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ments will be made at any stage of the proceedings agreed upon between the appellant and the Appeals Examining Office or regional office concerned. This will be the only opportunity for a hearing and presentation of evidence and witnesses in connection with the appeal, except as provided in § 22.11 (c)

(e) *Testimony taken under oath, record of hearing; not open to public.* The testimony at hearings shall be under oath. The Chief, Appeals Examining Office or the regional director may direct that the hearing be recorded stenographically by a reporter employed by the Commission. The reporter's transcript shall be a part of the record of the proceeding. Reporters not employed by the Commission shall not be permitted to make transcripts of the proceedings. In cases where the hearing is not recorded stenographically, the hearing examiner will make suitable notes of

the relevant portions of the testimony. At the conclusion of the hearing, these notes shall be summarized and, when agreed to in writing by all parties concerned, the summary shall constitute the report of the hearing. If the examiner and the parties cannot agree on the summary, the parties shall be permitted to submit, in writing, exceptions to any part of the summary that they question, and such exceptions shall be considered in connection with the making of the finding and recommendation. Hearings shall not be open to the general public or the press. Attendance shall be limited to persons having a direct connection with the appeal.

§ 22.10 *Decision in the Commission—*

(a) *By whom made; contents.* (1) The decision on the appeal shall be made by the Chief, Appeals Examining Office or the regional director, as appropriate, in a finding consisting of an analysis of the evidence, the reasons for the conclusions reached, and the recommendation for action to be taken by the employing agency concerned.

(2) A recommendation may be made to the employing agency for corrective action, including restoration of the employee to duty retroactively to the effective date of the discharge, suspension for more than 30 days, furlough without pay, or reduction in rank or compensation, as the case may be.

(c) *Report by agencies to Commission of action taken or proposed to be taken on finding favorable to employee.* When the finding and recommendation is that the employee be restored to his position, or is otherwise favorable to the employee, the employing agency will, at the time the finding and recommendation is transmitted to it, be requested to report to the Chief, Appeals Examining Office or the regional office, as the case may be, within seven (7) days of the receipt of such finding and recommendation, regarding the action taken or proposed to be taken by the employing agency.

(d) *Finality of recommendation of Commission.* It shall be mandatory for administrative officers of employing agencies to take such corrective action as the Commission finally recommends on appeals. If the employing agency does not submit a further appeal to the Commissioners within seven (7) days after the date of receipt of a finding and recommendation of the Chief, Appeals Examining Office or regional office that are favorable to the employee, the recommendation shall become immediately operative and must be put into effect.

§ 22.11 *Further appeals to the Commissioners—(a) Time limit for filing.* An appeal may be made by the employee or the employing agency from a decision of the Chief, Appeals Examining Office or regional director to the Commissioners, U. S. Civil Service Commission, Washington 25, D. C. within seven (7) days of the date of receipt of notification of the decision. This time limit may be extended in the discretion of the Commission only upon a showing that circumstances beyond the control of the

employee or the employing agency prevented the filing of a further appeal within the prescribed seven (7) days.

(c) *Board of Appeals and Review procedures.* The Board of Appeals and Review will review the entire record of such further appeals. In its discretion, the Board may afford the parties an opportunity to appear personally and present oral arguments and representations on the procedural aspects of the case and merits of the appeal, but no evidence will be considered by the Board which could have been submitted at the time of the original appeal to the Appeals Examining Office or regional office. If alleged new evidence is offered which was not available at the time of original appeal, the Board will consider whether the evidence is actually new and of such material consequence that the case should be remanded to the office of original jurisdiction. If the case is remanded, the appeal will begin anew in the office of original jurisdiction. In exceptional cases the Board may in its discretion receive and consider new evidence without remanding the case and may afford the parties an opportunity to produce witnesses and cross-examine witnesses.

(e) *Reopened appeals.* The Commissioners may in their discretion, when in their judgment such action appears warranted by the circumstances, reopen an appeal at the request of the appellant, or his designated representative, or the employing agency concerned and may grant both parties an opportunity for a personal appearance. In connection with such reopened appeals, both parties will be afforded an opportunity to submit briefs or written representations.

(Secs. 11 and 19, 53 Stat. 390, 391; 5 U. S. C. 860, 863)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] Wm. C. HULL,
Executive Assistant.

[F. R. Doc. 54-132; Filed, Jan. 7, 1954; 8:53 a. m.]

TITLE 7—AGRICULTURE

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

[Tangerine Reg. 144]

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

LIMITATION OF SHIPMENTS

§ 933.658 *Tangerine Regulation 144—*

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR Part 933), regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby

found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than January 8, 1954. Shipments of tangerines grown in the State of Florida, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order, and, unless sooner terminated, will so continue until January 11, 1954; the recommendation and supporting information for regulation subsequent to January 7, 1954, and in the manner herein provided, was promptly submitted to the Department after an open meeting of the Growers Administrative Committee on January 5; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such tangerines; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of tangerines; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective time hereof.

(b) *Order.* (1) Tangerine Regulation 143 (§ 933.657-19 F. R. 9) is hereby terminated as of the effective time of this section.

(2) During the period beginning at 12:01 a. m., e. s. t., January 8, 1954, and ending at 12:01 a. m., e. s. t., January 18, 1954, no handler shall ship:

(i) Any tangerines, grown in the State of Florida, that do not grade at least U. S. No. 2; or

(ii) Any tangerines, grown in the State of Florida, that are of a size smaller than $2\frac{1}{16}$ inches in diameter, measured midway at a right angle to a straight line running from the stem to the blossom end of the fruit, except that a tolerance of 10 percent, by count, of tangerines, smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the revised United

States Standards for Florida Tangerines (§§ 51.1810 to 51.1836 of this title)

(3) As used in this section, "handler," "ship," and "Growers Administrative Committee" shall have the same meaning as when used in said amended marketing agreement and order; and "U. S. No. 2" shall have the same meaning as when used in the revised United States Standards for Florida Tangerines (§§51.1810 to 51.1836 of this title)

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

Done at Washington, D. C., this 6th day of January 1954.

[SEAL] - S. R. SMITH,
Director Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F. R. Doc. 54-142; Filed, Jan. 7, 1954;
8:55 a. m.]

PART 963—MILK IN STARK COUNTY, OHIO,
MARKETING AREA

ORDER AMENDING ORDER REGULATING
HANDLING

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

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Stark County, Ohio, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

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

(3) The said order as hereby amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of

industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) Additional findings. It is necessary in the public interest to make this order amending the order, effective not later than January 6, 1954. Any delay beyond that date in making this order amending the order effective will tend to disrupt the orderly marketing of milk in the Stark County, Ohio, marketing area. The changes effected by this order amending the order do not require persons affected to make substantial or extensive preparation prior to the effective date. Proposed amendments which would result in changes similar to those effected by this order amending the order were considered at a public hearing on September 24 and 25, 1953; a recommended decision in this proceeding, to which interested parties were given an opportunity to file written exceptions, was issued on December 8, 1953; and a decision in this proceeding was issued on December 31, 1953. Under these circumstances persons affected by this order amending the order have been afforded a reasonable time within which to prepare for its effective date. Therefore, good cause exists, pursuant to section 4 (c) of the Administrative Procedure Act (5 U. S. C. 1000) for making this order amending the order effective January 1, 1954.

(c) Determinations. It is hereby determined that handlers (excluding cooperative associations or producers who are not engaged in processing, distributing or shipping milk covered by this order, amending the order) of more than 50 percent of the volume of the milk covered by this order amending the order which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order is approved or favored by at least two-thirds of the producers who, during the determined representative period (October 1953) were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof the handling of milk in the Stark County, Ohio, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order as hereby amended, and the aforesaid order is hereby amended as follows:

1. In § 963.41 (b) delete the word "or" at the end of subparagraph (4) substitute a semicolon for the period at the

end of subparagraph (5) and add the word "or", and add a subparagraph (6) to read as follows:

(6) Disposed of in bulk as milk, skim milk, or cream during any of the months of March through August to a manufacturer of candy, soup, or bakery products who does not dispose of any milk in fluid form.

2. Change § 963.51 to read as follows:

§ 963.51 Class I milk prices. The minimum prices per hundredweight to be paid by each handler for butterfat and skim milk in producer milk received by such handler during the month which is classified as Class I milk shall be computed by the market administrator as follows:

(a) Add to the basic formula price the following amount for the month indicated:

Month:	Amount
April, May, and June.....	\$0.95
February, March, and July.....	1.40
All others.....	1.85

Provided, That in computing the price to be paid by any handler for butterfat and skim milk contained in producer milk which was received by such handler during the month at a pool plant for which the handler does not hold a permit from the health authorities of either of the cities of Alliance, Canton, or Massillon, Ohio, and which is classified as Class I milk, the amounts to be added to the basic formula price pursuant to this paragraph shall be 25 cents less in each month than the amounts indicated in this paragraph.

(b) Add or subtract from the result computed pursuant to paragraph (a) of this section a "supply-demand adjustment" computed as follows:

(1) Compute a "current utilization percentage" by dividing the combined total receipts of milk from producers during the first and second preceding months under this order and under Order No. 75 regulating the handling of milk in the Cleveland, Ohio, marketing area by the total combined utilization of milk in Class I by handlers regulated under the two orders, multiplying the result by 100, and rounding to the nearest whole number;

(2) Compute a "net utilization percentage" by subtracting from the current utilization percentage computed pursuant to subparagraph (1) of this paragraph the appropriate "standard utilization percentage" shown below

Month for which the price is being computed:	Standard utilization percentage
January	117
February	121
March	126
April	131
May	141
June	157
July	163
August	162
September	140
October	132
November	128
December	121

(3) The amount of the supply-demand adjustment shall be as follows:

Net utilization percentage:	Amount (cents)
+13 or over-----	-25
+10 or +11-----	-19
+7 or +8-----	-13
+4 or +5-----	-7
+2 to -2-----	0
-4 or -5-----	+7
-7 or -8-----	+13
-10 or -11-----	+19
-13 or below-----	+25

When the net utilization percentage does not fall within one of the above tabulated brackets, the supply-demand adjustment shall be determined by the adjacent bracket which is the same as or nearest to the bracket used in the previous month.

(c) The price per hundredweight of butterfat classified as Class I shall be determined by multiplying by 130 the price per pound of butter as described in § 963.50 (b) (1)

(d) From the price computed pursuant to paragraphs (a) and (b) of this section subtract an amount equal to the price per hundredweight of butterfat determined pursuant to paragraph (c) of this section multiplied by 0.035, and divide the remainder by 0.965. The result shall be the price per hundredweight of skim milk classified as Class I.

3. Change § 963.52 (a) to read as follows:

(a) Multiply the basic formula price computed pursuant to § 963.50 by a factor obtained by dividing the price computed pursuant to § 963.50 (c) into the amount computed pursuant to § 963.50 (c) (1)

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

Issued at Washington, D. C., this 5th day of January 1954 to be effective on and after the 6th day of January 1954.

[SEAL] JOHN H. DAVIS,
Assistant Secretary of Agriculture.

[F. R. Doc. 54-134; Filed, Jan. 7, 1954; 8:54 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

Subchapter C—Interstate Transportation of Animals and Poultry

[B. A. I. Order 383, Revised, Amdt. 16]

PART 76—HOG CHOLERA, SWINE PLAGUE, AND OTHER COMMUNICABLE SWINE DISEASES

SUBPART B—VESICULAR EXANTHEMA

DESIGNATION OF AREAS IN WHICH SWINE ARE AFFECTED WITH VESICULAR EXANTHEMA

Pursuant to the authority conferred upon the Administrator of the Agricultural Research Administration by § 76.27 of Subpart B, as amended, Part 76, Title 9, Code of Federal Regulations (18 F. R. 3637) § 76.27a of said Subpart B (18 F. R. 3829, as amended) is hereby amended to read as follows:

§ 76.27a *Designation of areas in which swine are affected with vesicular exanthema.* The following areas are

hereby designated as areas in which swine are affected with vesicular exanthema:

The State of California;
The Town of Manchester in Hartford County, in Connecticut;

The Town of Lewiston in Androscoggin County, that area consisting of the Towns of Portland, South Portland, Westbrook, Cape Elizabeth and Scarborough, in Cumberland County, and the Towns of Saco, Biddeford, Kennebunk, Alfred and Sanford in York County, that area consisting of the Towns of Cumberland and Yarmouth, in Cumberland County, and that area consisting of the Towns of Chebea and Hallowell in Kennebec County, in Maine;

That area consisting of Hampden, Worcester, Middlesex, Essex, Suffolk, Norfolk, Bristol, and Plymouth Counties, in Massachusetts;

Eagle Township in Clinton County, Oneida and Roxand Townships in Eaton County, and Danby Township in Ionia County, in Michigan;

Atlantic, Bergen, Camden, Gloucester, Hudson, Hunterdon, and Morris Counties, that area consisting of Union, Middlesex, Monmouth, and Ocean Counties, that area in Lower Township in Cape May County lying east of U. S. Highway No. 9, that area in Dennis Township in Cape May County bounded by the Belleplaine State Forest on the south and east and State Highway No. 550 on the north and west and State Highway Spur No. 550 on the west, and all of Burlington County except Delran, Washington, Shamong, Tabernacle, and Bass River Townships, in New Jersey;

The Town of Poland in Chautauqua County, the Town of Foughkepple in Dutchess County, and that area in the Town of Clarkstown lying north of New York State Route No. 59 in Rockland County, in New York;

Bucks and Delaware Counties, in Pennsylvania;

That area in Bell County lying north of U. S. Highway No. 190 and west of State Highways No. 36 and No. 317, in Texas.

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

Section 76.27 of Subpart B, as amended, Part 76, Title 9, Code of Federal Regulations (18 F. R. 3637), quarantines the areas so designated.

The amendment designates the following as areas in which swine are affected with vesicular exanthema in addition to the areas heretofore designated:

Eagle Township in Clinton County, Oneida and Roxand Townships in Eaton County, and Danby Township, in Ionia County, in Michigan, and the Town of Poland in Chautauqua County, in New York.

Hereafter, the restrictions pertaining to the interstate movement of swine and carcasses, parts and offal of swine from or through quarantined areas contained in 9 CFR, Part 76, Subpart B, as amended (18 F. R. 3636, as amended), apply to these areas.

The amendment excludes from the areas heretofore designated as areas in which swine are affected with vesicular exanthema:

That area in Fulton County lying south and west of State Highways Nos. 139 and 154 and west of U. S. Highway No. 29 excluding Fort McPherson, in Georgia;

All of Androscoggin County except the Town of Lewiston, all of Cumberland County except the Towns of Cape Elizabeth, Cumber-

land, Portland, Scarborough, South Portland, Westbrook, and Yarmouth, all of Kennebec County except the Towns of Hallowell and Chebea, and all of York County except the Towns of Alfred, Biddeford, Kennebunk, Saco, and Sanford, in Maine;

That area in Atascosa County lying west of State Highway No. 346 and north of State Highway No. 173, in Texas.

The Administrator of the Agricultural Research Administration has determined that swine in these areas are not now affected with the disease, and that the quarantine of such areas is no longer required to prevent the dissemination thereof. Accordingly, these areas are no longer quarantined under said § 76.27, and the restrictions pertaining to the interstate movement of swine and carcasses, parts and offal of swine from or through quarantined areas contained in 9 CFR, Part 76, Subpart B, as amended (18 F. R. 3636, as amended) no longer apply to such areas. However, the restrictions pertaining to such movement from non-quarantined areas contained in said Subpart B, as amended, apply thereto.

The effect of the amendment is to impose certain further restrictions necessary to prevent the spread of vesicular exanthema, a contagious, infectious, and communicable disease of swine, and to relieve certain restrictions presently imposed. The amendment must be made effective immediately to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 7, 23 Stat. 32, as amended, sect. 1, 2, 32 Stat. 731-732, as amended, sect. 1, 3, 33 Stat. 1264, as amended, 1265, as amended; 21 U. S. C. 111, 117, 129, 123, 125)

Done at Washington, D. C. this 31st day of December 1953.

[SEAL] M. R. CLARKSON,
Acting Administrator
Agricultural Research Service.

[F. R. Doc. 54-118; Filed, Jan. 7, 1954; 8:59 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

FORMS FOR PERIODIC ACCOUNTING REPORTS

On December 7, 1953, the Securities and Exchange Commission invited all interested persons to submit data, views and comments on a proposal to revise Form U-13-60 (§ 259.313) which is the annual reporting form for mutual and subsidiary service companies under the Public Utility Holding Company Act of

1935 (Holding Company Act Release No. 12235-X) The Commission has considered the data, views and comments submitted, all of which are favorable, and has adopted the revisions as proposed. This action has been taken pursuant to the provisions of sections 13, 14 and 20 (a) of the act.

Statement of purpose. The Commission is engaged in a comprehensive review of the rules, regulations, forms and procedures adopted under the various statutes administered by it. It is attempting to eliminate duplication and to simplify its requirements wherever practicable without prejudice to the public interest or the protection of investors. The revision of Form U-13-60 is a part of this program and is designed to eliminate needless detail from the form and to avoid unnecessary duplication of information contained in the system annual report on Form U5S (§ 259.5s)

Text of revisions. Form U-13-60 (§ 259.313) is revised as follows:

- (1) Items 7, 8, and 9 are deleted.
- (2) Schedule 205 is amended by adding the following additional instruction: "Describe any changes made during the year in the bases used and principles and methods applied in the allocation of charges for service."
- (3) Schedule 235 is deleted.
- (4) Schedule 240 is deleted.
- (5) Schedule 245 (and the reference thereto in schedule 200) is deleted.
- (6) Schedule 250 is amended by inserting after the first sentence of the instructions thereto the following sentences: "If the aggregate amount paid to any one vendee (other than an associate company or an affiliate) and included within one account is less than \$2,000, only the aggregate number and amount of all such payments included within the account need be shown."
- (7) Schedule 260 is amended by adding the following additional instruction: "The term 'principal items' is defined as items of \$500 or more. However, the aggregate number and amount of all items of less than \$500 should be reported."
- (8) Schedule 265 is amended by adding the following additional instruction: "The aggregate number and amount of all items of less than \$1,000 may be shown in lieu of details."
- (9) The signature clause is amended to read as follows:

Pursuant to the requirements of the Public Utility Holding Company Act of 1935 and the rules and regulations of the Securities and Exchange Commission issued thereunder, the undersigned company has duly caused this report to be signed on its behalf by the undersigned officer thereunto duly authorized.

 (Name of company)
 By _____
 (Signature and printed
 name and title of sign-
 ing office)

Date: _____

- (10) The second sentence of Instruction 6 is amended to read as follows: "Every such letter shall be stated to be

signed by a duly authorized officer of the company."

(Sec. 20, 49 Stat. 833; 15 U. S. C. 79t)

The above revisions of Form U-13-60 shall be effective as to reports filed for the year 1953 and thereafter. Pending the preparation of new printed forms, reporting companies should note the revisions on the old forms in ink.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
 Secretary.

DECEMBER 30, 1953.

[F. R. Doc. 54-101; Filed, Jan. 7, 1954;
 8:46 a. m.]

TITLE 25—INDIANS

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

PART 100—FLATHEAD, MISSION AND JOCKO VALLEY IRRIGATION DISTRICTS, MONTANA WATER DELIVERY RATES

On September 23, 1953, there was published in the daily issue of the FEDERAL REGISTER (18 F. R. 5664) a notice of intention to amend § 100.1 of Title 25, Code of Federal Regulations. Interested parties were given opportunity to participate by submitting their views or arguments in writing to the Area Director of the Bureau of Indian Affairs at Billings, Montana, within thirty days from the date of the publication. Within the time allowed, the Billings Area Director submitted the views of himself and of the Flathead and Mission Irrigation Districts. The suggested word changes to the amendment published in the FEDERAL REGISTER do not appear to improve or affect the notice as published in the FEDERAL REGISTER. Section 100.1 is accordingly amended as heretofore published.

§ 100.1 *Water delivery rates.* For all water delivered to any farm unit, allotment, or tract of land in excess of one and one-half acre-feet of water per acre allowable under the minimum charge assessment fixed under § 100.6 for such allotment, farm unit, or tract, there shall be an additional per acre-foot charge fixed at the rate of two-thirds of the minimum charge, and this charge shall be added to the minimum advance levy for the following irrigation season: *Provided*, That the maximum charge per acre for water delivered to any farm unit, allotment, or tract, during any irrigation season, shall not exceed \$4 per acre for the entire irrigable area of the farm unit, allotment, or tract.

(Secs. 1, 3, 36 Stat. 270, 272, as amended; 254 U. S. C. 385)

FRED G. AANDAHL,
 Assistant Secretary of the Interior.

JANUARY 4, 1954.

[F. R. Doc. 54-95; Filed, Jan. 7, 1954;
 8:45 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

SUBPART A—EDUCATIONAL BENEFITS

RATES OF SUBSISTENCE ALLOWANCE

In § 21.133, paragraph (h) is amended to read as follows:

§ 21.133 *Rates of subsistence allowance.* * * *

(h) *Employability determined.* Upon determination of employability of a veteran who has pursued a course of training under Part VII, except under the conditions stated in § 21.281(o), a lump-sum payment of the 2 months' postrehabilitation pay will be authorized. The amount of such payment will be computed on the basis of the full rate of subsistence allowance applicable to the dependency status, type of training, and compensable disability rating in the individual veteran's case at the time employability was determined and without regard to the fact that the veteran pursuing on-the-job training may have been authorized less than the maximum subsistence allowance payable because of compensation for productive labor being received while in pursuit of training. Upon a subsequent determination of employability made in the case of a veteran who had previously been determined employable, who had been paid the 2 months' gratuity and who was reinducted for additional training, a lump-sum payment of the 2 months' postrehabilitation pay will be authorized in accordance with the principle stated in this paragraph.

(Sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9, sec. 2, 57 Stat. 43, as amended, sec. 400, 58 Stat. 287, as amended; 38 U. S. C. 11a, 701, 707, ch. 12 note. Interpret or apply secs. 3, 4, 57 Stat. 43, as amended, secs. 300, 1500-1504, 1500, 1507, 58 Stat. 286, 300, as amended; 38 U. S. C. 693g, 697-697d, 697f, g, ch. 12 note)

This regulation is effective January 8, 1954.

[SEAL] H. V. STIRLING,
 Deputy Administrator

[F. R. Doc. 54-133; Filed, Jan. 7, 1954;
 8:54 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 120—ANNUAL, SPECIAL OR PERIODICAL REPORTS

STEAM RAILWAY ANNUAL REPORT FORM A

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D. C., on the 14th day of December A. D. 1953.

The matter of annual reports from steam railway companies and switching and terminal companies of Class I and Class II being under consideration, and it appearing that the changes in existing regulations to be effectuated by this

order are only minor changes with respect to the data to be furnished and that public rule-making procedures are unnecessary;

It is ordered, That the order dated January 22, 1953, in the matter of annual reports from steam railway companies and switching and terminal companies of Class I and Class II (49 CFR 120.11) be, and it is hereby modified with respect to annual reports for the year ended December 31, 1953, and subsequent years, as follows:

§ 120.11 *Form prescribed for large and medium steam railways.* All steam

railway companies and switching and terminal companies of Class I and Class II (§ 126.1 of this chapter) subject to the provisions of section 20, Part I, of the Interstate Commerce Act, are hereby required to file annual reports for the year ended December 31, 1953, and for each succeeding year until further order in accordance with Annual Report Form A (Large and Medium Steam Roads and Switching and Terminal Companies), which is hereby approved and made a part of this section.¹ The annual report shall be filed, in duplicate, in the Bureau of Transport Economics and Statistics,

Interstate Commerce Commission, Washington 25, D. C., on or before March 31, of the year following the one to which it relates.

(Sec. 12, 24 Stat. 333, as amended, sec. 231, 54 Stat. 933; 49 U. S. C. 12, 804. Interprets or applies sec. 23, 24 Stat. 333, as amended, 54 Stat. 944; 49 U. S. C. 20, 913)

NOTE: Budget Bureau No. 63-R033.10.

By the Commission, Division 1.

[SEAL] GEORGE W. LUED,
Secretary.

[F. R. Doc. 54-114; Filed, Jan. 7, 1954;
8:49 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 997]

[Docket No. AO 205-A1]

HANDLING OF FILBERTS GROWN IN OREGON AND WASHINGTON

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) (hereinafter referred to as the "act") and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR, 1952 Rev., Part 900) a public hearing was held at Portland, Oregon, August 4, 1953, on proposed amendments to the marketing agreement and order (7 CFR, 1952 Rev., Part 997) regulating the handling of filberts grown in Oregon and Washington. Said marketing agreement and order are effective pursuant to the provisions of the act.

Upon the basis of the evidence adduced at the aforementioned hearing, and the record thereof, the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, on November 20, 1953, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. Notice of such recommended decision, and opportunity to file written exceptions with respect thereto, was published in the FEDERAL REGISTER of November 26, 1953 (18 F. R. 7556) as corrected in the FEDERAL REGISTER of December 11, 1953 (18 F. R. 8139). The last day for filing such written exceptions has expired, and no exceptions were filed during the prescribed period.

Findings and conclusions. The material issues and the findings and conclusions of the aforesaid recommended decision (F. R. Doc. 53-9964; 18 F. R. 7556, 8139) are hereby approved and adopted as the material issues and the findings and conclusions of this decision as if set forth in full herein, except as they are modified by the findings and conclusions which are hereinafter set forth:

(1) In drafting that portion of the second sentence of § 997.31 (a) which precedes the colon (see 18 F. R. 7565, first column) there was inadvertently omitted an existing provision which permits the Secretary to select, if he should deem such action to be desirable, eligible members of a group other than the nominees submitted by that group. This deletion was not proposed or contended for at the hearing, and such provision should be retained. In order to accomplish this result, that portion of the second sentence of § 997.31 (a) which precedes the colon is hereby reworded so as to read as follows: "One member and one alternate member shall be selected from nominees submitted by each of the following groups, which nominees shall be eligible members of the respective groups which nominate them, or from among other eligible members of the respective groups:"

(2) The issue numbered (2) involved, in part, a discussion of a proposal to provide a new procedure for the nominations of independent grower representatives on the board. In the discussion of such proposal, it was stated that it was as follows: (a) Names of the candidates to accompany the ballots shall be submitted to the board prior to February 10 of each fiscal year on petitions signed by not less than 10 independent growers of whom it has a record; (b) each such grower may sign only as many petitions as there are positions to be filled; (c) ballots accompanied by the lists of candidates so submitted, together with instructions as to voting, shall be mailed to all independent growers of whom the board has a record; and (d) the qualified person receiving the highest number of votes for the position for which his name was placed on the ballots shall be nominated, except that, in case of a tie vote, the decision as to the nominee shall be made by lot. It was concluded that such proposal should be adopted, except for the proposed procedure for deciding by lot as to the nominee in case of a tie vote. (For discussion of these aspects, see 18 F. R. 7559 and 7560)

A reexamination of the notice of hearing and of the hearing record indicates that the proponent of this proposal, i. e.,

the Filbert Control Board, actually had in mind, in respect to the step set forth in (b) in the preceding paragraph, that each independent grower will be permitted to sign only as many petitions as there are member positions (rather than the aggregate number of member and alternate member positions) to be filled. Also that the proponent presumably had in mind that the candidates obtained by this petition method would be submitted, as a group list, to the voters along with the ballots from which they could make their choices, whereas our discussion was predicated on the basis that separate petitions would be submitted for each member position and each alternate member position which is to be filled and that the candidates for each such position would be specified in line with the petitions which had been received.

After further consideration, it is concluded that the way of handling this aspect intended by the proponent should be followed in general principle, except that: (a) The maximum number of petitions each independent grower is to be permitted to sign should be the aggregate of the member and alternate member positions to be filled, rather than be limited to the number of member positions to be filled; and (b) it should be specified that each ballot shall contain appropriate blank spaces for the voter to indicate his choice for each member position and for each alternate member position which is to be filled.

With respect to (a) above, it was developed at the hearing that past experience had demonstrated that relatively few independent growers had participated in the election of their nominees and it is very desirable that such interest be stimulated. It was argued that this stimulation would be promoted by giving them an opportunity to name the candidates, instead of relying on the list of the then incumbents of those positions plus names of other potential candidates submitted by such sources as independent handlers and county agents. The restricting of the signing of these positions to the number of the member positions which are to be filled would permit each independent grower to sign petitions for only one-half of the total number of positions which are to be filled. Thus, it is believed, would not stimulate such

¹Filed as part of original document.

grower interest to the same extent as would accrue from permitting each grower to sign as many petitions as there are positions which are to be filled. For obvious reasons, such liberalization should not permit a small group of aggressive independent growers to dominate that aspect, or at least, affect the matter disproportionate to their relative numerical importance. However, it should afford a desirable greater freedom of choice.

With regard to (b) above, the proposal contended for by the proponents under the intended way of handling set forth in the third preceding paragraph would apparently not have established a clear and definite method for the election of nominees for the alternate member positions. In other words, such proposal involved only the naming, by the petition method, of candidates for the member positions, and it was specified therein that "the qualified person receiving the highest number of votes for the position for which his name was placed on the ballot shall be the nominee for that position." That is to say, the exact manner in which the nominees for the alternate member positions should be determined was not prescribed clearly. It is concluded that the nominees for both member positions and alternate member positions can be determined with certainty by the indicated modifications in that regard which are set forth under (b) in the second preceding paragraph.

Under the modified way of handling this aspect which is recommended herein for adoption, independent growers will be enabled to name potential candidates to represent them, but the choice as to which of such candidates they prefer to serve as members and which they prefer to serve as alternate members will be determined by the independent growers generally through the nomination election. This should tend to insure that such representatives are the actual choices of the majority of these growers for the respective positions for which they are nominated.

To effectuate the modification which it is concluded should be made in this connection, § 997.32 (b) is revised to read as follows:

(b) Nominations on behalf of growers who market their filberts through other than cooperative handlers shall be submitted after balloting by such growers conducted as follows: Names of the grower candidates to accompany the ballot shall be submitted to the control board prior to February 10 of each fiscal year on petitions signed by not less than 10 growers who market their filberts through other than cooperative handlers and who are of record with the control board; each grower may sign only as many petitions as there are persons to be nominated; ballots accompanied by the list of candidates submitted by petitions, together with instructions, shall be mailed to all growers who market their filberts through other than cooperative handlers and who are of record with the control board; each ballot shall contain appropriate blank spaces for the voter to indicate his choice for each member position and for each alternate member posi-

tion which is to be filled; the qualified person receiving the highest number of votes for a particular position shall be the nominee for that position, except that, in case of a tie, the names of the tied candidates shall be submitted. If the Secretary determines that this procedure is unsatisfactory to the growers who market their filberts through other than cooperative handlers because it is too difficult or costly to administer, it does not result in the names of a sufficient number of qualified candidates being submitted with the ballots, or it should be changed for other reasons, he may change this procedure through the formulation and issuance of superseding regulations.

(3) In the heading and the body of § 997.51 (see 18 F. R. 7566, third column), relating to certifications as to quality the references to "small size filberts for export" are preceded, in each instance, by the word "surplus." Attention has been called to the fact that the decision expressly recognizes that all small size filberts which are exported are surplus and that in other sections of the proposed amended order (see particularly §§ 997.50 (c) 997.76, and 997.91 (a)) relating to small size filberts which are exported the word "surplus" is not used in the references to them. It has been suggested that the use of the word "surplus" in § 997.51 may cause future argument that two types of small size filberts for export are covered, namely one of which is surplus and the other of which is not surplus. No such differentiation is intended, but it is intended that all small size filberts which are exported shall be considered as surplus. Therefore, in order to eliminate any basis for an argument to the contrary as regards § 997.51, it is concluded that the word "surplus" should be deleted whenever it precedes the words "small size filberts for export" in the title and the body of said section.

Said § 997.51 now contains only provisions for the certification as to quality of "each lot of merchantable filberts handled or to be handled" by a handler. These provisions are being retained in the proposed amendment, and the only substantive change in such provisions which is proposed to be made is to apply the same requirements to small size filberts for export. In order to harmonize the language with respect to the two categories of filberts, it is concluded that the phrase "for each lot of small size filberts for export disposed of by him as agent for the control board" (appearing in the first sentence of said section, 18 F. R. 7566, third column) should be changed to read "for each lot of small size filberts for export disposed, or to be disposed, of by him as agent for the control board."

Marketing agreement and order. Annexed hereto, and made a part hereof, are two documents entitled, respectively, "Marketing Agreement, as amended, Regulating the Handling of Filberts Grown in Oregon and Washington" and "Order, as amended, Regulating the Handling of Filberts Grown in Oregon and Washington," which have been decided upon as the appropriate and detailed means of effectuating the foregoing conclusions. The marketing

agreement, as amended, and the order, as amended, shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

It is hereby ordered, That all of this decision, except the annexed marketing agreement, as amended, be published in the FEDERAL REGISTER. The regulatory provisions of said agreement, as amended, are identical with those contained in the attached order, as amended, which will be published with this decision.

Done at Washington, D. C., this 5th day of January 1954.

[SEAL]

JOHN H. DAVIS,
Assistant Secretary.

Order,¹ as Amended, Regulating the Handling of Filberts Grown in Oregon and Washington

DEFINITIONS

Sec.	
997.1	Secretary.
997.2	Act.
997.3	Person.
997.4	Filberts.
997.5	Unshelled filberts.
997.6	Merchantable filberts.
997.7	Area of production.
997.8	Grower.
997.9	Handler.
997.10	Packer.
997.11	Distributor.
997.12	Cooperative handler.
997.13	Sheller.
997.14	Pack.
997.15	To pack.
997.16	To handle.
997.17	Federal-State Inspection Service.
997.18	Fiscal year.
997.19	Handler carryover.
997.20	Trade carryover.
997.21	Trade demand.
997.22	Control board.
997.23	Part and subpart.

FILBERT CONTROL BOARD

997.30	Establishment and membership.
997.31	Selection and term of office.
997.32	Nominations for members and alternates.
997.33	Qualification.
997.34	Alternates.
997.35	Temporary substitutes.
997.36	Vacancy.
997.37	Expenses.
997.38	Powers.
997.39	Duties.
997.40	Procedure.

CONTROL OF DISTRIBUTION

997.50	Pack specifications and minimum standards.
997.51	Certification of merchantable filberts and surplus small size filberts for export.
997.52	Copies of certificates.
997.53	Filberts for packing and shelling.

MERCHANTABLE SURPLUS CONTROL

997.60	Salable and surplus percentages for merchantable filberts.
997.61	Increase of salable percentage.
997.62	Estimated carryover, trade demand, and production.
997.63	Withholding percentage.
997.64	Withholding of merchantable surplus filberts.

¹This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing orders have been met.

Sec.	
997.65	Postponement of withholding merchantable surplus upon filing bond.
997.66	Disposition of sums collected through default on bonds.
997.67	Collection upon bonds.
997.68	Interhandler transfers for merchantable surplus.
997.69	Assistance of control board in accounting for merchantable surplus.
997.70	Application of merchantable salable, surplus, and withholding percentages, and bonding rates, after end of fiscal year.
997.71	Exchange of merchantable surplus filberts.
997.72	Adjustment upon increase of merchantable salable percentage.
997.73	Prohibition against handling of merchantable surplus.
997.74	Disposition of merchantable surplus by export.
997.75	Disposal of merchantable surplus for shelling.

CONTROL OF SMALL SIZE FILBERTS FOR EXPORT

997.76	Disposition of small size filberts by export.
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REPORTS

997.80	Reports of handler carryover of merchantable filberts.
997.81	Reports of disposition of merchantable surplus.
997.82	Other reports.
997.83	Verification of reports.
997.84	Confidential information.

EXPENSES AND ASSESSMENTS

997.90	Expenses.
997.91	Assessments.

MISCELLANEOUS PROVISIONS

997.95	Personal liability.
997.96	Separability.
997.97	Derogation.
997.98	Duration of immunities.
997.99	Agents.
997.100	Effective time, termination or suspension.
997.101	Effect of termination or amendment.
997.102	Amendments.

AUTHORITY: §§ 997.1 through 997.102 issued under § 5, 48 Stat. 31, as amended; 7 U. S. C. and Sup. 608c.

§ 997.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* (1) The findings hereinafter set forth are supplementary and in addition to the findings and determinations (14 F. R. 5667 and 5694) which were made in connection with the original issuance of this marketing order, and all of such previous findings and determinations, other than the finding as to the base period for the parity computation, are hereby ratified and confirmed, except insofar as such previous findings and determinations may be in conflict with the findings set forth herein;

(2) The amended order, as hereinafter set forth, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) Said amended order will be applicable only to persons in the respective classes of industrial and commercial activities specified, or necessarily included, in the proposals upon which the amendment hearing was held;

(4) There are no differences in the production and marketing of filberts in the production area to be covered by said amended order which make necessary

different terms or provisions applicable to different parts of said area.

Order relative to handling. It is, therefore, ordered, that the handling of filberts grown in Oregon and Washington shall, from the effective time of this amended order, be in conformity to, and in compliance with the terms and conditions of this amended order:

DEFINITIONS

§ 997.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States Department of Agriculture who is, or who may be, authorized to perform the duties of the Secretary of Agriculture of the United States.

§ 997.2 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq., 63 Stat. 282)

§ 997.3 *Person.* "Person" means an individual, partnership, corporation, association, or any other business unit.

§ 997.4 *Filberts.* "Filberts" means filberts or hazelnuts produced in the States of Oregon and Washington from trees of the genus *Corylus*.

§ 997.5 *Unshelled filberts.* "Unshelled filberts" means filberts the kernels of which are contained in the shell.

§ 997.6 *Merchantable filberts.* "Merchantable filberts" means all unshelled filberts meeting the pack specifications and minimum standards of quality prescribed pursuant to § 997.50 (b), or as such specifications and standards may be modified pursuant to § 997.50 (d)

§ 997.7 *Area of production.* "Area of production" means the States of Oregon and Washington.

§ 997.8 *Grower.* "Grower" is synonymous with "producer" and means any person engaged in a proprietary capacity, in the commercial production of filberts.

§ 997.9 *Handler* "Handler" means any packer or distributor of unshelled filberts handling not less than 250 pounds of filberts during any fiscal year.

§ 997.10 *Packer.* "Packer" means any person who packs and handles unshelled filberts.

§ 997.11 *Distributor.* "Distributor" means any person other than a packer who handles unshelled filberts which have not been subjected, in the hands of a previous holder, to compliance with the surplus-control provisions hereinafter contained.

§ 997.12 *Cooperative handler.* "Cooperative handler" means any handler which is a cooperative marketing association regardless of where or under what laws it may be organized.

§ 997.13 *Sheller* "Sheller" means any person engaged in the business of shelling filberts for any commercial purpose.

§ 997.14 *Pack.* "Pack" means a specific commercial classification according

to size, internal quality, and external appearance and condition of filberts packed in accordance with any of the pack specifications prescribed pursuant to § 997.50.

§ 997.15 *To pack.* "To pack" means to bleach, clean, grade, or otherwise prepare filberts for market as unshelled filberts in any manner whatsoever.

§ 997.16 *To handle.* "To handle" means to sell, consign, transport or ship (except as a common carrier of filberts owned by another person) or in any other way to put into the channels of trade, either within the area of production or from such area to points outside thereof: *Provided*, That such sales or deliveries by growers to a packer for packing or a sheller for shelling or to a distributor within the production area, shall not be considered as handling.

§ 997.17 *Federal-State Inspection Service.* "Federal-State Inspection Service" means that inspection service on filberts which is performed within the States of Oregon and Washington by the United States Department of Agriculture or by said Department under a cooperative arrangement with either of such States pursuant to authority contained in any act of Congress.

§ 997.18 *Fiscal year.* "Fiscal year" means the 12 months from August 1 to the following July 31, both inclusive.

§ 997.19 *Handler carryover.* "Handler carryover" as of any given date means all merchantable filberts (except merchantable filberts held as surplus) wherever located, then held by handlers or for their accounts (whether or not sold) including the estimated quantity of merchantable filberts in ungraded lots then held by handlers and intended for packing as merchantable filberts.

§ 997.20 *Trade carryover.* "Trade carryover" means all merchantable filberts theretofore delivered by handlers and then remaining in the possession or control of the wholesale or chain store or supermarket trade, exclusive of filberts in retail outlets, as of any given date.

§ 997.21 *Trade demand.* "Trade demand" means the quantity of merchantable filberts which the wholesale, chain store and supermarket trade will acquire from all handlers during a fiscal year for distribution in the Continental United States, Alaska, Hawaii, Puerto Rico, and the Canal Zone; except that there may also be considered in the making of such computation such acquisitions for distribution in Canada or Cuba, whenever the board is of the opinion that such distribution may be made to the particular country at prices to handlers approximating such prices on distribution in the Continental United States.

§ 997.22 *Control board.* "Control board" or "board" means the Filbert Control Board established pursuant to §§ 997.30 through 997.40.

§ 997.23 *Part and subpart.* "Part" means the order regulating the handling of filberts grown in Oregon and Washington, and all rules, regulations, and supplementary orders issued thereunder. This order regulating the handling of

filberts grown in Oregon and Washington shall be a "subpart" of such part.

FILBERT CONTROL BOARD

§ 997.30 *Establishment and membership.* A control board consisting of seven members, with an alternate member for each such member, is hereby established.

§ 997.31 *Selection and term of office.* (a) Members and their respective alternates shall be selected annually by the Secretary for a term of one year beginning with the first Tuesday after the first Monday in April, and shall serve until their respective successors shall be selected and shall qualify. One member and one alternate member shall be selected from nominees submitted by each of the following groups, which nominees shall be eligible members of the respective groups which nominate them, or from among other eligible members of the respective groups:

- (1) The cooperative handlers;
- (2) All handlers, other than the cooperative handlers;
- (3) The group of cooperative handlers or the group of other than cooperative handlers, whichever during the preceding fiscal year handled more than 50 percent of the merchantable filberts handled by all handlers;
- (4) Those growers of filberts who market their filberts through cooperative handlers;
- (5) All other growers of filberts;
- (6) Those growers whose filberts were marketed during the preceding fiscal year through the handler group specified in subparagraph (3) of this paragraph.

(b) The following additional restrictions shall apply to the growers who do not market their filberts through cooperative handlers: (1) Such a grower may not vote in a nomination election for a representative of his group if, during that portion of the fiscal year up to the time of such election, he handled any filberts which were produced by another grower, and such a grower shall not be selected to serve as a representative of that group, if, during the fiscal year in which the nomination election is held, he handled any filberts which were produced by another grower and

(2) such a grower who, at any time during the fiscal year in which the nomination election is held, was employed by a filbert handler shall not be selected to serve as such a representative, but he shall be entitled to vote in the nomination election.

(c) The seventh member and his alternate shall be selected after the selection of the first six members as provided for in this section, and after opportunity for such six members to nominate a seventh member and his alternate, who shall not be members of any of the six groups described in this section.

§ 997.32 *Nominations for members and alternates.* (a) Each of the six groups specified in § 997.31 may nominate one person as member and one person as alternate; and the six members first selected by the Secretary may nominate, by majority vote, one person as member and one person as alternate for that member. Nominations for each handler group shall be submitted on the

basis of ballots to be mailed by the control board to all handlers in such group whose pack for the preceding fiscal year is on record with the control board. Nominations on behalf of growers who market their filberts through cooperative handlers shall be submitted on the basis of ballot cast by each cooperative handler for its grower patrons.

(b) Nominations on behalf of growers who market their filberts through other than cooperative handlers shall be submitted after balloting by such growers conducted as follows: Names of the grower candidates to accompany the ballot shall be submitted to the control board prior to February 10 of each fiscal year on petitions signed by not less than 10 growers who market their filberts through other than cooperative handlers and who are of record with the control board; each grower may sign only as many petitions as there are persons to be nominated; ballots accompanied by the list of candidates submitted by petitions, together with instructions, shall be mailed to all growers who market their filberts through other than cooperative handlers and who are of record with the control board; each ballot shall contain appropriate blank spaces for the voter to indicate his choice for each member position and for each alternate member position which is to be filled; the qualified person receiving the highest number of votes for a particular position shall be the nominee for that position, except that, in case of a tie, the names of the tied candidates shall be submitted. If the Secretary determines that this procedure is unsatisfactory to the growers who market their filberts through other than cooperative handlers because it is too difficult or costly to administer, it does not result in the names of a sufficient number of qualified candidates being submitted with the ballots, or it should be changed for other reasons, he may change this procedure through the formulation and issuance of superseding regulations.

(c) All votes cast by cooperative handlers, handlers other than cooperative handlers, or for cooperative growers, shall be weighted according to the tonnage of merchantable filberts (computed to the nearest whole ton in case of fractions) recorded by the control board as certified for handling by the handler or for the cooperative grower group during the preceding fiscal year, and if less than one ton is recorded for any such handler or grower group, its vote shall be weighted as one vote. All votes cast by individual growers shall be given equal weight. Nominations received in the foregoing manner by the control board shall be reported to the Secretary on or before March 20 of each fiscal year, together with a certificate of all necessary data and other information deemed by the board to be pertinent or requested by the Secretary. If such nominations of any group are not submitted as hereinafore provided to the Secretary on or before that date, the Secretary may select the representatives of that group without nomination. If nominations for the seventh member or his alternate are not submitted on or before April 15 of

any year, the Secretary may select such member or alternate without nomination.

§ 997.33 *Qualification.* Any person selected as a member or alternate of the control board shall qualify by filing a written acceptance of his appointment with the Secretary or his designated representative. Any member or alternate, who at the time of his selection, was a member of, or employed by a member of the group which nominated him and who thereafter ceases to be such a member or employee shall thereupon become disqualified to serve further and his position on the control board shall be deemed vacant. In the event any member or alternate member of the control board qualified and selected, in accordance with the provisions of §§ 997.31 and 997.32, to represent growers who market their filberts through other than cooperative handlers should, during his term of office, handle filberts produced by other growers, or become an employee of a handler, his position on the control board shall thereupon be deemed to be vacant: *Provided*, That these disqualification provisions shall not apply to any initial representative of such growers for the term which began in April 1953 in connection with the continuance, for the balance of such term, of either such prohibited handling or employment situation which existed when he was selected and qualified.

§ 997.34 *Alternates.* An alternate for a member of the control board shall not in the place and stead of such member (a) in his absence, or (b) in the event of his death, removal, resignation, or disqualification, until a successor for his unexpired term has been selected and has qualified.

§ 997.35 *Temporary substitutes.* In the event any member of the control board and his alternate are both unable to attend a meeting of the control board, any alternate for any other member nominated by the same group that nominated the absent member may serve in the place and stead of the absent member and his alternate, or in the event such other alternate cannot attend, or there is no such other alternate, such member or, in the event of his disability or a vacancy, his alternate may designate, subject to the disapproval of the Secretary, a temporary substitute to attend such meeting. At such meeting such temporary substitute may act in the place and stead of such member. For the purposes of this section a cooperative handler group and a cooperative grower group shall be considered the same group.

§ 997.36 *Vacancy.* To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member or alternate of the control board, a successor for his unexpired term shall be selected in the manner provided in § 997.32, so far as applicable, within 30 days after such vacancy occurs.

§ 997.37 *Expenses.* The members of the control board shall serve without compensation, but shall be allowed their necessary expenses.

§ 997.38 *Powers.* The control board shall have the following powers:

(a) To administer the provisions of this subpart in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violations of this subpart;

(d) To recommend to the Secretary amendments to this subpart.

§ 997.39 *Duties.* The duties of the control board shall be among other things as follows:

(a) To act as intermediary between the Secretary and any handler or grower;

(b) To keep minute books and records which will clearly reflect all of its acts and transactions, and such minute books and records shall at any time be subject to the examination of the Secretary;

(c) To furnish to the Secretary such available information as he may request;

(d) To appoint such employees as it may deem necessary and to determine the salaries, define the duties and fix the bonds of such employees;

(e) To cause the books of the control board to be audited by one or more competent public accountants at least once for each fiscal year and at such other times as the control board deems necessary or as the Secretary may request, and to file with the Secretary three copies of all audit reports made; and

(f) To investigate the growing, shipping, and marketing conditions with respect to filberts and to assemble data in connection therewith.

§ 997.40 *Procedure—(a) Organization and rules.* The members of the control board shall select a chairman from their membership and all communications from the Secretary may be addressed to the chairman at such address as may from time to time be filed with the Secretary. The board shall select such other officers and adopt such rules for the conduct of its business as it may deem advisable. The board shall give to the Secretary or his designated agent and representatives the same notice of meetings of the control board as is given to members of the board.

(b) *Quorum.* All decisions of the control board, except where otherwise specifically provided, shall be by a majority vote of the members present. The presence of five members shall be required to constitute a quorum.

(c) *Permissive method of voting.* The control board may vote by mail or telegram upon due notice to all members: *Provided,* That voting by mail or telegram shall not be permitted at any assembled meeting of the board. When any proposition is submitted for voting by such method, one dissenting vote shall prevent its adoption by that method.

(d) *Right of the Secretary.* The members of the control board (including successors, alternates, or other persons selected by the Secretary) and any agent or employee appointed or employed by the control board, shall be subject to removal or suspension by the Secretary, in his discretion, at any time.

Each and every order, regulation, decision, determination, or other act of the control board shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith.

CONTROL OF DISTRIBUTION

§ 997.50 *Pack specifications and minimum standards—(a) General restrictions as to handling.* In order to effectuate the declared policy of the act, and except as otherwise provided in §§ 997.53 and 997.76, no handler shall handle any unshelled filberts except those which have been certified by the control board as merchantable filberts.

(b) *Merchantable filberts.* Unless and until modified by the Secretary, after consideration of the control board's recommendations and other available pertinent data, unshelled filberts shall be deemed to be merchantable if they meet the following requirements:

(1) As to pack specifications, such filberts shall be "U. S. No. 1, Jumbo," "U. S. No. 1, Large," or "U. S. No. 1, Medium," as now defined in the United States Standards for filberts in the shell (13 F. R. 4623) except that the portion of the tolerance provision in the U. S. No. 1 grade, for grade requirements, other than for type and size, reading "not more than five percent shall be allowed for blanks" shall not be applicable; and

(2) As to minimum standards of quality, shall be U. S. No. 1 grade as defined in the aforementioned standards, with the aforesaid modified tolerance as to blanks, and the lower limit of medium size as defined in such United States Standards for filberts in the shell.

(c) *Small size filberts for export.* Unless and until modified by the Secretary, after consideration of the control board's recommendations and other available pertinent data, unshelled filberts which are below the minimum requirements for merchantable filberts, as set forth in paragraph (b) of this section, only with respect to size may be exported pursuant to the provisions of § 997.76 if they meet the following size requirements: Round type filberts which will not pass through a round opening $\frac{3}{8}$ of an inch in diameter but will pass through a round opening $\frac{1}{2}$ of an inch in diameter, and long type filberts which will not pass through a round opening $\frac{3}{8}$ of an inch in diameter but will pass through a round opening $\frac{1}{2}$ of an inch in diameter: *Provided,* That 12 percent, by count, shall be allowed for those filberts which fail to meet these size requirements but not more than 5% of this amount, or 10 percent, shall be allowed for filberts which pass through the smallest opening specified for the respective type.

(d) *Modifications.* The aforementioned pack specifications and minimum standards for unshelled filberts as prescribed in paragraphs (b) and (c) of this section may be modified, at any time that it appears that such action would tend to effectuate the declared policy of the act, in which event unshelled filberts

desired to be certified must meet the applicable modified pack specifications and minimum standards in order to be considered as merchantable filberts or as small size filberts for export, as the case may be.

(e) *Above parity situations.* The provisions of this section relating to minimum standards of quality for merchantable unshelled filberts or small size filberts for export, as the case may be, and the applicable grading and inspection requirements pertaining thereto, within the meaning of section 2 (3) of the act, and any other provisions relating to the administration and enforcement thereof, shall continue in effect irrespective of whether the estimated season average price for filberts is in excess of the parity level specified in section 2 (1) of the act.

§ 997.51 *Certification of merchantable filberts and small size filberts for export.* Each handler, at his own expense, shall obtain a certificate for each lot of merchantable filberts handled or to be handled by him, and for each lot of surplus merchantable filberts, and also for each lot of small size filberts for export disposed, or to be disposed, of by him as agent for the control board. Said certificates shall be obtained from the Federal-State Inspection Service. All such certificates shall show, in addition to such other information as the control board may specify, the identity of the handler, if for export, the country of destination, the quantity and pack of filberts in such lot, markings (if any) on the containers, including brands or labels, and that the filberts covered by such certificates conform to the pack specifications and minimum standards of quality prescribed pursuant to § 997.50 for merchantable filberts or for small size filberts for export, as the case may be. All lots so inspected and certified shall be identified by appropriate seals, stamps, or tags to be affixed to the containers by the handler under the direction and supervision of the control board, or of the Federal-State Inspection Service.

§ 997.52 *Copies of certificates.* The inspector shall furnish to the control board as many copies of each such certificate as it may request.

§ 997.53 *Filberts for packing or shelling.* Nothing contained in this part shall be construed to prevent any person from selling or delivering, within the area of production, unshelled filberts, other than merchantable filberts, to any packer for packing or sheller for shelling.

MERCHANTABLE SURPLUS CONTROL

§ 997.60 *Salable and surplus percentages for merchantable filberts.* The salable and surplus percentages for merchantable filberts for each fiscal year shall be fixed by the Secretary at such amounts as in his judgment will most effectively tend to accomplish the purposes of the act. In fixing such salable and surplus percentages, the Secretary shall give consideration to the ratio of the estimated trade demand to the sum of the estimated production of merchantable filberts and the handler carryover (with appropriate adjustment

for such handler carryover as may have theretofore contributed to merchantable surplus) the recommendation submitted to him by the control board, and such other pertinent data as he deems appropriate. The total of the salable and surplus percentages as fixed each fiscal year shall equal 100 percent.

§ 997.61 *Increase of salable percentage.* At any time prior to February 15 of any fiscal year, the Secretary may, on request of the control board (or if the control board shall fail so to request, on request of two or more packers who have handled during the immediately preceding fiscal year at least ten percent of the total tonnage handled by all packers during such fiscal year) and after a finding of fact, based on such revised and current information as may be pertinent, that the merchantable filberts available for handling will not be sufficient to supply the trade demand, increase the salable percentage to conform to such new relation as may be found to exist between trade demand and available supply.

§ 997.62 *Estimated carryover trade demand, and production.* (a) To aid the Secretary in fixing the salable and surplus percentages for merchantable filberts, the board shall furnish to the Secretary, not later than August 20 of each fiscal year, the following estimates and recommendation, each of which shall be adopted by at least a majority vote of the entire control board:

(1) Its estimate of the quantity of merchantable filberts to be produced and packed during such year;

(2) Its estimate of handler carryover as of August 1,

(3) Its estimate of trade carryover as of August 1,

(4) Its estimate of the total trade demand (on the basis of prices not exceeding the maximum prices contemplated in section 2 of the act) in determining such trade demand consideration shall be given to the estimated trade carryover at the beginning and end of the fiscal year; and

(5) Its recommendation as to the salable and surplus percentages to be fixed for merchantable filberts.

(b) The board shall also furnish to the Secretary a complete report of the proceedings of the board meeting at which these recommended salable and surplus percentages to be fixed by the Secretary were adopted.

§ 997.63 *Withholding percentage.* The withholding percentage shall be the ratio (measured as a percentage) of the surplus percentage to the salable percentage for merchantable filberts. Such percentage shall be announced by the Secretary and, in its computation, may be adjusted by the Secretary to the nearest whole number.

§ 997.64 *Withholding of merchantable surplus filberts.* No handler shall handle merchantable unshelled filberts unless prior to or upon the shipment thereof (except as otherwise provided in § 997.65) he shall have withheld from handling a quantity of merchantable filberts equal to the withholding percentage, by weight of such quantity handled

or certified for handling by him: *Provided*, That this requirement shall not apply to any lot of filberts for which the merchantable surplus obligation has been met by a previous holder. The quantity of filberts hereby required to be withheld shall constitute, and may be referred to as, the "merchantable surplus" or "surplus obligation" of a handler. The merchantable filberts handled by any handler in accordance with the provisions of this subpart shall be deemed to be that handler's quota fixed by the Secretary within the meaning of Section 8a (5) of the act.

§ 997.65 *Postponement of withholding merchantable surplus upon filing bond—*

(a) *Privilege.* Compliance by any packer with the requirements of § 997.64 as to the time when merchantable surplus filberts shall be withheld shall be deferred to any date desired by the packer, but not later than December 31 of the fiscal year, upon the voluntary execution and delivery by such packer to the control board, before he handles any merchantable filberts of such fiscal year, of a written undertaking that on or prior to such date he will have fully satisfied his merchantable surplus obligation required by § 997.64.

(b) *Bonding requirement.* Such undertaking shall be secured by a bond or bonds to be filed with and acceptable to the control board, and with a surety or sureties acceptable to the control board, in the amount or amounts stated below conditioned upon full compliance with such undertaking. Such bond or bonds shall, at all times during their effective period, be in such amounts that the aggregate thereof shall be no less than the total bonding value of the packer's deferred merchantable surplus obligation. The bonding value shall be the deferred merchantable surplus obligation poundage bearing the lowest bonding rate or rates, which could have been selected from the packs handled or certified for handling, multiplied by the applicable bonding rate. The cost of such bond or bonds shall be borne by the packer filing same.

(c) *Bonding rate.* Said bonding rate for each pack shall be an amount per pound representing the season's domestic price for such pack net to packer f. o. b. shipping point which shall be computed at 95 percent of the opening price for such pack announced by the packer or packers who during the preceding fiscal year handled more than 50 percent of the merchantable filberts handled by all packers. Such packer or packers shall be selected in order of volume handled in the preceding fiscal year, using the minimum number of packers to represent a volume of more than 50 percent of the total volume handled. If such opening prices involve different prices announced by two or more packers for respective packs, the prices so announced shall be averaged on the basis of the quantity of such packs handled during the preceding fiscal year by each such packer.

§ 997.66 *Disposition of sums collected through default on bonds—*(a) *Filbert purchases.* Any sums collected through default of a packer on his bond shall be

used by the control board to purchase, from packers, as provided in this paragraph, a quantity of merchantable filberts not to exceed the total quantity represented by the sums collected. Purchases shall be made from the salable percentages with respect to which the merchantable surplus obligation has been met and at the bonding rate for each pack. The control board shall at all times purchase the lowest priced packs offered and the purchases shall be made from the various packers as nearly as practicable in proportion to the quantity of their respective offerings of the pack or packs to be purchased.

(b) *Unexpended sums.* Any unexpended sums, which have been collected by the control board through default of a packer on his bond, remaining in the possession of the control board at the end of a fiscal year shall be used to reimburse the board for its expenses, including administrative and other costs incurred in the collection of such sums, and in the purchase of merchantable filberts as provided in paragraph (a) of this section. Any balance remaining after reimbursement of such expenses shall be distributed among all handlers in proportion to the quantity of merchantable filberts handled or certified for handling by them during the fiscal year in which the default occurred.

(c) *Transfer of filbert purchases.* Filberts purchased as provided in this paragraph shall be turned over to those packers, who have defaulted on their bonds, for disposal by them as merchantable surplus. The quantity delivered to each packer shall be that quantity represented by the sums collected through default, and the different grades, if any, shall be apportioned among the various packers on the basis of the quantity of filberts to be delivered to each packer to the total quantity purchased by the control board with bonding funds.

§ 997.67 *Collection upon bonds.* Collection upon any bond or bonds filed pursuant to the provisions of § 997.65 shall be deemed a satisfaction of the merchantable surplus obligation represented by such collection: *Provided*, That the filberts purchased by the control board with funds collected under bonds and subsequently turned over to such packers are used only for the purposes provided in §§ 997.74 and 997.75.

§ 997.68 *Interhandler transfers for merchantable surplus.* For the purpose of meeting his merchantable surplus obligation, any handler may, upon notice to and under the supervision and direction of the control board, acquire from another handler merchantable filberts with respect to which the merchantable surplus has not been withheld and any merchantable surplus obligation with respect to any filberts so transferred shall be waived. If any such sales are made from filberts on which the merchantable surplus obligation has been met, the seller's merchantable surplus obligation shall be reduced accordingly upon proof satisfactory to the control board that the purchaser is withholding such filberts as merchantable surplus.

§ 997.69 *Assistance of control board in accounting for merchantable surplus.* The control board, on written request, may assist handlers in accounting for their merchantable surplus obligation and may aid any handler in acquiring merchantable filberts to meet any deficiency in a handler's merchantable surplus, or in accounting for and disposing of merchantable surplus filberts.

§ 997.70 *Application of merchantable salable, surplus, and withholding percentages, and bonding rates, after end of fiscal year.* (a) The merchantable salable, surplus, and withholding percentages established for any fiscal year shall continue in effect with respect to all merchantable filberts, for which the merchantable surplus obligation has not been previously met, which are handled or certified for handling as merchantable filberts by any handler after the end of such fiscal year and before merchantable salable, surplus, and withholding percentages are established for the succeeding fiscal year. After such percentages are established for the new fiscal year, the withholding requirements for all such filberts theretofore handled or certified for handling as merchantable filberts during that fiscal year shall be adjusted to the newly established percentages.

(b) The bonding rates established for any fiscal year shall continue in effect with respect to any bond or bonds executed and delivered pursuant to § 997.65 before the bonding rates for the new fiscal year are established. After such bonding rates are established for the new fiscal year, the new rates shall be applicable and any bond or bonds theretofore given for that fiscal year shall be adjusted to the new rates.

§ 997.71 *Exchange of merchantable surplus filberts.* Any handler who has withheld merchantable surplus filberts pursuant to the requirements of § 997.64 and has had the same certified as merchantable surplus filberts may exchange therefor an equal quantity, by weight, of other merchantable filberts. Any such exchange shall be made under the supervision and direction of the control board with appropriate inspection and certification of the filberts involved.

§ 997.72 *Adjustment upon increase of merchantable salable percentage.* Upon any increase in the merchantable salable percentage and corresponding decrease in the merchantable surplus, and withholding percentages, the merchantable surplus obligation of each handler with respect to the filberts handled by him for the entire fiscal year shall be recomputed in accordance with such revised merchantable salable, surplus, and withholding percentages. From the merchantable surplus filberts still held by a handler and from such merchantable surplus filberts that may have been delivered by him to the control board pursuant to § 997.74, and still held by the control board, the handler shall be permitted to select, under the supervision and direction of the control board, the particular merchantable surplus filberts to be restored to his salable percentage.

§ 997.73 *Prohibition against handling of merchantable surplus.* Except as provided in §§ 997.74 and 997.75, or for any use other than for distribution as unshelled filberts in established trade channels, merchantable surplus filberts withheld pursuant to the requirements of § 997.64 shall not be handled by any person as unshelled filberts.

§ 997.74 *Disposition of merchantable surplus by export.* Sales of merchantable surplus filberts for shipment or export to destinations outside the Continental United States, Alaska, Hawaii, Puerto Rico, and the Canal Zone shall be made only by the control board. Any handler desiring to export any part or all of his merchantable surplus filberts shall deliver to the control board his merchantable surplus to be exported, but the control board shall be obligated to sell in export only such quantities for which it may be able to find satisfactory export outlets. Any filberts so delivered for export which the control board is unable to export shall be returned to the handler delivering them. Sales for export shall be made by the control board only on execution of an agreement to prevent reimportation into the United States; and in case of export to Canada or Mexico, such filberts shall be sold only on the basis of a delivered price, duty paid. A handler may be permitted to act as agent of the control board, upon such terms and conditions as the control board may specify, in negotiating export sales; and when so acting shall be entitled to receive a selling commission of five percent of the export sales price, f. o. b. area of production. The proceeds of all export sales, after deducting all expenses actually and necessarily incurred, shall be paid to the handler whose merchantable surplus filberts are so sold by the board.

§ 997.75 *Disposal of merchantable surplus for shelling.* (a) Any handler may shell his merchantable surplus filberts or deliver them for shelling to an authorized sheller. Any person who desires to become an authorized sheller in any fiscal year may submit an application to the control board. Such application shall be granted only upon condition that the applicant agrees:

(1) To use such merchantable surplus filberts as he may receive for no purpose other than shelling;

(2) To dispose of or deliver such merchantable surplus filberts, as unshelled filberts, to no one other than another authorized sheller;

(3) To comply fully with all laws and regulations applicable to the shelling of filberts;

(4) To report to the control board, immediately upon receipt of any lot of merchantable surplus filberts, the quantity and pack of the filberts so received and the identity of the person from whom received, and within 15 days after the disposition of such filberts, to report their disposition to the control board. All such reports shall be certified to the control board and to the Secretary as to their correctness and accuracy.

(b) The board, if it finds that such an application is made in good faith and if

the applicant may be reasonably relied upon to fulfill and observe the conditions to which it has agreed, shall issue a letter of authority to such applicant to serve as an authorized sheller. Such letter of authority shall expire with the end of the fiscal year during which it is issued by the Board.

CONTROL OF SMALL SIZE FILBERTS FOR EXPORT

§ 997.76 *Disposition of small size filberts by export.* Sales of small size filberts meeting the pack specifications and minimum standards prescribed in § 997.50 (c), for shipment or export to destinations outside the Continental United States, Alaska, Hawaii, Puerto Rico, and the Canal Zone shall be made only by the control board. Any handler desiring to export any part, or all, of his small size filberts meeting these specifications shall deliver them to the control board to be exported, but the control board shall be obligated to sell in export only such quantities for which it may be able to find satisfactory export outlets. Any small size filberts so delivered for export which the control board is unable to export shall be returned to the handler delivering them. Sales for export shall be made by the control board only on execution of an agreement to prevent reimportation into the United States; and in case of export to Canada or Mexico, such small size filberts shall be sold only on the basis of a delivered price, duty paid. A handler may be permitted to act as agent of the control board, upon such terms and conditions as the control board may specify, in negotiating these export sales; and, when so acting, shall be entitled to receive a selling commission of five percent of the export sales price, f. o. b. area of production. The proceeds of all such export sales, after deducting all expenses actually and necessarily incurred, shall be paid to the handler whose small size filberts are so sold by the board.

REPORTS

§ 997.80 *Reports of handler carry-over of merchantable filberts.* Each handler, on or before August 5 and January 15 of each fiscal year, shall file with the control board a written report, under oath, of all merchantable filberts (except filberts held as merchantable surplus) including the estimated quantity of merchantable filberts in ungraded lots intended for packing as merchantable filberts, by him held on the first day of August and the first day of January, respectively, showing the pack (if merchantable) and location thereof and the quantities;

(a) Which theretofore have been certified for handling, and on which the merchantable surplus obligation has previously been met;

(b) Which have been packed as merchantable filberts, but have not been certified; and

(c) Which are estimated as merchantable but have not been packed as merchantable filberts and are intended for packing as merchantable filberts.

§ 997.81 *Reports of disposition of merchantable surplus.* (a) Each han-

der, before he disposes of any quantity of merchantable surplus filberts held by him, shall file with the control board a report of his intention to dispose of such quantity of merchantable surplus filberts. This report shall be filed not less than five days prior to the date on which the merchantable surplus filberts are disposed of unless the five-day period is expressly waived by the control board.

(b) Each handler, within 15 days after the disposition of any quantity of merchantable surplus filberts, shall file with the control board a report of the actual disposition of such quantity of merchantable surplus filberts. Such reports shall be certified to the control board and to the Secretary as to their correctness and accuracy.

(c) Each handler, from time to time, on demand of the control board, shall file with the board a report of his holdings of merchantable surplus filberts as of any date specified by the board. Such report, at the request of the control board, may be in the form of a confirmation of the records of the control board of such handler's holdings. Such report shall be certified to the control board and to the Secretary as to its correctness and accuracy.

(d) All reports required by this section shall show the quantity, pack, and location of the filberts covered by such reports and in the case of reports required by paragraphs (a) and (b) of this section, the applicable handler's storage lot and inspection certificate numbers, and the disposition of the merchantable surplus which is intended or which has been accomplished.

§ 997.82 *Other reports.* Upon request of the control board, made with the approval of the Secretary, every handler shall furnish to the board, in such manner and at such times as it prescribes (in addition to such other reports as are specifically provided for in this subpart) such other information as will enable the control board to perform its duties and to exercise its powers under this subpart.

§ 997.83 *Verification of reports.* For the purpose of checking and verifying reports made by handlers to it, the control board through its duly authorized agents, shall have access to the handler's premises wherever filberts may be held by such handler and, at any time during reasonable business hours, shall be permitted to inspect any filberts so held by such handler and any and all records of the handler with respect to the holding or disposition of all filberts which may be held or which may have been disposed of by such handler. Every handler shall furnish all labor necessary to facilitate such inspections as the control board may make of such handler's holdings of any filberts. Every handler shall store merchantable surplus filberts in such manner as to facilitate inspection and shall maintain adequate storage records which will permit accurate identification with respect to control board certificates of respective lots of all such filberts held or theretofore disposed of.

§ 997.84 *Confidential information.* All reports and records furnished or submitted by handlers to the board which include data or information constituting a trade secret or disclosing of the trade position, financial condition, or business operations of the particular handler from whom received shall be received by and at all times kept in the custody and under the control of one or more employees of the board, who shall disclose such information to no person except the Secretary. Notwithstanding the above provisions of this section, information may be disclosed to the board when reasonably necessary to enable the board to carry out its functions under this part.

EXPENSES AND ASSESSMENTS

§ 997.90 *Expenses.* The control board is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred by it during each fiscal year, for the maintenance and functioning of the control board and for such purposes as the Secretary may, pursuant to the provisions of this subpart, determine to be appropriate. The recommendation of the control board as to the expenses for each such fiscal year, together with all data supporting such recommendations, shall be submitted to the Secretary on or before August 20 of the fiscal year in connection with which such recommendation is made. The funds to cover such expenses shall be acquired by levying assessments as provided in § 997.91.

§ 997.91 *Assessments.* (a) Each handler shall pay to the control board on demand by the control board, from time to time, the sum of two-tenths of a cent for each pound of filberts certified for him, including those certified as merchantable filberts (including both salable and surplus) and those certified as small size filberts for export. At any time during or after a fiscal year, the Secretary may increase the rate of assessment to apply to all filberts so certified during such fiscal year, including those certified in said fiscal year prior to the date of such increase, to secure sufficient funds to cover the expenses authorized by § 997.90, or by any later finding by the Secretary relative to the expenses of the control board, and such additional assessments shall be paid by the handler on demand. At the end of any fiscal year for which the assessment rate may be increased by the Secretary, the rate shall revert to two-tenths of a cent a pound.

(b) Any money collected as assessments during any fiscal year and not expended in connection with the respective fiscal year's operations hereunder may be used and shall be refunded by the control board in accordance with the provisions of this subpart. Such excess funds may be used by the control board during the period of four months subsequent to such fiscal year in paying the expenses of the control board incurred in connection with the new fiscal year. The control board shall, however, from funds on hand, including assessments collected during the new fiscal year, distribute or make available, within five

months after the beginning of the new fiscal year, the aforesaid excess to each handler from whom an assessment was collected, as aforesaid, in the proportion that the amount of the assessment paid by the respective handler bears to the total amount of the assessments paid by all handlers during said fiscal year.

(c) Any money collected from assessments under this subpart and remaining unexpended in the possession of the control board upon the termination of this subpart shall be distributed in such manner as the Secretary may direct.

MISCELLANEOUS PROVISIONS

§ 997.95 *Personal liability.* No member or alternate member of the control board, or any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or any other person for errors in judgment, mistakes, or other acts either of commission or omission, as such member, alternate member, agent or employee, except for acts of dishonesty.

§ 997.96 *Separability.* If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 997.97 *Derogation.* Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 997.98 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 997.99 *Agents.* The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ 997.100 *Effective time, termination or suspension.*—(a) *Effective time.* The provisions of this subpart, as well as any amendments to this subpart, shall become effective at such time as the Secretary may declare, and shall continue in force until terminated or suspended in one of the ways specified in this section.

(b) *Suspension or termination.* (1) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(2) The Secretary shall terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(3) The Secretary shall terminate the provisions of this subpart at the end of any fiscal year whenever he finds that such termination is favored by a majority of the producers of filberts who during the preceding fiscal year have been engaged in the production for market of filberts in the States of Oregon and Washington: *Provided*, That such majority have during such period produced for market more than 50 percent of the volume of such filberts produced for market within said States; but such termination shall be effected only if announced on or before July 1 of the then current fiscal year.

(4) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them ceases to be in effect.

(c) *Proceedings after termination.*

(1) Upon the termination of the provisions of this subpart, the members of the control board then functioning shall continue as joint trustees for the purpose of liquidating the affairs of the control board, of all funds and property then in the possession or under the control of the board, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(2) Said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the control board and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the control board or the joint trustees pursuant to this subpart.

(3) Any person to whom funds, property, or claims have been transferred or delivered by the control board or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the said board and upon said joint trustees.

§ 997.101 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (c) affect or impair any right or remedies of the Secretary or of any other person, with respect to any such violation.

§ 997.102 *Amendments.* Amendments to this subpart may be proposed, from time to time, by any person or by the control board.

[F. R. Doc. 54-135; Filed, Jan. 7, 1954; 8:55 a. m.]

[7 CFR Part 997]

[Docket No. AO 203-A1]

HANDLING OF FILBERTS GROWN IN OREGON AND WASHINGTON

ORDER DIRECTING THAT REFERENDUM BE CONDUCTED AMONG PRODUCERS OF FILBERTS IN OREGON AND WASHINGTON; DESIGNATING AGENTS TO CONDUCT REFERENDUM; AND DETERMINING THE REPRESENTATIVE PERIOD

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) it is hereby directed that a referendum be conducted among producers who, during the period August 1, 1953, through December 31, 1953 (which is hereby determined to be the representative period for the purpose of this referendum) were engaged, in the States of Oregon and Washington, in the growing of filberts for market, to determine whether such producers approve or favor the issuance of an amended order regulating the handling of filberts grown in Oregon and Washington; said order, as proposed to be amended, is annexed to the decision of the Secretary of Agriculture filed simultaneously herewith.¹

The procedure applicable to this referendum shall be the "Procedure for the Conduct of Referenda Among Producers in Connection with Marketing Orders (Except those Applicable to Milk and its Products) to Become Effective Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended" (15 F. R. 5176)

Robert H. Eaton and R. P. Callaway of the Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, are hereby designated as agents of the Secretary to conduct said referendum jointly or severally.

Copies of the text of the aforesaid amended order may be obtained or examined in: the Office of the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C.; Western Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, 515 SW. Tenth Avenue, Portland 5, Oregon.

Ballot forms for use in the referendum will be mailed to producers of record with the United States Department of Agriculture and such forms may also be obtained from the office in the production area listed in the preceding paragraph.

(Sec. 5, 48 Stat. 31, as amended; 7 U. S. C. 603c)

Issued at Washington, D. C., this 5th day of January 1954.

[SEAL]

JOHN H. DAVIS,
Assistant Secretary.

[F. R. Doc. 54-136; Filed, Jan. 7, 1954; 8:55 a. m.]

¹Sec. F. R. Doc. 54-135, *supra*.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 3, 4]

[Docket No. 10532]

FM BROADCAST STATIONS

SPECIFIED NON-BROADCAST ACTIVITIES ON SIMPLEX AND/OR MULTIPLEX BASIS

In the matter of amendment of Parts 2, 3, and 4 of the Commission's rules and regulations and the Standards of Good Engineering Practice Concerning FM Broadcast Stations to permit FM broadcast stations to engage in specified non-broadcast activities on a simplex and/or multiplex basis.

1. This notice of proposed rule making relates to certain services now being engaged in by several FM broadcast licenses. These operations, which are usually referred to by the term "functional music" consist of three types—the background music service, storecasting, and transcasting.

2. The background music service consists of an arrangement whereby FM licensees undertake to supply programs of a background music nature² to commercial or industrial establishments such as banks, restaurants, barber shops, factories, etc. The rendition of this service involves the distribution of special receivers for the use of the subscribing establishments. Generally, before broadcasting spoken matter, the station transmits a supersonic signal (called a "beep" tone) which is inaudible to the human ear but which silences the receivers owned or rented by subscribers to the background music service. When the spoken material ends, the station removes the "beep" tone or transmits another signal which turns on the subscribers' receivers.

3. In the storecasting operation, programs originating at the studios of the FM stations in question are picked up by fixed frequency FM receivers with speakers installed in the ceilings of stores at spaced intervals over the aisles. The program format generally consists of continuous music of the background type, interspersed with short newsroundups and weather reports, occasional recipes or household hints, and commercial announcements directed to shoppers concerning particular products in the store or stores involved. The inaudible supersonic signal or "beep" which by remote control activates the special receiver employed in this operation to increase the sound level of the spoken material in order to emphasize the commercials.

4. The transcasting operation closely resembles storecasting except that its

²The purpose of such music is to create an atmosphere favorable to the conduct of activities to which the music is incidental, such as for example dining in restaurants. Therefore, either through selection or editing, the music tends to be devoid of striking or distracting qualities; extremes such as jazz or classical music are avoided and vocals appear to be seldom used. In short, as it is represented in the releases of the stations concerned, the music is selected and presented as "background."

programs are designed to reach transit passengers in public vehicles. This programming is also similar to that utilized in storecasting and may be generally characterized as consisting of background music interrupted at fairly regular intervals by short news or sports-casts, weather and time reports, and commercials. The special receivers installed in the transit vehicle are permanently "locked" to the FM station's frequency and contain circuits which are activated by the inaudible supersonic tone in such a way as to increase the volume, usually when spoken material is being broadcast.

5. The first of the functional music operations to make its appearance was storecasting in 1948, which was then followed by storecasting and finally the background music service. In June 1950, inspection of Commission files revealed that 34 stations were engaged in these services; at the present time the number is believed to be lower. The licensees engaged in these operations have entered into contractual arrangements, usually with an intermediary, for the rendition of the service in question to the subscribing party. The contracts on file with the Commission present a fairly wide variety of provisions dealing with the program material to be furnished, the degree of control retained by the licensee, the duration of the contract, etc. Thus, with respect to the programming furnished, the contracts vary from provisions specifying "a planned music service with all voice eliminated by use of supersonic signal control daily from 8:00 a. m., to 3:00 a. m., the following morning" to those in which no specific requirement concerning programming is mentioned; similarly, the contractual term varies from one to three years.

6. After study of the program logs and agreements submitted by licensees engaged in functional music, the Commission dispatched letters to several background music licensees, requesting their comments on whether the operation violated specified provisions of the Communications Act and the Commission's rules and regulations. Upon receipt and study of the stations' comments, which took the position that the operations in question did not violate the act or rules, the Commission issued two public notices. In the public notice dated April 12, 1951 (Mimeo 6285) the Commission advised the stations involved that their operations were not in accordance with law and that they should take steps to bring themselves in compliance therewith: And in its public notice of May 4, 1951 (Mimeo 62347) the Commission requested that all stations engaged in the background music operation submit a statement to the Commission indicating how they intended to achieve compliance with "all lawful requirements." The Commission view, as set out in both notices, was that the "beep" operations were inconsistent with basic statutory duties incumbent upon licensees of broadcast facilities for three reasons: (1) The licensees had given away the power to alter their service to meet the changing needs of the public because they had entered into contracts "to provide subscribers with predominantly

'planned music' during the stipulated periods" (2) "The remuneration received by [the licensee] for transmission of the 'planned music' in question under these agreements is based upon the payments therefor made by the individual subscribers concerned" the licensees were therefore in error in not announcing and logging the programs as sponsored; (3) The elimination of sponsorship, station identification, and other announcements from reception by subscribers, although made to the general public, violates the law since the requirements of the act and the rules and regulations contemplate transmission of such information to the station's entire audience and not to the broadcasting of a tone which prevents a portion of the audience from hearing the announcements. The Commission then stated that it would issue its conclusions as to the other questions—including the question whether such operations constitute point-to-point communications not authorized by the broadcast rules—when it had completed its study of the problems common to all "supersonic" operations.

7. Following the issuance of these public notices, petitions were filed by various parties² requesting three alternative remedies: (1) Reconsideration by the Commission of the position taken in the public notices referred to, and a holding that "functional music" operations are not in conflict with the act and pertinent Commission rules; (2) institution by the Commission of rule making proceedings looking to the amendment of its rules to authorize such operations by FM broadcast stations; and (3) the issuance, pursuant to section 5 (d) of the Administrative Procedure Act, and after oral argument, of a declaratory order as to the legality of the functional operations "in order that the licensees may be apprised of their legal rights and obligations." Thereafter, in July 1952 the Commission granted renewals of licenses to those FM broadcast stations which had been on a temporary license basis because of their functional music operations. And the Commission continued its over-

all study of the basic policy and rule questions presented by such operations.

8. In addition to the foregoing petitions relating to functional music operations, three petitions have been filed seeking amendment of the Commission's rules and standards to authorize the transmission of multiplex signals by FM broadcast stations. On April 8, 1950, Raymond M. Wilmotte filed a petition seeking Commission authorization "to permit FM broadcast stations to use any means available to transmit an additional service without affecting the listeners of the present broadcast service." On September 27, 1950, Multiplex Development Corporation requested the Commission to amend its rules and standards "to permit the use of a system of multiple program transmission, known as multicasting, in order to provide a useful supplementary FM broadcast service to individuals and organizations having suitable multiplex receiving equipment and without restriction as to the hours of operation or nature of the supplementary service, provided that such multicasting transmissions do not in any manner cause interference with or degrade the quality of the normal public broadcast transmissions within the high fidelity audio range from 30 to 15,000 cycles, and provided that such multicast transmissions do not cause any increase in present band widths of FM broadcast stations or cause interference with other FM stations on the same or adjacent channels." On March 4, 1953, Mount Mitchell Broadcasters, Inc., licensee of Station WMIT-FM, Clingmans Peak, North Carolina, stated that in addition to its FM broadcast program "it desired to provide a useful supplementary and simultaneous FM service to individuals and organizations having suitable receiving equipment and to provide additional communication channels for [its] own use in improving its existing FM broadcast service." It asserts that equipment is now available, making it possible for FM broadcast stations to multiply the number of useful communication channels from a specific FM transmitter without causing any degradation of the quality of the normal public broadcast transmission within the audio range of 30 to 15,000 cycles, and without causing any increase in present band widths of FM broadcast stations or any interference with other FM stations on the same or adjacent channels.

9. After receipt of these petitions, the Commission continued its study of the legal and policy questions raised by the three services. The fundamental issue presented is whether functional music operations constitute "broadcasting" as defined in section 3 (o) of the Communications Act and may be properly transmitted by a station licensed to provide a broadcast service. On the basis of the data available to the Commission, it is our view that operations having the basic characteristics outlined above are not broadcasting within the meaning of section 3 (o) of the act⁴ because they do

²LeTourneau Radio Corporation, licensee of FM Broadcast Station KLIT-FM, Longview, Texas; Lincoln Broadcasting Company, licensee of FM Broadcast Station WLDM, Oak Park, Illinois; Majestic Broadcasting Company, construction permittee of FM Broadcast Station KCBC-FM, Des Moines, Iowa; Mercantile Broadcasting Company, licensee of FM Broadcast Station WLRD, Miami Beach, Florida; Orlando Daily Newspapers, Inc., licensee of FM Broadcast Station WHOO-FM, Orlando, Florida; Radio Broadcasters, Inc., licensee of FM Broadcast Station KRKD-FM, Los Angeles, California; Roy L. Albertson, licensee of FM Broadcast Station WBNY-FM, Buffalo, New York; The Capital Broadcasting Company, licensee of FM Broadcast Station WNAV-FM, Annapolis, Maryland; The Times Herald Company, licensee of FM Broadcast Station WITH-FM, Port Huron, Michigan; Tribune Publishing Company, licensee of FM Broadcast Station KTNT, Tacoma, Washington; WGHF, Inc., licensee of FM Broadcast Station WFMF, Chicago, Illinois; Wm. Penn Broadcasting Company, licensee of FM Broadcast Station WPEN-FM, Philadelphia, Pennsylvania; Field Enterprises, Inc., and Functional Music, Inc., Capital Broadcasting Co., licensee of WWDC-FM, Washington, D. C.

⁴That section provides: "Broadcasting" means the dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations."

not appear "intended to be received by the public." Thus, in the background music service, the "beeped-out" or "voiceless" programs are intended solely for the subscribing commercial institution and therefore, would appear to be a non-broadcast operation. In fact, as to all three operations, it would appear that their programming, while capable of being received by the general public, is not so intended, and that essentially these operations are geared and directed to reception by the commercial institutions, stores, or transit audiences involved.⁵ The program format utilized during functional music hours, apparently required by these operations, consists of background music interspersed with brief news, weather or time announcements. Accordingly, we are of the view that the services involved are of a non-broadcast nature, being mainly directed to specific establishments or points and the listeners contained therein and not to the general public. The parties engaged in the functional music operations, since they are licensed as broadcasters, are obligated to operate in accordance with all of the provisions of the Communications Act, applicable treaties⁶ and the rules issued by the Commission governing the broadcast service.⁷

10. In the light of the foregoing a critical question is presented as to whether it would be in the public interest to authorize such non-broadcast operations in the FM band. In our study of FM we have been somewhat heartened by several factors such as the interest in FM in smaller communities (under 10,000 people) in the fact that some AM stations, particularly in the South, are turning to FM to extend their coverage, the loyal audience of "good music" listeners of the several FM "good music" stations, and the moderate but steady growth in the number of non-

⁵We recognize that the functional music operator has no objection to and indeed, probably desires the reception by the general public of his transmissions, in addition to the special places primarily involved. But, as demonstrated by the format adopted and apparently the station's source of the revenues, the service directed to the special points or subscribers would clearly appear to be the key to the overall operation. For this reason we believe the operation must be described as predominantly non-broadcast in nature.

⁶While there are treaties affecting the allocation and utilization of frequencies, it is not believed that any of these treaties prohibit stations operating in the broadcast band from engaging in non-broadcast operations so long as no harmful interference is caused to foreign radio stations.

⁷In view of our conclusions that the type of operation under discussion here does not fall within the statutory definition of "broadcasting" we find it unnecessary to delineate the possible respects in which licensees engaged in such operations do not fulfill the obligations and responsibilities of broadcast licensees. For example, one respect in which a substantial question is raised is whether the functional music operator had retained the full measure of control of station operation required of a broadcast licensee. See Master Btg. Corp., 6 Pike and Fischer RR 621; Georgia School of Technology, 10 FCC 110.

commercial educational FM stations. On the other hand, however, the available data indicates that on the whole, FM has not yet succeeded in developing a sound economic base. The approximately \$3,000,000 in FM revenue reported in 1952 amounted to about 1/10 of 1% of the total broadcast revenues. Eighty-seven percent of the 616 FM stations on the air were operated by AM licensees, the large majority of which provided the FM service as a "bonus". Only 159 AM-FM stations reported preliminary FM revenues for 1952. These 159 stations aggregated \$32.6 million in AM revenues and \$1.7 million in FM revenues; thus, FM revenues represented only 5 percent of their combined business. Of the 53 independent FM stations reporting in 1952, only 6 reported a profit: 5 had net incomes before Federal income taxes of \$2,000 or less, the highest income being \$4,600.⁸ These facts, we believe, demonstrate FM's financial difficulties. Indeed, as we have stated, the fact that several FM stations have turned to the functional music operation is an indication of the difficulties encountered by them in their efforts to compete in the general radio advertising market.

11. On the basis of our review of the FM picture, we believe it might be possible to provide for a more effective use of the frequency space now assigned for FM broadcasting—making possible the rendition of new and useful services—and enabling FM broadcast licensees to alleviate, in part, their financial difficulties. It should be emphasized, however, that our aim in this proceeding is not the conversion of the FM broadcast band to some new specialized non-broadcast service or services: On the contrary, authorization of such new ventures must be only as an adjunct to the FM broadcast operation, a subsidiary service so that the main undertaking—the broadcast service to the public—can draw financial sustenance from it. Moreover, a limitation on our proposal which is essential to the maintenance and development of the FM broadcast service is that it be accomplished without appreciable degradation of the superior quality of that service.

12. Accordingly, the Commission proposes to amend its rules and standards in order to provide for the following:

(a) The relaxation of provisions for the minimum hours of operation of FM broadcast stations so as to require FM broadcast stations to operate a minimum total of 36 hours a week during the hours of 6:00 a. m. to midnight. During this 36 hour period of broadcast operation the FM licensee will, of course, be required to render broadcast service intended to

⁸None of these stations was engaged in transcasting or storecasting. At most, functional music operations produced \$700,000 or about 25 percent of the \$3,000,000 FM revenues reported in 1952. The revenues of stations engaged in functional music were higher than the average revenue of other stations reporting FM income in 1952. Thus, FM stations engaged in functional music reported average revenues of \$30,000 while the 195 other FM stations which reported, had an average annual revenue of approximately \$11,000.

serve the public in accordance with the duties and responsibilities of broadcast licensees.

(b) The authorization of secondary or subsidiary licenses to FM broadcast licensees to engage in a limited type of non-broadcast services. The authorization which might aptly be called a Subsidiary Communications Authorization (SCA) would be to engage in services of a non-broadcast nature but involving a specialized programming service provided by the licensee. Such programming would consist of news, music, time, weather, etc. An example of an activity falling within such an authorization is the functional music operation, while one not encompassed within it is a taxicab dispatching service. The FM broadcast licensee would be required to provide the material transmitted under this special authorization and could not delegate or "lease" the authorization conferred by the SCA. But in this non-broadcast operation the licensee would not be subject to non-technical-broadcast requirements. It is proposed to permit operation under an SCA under the following conditions:

(1) FM broadcast stations would be permitted to engage in the specialized non-broadcast activities on a simplex basis during all times not devoted to the 36 hours required for FM aural broadcasting. The material transmitted during this specialized operation may be coded with a "beep" tone so as to maintain its commercial marketability, with the station utilizing appropriate decoding devices in connection with the subscribers' receivers.

(2) The FM broadcast station would be permitted to engage in the specialized non-broadcast activities on a multiplex basis during all regularly authorized broadcast hours.

14. The Commission is aware that the foregoing proposals with respect to a Subsidiary Communications Service might be broader and that the petitions set forth in paragraphs 7 and 8 look toward broader proposals. Experience might well indicate such a broadening to be desirable but we are of the view at this time that the type of limitation suggested herein is to be preferred in light of our objective, i. e., a fuller development of the FM broadcasting service.

15. The Commission desires comments with respect to the above proposals. Such comments may be directed to the views expressed in paragraph 9 concerning the nature of functional music operations. In addition, comments, and where appropriate full information, should be furnished for the following:

(a) Existing or proposed methods of functional music and multiplexing methods or systems.

(b) Technical data obtained in functional music and multiplexing tests and operations.

(c) Non-technical data obtained in functional music and multiplexing tests and operations relating particularly to the public demand for such services.

(d) The plans or proposals of interested persons looking toward the establishment of multiplexing and functional music operations on a commercial basis.

(e) The extent, if any, of the degradation of the nature, quality or character of the primary broadcast service and interference to other stations operating on the same or adjacent channels which would result from proposed multiplexing and functional music operations. In this regard comments should include the effect, if any, on receivers in the hands of the public.

(f) Amendments of the Commission's rules required to accomplish the subject proposals for multiplexing and functional music operations on a commercial basis.

16. Written comments on the above matters may be filed with the Commission by any interested party on or before February 15, 1954. Replies to such comments may be filed within 10 days from the last date for filing original comments. In accordance with the provisions of §1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission.

17. This notice is issued pursuant to the authority of sections 4 (i) 301 and 303 of the Communications Act of 1934, as amended.

18. Pending final action by the Commission on the subject proposals FM broadcast licensees presently engaged in functional music operations are authorized to continue such operations.

19. The Commission will specify in subsequent notices the time and nature of demonstrations and tests and such further proceedings as may be necessary.

Adopted: December 30, 1953.

Released: December 31, 1953.

FEDERAL COMMUNICATIONS
COMMISSION,¹

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

Dissent of Commissioner Hennock. The Commission has today adopted a notice of proposed rule making looking toward permitting FM broadcast stations for the first time to engage in non-broadcast activities on a simplex and multiplex basis. To this end, it is proposed (a) to cut down the required minimum hours of operation of FM broadcast stations from 42 to 36 hours a week; and (b) to permit FM licensees to obtain Subsidiary Communications Authorizations (SCA) to engage in point-to-point operations on a simplex basis during the time not devoted to the required minimum of 36 hours of FM broadcasting or on a multiplex basis at any time.

The notice (in paragraph 9) recognizes that functional music, storecasting and transcasting, is not broadcasting within the meaning of section 3 (o) of the Communications Act. Authorization of non-broadcast operations in the FM band, as here proposed, will be therefore, tantamount to a decision that the frequencies heretofore exclusively allocated for FM broadcasting may henceforth be used for non-broadcast operations. This in my opinion is a re-allocation of the FM band, and no amount of emphasis "that our aim here is not the conversion of the FM broadcast band to some new specialized non-broadcast service or services" will change this result.

¹ Commissioner Hennock dissenting and issuing a dissenting opinion.

If the spectrum space allocated to FM broadcasting is excessive, or not fully utilized by that service and capable of accommodating the services, all persons interested in radio communications should be given an opportunity to apply for the use of these frequencies. As it is, only FM licensees would be the beneficiaries of this proposal, for only they would be eligible for the proposed SCA to engage in non-broadcast operations. In my opinion, it has not been shown that it would be in the public interest so to restrict the scope of what essentially is a proposal for a new allocation of 20 megacycles of spectrum space.

A failure of the majority to recognize that this proposal constitutes, in effect, a reallocation of the FM band, contains far-reaching implications. Frequencies are allocated to the broadcast services on the theory that they will be used for "the dissemination of radio communications intended to be received by the public" (Sec. 3 (o) of the act). The very justification for allocating exclusively for broadcasting wide portions of the immensely valuable and scarce spectrum space, is the fact that it be used for broadcasting for the benefit of the general public.

Yet, here the Commission is proposing to convert the FM band to private non-broadcast use of FM licensees. This may, in effect,

give them a wind-fall from the public domain for which the demand increases daily and the supply decreases constantly. For the uses to which the FM band can be placed through multiplexing may be virtually unlimited. While the Commission emphasizes that the primary use of the band is to remain FM broadcasting by the very nature of the manifold uses, e. g., multiplexing, functional music, storecasting, transcasting and all other services lying between functional music operation and taxicab dispatching service, FM broadcasting may well be relegated to a subsidiary position. This is certainly a case of the tail wagging the dog.

Time does not permit me to translate these new uses of the FM broadcast band into their effect on the other broadcast services, as well as common carriers and special services.

Clearly a full public hearing is called for here to explore fully the above problems not only raised by the proposed reallocation of broadcast frequencies for non-broadcast uses, but also to study and define the uses of multiplexing, and those eligible for its use. I hope that the comments which will be forthcoming will shed further light on the above problems which I find so perplexing at this time.

[F. R. Doc. 54-120; Filed, Jan. 7, 1954;
8:51 a. m.]

NOTICES

DEPARTMENT OF COMMERCE

Federal Maritime Board

WILHELMSSENS DAMPSKIBSELSKAB ET AL.

NOTICE OF AGREEMENTS FILED FOR APPROVAL

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to Section 15 of the Shipping Act, 1916, as amended; 39 Stat. 733, 46 U. S. C. Section 814.

(1) Agreement No. 7615-1 between Wilhelmsens Dampskibsselskab A/S Den Norske Afrika-OG Australielinje, A/S Tonsberg, A/S Tankfart I, A/S Tankfart IV A/S Tankfart V A/S Tankfart VI (as one party only) and Aktiebolaget Svenska Amerika Linien (Swedish American Line) modifies their joint service agreement (No. 7615) by extending the geographical scope thereof to include the trade between United States Gulf and South Atlantic ports and ports in the Bordeaux/Hamburg range. Agreement No. 7615 presently covers the trades (a) between United States Gulf and South Atlantic ports and Scandinavian and Baltic ports, and (b) from Vera Cruz and Tampico, Mexico to New Orleans.

(2) Agreement No. 7949 between the member lines of the Transpacific Freight Conference (Hong Kong) and China Navigation Company, Ltd., China Siam Line, and Indo-China Steam Navigation Company, Ltd., covers the transportation of cargo under through bills of lading from Bangkok, Siam and Bangkok's outer harbor of Kohschang, to United States and Canadian Pacific Coast ports and to Honolulu, Hawaii, with transshipment at Hong Kong. Agreement No. 7949 was filed to supersede and cancel Agreement No. 7851.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to either of the agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: January 4, 1954.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 54-119; Filed, Jan. 7, 1954;
8:50 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

CHIEF, REGULATORY BRANCH

DELEGATION OF AUTHORITY TO EXERCISE CERTAIN POWERS AND FUNCTIONS

1. By virtue of the authority vested in the Director of the Fruit and Vegetable Division of the Agricultural Marketing Service (hereinafter referred to as the "Director") by the applicable regulations and rules of practice (7 CFR Parts 33, 41, 46, 47, and 48) and delegation by the Administrator of the Agricultural Marketing Service dated December 29, 1953, the Chief of the Regulatory Branch of the Fruit and Vegetable Division is hereby authorized to exercise all powers and perform all functions which the Director is or may hereafter be authorized to exercise or perform in the administration of the Perishable Agricultural Commodities Act, 1930 (7 U. S. C. 499a et seq.), the

Export Apple and Pear Act (7 U. S. C. 581-589) the Standard Containers Acts of 1916 (15 U. S. C. 251-256) and 1928 (15 U. S. C. 257-257i) and the Produce Agency Act (7 U. S. C. 491-497)

2. No delegation or authority prescribed herein shall preclude the Director from exercising any of the powers or functions or from performing any of the duties conferred herein, and any such delegation or authorization is subject at all times to withdrawal or amendment by the Director.

To become effective January 2, 1954.

Done at Washington, D. C., this 31st day of December 1953.

[SEAL] S. R. SMITH,
Director
Fruit and Vegetable Division.

[F. R. Doc. 54-115; Filed, Jan. 7, 1954;
8:49 a. m.]

CHIEF, FRESH PRODUCTS STANDARDIZATION
AND INSPECTION BRANCH

DELEGATION OF AUTHORITY TO EXERCISE
CERTAIN POWERS AND FUNCTIONS

1. By virtue of the authority vested in the Director of the Fruit and Vegetable Division of the Agricultural Marketing Service (hereinafter referred to as the "Director") by the Administrator of the Agricultural Marketing Service on December 29, 1953, authority is hereby delegated to the Chief, Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, to exercise the powers and functions set forth in §§ 51.1 to 51.51, inclusive, of Title 7 of the Code of Federal Regulations: *Provided, however*, No authority is delegated hereunder to enter into contracts pursuant to § 51.43 of the aforesaid regulations.

2. No delegation or authority prescribed herein shall preclude the Director from exercising any of the powers or functions or from performing any of the duties conferred herein, and any such delegation or authorization is subject at all times to withdrawal or amendment by the Director.

To become effective January 2, 1954.

Done at Washington, D. C., this 31st day of December 1953.

[SEAL] S. R. SMITH,
Director
Fruit and Vegetable Division.

[F. R. Doc. 54-116; Filed, Jan. 7, 1954;
8:49 a. m.]

CHIEF, PROCESSED PRODUCTS STANDARDIZA-
TION AND INSPECTION BRANCH

DELEGATION OF AUTHORITY TO EXERCISE
CERTAIN POWERS AND FUNCTIONS

1. By virtue of the authority vested in the Director of the Fruit and Vegetable Division of the Agricultural Marketing Service (hereinafter referred to as the "Director") by the Administrator of the Agricultural Marketing Service on December 29, 1953, authority is hereby del-

egated to the Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, to exercise the powers and functions set forth in §§ 52.1 to 52.87, inclusive, of Title 7 of the Code of Federal Regulations: *Provided, however* No authority is delegated hereunder to enter into contracts with applicants to perform continuous inspection service pursuant to § 52.52 of the aforesaid regulations.

2. No delegation or authority prescribed herein shall preclude the Director from exercising any of the powers or functions or from any of the duties conferred herein, and any such delegation or authorization is subject at all times to withdrawal or amendment by the Director.

To become effective January 2, 1954.

Done at Washington, D. C., this 31st day of December 1953.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F. R. Doc. 54-117; Filed, Jan. 7, 1954;
8:50 a. m.]

DEPARTMENT OF LABOR

Office of the Secretary

CERTIFICATION OF STATE UNEMPLOYMENT
COMPENSATION LAWS TO THE SECRETARY
OF THE TREASURY

Pursuant to section 1603 (a) of the Internal Revenue Code as amended, the unemployment compensation laws of the following States have heretofore been approved:

Alabama.	Montana.
Alaska.	Nebraska.
Arizona.	Nevada.
Arkansas.	New Hampshire.
California.	New Jersey.
Colorado.	New Mexico.
Connecticut.	New York.
Delaware.	North Carolina.
District of Columbia.	North Dakota.
Florida.	Ohio.
Georgia.	Oklahoma.
Hawaii.	Oregon.
Idaho.	Pennsylvania.
Illinois.	Rhode Island.
Indiana.	South Carolina.
Iowa.	South Dakota.
Kansas.	Tennessee.
Kentucky.	Texas.
Louisiana.	Utah.
Maine.	Vermont.
Maryland.	Virginia.
Massachusetts.	Washington.
Michigan.	West Virginia.
Minnesota.	Wisconsin.
Mississippi.	Wyoming.
Missouri.	

In accordance with the provisions of section 1603 (c) of the Internal Revenue Code, and the President's Reorganization Plan No. 2, effective August 20, 1949, I, as Secretary of Labor, hereby certify the foregoing States to the Secretary of the Treasury for the taxable year 1953.

[SEAL] JAMES P. MITCHELL,
Secretary of Labor.

DECEMBER 31, 1953.

[F. R. Doc. 54-102; Filed, Jan. 7, 1954;
8:46 a. m.]

CERTIFICATION OF STATE LAWS TO THE
SECRETARY OF THE TREASURY PURSUANT
TO SECTION 1602 (b) (1) OF THE INTER-
NAL REVENUE CODE

Whereas, as Secretary of Labor, I have heretofore certified to the Secretary of the Treasury the unemployment compensation laws of the States hereinafter enumerated with respect to the taxable year 1953, as provided in section 1603 of the Internal Revenue Code, as amended; and

Whereas, reduced rates of contributions were allowable under the law of each of said States with respect to the taxable year 1953 only in accordance with the provisions of subsection (a) of section 1602 of said Code;

Now therefore, pursuant to section 1603 (b) (1) of said Code, and the President's Reorganization Plan No. 2, effective August 20, 1949, I, as Secretary of Labor, hereby certify to the Secretary of the Treasury the Unemployment Compensation Law of each of the following States for the taxable year 1953:

Alabama.	Montana.
Alaska.	Nebraska.
Arizona.	Nevada.
Arkansas.	New Hampshire.
California.	New Jersey.
Colorado.	New Mexico.
Connecticut.	New York.
Delaware.	North Carolina.
District of Columbia.	North Dakota.
Florida.	Ohio.
Georgia.	Oklahoma.
Hawaii.	Oregon.
Idaho.	Pennsylvania.
Illinois.	Rhode Island.
Indiana.	South Carolina.
Iowa.	South Dakota.
Kansas.	Tennessee.
Kentucky.	Texas.
Louisiana.	Utah.
Maine.	Vermont.
Maryland.	Virginia.
Massachusetts.	Washington.
Michigan.	West Virginia.
Minnesota.	Wisconsin.
Mississippi.	Wyoming.
Missouri.	

[SEAL] JAMES P. MITCHELL,
Secretary of Labor.

DECEMBER 31, 1953.

[F. R. Doc. 54-163; Filed, Jan. 7, 1954;
8:47 a. m.]

Wage and Hour Division

MILLING OF TUNG NUTS

NOTICE OF HEARING ON APPLICATION FOR
FINDING THAT INDUSTRY IS OF A SEASONAL
NATURE

An application has been filed by the American Tung Oil Association for a determination that the milling of tung nuts constitutes an industry or branch of an industry of a seasonal nature within the meaning of section 7 (b) (3) of the Fair Labor Standards Act of 1938 and the regulations contained in this part.

Notice is hereby given pursuant to §§ 526.6 and 526.7 (29 CFR Part 526) of the regulations of a public hearing to be held in Room 308, Post Office Building, Tallahassee, Florida, on February 8, 1954, at 10:00 a. m. before an authorized representative of the Administrator, for

the purpose of receiving evidence and arguments on the questions:

1. Whether milling of tung nuts constitutes an industry or branch of an industry of a seasonal nature within the meaning of section 7 (b) (3) of the Fair Labor Standards Act and Part 526, as amended, of the regulations issued thereunder.

2. What is the scope of the industry.

Any interested person may appear at the hearing to offer evidence, provided that not later than February 1, 1954, such person shall file with the Administrator of the Wage and Hour Division, United States Department of Labor, Fourteenth Street and Constitution Avenue NW., Washington, D. C., a notice of intention to appear which should contain the following information:

1. The name and address of the person appearing.

2. If he is appearing in a representative capacity, the names and addresses of the persons or organizations which he is representing.

3. Whether he is appearing in support of or in opposition to the application for exemption.

Such notice may be mailed to the Administrator and shall be considered filed upon receipt. Written statements in lieu of personal appearance may be mailed to the Administrator at any time prior to the date of hearing or may be filed with the presiding officer at the hearing.

Signed at Washington, D. C., this 31st day of December 1953.

WM. R. McCOMB,
Administrator,
Wage and Hour Division.

[F. R. Doc. 54-96; Filed, Jan. 7, 1954;
8:45 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 8621, 10699]

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

ORDER RE ISSUES

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

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 24th day of December 1953;

The Commission having under consideration (1) a motion filed October 16, 1953 by Hartford Telecasting Company, Inc. (hereinafter Hartford) that the Commission (a) delete from its order of designation in this proceeding its findings with respect to the legal and financial qualifications of subject applicant, Travelers Broadcasting Service Corporation (hereinafter Broadcasting) and (b), enlarge its said order by including

the issues of the legal and financial qualifications of Broadcasting, as well as of its parent company, Travelers Insurance Company (hereinafter Insurance), and (2) a motion filed October 22, 1953 by Broadcasting that the Commission enlarge its subject hearing order by authorizing the Examiner to add the issue of the sufficiency of each applicant's available funds to effectuate its proposals;

It appearing, that, in its order of designation released October 2, 1953 the Commission designated the subject applications for hearing on the comparative issue only and

It further appearing, that (a) all of the outstanding stock of Broadcasting is held by insurance; (b) certain real and personal broadcast properties leased to Broadcasting are owned by Insurance; (c) the latter has agreed to advance to Broadcasting such sums of money as may be necessary to maintain and operate the leased property; (d) Insurance has agreed to lease Broadcasting additional real property with buildings, equipment, etc., thereafter to be erected or installed at Broadcasting's request; and (e) the total estimated cost of construction of the proposed television broadcast station in the amount of \$1,042,560 is in excess of the funds available to Broadcasting in the absence of financial assistance from Insurance; and

It further appearing, that Hartford contends that Insurance lacks statutory authority to make the investments indicated in the paragraph above in the following manner:

(a) Approval of the action taken by its Finance Committee at the meeting of August 4, 1953 on a certain lease with Broadcasting was not unanimous as required by section 6166, Chapter 295, General Statutes of Connecticut;

(b) The proposed agreements between Insurance and Broadcasting do not constitute loans or investments permitted under sections 6168, 6170 and 6171, Chapter 295, General Statutes of Connecticut and under the applicable statutes of the State of New York where Insurance is also qualified to do business; and

(c) The ownership, operation and control of a television broadcast station through the device of a wholly-owned subsidiary is ultra vires and void under the laws of the State of Connecticut; and

It further appearing, that Broadcasting has submitted an affidavit of the custodian of record for Insurance, showing that at the meeting of its Finance Committee held August 4, 1953 all of the Committee members were present and voted unanimously; and

It further appearing, that (1) Broadcasting contends that, as permitted by section 6171 of Chapter 295, General Statutes of Connecticut, the commitments made to Broadcasting by its parent company did not exceed 8 percent of the total admitted assets of Insurance and (2) Hartford has not controverted said contention; and

It further appearing, that Broadcasting was licensed to broadcast by radio in 1925; that said license, with the approval

of The Federal Radio Commission, was transferred to it in 1928 when it was wholly owned by Insurance; that since then its radio broadcast license has been renewed by the Commission regularly; and that Insurance has been examined periodically by representatives of the Insurance Commissioner of Connecticut, as required by section 6032 of its General Statutes, and that the legality of the insurance company's holding of stock in a company engaged in radio broadcasting has not been questioned; and

It further appearing, that (1) no facts have been submitted by Hartford which will support its allegations set forth above; (2) no judicial decisions have been cited substantiating the interpretation advanced by Hartford of sections 6166, 6168, 6170-71 of Chapter 295, General Statutes of Connecticut; (3) Hartford has not made any showing that the charter issued to Broadcasting by the Secretary of the State of Connecticut has been revoked; and (4) Article Three of the Certificate of Incorporation of Broadcasting, as amended January 20, 1953, specifically authorizes said corporation "to * * * maintain and operate anywhere in the United States of America * * * radio and television broadcast stations * * *"; and

It further appearing, that Hartford has raised no questions as to the financial qualifications of Insurance; and

It further appearing, upon careful consideration of the allegations of Hartford and the responses thereto by Broadcasting, that no substantial question has been raised regarding the legal and financial qualifications of Broadcasting and Insurance such as to warrant the inclusion in this proceeding of the issues requested by Hartford; and

It further appearing, that no objections have been raised by Hartford to a grant of the petition filed by Broadcasting; and

It further appearing, that subject petitions were timely filed under § 1.389 of the Commission's rules;

It is ordered, That the above described petition of Hartford is denied, and the above described petition of Broadcasting is granted insofar as it requests that the Hearing Examiner be given authority to enlarge the issues to permit inquiry into the adequacy of finances available to the applicants; and

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

Released: December 28, 1953.

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

[F. R. Doc. 54-121; Filed, Jan. 7, 1954;
8:51 a. m.]

[Docket Nos. 9321, 10825, 10826, 10827]

WKAT, INC., ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of WKAT, Inc., Miami Beach, Florida, Docket No. 9321, File No. BPCT-399; L. B. Wilson, Inc., Miami, Florida, Docket No. 10825, File No. BPCT-1645; North Dade Video, Inc., North Miami, Florida, Docket No. 10826, File No. BPCT-1685; Public Service Television, Inc., Miami, Florida, Docket No. 10827, File No. BPCT-1792; for construction permits for new television stations.

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

The Commission having under consideration the above-entitled applications, each requesting a construction permit for a new television broadcast station to operate on Channel 10 in Miami, Florida; and

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

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-named applicants were advised by letters of the fact that their applications were mutually exclusive, of the necessity for a hearing and of all objections to their applications; and were given an opportunity to reply; and

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

It is ordered, That pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-entitled applications are designated for hearing in a consolidated proceeding to commence at 10:00 a. m. on the 29th day of January 1954, in Washington, D. C., upon the following issue:

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

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

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

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

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner, on his own

motion or on petition properly filed by a party to the proceeding and upon sufficient allegations of fact in support thereof, of the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: January 5, 1954.

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

[F. R. Doc. 54-123; Filed, Jan. 7, 1954; 8:52 a. m.]

[Docket Nos. 10442, 10644]

VERSLUIS RADIO AND TELEVISION, INC.

ORDER SCHEDULING ORAL ARGUMENT

In re applications of Versluis Radio and Television, Inc. (New) Muskegon, Michigan, Docket No. 10442, File No. BPCT-1208; Versluis Radio and Television, Inc. (WTVM) Muskegon, Michigan, Docket No. 10644, File No. BMPCT-1140; for modification of construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 28th day of December 1953;

The Commission having under consideration the initial decision herein, the exceptions thereto, and the requests for oral argument;

It is ordered, That oral argument herein before the Commission en banc is scheduled for Monday, January 11, 1954, at 10:00 a. m. at the offices of the Commission in Washington, D. C.

Released: December 28, 1953.

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

[F. R. Doc. 54-124; Filed, Jan. 7, 1954; 8:52 a. m.]

[Docket Nos. 10512, 10513, 10514]

SCRIPPS-HOWARD RADIO, INC., ET AL.

ORDER AMENDING ISSUES

In re applications of Scripps-Howard Radio, Inc., Knoxville, Tennessee, Docket No. 10512, File No. BPCT-630; Radio Station WBIR, Inc., Knoxville, Tennessee, Docket No. 10513, File No. BPCT-686; Tennessee Television, Inc., Knoxville, Tennessee, Docket No. 10514, File No. BPCT-1002; for television construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 24th day of December 1953;

The Commission having under consideration a petition filed on December 4, 1953, by Scripps-Howard Radio, Inc., requesting that the November 13, 1953, order of the Commission, released November 16, 1953, denying Scripps-Howard Radio, Inc.'s request for enlargement of

the issues in the above-entitled proceeding be amended or modified to permit enlargement of the issues to determine whether funds available will be sufficient to effectuate the proposals of the applicants; the above-described order of the Commission; and an answer filed on December 14, 1953, by Radio Station WBIR, Inc., to subject petition;

It appearing, that the petitioner requests the Commission to amend or modify its November 13, 1953, order, released November 16, 1953, in the above-entitled proceeding, to permit the Examiner on his own motion or on petition by a party to the proceeding to enlarge the issue so as to determine whether funds available to the applicants will be sufficient to effectuate their proposals in accordance with the procedures outlined in the Commission's memorandum opinion and order in re South Central Broadcasting Co., 9 RR 1035; and

It further appearing, that subsequent to the Commission's ruling in the South Central Broadcasting case the above-described issue has been included in the orders of the Commission designating for hearing competing applications for television facilities; and

It further appearing, that Radio Station WBIR, Inc., was the only party to this proceeding that filed an answer to subject petition, and it stated that it had no objection to a grant of the petitioner's request;

It is ordered, That the petition is granted, and that the Commission's order of November 13, 1953, released November 16, 1953, denying petitioner's request for enlargement of the issues is amended to include the following:

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

Released: December 28, 1953.

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

[F. R. Doc. 54-125; Filed, Jan. 7, 1954; 8:52 a. m.]

[Docket Nos. 10737, 10738]

PETERSBURG TELEVISION CORP. AND SOUTHSIDE VIRGINIA TELECASTING CORP.

ORDER CONTINUING HEARING

In re applications of Petersburg Television Corporation, Petersburg, Virginia, Docket No. 10737, File No. BPCT-1772; Southside Virginia Telecasting Corp., Petersburg, Virginia, Docket No. 10738, File No. BPCT-1773; for construction permits for new television stations.

Pursuant to the oral request of counsel for the Chief of the Broadcast Bureau,

concluded in by counsel for all applicants herein:

It is ordered, This 4th day of January 1954, that the time for the designation and exchange of points of reliance between applicants be extended from January 8, 1954, to January 11, 1954, and that the hearing scheduled for January 11, 1954, is continued to 10:00 a. m., January 14, 1954.

FEDERAL COMMUNICATIONS
COMMISSION,

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

[F. R. Doc. 54-126; Filed, Jan. 7, 1954;
8:52 a. m.]

[Docket No. 10739]

CARBON EMERY BROADCASTING CO.

ORDER SCHEDULING HEARING

In re application of George G. Platis and Robert E. Hawley, d/b as Carbon Emery Broadcasting Company, Price, Utah, Docket No. 10739, File No. BP-8797 for construction permit.

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

The Commission having under consideration the above-entitled application which was designated for hearing on October 28, 1953; and

It appearing, that no date was previously scheduled by the Commission in the above-entitled proceeding:

It is ordered, That the hearing in the above-entitled proceeding is scheduled to be heard on Friday, January 29, 1954, at 10:00 a. m., in Washington, D. C.

Released: January 5, 1954.

FEDERAL COMMUNICATIONS
COMMISSION,

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

[F. R. Doc. 54-127; Filed, Jan. 7, 1954;
8:52 a. m.]

[Docket Nos. 10767, 10768, 10769, 10770]

TELEPHONE ANSWERING SERVICE ET AL.

ORDER AMENDING ORDER

In re applications of Mrs. Pearl Forster, d/b as Telephone Answering Service, Dallas, Texas, Docket No. 10767, File No. 180-C2-P-53; Radio Paging, Dallas, Texas, Docket No. 10768, File No. 363-C2-P-53; George A. Smith, Dallas, Texas, Docket No. 10769, File No. 607-C2-P-53; O. B. English, d/b as Radio Communications Co., Fort Worth, Texas, Docket No. 10770, File No. 927-C2-P-53; construction permits for one-way signaling base station in the Domestic Public Land Mobile Radio Service.

It is ordered, This 4th day of January 1954, that the words "and to take such action as is prescribed in § 1.841 of the rules" appearing in the second paragraph of an order dated December 21,

1953 (Mimeo. #99770) be and they hereby are deleted therefrom.

FEDERAL COMMUNICATIONS
COMMISSION,

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

[F. R. Doc. 54-128; Filed, Jan. 7, 1954;
8:52 a. m.]

[Docket Nos. 10773, 10775]

SEATTLE RADIOTELEPHONE SERVICE AND
RADIO SIGNAL SERVICE

ORDER CONTINUING PRE-HEARING
CONFERENCE AND HEARING

In re applications of Lewis Maxwell Kelley and R. E. Rogers, d/b as Seattle Radio Telephone Service, Seattle, Washington, Docket No. 10773, File No. 351-C2-P-53; Radio Dispatch, Inc., d/b as Radiosignal Service, Seattle, Washington, Docket No. 10775, File No. 421-C2-P-53; construction permits for one-way signaling base stations in the Domestic Public Land Mobile Radio Service.

It appearing that joint petition to remove their applications from the Hearing Docket and grant the pending applications has been filed by Seattle Radio Telephone Service and Radiosignal Service, the applicants above-named, which petition is now pending before the Commission; and

It appearing that the granting of said petition would render moot the issues now pending.

It is ordered, This 4th day of January 1954, that the pre-hearing conference scheduled for January 6, 1954, and the hearing scheduled for January 18, 1954, be and they hereby are continued without date.

FEDERAL COMMUNICATIONS
COMMISSION,

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

[F. R. Doc. 54-129; Filed, Jan. 7, 1954;
8:53 a. m.]

[Docket Nos. 10818, 10819]

RAY HERBERT GUNCKEL, JR., AND
B. F. J. TIMM

ORDER DESIGNATING APPLICATIONS FOR
CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Ray Herbert Gunckel, Jr. (new) Jacksonville, Florida, Docket No. 10818, File No. BP-8796, B. F. J. Timm (new) Jacksonville, Florida, Docket No. 10819, File No. BP-8859; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of December 1953;

The Commission having under consideration the above-entitled applications for construction permit each for a new standard broadcast station to operate on 1280 kilocycles, with a power of 1,000 watts, daytime only, at Jacksonville, Florida, and

It appearing, that Ray Herbert Gunckel, Jr., is legally, technically, finan-

cially and otherwise qualified; that B. F. J. Timm is legally, technically, financially and otherwise qualified except with respect to the matters discussed herein; that no interference would be caused by either proposal to any existing or proposed station, but that the operation of both stations as proposed would result in mutually prohibitive interference with each other and therefore it is necessary to designate the two applications for comparative hearing; and

It further appearing, that on June 10, 1953 Ray Herbert Gunckel, Jr., filed a petition requesting the dismissal of the Timm application or, in the alternative, a conditional grant of the Gunckel application in accordance with the provisions of § 1.385 (e) of the Commission's rules, which petition was based primarily on Gunckel's allegation that the Timm application had been filed to delay action on Gunckel's application to the economic advantage of E. D. Rivers, Sr., in his operation of Station WOBS, Jacksonville, Florida, by whom Gunckel was formerly employed and with whom Timm was associated in the ownership and operation of other radio stations; and

It further appearing, that on June 25, 1953, B. F. J. Timm filed an answer to the above petition in which he stated that he had severed all business relationships with E. D. Rivers, Sr., that the Timm application was not filed to delay action on the Gunckel application and that Timm is seriously prosecuting his application on his own behalf; and

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the applicants were advised by letters dated October 7, 1953 that the above-entitled applications are mutually exclusive, that in the Commission's opinion Gunckel's petition of June 10, 1953 could not be granted because the uncontested facts were insufficient to support a finding that the Timm application was not filed in good faith; and

It further appearing, that Ray Herbert Gunckel, Jr., filed a reply on November 5, 1953 in which he reiterated the allegations he made against B. F. J. Timm in previous pleadings; and

It further appearing, that B. F. J. Timm filed a reply on November 5, 1953 in which he expressed his readiness for a hearing on the above applications; and

It further appearing, that upon due consideration of the above-entitled applications the various pleadings filed with respect thereto, and the replies to the above letters, the Commission finds that under section 309(b) of the Communications Act of 1934, as amended, a hearing is mandatory.

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

1. To determine whether the application of B. F. J. Timm was filed for the purpose of impeding, obstructing, or delaying Commission action on the appli-

cation of Ray Herbert Gunckel, Jr. (BP-8796) including a determination of the facts and circumstances surrounding the B. F. J. Timm-E. D. Rivers, Sr. 1953 stock transfers in Stations WGAA, Cedar-town, Georgia, and WLBS, Birmingham, Alabama.

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

(a) The background and experience of each of the above-named applicants to own and operate the proposed stations.

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

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

Released: December 29, 1953.

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

[F. R. Doc. 54-130; Filed, Jan. 7, 1954;
8:53 a. m.]

[Docket No. 10820]

ESTHERVILLE BROADCASTING CORP.

ORDER DESIGNATING APPLICATION FOR
HEARING ON STATED ISSUES

In re application of Estherville Broadcasting Corporation, Estherville, Iowa, File No. BP-8828, Docket No. 10820; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of December 1953:

The Commission having under consideration the above-entitled application for a construction permit to increase the power of Station KLIL, Estherville, Iowa, from 100 watts to 250 watts, unlimited time, on 1340 kilocycles; and

It appearing, that the applicant is legally, financially, technically and otherwise qualified, but that the proposed operation would cause interference to Stations KFGT, Fremont, Nebraska; KWLM, Willmar, Minnesota; KROC, Rochester, Minnesota; and KIJV, Huron, South Dakota; and receive interference from Stations KWLM, KROC and KIJV and

It further appearing, that in a letter dated May 19, 1953, the Southern Minnesota Broadcasting Company, licensee of Station KROC, requested that the subject application be designated for hearing; and

It further appearing, that, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicant was advised by letter dated November 4, 1953, of the aforementioned deficiencies and that the Commission was unable to conclude that a grant of

the application would be in the public interest; and

It further appearing, that the licensees of Stations KFGT and KWLM requested in letters dated November 18 and December 3, 1953, respectively, that the subject application be designated for hearing, at which they would appear; and

It further appearing, that the applicant, in a letter dated November 27, 1953, requested that its application be designated for hearing at the earliest possible date; and

It further appearing, that the Commission is still unable to conclude that a grant of the subject application would be in the public interest;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said 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, and the availability of other primary service to such areas and populations.

2. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

3. To determine whether the proposed operation would involve objectionable interference to and from Stations KFGT, Fremont, Nebraska; KWLM, Willmar, Minnesota; KROC, Rochester, Minnesota; and KIJV, Huron, South Dakota; and if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations, and the nature and character of the program service now being rendered to such areas and populations by Stations KFGT, KWLM, KROC and KIJV respectively.

It is further ordered, That the Southern Minnesota Broadcasting Company, licensee of Station KROC, Rochester, Minnesota; Walker Radio, Incorporated, licensee of Station KFGT, Fremont, Nebraska; Lakeland Broadcasting Company, licensee of Station KWLM, Willmar, Minnesota; James Valley Broadcasting Company, licensee of Station KIJV Huron, South Dakota are made parties to this proceeding.

Released: December 29, 1953.

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

[F. R. Doc. 54-122; Filed, Jan. 7, 1954;
8:51 a. m.]

[Docket Nos. 10828, 10829]

PALM BEACH BROADCASTING CORP. AND
WEAT-TV, Inc.

ORDER DESIGNATING APPLICATIONS FOR
CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Palm Beach Broadcasting Corporation, West Palm

Beach, Florida, Docket No. 10828, File No. BPCT-1237; WEAT-TV, Inc., West Palm Beach, Florida, Docket No. 10829, File No. BFCT-1803; for construction permits for new television stations.

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

The Commission having under consideration the above-entitled applications, each requesting a construction permit for a new television broadcast station to operate on Channel 12 in West Palm Beach, Florida; and

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

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-named applicants were advised by letters of the fact that their applications were mutually exclusive, of the necessity for a hearing and of all objections to their applications; and were given an opportunity to reply; and

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

It is ordered, That pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-entitled applications are designated for hearing in a consolidated proceeding to commence at 10:00 a. m. on the 29th day of January 1954 in Washington, D. C., upon the following issue:

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

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

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

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

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

forth in the application will be effectuated.

Released: January 5, 1954.

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

[F. R. Doc. 54-131; Filed, Jan. 7, 1954;
8:53 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-2229]

NORTHWEST ALABAMA GAS DISTRICT
ORDER REOPENING PROCEEDINGS AND FIXING
DATE OF HEARING

Northwest Alabama Gas District (Northwest Alabama) a public corporation organized and existing under the laws of the State of Alabama, with its principal place of business in Hamilton, Alabama, on August 14, 1953, filed an application pursuant to section 7 (a) of the Natural Gas Act for an order directing Southern Natural Gas Company (Southern Natural) to establish physical connection of its transmission facilities with the facilities proposed to be constructed by Applicant for sale and delivery of natural gas for distribution in the communities of Guin, Hackleburg, Haleyville, Hamilton, Sulligent, Winfield, Bear Creek, and Boston, all in Alabama. Applicant also proposes to provide natural gas service to the City of Fayette, Alabama (Fayette), which has filed an application in Docket No. G-2188, pursuant to section 7 (a) of the Natural Gas Act for an order directing Southern Natural to serve it.

By order of the Commission issued on November 13, 1953, Fayette was permitted to intervene in Docket No. G-2229.

Pursuant to the order of the Commission issued on October 27, 1953, consolidated hearings in Docket No. G-2229 and related dockets were commenced on November 16, 1953, and concluded on November 18, 1953. By order of the Commission issued on December 4, 1953, the intermediate decision procedure was omitted and the matter is now before us for disposition. On December 23, 1953, Northwest Alabama filed a petition to reopen the proceedings in Docket No. G-2229 for the purpose of taking additional evidence and otherwise correcting deficiencies with respect to the following:

(1) Whether or not there is a firm agreement between Northwest Alabama and Fayette concerning joint construction, operation and maintenance of facilities from Southern Natural's facilities to the Fayette city gate.

(2) Whether the City of Fayette has or has not adopted or accepted evidence of Northwest Alabama in regard to the feasibility of the Fayette project assuming joint construction of facilities proposed by Northwest Alabama.

(3) Whether or not Fayette relies upon the record in Docket No. G-2229 for an allocation of gas to it.

(4) Whether or not the lateral from Guin to Hamilton is of adequate size to carry the estimated load requirements.

The Commission finds: The proceeding in Docket No. G-2229 should be reopened for the sole purpose of affording to Northwest Alabama and Fayette the opportunity to present further evidence with respect to the matters set forth in paragraphs (1) through (4) above.

The Commission orders:

(A) The proceeding in Docket No. G-2229 be, and the same hereby is, reopened for the sole purpose of affording to Northwest Alabama and Fayette the opportunity to present further evidence with respect to the matters set forth in paragraphs (1) through (4) above.

(B) Pursuant to the authority contained in and by virtue of 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 public hearing be held on Docket No. G-2229, commencing on January 18, 1954, at 10:00 a. m., e. s. t., in the Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues set forth in paragraphs (1) through (4) above.

Adopted: December 29, 1953.

Issued: January 4, 1954.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-100; Filed, Jan. 7, 1954;
8:46 a. m.]

[Docket No. G-2317]

EL PASO NATURAL GAS CO.

ORDER FIXING DATE OF HEARING

On November 18, 1953, El Paso Natural Gas Company (Applicant), a Delaware corporation having its principal office in El Paso, Texas, filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of certain natural gas facilities subject to the jurisdiction of the Commission, as described in the application on file with the Commission and open to public inspection.

The Commission finds: This proceeding is a proper one for disposition under the provisions of § 1.32 (b) (18 CFR 1.32 (b)) of the Commission's rules of practice and procedure, Applicant having requested that its application be heard under the shortened procedure provided by the aforesaid rule for non-contested proceedings: *Provided*, That no request to be heard, protest or petition is filed subsequent to the giving of due notice of the filing of the application, including publication in the FEDERAL REGISTER on December 24, 1953 (18 F. R. 8707).

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7, 15, and 16 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on January 20, 1954, at 9:30 a. m., e. s. t., in the Hearing Room of the

Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by the application: *Provided, however* That the Commission may, after a noncontested hearing, forthwith dispose of the proceeding pursuant to the provisions of § 1.32 (b) of the Commission's rules of practice and procedure.

(B) Interested State Commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of said rules of practice and procedure.

Adopted: December 30, 1953.

Issued: January 4, 1954.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-98; Filed, Jan. 7, 1954;
8:46 a. m.]

[Docket No. G-2335]

OLIN INTERSTATE CORP.

ORDER FIXING DATE OF HEARING

On December 14, 1953, Olin Interstate Corporation (Applicant), a Delaware corporation with executive offices at 570 Lexington Avenue, New York, New York, filed an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing the acquisition and operation of all of the facilities of Interstate Natural Gas Company, Incorporated (Interstate Natural), a Delaware corporation with its principal office in Monroe, Louisiana. Applicant, which is a wholly owned subsidiary of Olin Industries, Inc., proposes to acquire the facilities and properties of Interstate Natural by a corporate merger, with Applicant being the corporation surviving the merger and with its name being changed to "Olin Gas Transmission Corporation."

Applicant has requested that its application be heard under the shortened procedure provided for in § 1.32 (b) of the Commission's rules of practice and procedure (18 CFR 1.32 (b)). Due notice of the filing of the application has been given, including publication in the FEDERAL REGISTER on December 23, 1953 (18 F. R. 8664).

The Commission finds:

(1) This proceeding, in the circumstances, is not a proper one for disposition under the provisions of the aforesaid § 1.32 (b) of its rules of practice and procedure.

(2) It is appropriate, reasonable, and in the public interest in carrying out the provisions of the Natural Gas Act, and good cause exists, to hold a public hearing in the above-entitled proceeding, as hereinafter provided and ordered.

The Commission orders:

(A) Pursuant to authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7, 15, and 16 of the Natural Gas Act, and the Commission's general rules and regulations, including rules of practice and procedure (18 CFR, Chapter I), a public hearing be held, commencing on January 19, 1954, at

10:00 a. m., e. s. t., in the Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by the application herein.

(B) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f))

Adopted: December 30, 1953.

Issued: January 4, 1954.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-99; Filed, Jan. 7, 1954;
8:46 a. m.]

[Docket No. G-2337]

NEWBERN, TENNESSEE

NOTICE OF APPLICATION

JANUARY 4, 1954.

Take notice that the Town of Newbern (Applicant) a body politic and corporate and an existing municipality of the State of Tennessee, filed on December 17, 1953, an application pursuant to section 7 (a) of the Natural Gas Act for an order directing Trunkline Gas Company (Trunkline) to establish physical connection of its transportation facilities with the facilities of Applicant's proposed Natural gas distribution system, and to sell natural gas to Applicant for local distribution to the citizens of Newbern, Tennessee, and its environs.

Applicant proposes to interconnect its facilities with those of Trunkline at a proper place near Applicant's corporate limits.

The estimated maximum daily demand stated by Applicant is less than 2,000 Mcf during the first five-year period.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 22d day of January 1954. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-97; Filed, Jan. 7, 1954;
8:45 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 28797]

SUGAR BETWEEN POINTS IN OFFICIAL
TERRITORY

APPLICATION FOR RELIEF

JANUARY 5, 1954.

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

No. 5—4

Filed by: C. W. Boin and I. N. Doe, Agents, for carriers parties to schedules listed below.

Commodities involved: Sugar, in carloads.

From: North Atlantic ports and points taking the same rates, to destinations in central, Illinois and Northwest territories, also between points in trunkline and New England territories.

Grounds for relief: Competition with rail carriers, circuitous routes, and to maintain grouping.

Schedules filed containing proposed rates: C. W. Boin, Agent, I. C. C. No. A-848, supp. 305; C. W. Boin, Agent, I. C. C. No. A-874, supp. 28; I. N. Doe, Agent, I. C. C. No. 573, supp. 18; I. N. Doe, Agent, I. C. C. No. 593, supp. 136; Baltimore and Ohio Railroad Company, I. C. C. No. 24078, supp. 6; Boston and Maine Railroad, I. C. C. No. A-3180, supp. 77; New York Central Railroad Company, I. C. C. No. 1171, supp. 113; Pennsylvania Railroad Company, I. C. C. No. 3303, supp. 3.

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

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-104; Filed, Jan. 7, 1954;
8:47 a. m.]

[4th Sec. Application 25798]

DEAD BURNED MAGNESITE FROM CURTIS
BAY, MD. AND CAPE MAY, N. J., TO POINTS
IN OFFICIAL AND ILLINOIS TERRITORIES

APPLICATION FOR RELIEF

JANUARY 5, 1954.

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

Filed by: C. W. Boin and I. N. Doe, Agents, for carriers parties to schedules listed below.

Commodities involved: Dead burned magnesite, in carloads.

From: Curtis Bay, Md., and Cape May, N. J.

To: Specified destinations in official and Illinois territories.

Grounds for relief: Rail competition, circuitry, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: Baltimore and Ohio Railroad Company, I. C. C. No. 23966, supp. 47; Baltimore and Ohio Railroad Company, I. C. C. No. 24097, supp. 10; Pennsylvania Railroad Company, I. C. C. No. 3121, supp. 93; Pennsylvania Railroad Company, I. C. C. No. 3289, supp. 33; Pennsylvania Railroad Company, I. C. C. No. 3304, supp. 13; Reading Company, I. C. C. No. 2346, supp. 13; C. W. Boin, Agent, I. C. C. No. A-941, supp. 82.

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

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-105; Filed, Jan. 7, 1954;
8:47 a. m.]

[4th Sec. Application 23793]

PULPBOARD AND FIBERBOARD FROM PRYOR,
OKLA., TO GRAND RAPIDS, MICH.

APPLICATION FOR RELIEF

JANUARY 5, 1954.

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

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

Commodities involved: Pulpboard and fiberboard, in carloads.

From: Pryor, Okla.

To: Grand Rapids, Mich.

Grounds for relief: Rail competition, circuitry, market competition, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 4075, supp. 5.

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

an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-106; Filed, Jan. 7, 1954;
8:47 a. m.]

[4th Sec. Application 28800]

ALCOHOL AND RELATED ARTICLES FROM
LOUISIANA TO PENNSYLVANIA, RHODE
ISLAND, NEW JERSEY AND CONNECTICUT
APPLICATION FOR RELIEF

JANUARY 5, 1954.

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

Filed by: F. C. Kratzmeier, Agent, for and on behalf of carriers parties to Agent W. P. Emerson, Jr.'s tariff I. C. C. No. 400, pursuant to fourth-section order No. 16101.

Commodities involved: Alcohol and related articles, in carloads.

From: Baton Rouge, North Baton Rouge, Chalmette, and New Orleans, La., and points in Louisiana taking New Orleans rates.

To: Emmaus, Pa., Greenbush, Mass., Natrona, Pa., Newport, R. I., Riverton, N. J., and Westbury, Conn.

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

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

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-107; Filed, Jan. 7, 1954;
8:47 a. m.]

[4th Sec. Application 28801]

MAHOGANY AND PHILIPPINE WOODS FROM
HALLSBORO, N. C., TO POINTS IN OFFICIAL
TERRITORY

APPLICATIONS FOR RELIEF

JANUARY 5, 1954.

The Commission is in receipt of the above-entitled and numbered applica-

tion for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedules listed below.

Commodities involved: Lumber, logs, or fitches, of mahogany and Philippine woods, built-up woods, and veneer, carloads.

From: Hallsboro, N. C.

To: Points in official territory.

Grounds for relief: Rail competition, circuitry, to maintain grouping and additional origin.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1214, supp. 85; C. A. Spaninger, Agent, I. C. C. No. 1238, supp. 39; C. A. Spaninger, Agent, I. C. C. No. 1230, supp. 43.

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

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-108; Filed, Jan. 7, 1954;
8:48 a. m.]

[4th Sec. Application 28802]

COMMODITY RATES BETWEEN MAXINE, ALA.,
AND POINTS IN THE UNITED STATES AND
CANADA

APPLICATION FOR RELIEF

JANUARY 5, 1954.

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

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of the Louisville and Nashville Railroad Company and other carriers parties to the uniform freight classification.

Commodities involved: Commodity rates on articles other than coal and coke.

Between: Maxine, Ala., on the one hand, and points in the United States and Canada on the other.

Grounds for relief: Rail competition, circuitry and new station.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission

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

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-109; Filed, Jan. 7, 1954;
8:48 a. m.]

[4th Sec. Application No. 28803]

LIMESTONE FROM LOUISVILLE AND WEEP-
ING WATER, NEBR., TO POINTS IN SOUTH-
ERN TERRITORY

APPLICATION FOR RELIEF

JANUARY 5, 1954.

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

Filed by: W. J. Prueter, Agent, for carriers parties to schedule listed below.

Commodities involved: Limestone, ground, in closed cars, carloads.

From: Louisville and Weeping Water, Nebr.

To: Miami and Tampa, Fla., Murray, Ky., Goldsboro, N. C., Columbia, Lebahoh, Murfreesboro, Nashville, and Shelbyville, Tenn., and Henry, Va.

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

Schedules filed containing proposed rates: W. J. Prueter, Agent, I. C. C. No. A-3973, supp. 26.

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

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-110; Filed, Jan. 7, 1954;
8:48 a. m.]

[4th Sec. Application 28804]

CAUSTIC SODA FROM PERKINS, W VA., TO
POINTS IN TENNESSEE AND VIRGINIA

APPLICATION FOR RELIEF

JANUARY 5, 1954.

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

Filed by H. R. Hinsch, Alternate Agent, for carriers parties to his tariff I. C. C. No. 4510.

Commodities involved: Sodium (soda) caustic (sodium hydroxide), in solution, in tank-car loads.

From: Perkins, W Va.

To: Kingsport and Holston, Tenn., and Miller Yard and Speers Ferry, Va.

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

Schedules filed containing proposed rates: H. R. Hinsch, Alternate Agent, I. C. C. No. 4510, supp. 36.

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

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-111; Filed, Jan. 7, 1954;
8:48 a. m.]

[4th Sec. Application 28305]

PLASTIC HOSE FROM BUCYRUS, OHIO, AND
WILMINGTON, DEL., TO SOUTHERN TER-
RITORY

APPLICATION FOR RELIEF

JANUARY 5, 1954.

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

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

Commodities involved: Plastic hose, in straight or mixed carloads, or in mixed carloads with rubber hose.

From: Bucyrus, Ohio and Wilmington, Del.

To: Destinations in southern territory.

Grounds for relief: Rail competition, circuitry, competition with motor carriers, and additional commodity.

Schedules filed containing proposed rates: H. R. Hinsch, Alternate Agent, I. C. C. No. 4510, supp. 36; C. W. Boin, Agent, I. C. C. No. A-968, supp. 24.

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

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-112; Filed, Jan. 7, 1954;
8:48 a. m.]

[4th Sec. Application 23306]

AGRICULTURAL IMPLEMENTS FROM HUM-
BOLDT, IOWA TO WESTERN TERRITORY

APPLICATION FOR RELIEF

JANUARY 5, 1954.

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

Filed by W. J. Pruefer, Agent, for carriers parties to schedule listed below.

Commodities involved: Agricultural implements and parts, and related articles, carloads.

From: Humboldt, Iowa.

To: Destinations in Colorado, Idaho, Montana, New Mexico, Oregon, and Utah.

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

Schedules filed containing proposed rates: W. J. Pruefer, Agent, I. C. C. No. A-3560, supp. 231.

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

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

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