Company (Operator), et al., Docket No. CI63–462; Humble Oil & Refining Company, Docket No. CI63–575; Phillips Petroleum Company (Operator), et al., Docket No. CI63–583; Cities Service Oil Company, Docket No. CI63–647; Tidewater Oil Company, Docket No. CI63–1009; Sinclair Oil & Gas Company, Docket Nos. CI63–1025, CI63–1026; Amerada Petroleum Corporation, Docket No. CI63–1042; Marathon Oil Company, Docket No. CI63–1086; Gulf Oil Corporation, Docket No. CI63–1125, CI63–1129, CI63–1152; Union Oil Company of California (Operator), et al., Docket No. CI63–1241; Sun Oil Company, Docket No. CI63–1427; Clearly Petroleum, Inc. (Operator) et al., Docket No. CI63–1461; The Atlantic Refining Company, Docket No. CI63–1491; Marathon Oil Company, Docket No. CI63–1585; Pan American Petroleum Corp., Docket Nos. CI64–23, CI64–67; Ashland Oil & Refining Company, Docket No. CI64–159; Gulf Oil Corporation, Docket No. CI64–268.

On the dates set forth below the following companies filed motions for severance of the above-captioned dockets from the proceedings in Pan American Petroleum Corporation, et al., Docket Nos. G–19417, et al., for approval of their respective settlement proposals and for the prompt issuance of certificates of public convenience and necessity without intermediate decision procedure:

Shell Oil Company (Operator), et al., December 19, 1963; Ashland Oil & Refining

Company, January 10, 1964; Humble Oil & Refining Company, January 13, 1964; Union Oil Company of California (Operator), et al., January 22, 1964; Phillips Petroleum Company (Operator), et al., January 23, 1964; The Pure Oil Company, January 27, 1964; Sinclair Oil & Gas Company, January 29, 1964; Union Texas Petroleum, February 7, 1964; Union Texas Petroleum, February 11, 1964; The Atlantic Refining Company, February 20, 1964; Gulf Oil Corporation, February 25, 1964; Pan American Petroleum Corporation, et al., February 26, 1964; Continental Oil Company, February 27, 1964; Marathon Oil Company, March 4, 1964; Pan American Petroleum Corporation, et al., March 6, 1964, March 9, 1964; Cities Service Oil Company, March 9, 1964; Amerada Petroleum Corporation, March 11, 1964; Tidewater Oil Company, March 12, 1964; Sun Oil Company, March 23, 1964; Cleary Petroleum Inc. (Operator), et al., March 23, 1964.

All of the above applicants have indicated in their motions for severance their willingness to accept permanent certificates on the same terms and conditions as contained in their temporary certificates.[1] More particularly, all of the above moving parties have indicated their desire to accept permanent certificates providing, inter alia, for an initial price of 15 cents per Mcf, the present ceiling price contained in the Statement of General Policy No. 61–1 for the "Other Oklahoma" area.[2] No answers have been filed by any parties or interveners to these motions.

In a number of dockets in which offers of settlement have been made, the contract with the purchasing pipeline follows the same pattern as outlined in Opinion No. 353 (p. 13, mimeo). In these dockets it is appropriate and in the public interest that certificates issued herein to the producer-applicants be granted upon the conditions contained in paragraphs (C), (D), and (E) of the order in that Opinion.[3]

It further appears that in all the motions for severance wherein the contract with the purchasing pipeline contains a Btu adjustment clause, the offer of settlement proposes that such provision shall be subject prospectively to disposition in accordance with the rule-making proceeding in Docket No. R–200. Accordingly, this will be so provided in the instant order.

A number of dockets herein contain no Btu adjustment provisions and the moving parties request permanent certificates on the same conditions as already provided in our order issued March 6, 1964, which severed the proceedings in CI61–1620 and CI61–1796.

There are several conditions which we feel must be imposed uniformly in every case where a motion for severance and settlement proposal is made to the Commission in these proceedings. In all cases wherein motions for severance are filed in these consolidated proceedings we shall establish a uniform pattern of conditions with respect to (1) take-or-pay-for liabilities and (2) boundary changes resulting from amendment to Policy Statement No. 61–1. Furthermore, as indicated above, all Btu adjustment clauses shall be subject prospectively to the proceedings in Docket No. R–200.

There remain, finally, two dockets wherein the issuance of permanent certificates will require the refund of any amounts previously collected over 15 cents per Mcf up to the date of the issuance of the permanent certificate herein (Pan American Petroleum Corporation, Docket No. G–19417[4] and Union Texas Petroleum, Docket No. CI61–1275).[5] Pan American has indicated that it is willing to accept a permanent certificate in Docket No. G–19417 upon the condition that Pan American shall within ninety days refund to Cimarron the difference between 15.5 cents and 15 cents per Mcf at 14.65 psia for deliveries occurring under this docket from initial delivery to the effective date of price reduction to 15 cents per Mcf, plus interest at the rate of 7 percent per annum through March 31, 1964. By its letter of March 27, 1962, granting a temporary certificate to Union Texas Petroleum, the Commission provided the following condition:

The initial price for this service shall be 15 cents per Mcf at 14.65 psia, inclusive of tax reimbursement and subject to a Btu price adjustment for Btu content above or below 1000 Btu per cubic foot. Such initial price shall be further subject to Union Texas refunding to Natural Gas Pipeline Company of America any amounts collected (plus interest at 7 percent per year) in excess of the amount computed at the rate determined to be in accordance with the requirements of the public convenience and necessity in Docket No. CI61–1275, as to the service hereby authorized.

Union Texas Petroleum has indicated that it is willing to refund any amounts collected by virtue of the operation of its Btu adjustment clause from the date of issuance of its temporary certificate until the date of issuance of a permanent certificate herein, down to a floor of 15 cents per Mcf.

We find the settlement proposals herein to be in the public interest. Accordingly, we shall sever the above-captioned dockets from the consolidated proceedings in Pan American Petroleum Corporation, et al., Docket Nos. G–19417, et al., omit the intermediate decisions in regard to these dockets, and conditionally issue certificates of public convenience and necessity.

In a hearing held on March 26, 1964, the Commission, on its own motion, received and made part of the record in these proceedings all evidence, including the applications and exhibits attached thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each Applicant is a "natural-gas company" within the meaning of the Natural Gas Act and is engaged in the sale and delivery of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission.

(2) The proposed sales of natural gas are subject to the jurisdiction of the Commission, and such sales, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of Subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The conditions attached to the certificates herein issued are required by the public convenience and necessity.

(5) No party has opposed the waiver of the intermediate decisions in these proceedings.

The Commission orders:

(A) The matters in the above-captioned dockets are severed from the consolidated proceeding Pan American Petroleum Corporation, et al., Docket Nos. G–19417, et al.

(B) The certificates of public convenience and necessity are hereby issued to the above-named Applicants, on the conditions set forth herein, authorizing the sale of natural gas in interstate commerce for resale for ultimate public consumption, and for the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as more fully described in the applications and settlement proposals herein.

(C) The certificates granted in paragraph (B) above are not transferable and shall be effective only so long as Applicants continue the acts and operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

[1] It may be noted that temporary certificates have been issued in all dockets consolidated in these proceedings except CI63–417 and CI63–876. The temporary certificates in all dockets but one were conditioned to the initial rate of 15 cents per Mcf. At the time of issuance of each temporary certificate, the Commission asked to be advised whether the applicant would be willing to accept permanent authorization on the same terms. In some cases the applicant indicated that it would take the Commission's offer under consideration but, in most cases, refused the offer of a permanent certificate on the same conditions as contained in the temporary certificate.

[2] The original contracts contain proposed initial prices ranging from 15.5 cents per Mcf to 19.5 cents per Mcf.

[3] Including a requirement that the producer-applicant file within 30 days of date hereof a supplement to the related rate schedule providing for a full downward Btu adjustment in price for gas containing less than 1,000 Btu per cubic foot.

[4] In accordance with the mandate of the United States Court of Appeals for the Tenth Circuit (Case Nos. 6670 and 6724), the Commission modified, effective as of January 24, 1962 (the date upon which the Court issued its mandate in the two cases), the temporary authorizations issued November 3, 1960, March 2, 1961, and April 28, 1961, so as to permit Pan American Petroleum Corporation to collect the full contract price as provided in Rate Schedule No. 277 including the Btu price adjustment subject to Pan American Petroleum Corporation refunding to Cimarron Transmission Company any amounts plus interest at 7 percent per annum collected in excess of 15 cents per Mcf which may be determined to be in excess of the price required by the public convenience and necessity in Docket No. G–19417.

[5] The temporary certificate issued to Union Texas Petroleum is subject to a refund of any amounts collected over 15 cents per Mcf.

(D) The grant of the certificates issued in paragraph (B) above shall not be construed as a waiver of the requirements of Section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's Regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Applicant. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customer involved imply approval of all of the terms of the contract, particularly as to the cessation of service upon termination of said contracts, as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(E) The authorizations issued herein are subject to the following conditions:

(a) The initial price, including tax reimbursement, shall not exceed 15 cents per Mcf at 14.65 psia.

(b) In the event that the Commission amends its Policy Statement No. 61–1 by adjusting the boundary between the Panhandle area and the "Other Oklahoma" area so as to increase the initial wellhead price for new gas in the areas involved herein, Applicants thereupon may substitute the new rates consistent with their contracts reflecting the amount of such increase, and thereafter collect these new rates prospectively in lieu of the initial rates herein required.

(c) The allowances for take-or-pay provisions in the related rate schedules are subject to the ultimate disposition with respect to such provisions in the rule-making proceeding in Docket No. R–199; however, Applicants will not be required to file take-or-pay provisions for less than 80 percent of the annual quantity.

(d) The allowance for any Btu adjustment provision in the related rate schedule is subject to the ultimate disposition with respect to such provision in the rule making proceeding in Docket No. R–200; provided, however, as a further condition of the issuance of the certificates herein, that the rate schedules to be filed by the producer-applicants in Docket Nos. CI63–286, CI63–328, CI63–336, CI63–337, CI63–647, CI63–1086, CI63–1585, CI63–148, CI63–459, CI61–752, CI63–462, CI63–575, CI63–1241, and CI61–1275 shall also make provision for a full percentage downward adjustment in price for gas containing less than 1,000 Btu's below 1,000 removed by the producers in processing the gas.

In Docket No. CI61–1275 (Union Texas Petroleum Corp.) the Btu adjustment provision shall operate above or below 1,000 Btu per cubic foot as specified in the temporary certificate issued March 27, 1962.

(F) The order issuing certificates of public convenience and necessity in Docket Nos. CI61–516, CI61–524, CI61–752, and CI61–1620 be and the same are hereby amended by authorizing the sale and delivery of natural gas from additional acreage and in all other respects except as herein provided said orders shall remain in full force and effect.

(G) The order herein issuing a certificate of public convenience and necessity to Gulf Oil Corporation in Docket No. CI63–417 relates to Gulf acreage in North Oakdale Field and Lenora Field, including acreage added to the basic contract by amendment dated November 16, 1962, but does not cover acreage added to Gulf's contract with Michigan Wisconsin relating to proposed sales of gas from the Northwest Quinlan Field and the Northeast Cedardale Pool, which are in the Panhandle area rather than the "Other Oklahoma" area.

(H) As a further condition to the issuance of permanent certificates in Docket Nos. G–19417 and CI61–1275, Pan American Petroleum Corporation and Union Texas Petroleum, A Division of Allied Chemical Corporation, et al., shall refund respectively to Cimarron Transmission Company and Natural Gas Pipeline of America any amounts collected (plus interest at 7 percent per annum) in excess of 15 cents per Mcf from the date of issuance of their temporary certificates[6] up to the date of issuance of the order herein.

(I) The motions for waiver of hearing and intermediate decision pursuant to § 1.32 of the Commission's rules of practice and procedure are hereby granted.

By the Commission.[7]

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64–3285; Filed, Apr. 3, 1964; 8:51 a.m.]

[Docket No. RP64–9]

CITIES SERVICE GAS CO.

Notice of Postponement of Prehearing Conference

MARCH 30, 1964.

Upon consideration of the request filed on March 12, 1964, by The Gas Service Company for postponement of the prehearing conference now scheduled for April 21, 1964;

Notice is hereby given that the prehearing conference is postponed to 10:00 a.m. on April 23, 1964.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64–3281; Filed, Apr. 3, 1964; 8:46 a.m.]

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[6] As of January 24, 1962, in the case of Pan American Petroleum Corporation, in accordance with the mandate of the United States Court of Appeals for the Tenth Circuit.

[7] Dissenting statement of Commissioner Black filed as part of original document.

[Docket Nos. CP64–160, CP64–137]

COLORADO INTERSTATE GAS CO. AND KANSAS-COLORADO UTILITIES, INC.

Notice of Applications

MARCH 30, 1964.

Take notice that on January 13, 1964, amended March 2, 1964, Colorado Interstate Gas Company (Colorado Interstate), of Colorado Springs, Colorado, and that Kansas Colorado Utilities, Inc. (Kansas-Colorado) of Colorado Springs, Colorado on December 11, 1963, as amended on February 24, 1964, filed in Docket Nos. CP64–160 and CP64–137 respectively, applications for certificates of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act authorizing each of them to construct and operate certain facilities to be located in Union County, New Mexico and Cimarron County, Oklahoma, all as hereinafter described and as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Colorado Interstate's proposed facilities are to consist of metering facilities necessary to enable it to sell and deliver natural gas to Kansas Colorado from its system in New Mexico. The estimated cost of such facilities is $7,057 which costs are to be financed from funds on hand. The sale of natural gas is to be made on an interruptible basis under Applicant's Rate Schedule IS–2 (21.5 cents per Mcf).

Kansas-Colorado proposes to construct and operate 3.15 miles of 6⅝-inch transmission pipeline extending from the point of connection with Colorado Interstate's facilities in Union County, New Mexico to the point of connection with Felt Water Development Co. (Felt Water) in Cimarron County, Oklahoma, together with a measuring and regulating station at this point. The estimated cost of such facilities is $36,080, to be financed from current working funds.

The volume of gas which Kansas-Colorado proposes to purchase from Colorado Interstate for resale to Felt Water for irrigation development purposes is 173,465 Mcf per annum on an interruptible basis under its proposed Rate Schedule I–1 (24.5 cents per Mcf).

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that preliminary staff analysis has indicated that there are no problems which would warrant a recommendation that the Commission designate this application for formal hearing before an examiner and that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing may be held without further notice before the Commission on this application provided no protest or petition to intervene is filed within the time required herein. Where

a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Protest or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 24, 1964.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64-3282; Filed, Apr. 3, 1964; 8:46 a.m.]

[Docket No. CP64-145]

CUMBERLAND AND ALLEGHENY GAS CO.

Notice of Application

MARCH 30, 1964.

Take notice that on December 24, 1963, Cumberland and Allegheny Gas Company (Applicant), 800 Union Trust Building, Pittsburgh, Pennsylvania, 15219, filed in Docket No. CP64-145, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 45 feet of 2-inch pipeline together with the necessary measuring and regulating equipment in order to render natural gas service to a new plant of Cumberland Charcoal Corporation (Cumberland) in the community of Beryl, Mineral County, West Virginia, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application shows that Cumberland will use natural gas in the manufacture of charcoal. Applicant states that Cumberland's requirements are estimated to be 150 Mcf per day and 48,000 Mcf annually. Applicant states further that deliveries to Cumberland, an industrial customer, are subject to curtailment, if necessary, in order to maintain service to domestic customers.

Cumberland and Applicant have entered into an industrial service agreement dated December 5, 1963, providing for the proposed service.

The application shows the total estimated cost of the proposed facilities to be $3,369, which cost will be financed from funds on hand.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that preliminary staff analysis has indicated that there are no problems which would warrant a recommendation that the Commission designate this application for formal hearing before an examiner and that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing may be held without further notice before the Commission on this application provided no protest or petition to intervene is filed within the time required herein. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 20, 1964.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64-3283; Filed, Apr. 3, 1964; 8:46 a.m.]

[Docket No. E-7159]

INTERSTATE POWER CO.

Notice of Application

MARCH 30, 1964.

Take notice that on March 23, 1964, an application was filed with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, by Interstate Power Company (Applicant), a corporation organized under the laws of the State of Delaware and domesticated in the States of Illinois, Iowa, Minnesota, and South Dakota, with its principal business office at Dubuque, Iowa, seeking an order authorizing the issuance of unsecured promissory notes in the principal amount not exceeding $8,800,000 of which not more than $7,000,000 will be outstanding at any one time. In accordance with a loan agreement dated March 12, 1964, Applicant proposes to issue $1,800,000 in notes severally to two Minnesota banks and seven Iowa banks. An additional $7 million in promissory notes is proposed to be issued pursuant to a loan agreement of March 13, 1964, with the Chase Manhattan Bank and Manufacturers Hanover Trust Co., both New York banks. Under both loan agreements, notes are proposed to be issued to mature one year from the date of respective issuance but not later than September 30, 1965, and each note to bear interest at the prime commercial rate of the Chase Manhattan Bank for unsecured borrowings prevailing five business days prior to the date of each such note.

Applicant states that the proceeds of the notes will be used together with other funds available to the company to carry out the company's 1964 construction program estimated at $11,996,000. Major items in the Applicant's 1964 construction budget include Clinton Beaver Channel Plant, Unit No. 2, rated at 154,000 kw which will require an expenditure of $2,220,000 in 1964 (estimated total cost $19,078,000), construction and rebuilding of a portion of the Applicant's 69 kv transmission grid, additions to distribution plant $3,769,300 and gas and hot water heat, distribution and general, $1,125,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before the 15th day of April 1964, file with the Federal Power Commission, Washington, D.C., 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64-3284; Filed, Apr. 3, 1964; 8:46 a.m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

URBAN RENEWAL COMMISSIONER AND HHFA REGIONAL ADMINISTRATORS

Delegation of Authority With Respect to Open-Space Land Program

1. The Urban Renewal Commissioner (herein called the "Commissioner"), and the HHFA Regional Administrator within his respective Region, each is hereby authorized to execute the powers and functions vested in the Housing and Home Finance Administrator under Title VII of the Housing Act of 1961 (75 Stat. 183, 42 U.S.C. 1500), with respect to the program of grants for open-space land, except in the case of the Regional Administrator, the authority to:

(a) Approve applications for grant assistance, and make allocations of funds and authorize contracts.

(b) Approve the conversion from the HHFA approved open-space use of open-space land for which a grant has been made under Title VII.

(c) Approve the disposal or transfer of any interest acquired in open-space land for which a grant has been made under Title VII.

(d) Suspend or terminate grant assistance.

(e) Make determinations with respect to noncompliances or defaults under contracts for grant assistance.

2. The Commissioner is further authorized to redelegate to one or more employees in the Urban Renewal Administration any of the authority herein delegated to the Commissioner.

3. Each Regional Administrator is authorized to redelegate to the Regional Director of Urban Renewal in his Region any of the authority herein delegated to the Regional Administrator.

This delegation supersedes the delegation effective September 1, 1961 (26 F.R. 8266, 9/1/61).

(62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C. 1701c)

Effective as of the 4th day of April 1964.

[SEAL] ROBERT C. WEAVER,
Housing and Home Finance Administrator.

[F.R. Doc. 64-3291; Filed, Apr. 3, 1964; 8:47 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

COTTON TEXTILES IN CATEGORY 22 PRODUCED OR MANUFACTURED IN PAKISTAN

Prohibition on Entry or Withdrawal From Warehouse

APRIL 1, 1964.

The United States Government on October 31, 1963, in furtherance of the objectives of, and under the terms of, the Long Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, requested the Government of Pakistan to restrain the export of cotton textiles in Category 22 to the United States. A level of restraint has been set for the twelve-month period beginning October 31, 1963, through October 30, 1964.

There is published below a letter of April 1, 1964, from the Chairman, President's Cabinet Textile Advisory Committee, to the Commissioner of Customs, prohibiting, effective April 8, 1964, for the period ending October 30, 1964, the entry or withdrawal from warehouse for consumption in the United States of cotton textiles in Category 22, produced or manufactured in Pakistan, which were exported to the United States from Pakistan on or after October 31, 1963.

JAMES S. LOVE, Jr.,
Chairman, Interagency Textile Administrative Committee, and Deputy to the Secretary of Commerce for Textile Programs.

THE SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

Washington 25, D.C., April 1, 1964.

COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
Washington, D.C.

DEAR MR. COMMISSIONER: The United States Government on October 31, 1963, in furtherance of the objectives of, and under the terms of, the Long Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, requested the Government of Pakistan to restrain the export of cotton textiles in Category 22 to the United States during the twelve-month period beginning October 31, 1963. The Long Term Arrangement is an agreement contemplated by Section 204 of the Agricultural Act of 1956, as amended.

Under the terms of the Long Term Arrangement and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, you are directed to prohibit, effective April 8, 1964, and for the period extending through October 30, 1964, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles in Category 22, produced or manufactured in Pakistan, in excess of the adjusted level of restraint provided:

Category	12-Month level of restraint	Adjusted level of restraint
22	580,000 square yards	0

The level of restraint has been corrected to reflect entries made during the period October 31, 1963, through March 16, 1964. Corrections have not been made to reflect entries, if any, subsequent to March 16, 1964.

In carrying out this directive, you shall allow entry into the United States for consumation and withdrawal from warehouse for consumption of cotton textiles in Category 22, produced or manufactured in Pakistan, when the cotton textiles sought to be entered have been exported to the United States from Pakistan prior to October 31, 1963, even though the restraint level has been filled.

A detailed description of the listed category in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on October 1, 1963 (28 F.R. 10551).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textiles from Pakistan have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of Section 4 of the Administrative Procedure Act. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

LUTHER H. HODGES,
Secretary of Commerce, and Chairman, President's Cabinet Textile Advisory Committee.

[F.R. Doc. 64-3314; Filed, Apr. 3, 1964; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 2-15185]

WESTERN CALIFORNIA TELEPHONE CO.

Notice of Application for Exemption

MARCH 31, 1964.

Notice is hereby given that Western California Telephone Company, a corporation organized under the laws of California ("issuer"), has filed an application pursuant to Rule 15d-20 of the general rules and regulations under the Securities Exchange Act of 1934 ("Act") for an order exempting the issuer from the operation of section 15(d) of the Act with respect to the duty to file any reports required by that section and the rules and regulations thereunder.

Rule 15d-20 permits the Commission, upon application and subject to appropriate terms and conditions, to exempt an issuer from the duty to file annual and other periodic reports if the Commission finds that all outstanding securities of the issuer are held of record, as therein defined, that the number of such record holders does not exceed fifty persons, and that the filing of such reports is not necessary in the public interest or for the protection of investors.

The application states the following with respect to the request for exemption:

(1) All of the outstanding securities of the issuer are held of record and the number of such record holders at present is only 8 persons. 218,534 shares of common stock are held by General Telephone & Electronics Corporation. The other 61 shares are held by 7 other persons.

(2) If the application for exemption is granted, the issuer will furnish financial statements to shareholders upon request.

Notice is further given that an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate may be issued by the Commission at any time on or after May 11, 1964, unless prior thereto a hearing is ordered by the Commission. Any interested persons may, not later than May 4, 1964, at 5:30 p.m., e.d.s.t., submit to the Commission in writing his views or any additional facts bearing upon the application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C., 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reason for such a request, and the issues of facts or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 64-3316; Filed, Apr. 3, 1964; 8:49 a.m.]

[File No. 70-4195]

GULF POWER CO.

Notice of Proposed Issue and Sale of Short-Term Notes

MARCH 30, 1964.

Notice is hereby given that a declaration and an amendment thereto has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), by Gulf Power Company ("Gulf"), 75 North Pace Boulevard, Pensacola, Florida, a public-utility subsidiary company of The Southern Company, a registered holding company. Gulf has designated sections 6(a), 6(b), and 7 of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended declaration, on file at the office of this Commission, for a statement of the transaction therein proposed, which is summarized as follows:

Gulf proposes to issue, from time to time prior to November 1, 1964, unsecured promissory notes to banks in an aggregate principal amount not to exceed $9,100,000, including in such amount up to an aggregate of $2,900,000 principal amount of promissory notes to be issued, prior to the Commission's action on this declaration, pursuant to the exemption afforded by the first sentence of section 6(b) of the Act. Each note proposed to be issued by Gulf will bear interest at the prime rate in effect at The Chase Manhattan Bank in New York (presently 4½ percent per annum) on the date of is-

suance; will mature not more than nine months after the date of issuance; and will be prepayable, in whole or in part without penalty or premium, on any regular banking day upon twenty-four hours written notice.

Shown below are the maximum principal amounts proposed to be issued to the designated banks:

	Amount
The Chase Manhattan Bank, New York, N.Y.	$3,000,000
Irving Trust Company, New York, N.Y.	3,000,000
Bankers Trust Company, New York, N.Y.	1,750,000
The Florida National Bank of Pensacola, Fla.	310,000
The First Bank & Trust Company of Pensacola, Fla.	172,000
Bay National Bank & Trust Co., Panama City, Fla.	120,000
Commercial Bank in Panama City, Fla.	100,000
The Citizens & Peoples National Bank of Pensacola, Fla.	90,000
First National Bank in Milton, Fla.	90,000
The West Pensacola Bank, Fla.	63,000
Commercial National Bank of Pensacola, Fla.	60,000
Southern National Bank of Fort Walton Beach, Fla.	40,000
Florida Bank at Chipley, Fla.	40,000
The Bank of Crestview, Fla.	36,000
Bank of Fort Walton, Fort Walton Beach, Fla.	32,000
Bank of Graceville, Fla.	30,000
Escambia County Bank, Flomaton, Ala.	30,000
Santa Rosa State Bank, Milton, Fla.	29,000
First National Bank of Crestview, Fla.	27,000
Bank of Gulf Breeze, Fla.	21,000
The First National Bank, DeFuniak Springs, Fla.	20,000
Cawthon State Bank, DeFuniak Springs, Fla.	20,000
The Bank of Bonifay, Fla.	20,000
Total	9,100,000

The proceeds from the $9,100,000 of proposed notes will be used, in part, to pay Gulf's short-term notes with banks outstanding on the date of any authorization that may be granted under this declaration. The balance will be applied to Gulf's 1964 construction and property addition and improvement program, estimated at $18,398,000. The remaining cash requirements for such program will be obtained from cash on hand (including $2,000,000 received in March 1964, from the sale of additional shares of common stock) and from the contemplated sale of $12,000,000 principal amount of first mortgage bonds in October 1964. The net proceeds from said sale of bonds will be applied in total payment of all notes issued pursuant to this declaration and, thereupon, any authorization which may be granted under this declaration will cease to be effective.

The filing states that the fees and expenses in connection with the proposed note issues are estimated in the aggregate at $2,438, consisting of $500 for legal fees, $100 for miscellaneous expenses and counsel expenses, and $1,838 for state documentary stamp taxes.

The filing further states that, other than the Florida Public Utilities Commission and this Commission, no State commission and no Federal commission has jurisdiction over the proposed note issues.

Notice is further given that any interested person may, not later than April 27, 1964, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said amended declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules under the Act as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 64-3286; Filed, Apr. 3, 1964; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30 (Rev. 8), Amdt. 3]

REGIONAL DIRECTORS

Delegation of Authority To Conduct Program Activities in the Regional Offices

Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended; Delegation of Authority No. 30 (Revision 8), as amended, 28 F.R. 3228, 7204, and 8179 is hereby amended by deleting subitem I.A.1.a. and substituting the following in lieu thereof:

I. * * *

A. *Financial Assistance.*

1. To approve the following:

a. Business loans:

1. Direct not exceeding $100,000.

2. Participation not exceeding $250,000.

Effective date: March 11, 1964.

EUGENE P. FOLEY, *Administrator.*

[F.R. Doc. 64-3287; Filed, Apr. 3, 1964; 8:46 a.m.]

OFFICE OF EMERGENCY PLANNING

KENTUCKY

Amendment to Notice of Major Disaster

Notice of Major Disaster for the Commonwealth of Kentucky, dated March 18, 1964, and published March 25, 1964 (29 F.R. 3717), is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 17, 1964:

Crittenden. Muhlenberg.
Hart.

Dated: March 30, 1964.

EDWARD A. MCDERMOTT, *Director, Office of Emergency Planning.*

[F.R. Doc. 64-3280; Filed, Apr. 3, 1964; 8:46 a.m.]

TARIFF COMMISSION

[TEA I-A-4]

DRAWN OR BLOWN FLAT GLASS

Notice of Investigation and Hearing

Investigation instituted. On March 30, 1964, the United States Tariff Commission, upon request of the President, instituted an investigation in connection with the preparation of advice to the President, pursuant to section 351(d)(2) of the Trade Expansion Act of 1962, with respect to flat glass of the kinds described in items 923.11—924.00 in Part 2A of the Appendix to the Tariff Schedules of the United States.

In 1962 increased duties were imposed by Presidential proclamation upon imports of flat glass of the kinds described above (described as "cylinder, crown, and sheet glass" in 1962), following an escape-clause investigation by the Tariff Commission under section 7 of the Trade Agreements Extension Act of 1951. The Commission's function under section 351(d)(2) is to advise the President of its judgment of the probable economic effect on the domestic industry concerned of the reduction or termination of increased import restrictions imposed under the escape-clause procedure.

Public hearing ordered. A public hearing in connection with the aforementioned investigation will be held beginning at 10 a.m., e.d.s.t., on June 30, 1964, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Interested parties desiring to appear and to be heard at the hearing should notify the Secretary of the Commission, in writing, at least three days in advance of the date set for the hearing.

Issued April 1, 1964.

By order of the Commission.

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

[F.R. Doc. 64-3301; Filed, Apr. 3, 1964; 8:48 a.m.]

[AA1921-34]

[TC Publication 123]

PEAT MOSS FROM CANADA

Determination of No Injury or Likelihood Thereof

MARCH 31, 1964.

On January 14, 1964, the Tariff Commission was advised by the Assistant Secretary of the Treasury that Peat Moss, horticultural and poultry grades, from Atkins and Durbrow, Ltd., Vancouver, B.C., and Western Peat Company, Ltd., New Westminster, B.C. (shipments from Manitoba plant only), Canada, is being, or is likely to be, sold in the United States at less than fair value as that term is used in the Antidumping Act. Accordingly, the Commission on January 16, 1964, instituted an investigation under section 201(a) of the Antidumping Act, 1921, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Public notices of the institution of the investigation and of a public hearing to be held in connection therewith were published in the FEDERAL REGISTER (29 F.R. 518, 29 F.R. 1859, and 29 F.R. 2364). The hearing was held on March 16, 1964.

In arriving at a determination in this case, due consideration was given by the Commission to all written submissions from interested parties, all testimony adduced at the hearing, and all information obtained by the Commission's staff.

On the basis of the investigation, the Commission has unanimously determined that an industry in the United States is not being, and is not likely to be, injured, or prevented from being established, by reason of the importation of peat moss, horticultural and poultry grade, from Atkins and Durbrow, Ltd., Vancouver, B.C., and Western Peat Company Ltd., New Westminster, B.C. (shipments from Manitoba plant only), Canada, which was sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

Statement of reasons. The two named Canadian producers have exported substantial quantities of peat moss to the United States, a portion of which they sold at "less than fair value". Only an insignificant part of that portion was marketed in competition with domestic peat moss sold by any producer who represented to the Tariff Commission that he was injured thereby. When the two Canadian producers learned that the Treasury Department had determined that they were selling peat moss for export to the United States at less than fair value, they promptly adjusted their prices so as to eliminate all such sales. Therefore, since the sales at less than fair value were extremely limited, offered only insignificant competition with the domestic product, and were promptly eliminated, the Commission has found no injury nor likelihood thereof in this case.

This determination and statement of reasons are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended.

By the Commission.

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

[F.R. Doc. 64-3302; Filed, Apr. 3, 1964; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 1, 1964.

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

LONG-AND-SHORT HAUL

FSA No. 38927: *Coarse Grains from Points in Kansas.* Filed by Southwestern Freight Bureau, agent (No. B-8532), for interested rail carriers. Rates on coarse grains, in carloads, from points in Kansas, to points in Texas.

Grounds for relief: Carrier competition.

Tariff—Supplement 41 to Southwestern Freight Bureau, agent, tariff I.C.C. 4496.

FSA No. 38928: *Commodities Between Points in Texas.* Filed by Texas-Louisiana Freight Bureau, agent (No. 498), for interested rail carriers. Rates on carnivorous animal feed, insulating material and straps or strappings, in carloads, from, to and between points in Texas, over interstate routes through adjoining states.

Grounds for relief: Intrastate rates and maintenance of rates from and to points in other states not subject to the same conditions.

Tariff: Supplement 11 to Texas-Louisiana Freight Bureau, agent, tariff I.C.C. 998.

FSA No. 38930: *Soda Ash to Cedar Springs, Ga.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 2711), for interested rail carriers. Rates on soda ash, in bulk or in bulk in bags, barrels, boxes or pails, in carloads, from specified points in Michigan, New York, Ohio and Pennsylvania, also North Claymont, Del., to Cedar Springs, Ga.

Grounds for relief: Market competition.

Tariffs: Supplements 130 and 45 to Traffic Executive Association-Eastern Railroads, agent, tariffs I.C.C. C-102 and C-334, respectively.

FSA No. 38931: *Petroleum Products from Cody, Wyo., to Aberdeen, S. Dak.* Filed by Chicago, Burlington & Quincy Railroad Company (No. 71), for itself and interested rail carriers. Rates on asphalt (asphaltum), petroleum road oil, petroleum wax tailings, residual fuel oil, distillate fuel oil, not suitable for illuminating purposes, and gas oil, in tank-car loads, from Cody, Wyo., to Aberdeen, S. Dak.

Grounds for relief: Carrier competition.

Tariff: Supplement 16 to Chicago, Burlington & Quincy Railroad Company tariff I.C.C. 20551.

FSA No. 38932: *Bituminous Fine Coal to Panama City, Fla.* Filed by O. W. South, Jr. agent (No. A4487), for interested rail carriers. Rates on bituminous fine coal, in carloads, from mine origins in Alabama, to Panama City, Fla.

Grounds for relief: Market competition.

Tariff: Supplement 84 to Southern Freight Association, agent, tariff I.C.C. S-39.

FSA No. 38933: *Sulphuric Acid to Calhoun and Etowah, Tenn.* Filed by O. W. South, Jr., agent (No. A4488), for interested rail carriers. Rates on sulphuric acid, in tank-car loads, from Baton Rouge and North Baton Rouge, La., to Calhoun and Etowah, Tenn.

Grounds for relief: Market competition.

Tariff: Supplement 81 to Southern Freight Association, agent, tariff I.C.C. S-162.

AGGREGATE-OF-INTERMEDIATES

FSA No. 38929: *Commodities Between Points in Texas.* Filed by Texas-Louisiana Freight Bureau, agent (No. 499), for interested rail carriers. Rates on carnivorous animal feed, insulating material and straps or strappings, in carloads, from, to and between points in Texas, over interstate routes through adjoining states.

Grounds for relief: Maintenance of depressed rates published to meet intrastate competition without use of such rates as factors in constructing combination rates.

Tariff: Supplement 11 to Texas-Louisiana Freight Bureau, agent, tariff I.C.C. 998.

By the Commission.

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

[F.R. Doc. 64-3295; Filed, Apr. 3, 1964; 8:47 a.m.]

[Notice 962]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 1, 1964.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC 66612. By order of March 30, 1964, the Transfer Board approved the transfer to Humboldt Express, Inc., Nashville, Tenn., of a portion of the operating rights claimed in No. MC 96961 (Sub No. 1) under the "grandfather clause" of section 206(a)(7)(b), Interstate Commerce Act by West Tennessee Motor Express Inc., Nashville, Tenn., and the substitution of transferee as applicant for a Certificate of Registration from this Commission, corresponding to the transfer by the Tennessee Public Service Commission of a portion of the operating rights of transferor in State Certificate No. 2215. Walter Harwood, 515 Nashville Bank & Trust Building, Nashville, Tenn., attorney for transferee. Robert H. Cowan, 434 Stahlman Building, Nashville, Tenn., attorney for transferor.

No. MC–FC 66782. By order of March 30, 1964, the Transfer Board approved the transfer to Paul K. Cleveland, doing business as Westfair Air Service, South Norwalk, Conn., of the operating rights in Certificate in No. MC 112718, issued November 9, 1953, to McFaddin Express, Incorporated, Stamford, Conn., authorizing the transportation, over regular and irregular routes, of: General commodities, including certain specifically named commodities, but excluding household goods, commodities in bulk, and other specifically named commodities, between Norwalk, Conn., and New York, N.Y., and between Stamford, Conn., and Boston, Mass., over specified regular routes, serving certain intermediate and off-route points, and over irregular routes, between points in Connecticut, between New York, N.Y., and named Counties in New Jersey, between points in Connecticut, and points in Massachusetts, New Jersey, New York, and Rhode Island, in a radial movement, and between Stamford, Conn., and a specified portion of New Jersey, with Stamford as the base point. Reubin Kaminsky, 410 Asylum Street, Hartford, Conn., attorney for transferee and, Joseph Burns, Special Master, 242 Trumbull Street, Hartford, Conn., attorney for Transferor.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 64–3296; Filed, Apr. 3, 1964; 8:48 a.m.]

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

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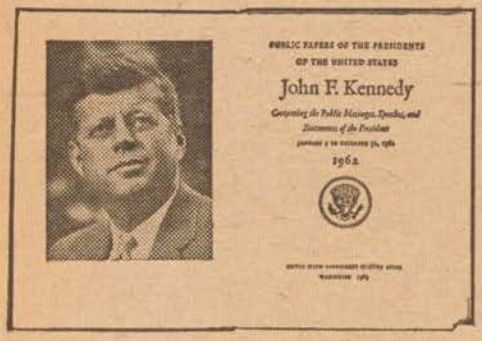

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