

THE NATIONAL ARCHIVES
LITTEA SCRIPTA MANET
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 22

NUMBER 24

Washington, Tuesday, February 5, 1957

TITLE 7—AGRICULTURE

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

PART 62—INTERNATIONAL COTTON CALIBRATION STANDARDS PROGRAM

Pursuant to authority contained in the Agricultural Marketing Act of 1946, as amended (60 Stat. 1087, as amended; 7 U. S. C. 1621 et seq.), the regulations enumerated below are hereby promulgated to be effective upon publication in the FEDERAL REGISTER.

The purpose of these regulations is to explain briefly the organization and purpose of the International Cotton Calibration Standards Program and to set forth the availability and purchase prices of calibration cottons prepared pursuant to the program.

The regulations are as follows:

- Sec.
62.1 Organization of program.
62.2 Objectives of program.
62.3 Calibration cottons; availability; costs.

AUTHORITY: §§ 62.1 to 62.3 issued under sec. 205, 60 Stat. 1090; 7 U. S. C. 1624.

§ 62.1 *Organization of program.* The International Cotton Calibration Standards Program is conducted under the auspices of the American Society for Testing Materials and sponsored by the following organizations: American Cotton Manufacturers' Institute, American Cotton Shippers' Association, International Federation of Cotton and Allied Textile Industries, National Cotton Council of America, and United States Department of Agriculture.

§ 62.2 *Objectives of program.* The program has for its principal objective the providing of the mechanism by means of which any laboratory doing cotton fiber testing may calibrate its instruments or otherwise adjust its level of test results to a standard level, thereby facilitating the use of more precise methods for evaluating quality in connection with domestic as well as international trade in cotton. A secondary objective is to provide data as a basis for establishing practical tolerances for routine test results.

§ 62.3 *Calibration cottons; availability; costs.* (a) International Standard Calibration Cottons with standard test results for fiber strength by the Pressley flat-bundle method at zero gauge and for fiber fineness and maturity in combination by the Micronaire method, as determined in accordance with standard procedures of the American Society for Testing Materials by laboratories designated by the sponsoring organizations of the International Cotton Calibration Standards Program, are available as follows: Calibration Cotton A—weak and coarse fiber; Calibration Cotton B—average fiber strength and fineness; and Calibration Cotton C—strong and fine fiber.

(b) The cost of Calibration Cotton A, Calibration Cotton B, or Calibration Cotton C shall be as follows: \$5.00 per one-half pound sample, delivered by surface transportation, for shipments within or outside the United States; or \$5.50 per one-half pound sample, delivered by air parcel post, for shipments within the United States; or \$6.00 per one-half pound sample, delivered by air parcel post, for shipments outside the United States. A check sample of ginned cotton lint with no value indicated will be furnished with each order for calibration cotton. Detailed instructions for the use of these calibration cottons and check samples will be furnished with each order filled.

(c) Each order for International Standard Calibration Cottons should be addressed to the Cotton Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., and should be accompanied by a check, draft, or money order payable to "Agricultural Marketing Service, USDA," in an amount to cover the cost of the cottons requested.

These regulations briefly explain the International Cotton Calibration Standards Program and the calibration cottons available under this program. The regulations require no preparation on the part of any members of the public. Therefore, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) it is found upon good cause that notice of rule making and other public procedure are impracticable, unnecessary, and contrary to the public interest,

(Continued on p. 717)

CONTENTS

Agricultural Marketing Service	Page
Proposed rule making:	
Butter, cheese and other manufactured or processed dairy products; grading, inspection, sampling, grade labeling and supervision of packaging.....	725
Cotton classification under cotton futures legislation; miscellaneous amendments.....	721
Rules and regulations:	
International Cotton Calibration Standards Program; program for standard calibration cottons.....	715
Agricultural Research Service	
Rules and regulations:	
Khapra beetle; administrative instructions designating premises as regulated areas..	717
Agriculture Department	
See Agricultural Marketing Service; Agricultural Research Service.	
Civil Aeronautics Administration	
Rules and regulations:	
Restricted areas.....	713
Technical standard orders for aircraft materials, parts, and appliances; propeller feathering hose assemblies.....	717
Commerce Department	
See also Civil Aeronautics Administration; Federal Maritime Board; Foreign Commerce Bureau; National Bureau of Standards.	
Notices:	
Merchant Partners (Home & Overseas) Ltd., et al.; Appeals Board decision.....	727
Committee for Reciprocity Information	
Notices:	
Negotiations resulting from Canadian desire to renegotiate tariff concession on potatoes in General Agreement on Tariffs and Trade; submission of information	734
Customs Bureau	
Rules and regulations:	
Disposition of unclaimed and abandoned merchandise.....	719



Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 38), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C. The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1.50 per month or \$15.00 per year, payable in advance. The charge for individual copies (minimum 15 cents) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended August 5, 1953. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements vary.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER, or the CODE OF FEDERAL REGULATIONS.

GENERAL INDEX TO CODE OF FEDERAL REGULATIONS

Revised as of January 1, 1956
(\$4.75)

Order from Superintendent of Documents,
Government Printing Office, Washington
25, D. C.

CONTENTS—Continued

Customs Bureau—Continued	Page
Rules and regulations—Con.	
Transportation in bond and merchandise in transit	719
Defense Department	
See Navy Department.	
Federal Communications Commission	
Notices:	
Hearings, etc.:	
Beloit Broadcasters, Inc. (WBEL)	731
Kaiser Hawaiian Village Television, Inc.	729
Las Vegas Broadcasters, Inc. (KLAS) and Palm Springs Broadcasting Corp. (KCMJ)	728

CONTENTS—Continued

Federal Communications Commission—Continued	Page
Notices—Continued	
Hearings, etc.—Continued	
Northwest Broadcasters, Inc., and Rev. Haldane James Duff	731
Q Broadcasting Co.	732
Willis, J. E., and Crawfordsville Broadcasters, Inc.	728
Rules and regulations:	
Aviation services; miscellaneous amendments	721
Federal Maritime Board	
Notices:	
Matson Navigation Co. et al.; agreements filed with Board for approval	726
Foreign Commerce Bureau	
Notices:	
Compania Comercial Colon, S. A.; order revoking export licenses and denying export privileges	725
Interior Department	
See also National Park Service; Land Management Bureau.	
Notices:	
Simon, William; report of appointment and statement of financial interests	728
Internal Revenue Service	
Proposed rules and regulations:	
Warehousing distilled spirits; consolidation of packaged spirits	721
Interstate Commerce Commission	
Notices:	
Safeway Truck Lines, Inc.; commodity rates	735
Labor Department	
See Wage and Hour Division.	
Land Management Bureau	
Notices:	
Florida; filing of plats of survey	727
National Bureau of Standards	
Rules and regulations:	
Test fee schedules; heat and power	718
National Park Service	
Rules and regulations:	
General rules and regulations; mountain climbing	720
Hot Springs National Park bathhouse regulations	721
Navy Department	
Rules and regulations:	
Disposition of cases involving physical disability; action on medical reports of periodic physical examinations of parties on temporary disability retired list	719
Panama Canal	
Rules and regulations:	
Operation and navigation of Panama Canal and adjacent waters; merchant ship anchorages, Pacific entrance	720

CONTENTS—Continued

Securities and Exchange Commission	Page
Notices:	
West Penn Electric Co. and Potomac Edison Co.; notice of proposed issue and sale of additional common stock by parent company pursuant to underwritten rights offering, and proposed charter amendment and issue and sale of additional common stock by subsidiary to parent company	734
Selective Service System	
Rules and regulations:	
Determination of availability of members of standby reserve of armed forces for order to active duty; reconsideration and appeal of determination of availability	720
Small Business Administration	
Notices:	
Oklahoma; declaration of disaster area	735
Treasury Department	
See Customs Bureau; Internal Revenue Service.	
Wage and Hour Division	
Rules and regulations:	
Tobacco industry in Puerto Rico	719

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

Title 7	Page
Chapter I:	
Part 27 (proposed)	724
Part 58 (proposed)	725
Part 62	715
Chapter III:	
Part 301	717
Title 14	
Chapter II:	
Part 514	717
Part 608	718
Title 15	
Chapter II:	
Part 203	718
Title 19	
Chapter I:	
Part 18	719
Part 20	719
Title 26 (1954)	
Chapter I:	
Part 225 (proposed)	721
Title 29	
Chapter V:	
Part 657	719
Title 32	
Chapter VI:	
Part 725	719
Chapter XVI:	
Part 1690	720
Title 35	
Chapter I:	
Part 4	720

CODIFICATION GUIDE—Con.

Title 36	Page
Chapter I:	
Part 1.....	720
Part 21.....	721
Title 47	
Chapter I:	
Part 9.....	721

and good cause is found for making these regulations effective upon publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 30th day of January 1957.

[SEAL] **ROY W. LENNARTSON,**
Deputy Administrator,
Agricultural Marketing Service.

[F. R. Doc. 57-820; Filed, Feb. 4, 1957; 8:46 a. m.]

Chapter III—Agricultural Research Service, Department of Agriculture

[P. P. C. 612, Fourth Rev., Supp. 3]

PART 301—DOMESTIC QUARANTINE NOTICES SUBPART—KHAPRA BEETLE

ADMINISTRATIVE INSTRUCTIONS DESIGNATING PREMISES AS REGULATED AREAS

Pursuant to § 301.76-2 of the regulations supplemental to the Khapra Beetle Quarantine (7 CFR 301.76-2, 20 F. R. 1012) under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 161, 162), revised administrative instructions issued as 7 CFR 301.76-2a (21 F. R. 9199), effective November 27, 1956, as amended effective December 13, 1956 and January 18, 1957 (21 F. R. 9936, 22 F. R. 365), are hereby amended in the following respects:

a. The designation as regulated areas of the following premises, included in the list contained in paragraph (a) of such instructions, is hereby revoked, and the reference to such premises in the list is hereby deleted, it having been determined by the Chief of the Plant Pest Control Branch that adequate sanitation measures have been practiced for a sufficient length of time to eradicate the khapra beetle in and upon such premises:

ARIZONA

- C. H. Espy (town property), 1089 B Avenue, Yuma.
- International Market (Jimmy Ng), 106 Main Street, Somerton.
- Pablo Franco Ranch, 1764 Avenue B, Yuma.

CALIFORNIA

- Frank Augusta Ranch, Route 2, Box 25, Brawley.
- Ed Seigel property, located at Avenue 256, Sec. 19, T. 19 S., R. 27 E., M. D. B. & M. Mail address Box 772, Lindsay.

b. The following premises are added to the list, contained in paragraph (a) of such instructions, of warehouses, mills, and other premises in which infestations of the khapra beetle have been determined to exist. Such premises are thereby designated as regulated areas within the meaning of said quarantine and regulations:

ARIZONA

- Cornelius Livestock Company property, 5102 East Washington, Phoenix.
- Phoenix Indian School property, 4100 Rhoads Circle, Phoenix.
- Western Feed Mills property, Box 270, Mesa.

CALIFORNIA

- Newman Seed Company property, 202 East Main Street, El Centro.
- Southwest Flaxseed Association property, East Q and ¼ mile north of Road 22, Holtville. Mail address Imperial.
- Wheeler Farms property, Sec. 30, T. 32 S., R. 28 E., M. D. B. & M. Mail address Route 1, Box 860, Bakersfield.

c. The following premises are added to the list, contained in paragraph (b) of such instructions, of premises in which infestations of the khapra beetle have been determined to exist. The portion of the following premises in which live khapra beetles were found has received the approved fumigation treatment, but these premises must continue under frequent observation and inspection for a period of one year following fumigation before a determination can be made as to the adequacy of such treatment to eradicate the khapra beetle in and upon such premises. During this period regulated articles may be moved from the premises only in accordance with the regulations in this subpart.

CALIFORNIA

- Snyder's Termite Control property, 4428 Magnolia Avenue, Riverside.

This amendment shall become effective February 5, 1957.

This amendment revokes the designation as regulated areas of certain premises, it having been determined by the Chief of the Plant Pest Control Branch that adequate sanitation measures have been practiced for a sufficient length of time to eradicate the khapra beetle in and upon such premises. It also adds premises to the list of premises in which khapra beetle infestations have been determined to exist, and designates such premises as regulated areas under the khapra beetle quarantine and regulations.

As an informative item, the amendment also segregates certain regulated premises in California where the approved fumigation treatment has been applied to the portion of the premises in which live khapra beetles were found and which are consequently in a somewhat different category than untreated premises.

This amendment in part imposes restrictions supplementing khapra beetle quarantine regulations already effective. It also relieves restrictions insofar as it revokes the designation of presently regulated areas. It must be made effective promptly in order to carry out the purposes of the regulations and to permit the interstate movement, without restriction under the quarantine, of regulated products from the premises being removed from designation as regulated areas. 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 foregoing amendment are impracticable and con-

trary to the public interest, and good cause is found for making the effective date thereof less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 9, 37 Stat. 318; 7 U. S. C. 162. Interprets or applies sec. 8, 37 Stat. 318, as amended; 7 U. S. C. 161)

Done at Washington, D. C., this 31st day of January 1957.

[SEAL] **E. D. BURGESS,**
Chief, Plant Pest Control Branch.

[F. R. Doc. 57-824; Filed, Feb. 4, 1957; 8:47 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 6]

PART 514—TECHNICAL STANDARD ORDERS FOR AIRCRAFT MATERIALS, PARTS, PROCESSES, AND APPLIANCES

TSO-C42 PROPELLER FEATHERING HOSE ASSEMBLIES (RUBBER AND WIRE BRAID CONSTRUCTION)

Minimum performance standards for propeller feathering hose assemblies which are to be used in civil aircraft of the United States are defined in the new regulation § 514.40 (TSO-C42).

Section 514.40 appeared as a notice of proposed rule making in 21 F. R. 9431-9432 on December 1, 1956. All interested persons have been afforded an opportunity to submit written views, data, or argument. No comments were received.

Section 514.40 is added under Subpart B of this part to read as follows:

§ 514.40 *Propeller feathering hose assemblies (rubber and wire braid construction)—TSO-C42—(a) Applicability—(1) Minimum performance standards.* Minimum performance standards are hereby established for propeller feathering hose assemblies of the following types which are to be used in civil aircraft of the United States:

(i) Type 1 (pressure line) hose assemblies which are intended to be used in the line connecting the feathering pump outlet to the propeller governor.

(ii) Type 2 (supply line "fire-resistant") hose assemblies which are intended to be used in the line connecting the oil supply to the feathering pump where this entire line is located aft of the firewall.

(iii) Type 3 (supply line "fireproof") hose assemblies which are intended to be used in the line connecting the oil supply to the feathering pump where this line is located wholly or in part forward of the firewall.

New models of propeller feathering hose assemblies manufactured for use in civil aircraft on or after March 1, 1957, shall meet the "performance" section of Military Specification MIL-H-8795 (ASG) dated January 6, 1956,¹ or MIL-H-8790

¹ Copies of these specifications may be obtained by addressing a request to the Commanding General, Air Materiel Command, Wright-Patterson Air Force Base, Dayton, Ohio.

dated August 22, 1956,¹ with the following exception and shall also meet the appropriate fire test requirements listed below.

(2) *Exception.* The hydraulic impulse test requirements in MIL-H-8795 (ASG) and MIL-H-8790 need not be met for the purposes of this section.

(3) *Pressure line (type 1) hose assembly fire test—(i) Test setup and flame requirements.* (a) For the purpose of this test, a length of hose five times the outside diameter or longer shall be subjected to a flame of the size and temperature specified in (d) and (e) of this subdivision while the hose is in a horizontal position. The entire end fitting shall also be subjected to this flame.

(b) The hose assembly shall be installed horizontally in the test setup in such a manner that it includes at least one full 90° bend so that the pressure existing inside the hose will exert an axial force on the end fitting equal to the inside area of the hose multiplied by the internal pressure.

(c) During the test the end fitting which is subjected to flame shall be vibrated at the rate of 2,000 cycles per minute through a total amplitude of not less than 1/8 inch, i. e., a displacement of 1/16 inch on each side of the neutral position.

(d) The flame temperature shall be 2,000° F., plus or minus 50° F. as measured within 1/4 inch of the surface of the hose and end fitting at the point nearest the flame. Suitable shielded thermocouples or equivalent temperature measuring devices shall be used for measuring the flame temperature. A sufficient number of these shall be used to assure that the specified temperature exists at least along the entire end fitting and along the hose for a distance of not less than three times its outside diameter.

(e) The flame diameter shall not be less than three times the maximum diameter of the hose or three times the maximum diameter of the end fitting (whichever is greater). The length of the flame shall be such that it extends beyond the end fitting and hose when they are in place during the test, for a distance of not less than three times the maximum diameter of the hose or three times the maximum diameter of the end fitting, whichever is greater.

(f) During the test SAE 20 oil or equivalent shall be circulated through the hose assembly, and the oil shall enter the hose assembly at a temperature of not less than 200° F.

NOTE: Items (d) and (e) of this subdivision, concerning flame size and distribution, will be revised in accordance with agreements reached with the SAE A-3 Flame Test Subcommittee, when its study of this problem is completed.

(ii) *Fire test procedure—(a) Part I.*

Pressure: 150 psi (minimum).
Oil flow rate: 1.3 quarts/minute (maximum).
Duration: 4 minutes, 30 seconds.

(b) *Part II (which shall immediately follow Part I).*

Pressure: 1,650 psi (minimum).

Oil flow rate: 14 quarts/minute (maximum; any lower flow rate is acceptable).
Duration: 30 seconds.

(iii) *Criteria for acceptability.* The hose assembly under test shall be considered acceptable if it complies with these test conditions without evidence of leakage.

(4) *Supply line "fire-resistant" (type 2) hose assembly fire test—(i) Test setup and flame requirements.* Same as subdivision (i) of subparagraph (3) of this paragraph.

(ii) *Fire test procedure.*

Pressure: 30 psi (minimum).
Oil flow rate: 1.3 quarts/minute (maximum).
Duration: 5 minutes.

(iii) *Criteria for acceptability.* Same as subdivision (iii) of subparagraph (3) of this paragraph.

(5) *Supply line "fireproof" (type 3) hose assembly fire test—(i) Test setup and flame requirements.* Same as subdivision (i) of subparagraph (3) of this paragraph.

(ii) *Fire test procedure.* Test shall be conducted as described in subdivision (ii) of subparagraph (4) of this paragraph except that upon completion thereof test shall be extended for an additional 10 minutes, making the total duration 15 minutes.

(iii) *Criteria for acceptability.* Same as subdivision (iii) of subparagraph (3) of this paragraph.

(b) *Marking.* The following marking is required in lieu of that specified in § 514.3:

(1) Name or trademark of the manufacturer responsible for compliance with this TSO.

(2) Model designation.

(3) Date of manufacture.

(4) Applicable TSO number, followed immediately by "Type Number" (as "Type 1", etc.). This identification must be legibly stamped on a steel (or other fireproof material) band securely affixed to the hose assembly.

(c) *Effective date.* March 1, 1957

(Sec. 205, 54 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

[SEAL]

S. A. KEMP,
Acting Administrator
of Civil Aeronautics.

[F. R. Doc. 57-811; Filed, Feb. 4, 1957; 8:45 a. m.]

[Amdt. 185]

PART 608—RESTRICTED AREAS

RESTRICTED AREA ALTERATION

The restricted area alteration appearing hereinafter has been coordinated with the civil operators involved, the Army, the Navy and the Air Force, through the Air Coordinating Committee, Airspace Panel and is adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United

States is involved, compliance with the notice, procedure and effective date provisions of Section 4 of the Administrative Procedure Act is not required. Part 608 is amended as follows:

1. In § 608.25, the Fort Campbell (formerly called Camp Campbell), Kentucky, area (R-63) amended on May 19, 1956 in 21 F. R. 3309, is further amended by changing the "Description by Geographical Coordinates" column to read: "Beginning at latitude 36°44'00", longitude 87°40'00"; to latitude 36°39'17", longitude 87°40'00"; to latitude 36°39'17", longitude 87°29'38"; to latitude 36°41'00", longitude 87°27'30"; to latitude 36°32'00", longitude 87°23'00"; to latitude 36°32'00", longitude 87°50'00"; to latitude 36°44'00", longitude 87°50'00"; to latitude 36°44'00", longitude 87°40'00"; to point of beginning".

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective on February 5, 1957.

[SEAL]

S. A. KEMP,
Acting Administrator
of Civil Aeronautics.

[F. R. Doc. 57-812; Filed, Feb. 4, 1957; 8:45 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter II—National Bureau of Standards, Department of Commerce

Subchapter A—Test Fee Schedules

PART 203—HEAT AND POWER

INTERNAL COMBUSTION ENGINE FUELS

In accordance with the provisions of section 4 (a) and (c) of the Administrative Procedure Act, it has been found that notice and hearing on this schedule is unnecessary for the reason that such procedures, because of the nature of these rules, serve no useful purpose. This schedule is effective from the date of publication in the FEDERAL REGISTER.

1. The schedule in § 203.501 *Internal combustion engine fuels*, is amended by the revision of item (e) to read as follows:

Item	Description	Fee
203.501e..	Measurement of physical properties of primary reference fuels for octane number determination.	\$341

(Sec. 9, 31 Stat. 1450, as amended; 15 U. S. C. 277. Interprets or applies sec. 8, 31 Stat. 1450, as amended; 15 U. S. C. 276)

A. V. ASTIN,
Director,
National Bureau of Standards.

Approved:

SINCLAIR WEEKS,
Secretary of Commerce.

[F. R. Doc. 57-813; Filed, Feb. 4, 1957; 8:45 a. m.]

TITLE 19—CUSTOMS DUTIES

**Chapter I—Bureau of Customs,
Department of the Treasury**

[T. D. 54296]

**PART 18—TRANSPORTATION IN BOND AND
MERCHANDISE IN TRANSIT**

**PART 20—DISPOSITION OF UNCLAIMED AND
ABANDONED MERCHANDISE**

**WITHDRAWALS FOR TRANSPORTATION AND
SURPLUS PROCEEDS OF SALE**

In the case of a withdrawal of alcoholic beverages from warehouse for transportation, the liquidation of the entry at the port of rewarehousing is dependent upon the receipt of certain detailed information from the port of withdrawal. Two extra copies of customs Form 7512, Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit, are desirable in such cases for the use of the collector at the port of withdrawal in furnishing the port of destination with such information. Also, at the present time certain provisions relating to establishing the right of a claimant to surplus proceeds of merchandise sold at public auction are in need of clarification. Therefore, the customs regulations are amended as follows:

1. Section 18.16 (a) is amended by inserting the following after the third sentence: "In the case of alcoholic beverages, two extra copies will be required for use in furnishing the duty statement to the collector at destination."

(Sec. 624, 46 Stat. 759; 19 U. S. C. 1624. Interprets or applies sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

2. The first sentence of § 20.6 (g) is amended by substituting "in accordance with § 24.25 of this chapter" for "by due proof of his right to make entry for the merchandise".

(Sec. 624, 46 Stat. 759; 19 U. S. C. 1624. Interprets or applies secs. 491, 493, 46 Stat. 726, as amended, 727; 19 U. S. C. 1491, 1493)

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

Approved: January 23, 1957.

DAVID W. KENDALL,
Acting Secretary of the Treasury.

[F. R. Doc. 57-832; Filed, Feb. 4, 1957; 8:49 a. m.]

TITLE 29—LABOR

**Chapter V—Wage and Hour Division,
Department of Labor**

**PART 657—TOBACCO INDUSTRY IN PUERTO
RICO**

On September 27, 1956, pursuant to section 5 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), the Secretary of Labor by Administrative Order No. 468 (21 F. R. 7411) appointed, convened, and gave notice of the hearing of Industry Committee No. 25-C for the Tobacco Industry in Puerto Rico. The Committee was directed to recommend the minimum rate or rates to be paid under section 6 (c) of the act to employees in the To-

bacco Industry who are engaged in commerce or in the production of goods for commerce.

Subsequent to an investigation and a hearing, conducted pursuant to the notice, the Committee filed with the Administrator a report containing its findings with respect to the matters referred to it. Accordingly, as authorized and required by section 8 of the act and General Order No. 45-A of the Secretary (15 F. R. 3290), (1) the recommendations of this Committee are hereby published in the following amendments to the Code of Federal Regulations, and (2) effective February 21st, 1957, Part 657 of Title 29, Code of Federal Regulations, is hereby amended to read as follows:

Sec.

657.1 Definition of the industry.

657.2 Wage rates.

657.3 Notices.

AUTHORITY: §§ 657.1 to 657.3 issued under sec. 8, 52 Stat. 1064, as amended; 29 U. S. C. 208. Interpret or apply sec. 5, 52 Stat. 1064, as amended; 29 U. S. C. 205.

§ 657.1 *Definition of the industry.* The tobacco industry in Puerto Rico, to which this part shall apply, is defined as follows: The processing of leaf tobacco including, but without limitation, the grading, fermenting, stemming, chopping, packing, storing, drying, and handling of tobacco; and the manufacture of cigarettes, cigars, cheroots, little cigars, snuff, chewing tobacco, and smoking tobacco.

§ 657.2 *Wage rates.* (a) Wages at a rate of not less than 36 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the tobacco industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce and who is engaged in the Puerto Rican cigar filler tobacco processing classification which is defined as the processing of Puerto Rican cigar filler type tobacco, including, but without limitation, the grading, fermenting, stemming, packing, storing, drying, and handling of such tobacco prior to its use in the manufacture of cigars or other finished tobacco products: *Provided, however,* That the shredding, chopping, threshing, or stemming of such tobacco by machine and operations immediately incidental thereto shall not be included in this definition.

(b) Wages at a rate of not less than 75 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the tobacco industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce and who is engaged in the machine threshing classification, which is defined as the shredding, chopping, or threshing of all types of tobacco by machine and operations immediately incidental thereto.

(c) Wages at a rate of not less than 65 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the tobacco industry in Puerto Rico who is engaged in commerce or in the production of goods for

commerce and who is engaged in the general classification, which is defined to include all products and activities in the tobacco industry in Puerto Rico, as defined in § 657.1, except products and activities included in the Puerto Rican cigar filler tobacco processing classification or in the machine threshing classification, as defined in paragraphs (a) and (b), respectively, of this section.

§ 657.3 *Notices.* Every employer subject to the provisions of § 657.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 657.2 are working such notices of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour Division, United States Department of Labor, and shall give such other notice as the Administrator may prescribe.

Signed at Washington, D. C., this 30th day of January 1957.

NEWELL BROWN,
Administrator.

[F. R. Doc. 57-843; Filed, Feb. 4, 1957; 8:51 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

Subchapter C—Personnel

**PART 725—DISPOSITION OF CASES INVOLVING
PHYSICAL DISABILITY**

**ACTION ON MEDICAL REPORTS OF PERIODIC
PHYSICAL EXAMINATIONS OF PARTIES ON
THE TEMPORARY DISABILITY RETIRED LIST**

1. Section 725.16 (e) is revised to read as follows:

(e) *Action on medical reports of periodic physical examinations of parties on the Temporary Disability Retired List.* Upon receipt of a report of a periodic physical examination of a party on the temporary disability retired list, forwarded pursuant to § 725.23, the Physical Review Council shall evaluate such report. If less than five years have elapsed since the date of the placement of the name of the party on the temporary disability retired list and the Council considers that no change in the status of the party is indicated, no action shall be taken on such report. If the Council considers that a change in the status is indicated, or if the period of five years from the date of the placement of the name of the party on the temporary disability retired list will soon terminate, the Council shall refer the case to a physical evaluation board for re-evaluation. In the event, however, the Council determines from the report that the party concerned is physically fit to perform the duties of his rank, grade, or rating and the party concerned has indicated a desire to be found physically fit for the performance of his duties, the case may be referred directly to the Secretary of the Navy for his action thereon without consideration by a physical evaluation board. In addition, upon agreement by the members of the Council that the report of a periodic physical examination together with other records in

the files of the Navy Department forms sufficient basis for recommended findings on a case, the case may be referred directly to the Secretary of the Navy for his action thereon without consideration by a physical evaluation board. This latter action, however, shall not be taken by the Council unless the party concerned or his representative has been notified of the Council's proposed findings and the party or his representative has stated in writing that the party does not demand a hearing before a physical evaluation board or, if approval of the Council's proposed findings would result in the party's permanent retirement for physical disability ratable at seventy-five percent or more, has failed to demand such a hearing within five days, exclusive of Sundays and holidays, after receipt of the notification.

(Sec. 413, 63 Stat. 824; 37 U. S. C. 283)

By direction of the Secretary of the Navy.

Dated: January 28, 1957.

[SEAL] P. A. WALKER,
Captain, U. S. Navy, Deputy
and Assistant Judge Advocate
General of the Navy.

[F. R. Doc. 57-816; Filed, Feb. 4, 1957;
8:46 a. m.]

Chapter XVI—Selective Service System

[Amdt. 72]

PART 1690—DETERMINATION OF AVAILABILITY OF MEMBERS OF THE STANDBY RESERVE OF THE ARMED FORCES FOR ORDER TO ACTIVE DUTY

RECONSIDERATION AND APPEAL OF DETERMINATION OF AVAILABILITY

The Selective Service Regulations are hereby amended as follows:

1. Paragraph (a) of § 1690.15 is amended to read as follows:

§ 1690.15 *Reconsideration and re-determination of local board of reservist's availability and category.* (a) Except as otherwise provided in § 1690.18, the local board may at any time reconsider and redetermine the reservist's availability for order to active duty and his category if such action is based upon facts not considered when such availability and category were previously determined under the provisions of this part which facts would justify changing the previous determination of the reservist's availability and category.

2. Paragraph (e) of § 1690.16 is amended to read as follows:

§ 1690.16 *Appeal to appeal board.*
* * *

(e) The local board may permit any person described in subparagraphs (3), (4), and (5) of paragraph (b) of this section to appeal even though the period for taking an appeal has elapsed, if it is satisfied that the failure of such person to appeal within such period was due to a lack of understanding of the right to

appeal or to some cause beyond the control of such person. Unless the local board thereafter permits an appeal, the right of such persons to appeal shall expire at the end of the period provided for in paragraph (d) of this section. If an extension of time to appeal is granted by the local board, a record thereof shall be entered on the Standby Reserve Questionnaire (SSS Form No. 80).

(Sec. 10, 62 Stat. 618, as amended; 50 U. S. C. App. 460. Interpretations or applies sec. 233, 66 Stat. 489, as amended; 50 U. S. C. 961; E. O. 9979, 13 F. R. 4177; 3 CFR, 1948 Supp.)

The foregoing amendments to the Selective Service Regulations shall become effective upon filing with the Division of the Federal Register.

[SEAL] LEWIS B. HERSHEY,
Director of Selective Service.

JANUARY 31, 1957.

[F. R. Doc. 57-841; Filed, Feb. 4, 1957;
8:51 a. m.]

TITLE 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

PART 4—OPERATION AND NAVIGATION OF PANAMA CANAL AND ADJACENT WATERS

MERCHANT SHIP ANCHORAGES; PACIFIC ENTRANCE

Pursuant to the authority vested in the Governor by § 4.11 of Part 4 of Title 35, Code of Federal Regulations, as adopted by Canal Zone Order 30, January 6, 1953 (18 F. R. 280) and by § 4.17, as so adopted, and amended by Canal Zone Order 45, September 27, 1956 (21 F. R. 7618), paragraph (c) of § 4.18 of Part 4 of Title 35 is hereby amended to read as follows:

§ 4.18 *Merchant ship anchorages.* * * *

(c) *Pacific entrance.* An area bounded as follows: Beginning at a point in position 8°51'50" N., 79°30'00" W., marked by a lighted, whistle buoy which is painted with alternating black and white vertical stripes and which shows short-long flashing white light every 8 seconds, i. e., light 0.4 second, eclipse 0.4 second, light 1.6 seconds, eclipse 5.6 seconds; thence due east to longitude 79°28'00" W.; thence due north to latitude 8°54'31" N.; thence due west toward Flamenco Island Light to a point 8°54'31" N., 79°30'46" W.; thence southwestward touching the northwest corner of San Jose Rock to position 8°53'27" N., 79°31'23" W., marked by canal-entrance lighted buoy No. 2; thence southeastward to the point of beginning.

(Sec. 5, 37 Stat. 562, as amended; 2 CZ Code 9, 48 U. S. C. 1318. E. O. 9746, 11 F. R. 7329, 3 CFR, 1946 Supp.)

Issued at Balboa Heights, Canal Zone, January 24, 1957.

[SEAL] W. E. POTTER,
Governor.

[F. R. Doc. 57-817; Filed, Feb. 4, 1957;
8:46 a. m.]

TITLE 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 1—GENERAL RULES AND REGULATIONS

MOUNTAIN CLIMBING

Section 1.14 entitled *Mountain summit climbing*, is amended to read as follows:

§ 1.14 *Mountain climbing.* (a) In Mount McKinley, Mount Rainier, and Grand Teton National Parks, mountain climbing shall be undertaken only with the permission of the Superintendent.

(b) In Devils Tower National Monument, the climbing of Devils Tower beyond the talus slope or above the shelf or bench at the base of the definite columns, where such shelf or bench is present, shall be undertaken only with the permission of the Superintendent.

(c) In Mount Rushmore National Memorial, climbing beyond the toe of the talus slope shall be undertaken only with the permission of the Superintendent.

(d) In Rocky Mountain National Park, climbing in that area on the east face of Longs Peak, known as the Diamond, shall be undertaken only with the permission of the Superintendent.

(e) The Superintendent shall not grant permission under paragraph (a) or (b) or (c) or (d) of this section until he is satisfied that all members of the party are properly clothed, equipped, and shod, are qualified physically and through previous experience to make the climb, and that the necessary supplies are carried.

(f) No individual will be permitted to start a solo climb or continue to climb alone on Mount McKinley, Mount Rainier, or any major peak in Grand Teton National Park, or Devils Tower, or beyond the toe of the talus slope in Mount Rushmore National Memorial, or on the Diamond area on Longs Peak in Rocky Mountain National Park.

(g) While the Government assumes no responsibility in connection with any kind of accident to mountain-climbing parties, all persons starting to climb Mount McKinley, Mount Rainier, or any major peak in Grand Teton National Park or Devils Tower, or beyond the toe of the talus slope in Mount Rushmore National Memorial, or on the Diamond area on Longs Peak in Rocky Mountain National Park, shall fill out an information blank furnished by the Superintendent and shall report to him upon return.

(h) When the Superintendent deems such action necessary, he may prohibit all mountain climbing in the areas referred to in paragraphs (a), (b), (c), or (d) of this section.

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

January 29, 1957.

FRED G. AANDAHL,
Acting Secretary of the Interior.

[F. R. Doc. 57-814; Filed, Feb. 4, 1957;
8:45 a. m.]

**PART 21—HOT SPRINGS NATIONAL PARK;
BATHHOUSE REGULATIONS**

FEDERAL REGISTRATION BOARD

Paragraph (a) of § 21.4, entitled *Federal Registration Board, officers*, is amended to read as follows:

(a) An advisory and examining board, designated as "The Hot Springs National Park Federal Registration Board," shall be appointed by the Secretary. The board shall consist of six members, five of whom shall be members of the Garland County Hot Springs Medical Society, and one the Superintendent of Hot Springs National Park. The Superintendent shall act as secretary of the board. The functions of the board shall be to advise the Superintendent concerning the use of the waters of Hot Springs National Park and to examine and approve, in proper cases, applicants for registration.

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

January 29, 1957.

FRED G. AANDAHL,
Acting Secretary of the Interior.

[F. R. Doc. 57-815; Filed, Feb. 4, 1957;
8:46 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Rules Amdt. 9-7; FCC 57-112]

PART 9—AVIATION SERVICES

FREQUENCY AVAILABLE TO AIRCRAFT RADIO STATIONS FOR COMMUNICATION WITH USAF RADAR ADVISORY FACILITIES

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of January 1957:

The Commission having under consideration the amendment of Part 9, Aviation Services, to make the frequency 133.20 Mc available to aircraft radio stations for communication with USAF radar advisory facilities; and

It appearing that on December 13, 1956, Air Defense Command Headquarters issued a regulation (ADC Reg. 55-51) setting forth procedures whereby aircraft in flight may be advised of the presence of serious storm areas observed by air defense radar facilities on the ground; and

It further appearing that by telegram dated January 15, 1957, ADC Headquarters authorized the Civil Aeronautics Administration to publish information notifying civil aircraft operators that the military frequency 133.20 Mc is available for use in contacting ADC radar facilities to obtain radar advisory service; and

It further appearing that use of the radar advisory service available under the terms of ADC Reg. 55-51 would be of substantial benefit to civil aviation as a means of vectoring flights around observed storm areas; and

It further appearing, that the public interest would be served by allowing existing aircraft radio station licensees to commence operation on the frequency 133.20 Mc on the effective date of this Order without requiring application for, and issuance of, modified licenses specifying the new frequency; and

It further appearing that issuance of Notice of Proposed Rule Making pursuant to section 4 (a) of the Administrative Procedure Act would unnecessarily delay the timely adoption of the amendment herein ordered and would not therefore serve the public interest; and

It further appearing that since the amendment herein ordered imposes no new requirement on any applicant or

licensee, but rather makes available to civil aviation a new frequency, the use of which is directly related to the safety of life and property in the air, this order may be made effective without delay in accordance with section 4 (c) of the Administrative Procedure Act; and

It further appearing that authority for issuance of this order is contained in sections 303 (b), (c) and (r) of the Communications Act of 1934, as amended:

It is ordered, That effective immediately, § 9.312 of the Commission's rules governing Aviation Services is amended as set forth below; and

It is further ordered, That persons holding valid aircraft radio station licenses on the effective date of this Order, and whose licenses specify transmitting equipment capable of operating on the frequency 133.20 Mc, are authorized, for the remainder of their license terms, to communicate with USAF radar advisory facilities without first obtaining modification of license to add such frequency.

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

Released: January 31, 1957.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

Amend Part 9, rules governing Aviation Services, as follows:

Add new paragraph (o) to § 9.312, to read as follows:

(o) 133.20 megacycles: This frequency is available to aircraft for communication with USAF radar facilities for the purpose of obtaining weather advisory service.

[F. R. Doc. 57-834; Filed, Feb. 4, 1957;
8:50 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 225 I

WAREHOUSING OF DISTILLED SPIRITS

CONSOLIDATION OF PACKAGED SPIRITS

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are

to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805).

[SEAL] RUSSELL C. HARRINGTON,
Commissioner of Internal Revenue.

In order to provide (a) that packaged neutral spirits which have been consolidated in a warehouse tank may thereafter be handled in the same manner as neutral spirits stored in bulk, (b) that packaged distilled spirits other than neutral spirits, may, if homogeneous and produced in the same distilling season be consolidated in a warehouse tank and thereafter be handled in the same manner as other spirits in bulk, except that they may be repackaged only for immediate withdrawal from bond, and (c) that packaged distilled spirits, if homogeneous, may be consolidated in a warehouse tank and a portion thereof transferred to a customs manufacturing bonded warehouse, the remaining spirits

to be immediately taxpaid or, if eligible, bottled in bond, 26 CFR Part 225 is amended as follows:

PARAGRAPH 1. The title of Subpart Q is amended to read "Receipt Of Spirits In Warehouse".

PAR. 2. The undesignated centerhead "Deposit In Storage Tanks" immediately preceding § 225.370 is revoked.

PAR. 3. Section 225.370 is amended to read as follows:

§ 225.370 *General.* Distilled spirits may be received in any container for deposit in any internal revenue bonded warehouse from a registered distillery, fruit distillery, or another internal revenue bonded warehouse if such container is approved for the transfer of the spirits by the regulations governing the operations of the consignor premises.

(68A Stat. 633, 634, 639, 645, 647; 26 U. S. C. 5193, 5194, 5215, 5242, 5246)

PAR. 4. The undesignated centerhead "Receipts By Pipeline, Tank Car, And

Tank Truck" is inserted immediately following § 225.370.

PAR. 5. Section 225.371 is amended to read as follows:

§ 225.371 *Deposit in tanks.* Distilled spirits received by pipeline must be deposited in tanks in the warehouse. Distilled spirits received in tank cars and tank trucks must also be deposited in such tanks, unless the tank car or tank truck in which the spirits are received is run within the warehouse building for storage.

(68A Stat. 633, 634, 639, 645; 26 U. S. C. 5193, 5194, 5215, 5242)

PAR. 6. Section 225.372 is revoked.

PAR. 7. Section 225.373 is amended by changing the first sentence to read, "The receipt of spirits by pipeline at a bonded warehouse will be under the supervision of the storekeeper-gauger in charge of the warehouse."

PAR. 8. Section 225.375 is revoked.

PAR. 9. Section 225.377 is amended as follows:

(A) By striking the phrase "spirits of 190 degrees or more of proof, produced during" and inserting in lieu thereof the phrase "spirits produced at 190 degrees or more of proof during".

(B) By amending the citation following § 225.377 to read "(sec. 205, 49 Stat. 981 as amended, 68A Stat. 616, 634; 27 U. S. C. 205, 26 U. S. C. 5082, 5194)".

PAR. 10. Section 225.382 is amended as follows:

(A) By striking the fifth and sixth sentences, which begin, "Where the spirits are less than" and "Where the spirits are 160 degrees", respectively.

(B) By striking from the last sentence the phrase "pending taxpayment or further transfer in bond".

(C) By amending the citation following § 225.382 to read "(68A Stat. 599, 604, 633, 634, 647; 26 U. S. C. 5006, 5011, 5193, 5194, 5245)".

PAR. 11. Section 225.400 is amended by changing (d) to read:

(d) In storage tanks in any warehouse if the distilled spirits were received in tank cars or tank trucks or by pipeline, or were consolidated from casks or packages under subpart R: *Provided*, That tanks for the storage of vodka must be metal, porcelain, glass, or paraffin-lined; and

PAR. 12. Section 225.402 is amended to read as follows:

§ 225.402 *Storage in tank cars or tank trucks.* Where spirits are received in tank cars or tank trucks for storage in bond, the spirits shall be transferred to warehouse storage tanks or the tank cars or tank trucks must be stored in the warehouse.

PAR. 13. Section 225.408 is amended by striking the fourth sentence, which begins, "Spirits of less".

PAR. 14. Section 225.411 is amended by striking the word "All" and inserting in lieu thereof the words "Except as provided in § 225.417f, all".

PAR. 15. The undesignated centerhead "Consolidation of Packages" immediately preceding § 225.417a is changed to read "Consolidation Of Packaged Spirits".

PAR. 16. Section 225.417a is amended as follows:

(A) By changing the headnote to read "Authorized consolidation of neutral spirits."

(B) By striking from the first sentence the words "Spirits distilled at 190 degrees of proof or more, whether or not such proof is subsequently reduced," and inserting in lieu thereof the words "Neutral spirits (spirits produced at 190 degrees of proof or more, whether or not such proof is subsequently reduced) distilled".

(C) By inserting in the last sentence, immediately after the words "Such spirits may be", the words "stored in storage tanks or may be".

PAR. 17. By inserting, immediately following § 225.417a, the following new section:

§ 225.417a-1 *Authorized consolidation of other spirits.* Packages of spirits distilled at less than 190 degrees of proof from the same class of materials, at approximately the same proof, by the same distiller at the same distillery, during the same distilling season and year, and differing in periods of storage (a) not more than 6 months in the case of spirits stored in bond more than 2 years, (b) not more than 60 days in the case of spirits stored in bond more than 1 year and not more than 2 years, or (c) not more than 30 days in the case of spirits stored in bond 1 year or less, and stored in the same kind of cooorage under approximately the same conditions, and which are homogeneous according to the standards of identity established under the Federal Alcohol Administration Act, may, with the prior approval of the storekeeper-gauger in charge, be dumped and consolidated in a warehouse tank for storage therein, or for removal by pipeline, tank car, or tank truck to another internal revenue bonded warehouse, as provided in this subpart. Such spirits may be withdrawn from bond for any purpose for which the packaged spirits could have been withdrawn, but may not be repackaged for any purpose except immediate withdrawal from bond.

PAR. 18. Section 225.417b is amended as follows:

(A) By striking from the headnote the words "of packages".

(B) By changing the first sentence to read, "The proprietor of an internal revenue bonded warehouse who desires to consolidate packaged spirits must provide suitable space and equipment for such operations."

(C) By adding at the end of the second sentence the words "for dumping and consolidating".

(D) By striking from the last sentence the word "presented" and inserting in lieu thereof the word "prevented".

PAR. 19. Section 225.417c is amended to read as follows:

§ 225.417c *Application for consolidation.* When it is desired to consolidate distilled spirits contained in packages, application for such consolidation must be made to the storekeeper-gauger in charge by the proprietor of the warehouse. The application must be submit-

ted on Form 2323, in triplicate. All information required by the form shall be shown. Where the warehouseman desires to repackage consolidated neutral spirits and to subsequently withdraw such spirits on the original gauge of the consolidated packages, he shall note on all copies of the application "Withdrawn on original gauge". Each application shall be given a serial number, beginning with "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive. The application may be approved only where suitable space and equipment are provided and internal revenue officers are available for necessary supervision. If the storekeeper-gauger approves the application he will return one copy marked "Approved" to the proprietor, and retain the remaining two copies.

PAR. 20. Section 225.417d is amended as follows:

(A) By striking the first two sentences and inserting in lieu thereof the following new sentence: "When packages authorized by the approved application to be consolidated have been removed to that portion of the warehouse where the spirits are to be consolidated, the storekeeper-gauger will examine them, and will detain any package bearing evidence of unusual loss that cannot be satisfactorily explained, or of tampering, pending further investigation in accordance with the applicable provisions of §§ 225.480 to 225.495."

(B) By striking from the third sentence the words "does not bear such evidence" and inserting in lieu thereof the words "has not been detained by him."

(C) By changing the fourth sentence, which begins "All packages", to read, "All packages must be drained and thoroughly rinsed: *Provided*, That, in the case of neutral spirits, if any of the packages are to be refilled as consolidated packages, they need not be rinsed."

(D) By striking from the proviso in the sixth sentence, which begins "Immediately upon", the words "if any such packages are to be used for containers for" and inserting in lieu thereof the words "in the case of neutral spirits, if any such packages are to be use for containers for the".

(E) By striking from the proviso in the sixth sentence the word "filling" and inserting in lieu thereof the word "filling".

(F) By changing the seventh sentence, which begins "Spirits in the", to read "When spirits in the consolidation tank are to be repackaged for immediate withdrawal from bond, or, in the case of neutral spirits, for withdrawal on the filling gauge at some future date, the contents of the tank shall be adjusted to a whole degree of proof by the proprietor."

(G) By striking from the last sentence the words "The storekeeper-gauger shall then verify the" and inserting in lieu thereof the words "In all cases the storekeeper-gauger shall determine the".

PAR. 21. By inserting, immediately following § 225.417d, the following new section:

§ 225.417d-1 *Determining date of original entry.* Where packages of spirits are dumped and consolidated, the date of original entry of the oldest spirits in each individual lot so consolidated shall become the date of original entry of all the spirits in that particular lot, for the purpose of determining the period of storage in bond.

PAR. 22. Section 225.417e is amended as follows:

(A) The headnote is amended by adding at the end thereof the words "of neutral spirits".

(B) The first sentence is changed to read, "When neutral spirits are to be drawn from a tank into packages, the storekeeper-gauger shall unlock the necessary outlet valves."

(C) The second sentence is amended by inserting, immediately after the words "on his application" in the proviso, the words ", Form 2323".

(D) By striking the eighth sentence, which begins, "Tanks must", and inserting in lieu thereof a new sentence reading, "If spirits remain in the tank at the completion of repackaging, the procedure prescribed in § 225.417f-1 shall be followed."

(E) The eleventh sentence, which begins, "Losses of spirits", is amended by striking the words "the application" and inserting in lieu thereof "Form 2323", and by adding at the end of the sentence the words "plus the quantity of any spirits remaining in the tank".

(F) The last sentence is amended by striking the words, "Upon completion of the gauging of the packages and the preparation of the gauge forms, one copy of the approved application and one copy of the Form 1520 covering the details of the repackaging", and inserting in lieu thereof the words "On completion of the gauging of the packages and the preparation of the gauge forms, one copy of Form 2323 and one copy of each Form 1520 covering the consolidated neutral spirits."

PAR. 23. By inserting, immediately following § 225.417f, the following new section:

§ 225.417f-1 *Consolidated spirits held in storage tanks.* When consolidated spirits are to be stored in the tank in which consolidated, or be transferred to another tank for storage, the warehouseman shall, at the completion of consolidation or the completion of packaging operations if any portion of the spirits are repackaged, carefully gauge the spirits in the tank and enter all details thereof on Form 1520, in triplicate, noting on such form the date of the original entry for deposit of the oldest and the youngest spirits mingled in the tank and the kind of cooperage in which the spirits were stored. Transfer of consolidated spirits from the consolidation tank to a storage tank, or from one storage tank to another, may be made on application to, and under the supervision of, the storekeeper-gauger, who will note the number of the storage tank on the Form 1520 covering the spirits. It will not be necessary to completely empty a storage tank containing consolidated neutral spirits before making additional de-

posits of consolidated neutral spirits therein; however, spirits may not be deposited and withdrawn from the tank simultaneously, and any consolidated neutral spirits which are added to the tank must be homogeneous with the consolidated neutral spirits already in the tank. Each lot of consolidated neutral spirits deposited in a storage tank shall retain its date of original entry, determined as prescribed in § 225.417d-1, for the purpose of determining the period of storage in bond, and withdrawals from a storage tank containing more than one lot of consolidated neutral spirits shall be considered to be made on a first-in, first-out basis. Warehouse tanks containing consolidated spirits other than neutral spirits must be emptied before another lot of consolidated spirits may be deposited therein. Forms 1520 will be disposed of as provided in § 225.417e.

PAR. 24. By changing § 225.417g to read as follows:

§ 225.417g *Withdrawal of consolidated spirits.* Distilled spirits which have been consolidated under authority of § 225.417a or § 225.417a-1 may be withdrawn from bond for any purpose for which the packaged spirits could have been withdrawn before consolidation. When the proprietor desires to withdraw such consolidated spirits, application therefor will be prepared in the same manner as for the withdrawal of any other spirits, and the withdrawal shall be made in accordance with the applicable provisions of this part. Form 1520 covering the withdrawal gauge of such spirits shall be noted to show the kind of cooperage in which the spirits were originally stored, the date of consolidation, and the dates of original entry of the oldest and the youngest spirits in the lot.

PAR. 25. Section 225.424 is amended by adding at the end thereof the following new sentences: "Where packaged distilled spirits are consolidated and stored in a warehouse storage tank as authorized in § 225.417a or § 225.417a-1, each lot shall retain its date of original entry, determined as provided in § 225.417d-1, for the purpose of determining the period of storage in bond and, if more than one lot of neutral spirits consolidated pursuant to § 225.417a is placed in the same tank, withdrawals shall be considered to be made on a first-in, first-out basis. Where spirits of different dates of production in the same distilling season are mingled at the time of bottling, or brandies of different dates of production are blended under the provisions of section 5023, I. R. C., the bonded period of storage for such spirits or brandies will begin to run from the date of the original entry for deposit of the oldest spirits or brandies so mingled."

PAR. 26. Section 225.428 is amended by striking therefrom the last sentence.

PAR. 27. Section 225.560 is amended as follows:

(A) By changing the headnote to read, "Authorized withdrawals."

(B) By striking the word "section" and inserting in lieu thereof the word "part".

(C) By striking from item (a) the word "Upon" and inserting in lieu thereof the word "on".

(D) By amending the citation following § 225.560 to read "(68A Stat. 633, 634, 640, 645, 647, 661, 667, 679, 900; 26 U. S. C. 5193, 5194, 5215, 5243, 5244, 5246, 5247, 5331, 5373, 5522, 7510)".

PAR. 28. Section 225.561 is amended as follows:

(A) By striking from paragraph (e) the word "storage".

(B) By striking from paragraph (f) (1) the words "from storage or gauging tanks".

(C) By striking from paragraph (f) (2) the words "from storage or gauging tanks in a warehouse".

(D) By striking from paragraph (f) (3) the words "from storage or gauging tanks".

(E) By striking from the end of paragraph (f) (4) the word "or".

(F) By inserting after paragraph (f) (5) a new item reading, "or (6) from gauging tanks to a contiguous internal revenue bonded warehouse;"

PAR. 29. Section 225.581 is amended as follows:

(A) By adding to the end of the headnote the words "or approval of withdrawal papers."

(B) By changing the word "upon" wherever it appears in the headnote and in the section, to read "on".

(C) By striking the words "or re-gauged" from both sentences.

PAR. 30. Section 225.601 is amended by striking from the first sentence the words "Except where spirits are to be withdrawn in packages filled from warehouse storage tanks at the time of withdrawal," and inserting in lieu thereof "Where spirits are to be taxpaid in packages filled from the warehouse tanks at the time of withdrawal, Form 1520 will be prepared by the storekeeper-gauger, as provided in § 225.602. In all other instances".

PAR. 31. Section 225.602 is amended as follows:

(A) By striking from the tenth sentence, which begins, "If the spirits", the word "storage" and inserting in lieu thereof the word "warehouse".

(B) By striking from the tenth sentence the word "upon" and inserting in lieu thereof the word "on".

(C) By striking from the eleventh sentence the words "gauge and proof of distillation," and inserting in lieu thereof the words "gauge, the proof of distillation, and, in the case of consolidated spirits other than neutral spirits, the date of original entry for deposit of the youngest spirits in the lot."

(D) By amending the citation following § 225.602 to read "(68A Stat. 633, 634, 647, 649; 26 U. S. C. 5193, 5194, 5244, 5245, 5250)".

PAR. 32. Section 225.730 is amended as follows:

(A) By striking the word "or" immediately preceding (e).

(B) By striking the period at the end of the section and inserting in lieu thereof"; or (f) by pipeline where the warehouses are contiguous."

PAR. 33. By revoking § 225.731.

PAR. 34. By inserting, immediately preceding § 225.732, the following new section:

§ 225.731a *Preparation of Form 1520 covering gauge of consolidated spirits.* Whenever consolidated spirits are gauged for transfer between warehouses, the Form 1520 reporting such gauge shall be noted to show (a) the kind of cooperage in which the spirits were originally stored, (b) the date of original entry of the oldest spirits in the lot, (c) the date of original entry of the youngest spirits in the lot, and (d) the date of consolidation.

PAR. 35. Section 225.733 is amended as follows:

(A) By striking from the second sentence, which begins, "The applicant", the words "transferred in any one truck, railroad car, or other vehicle" and inserting in lieu thereof the words "transferred by pipeline, or at any one time in any one truck, railroad car, or other vehicle."

(B) By striking from the third sentence the words "on part 1 of" and inserting in lieu thereof the words "in his application on".

(C) By inserting immediately after the fourth sentence, which begins, "The name of", the following new sentence: "If the applicant desires packaged spirits to be dumped and consolidated prior to transfer, he shall so state in his application on Form 236."

PAR. 36 Section 225.737 is amended as follows:

(A) By changing the headnote to read, "Transfers in previously filled tank cars and tank trucks."

(B) By striking from the third sentence, which begins, "Upon receipt of", the word "Upon" and inserting in lieu thereof the word "On".

(C) By amending the citation following § 225.737 to read "(68A Stat. 633, 634, 647; 26 U. S. C. 5193, 5194, 5246)".

PAR. 37. Section 225.738 is amended as follows:

(A) By changing the headnote to read "Transfers from warehouse tanks."

(B) By striking the first sentence and inserting in lieu thereof the following sentence: "When the proprietor desires to transfer spirits (1) in packages (neutral spirits only), (2) in tank cars, or (3) in tank trucks, to be filled from warehouse tanks or by pipeline from such tanks, he will deliver a copy of Form 236 with a complete description of the spirits to the storekeeper-gauger in charge of the warehouse."

(C) By striking the second sentence and inserting in lieu thereof the following new sentences: "On receipt of the Form 236, the spirits designated to be transferred will be drawn into packages, gauged (as provided in § 225.407 or § 225.417e, as the case may be), marked, and branded, or run into a gauging tank and gauged by the storekeeper-gauger. Where the transfer is to be made in the tank car or tank truck, the spirits will be conveyed by pipeline into a tank car or tank truck constructed and marked as provided in this subpart."

(D) By striking from the fifth sentence, which begins, "The storekeeper-

gauer", the words "execute on the six copies of Form 236 the description of the packages, tank cars, or tank trucks" and inserting in lieu thereof the words "execute on all copies of Form 236 the description of the spirits".

(E) By amending the citation following § 225.738 to read "(68A Stat. 633, 634, 647; 26 U. S. C. 5193, 5194, 5246)".

PAR. 38. Section 225.739 is amended as follows:

(A) By striking the words "two or more distilleries or" and inserting in lieu thereof the words "two or more distilleries, or (except in the case of neutral spirits consolidated as authorized in § 225.417a)".

(B) By striking the word "storage" and inserting in lieu thereof the word "warehouse".

(C) By amending the citation following § 225.739 to read "(49 Stat. 981 as amended; 68A Stat. 616, 633, 634; 27 U. S. C. 205; 26 U. S. C. 5082, 5193, 5194)".

PAR. 39. Section 225.752 is amended as follows:

(A) By striking from the third sentence, which begins, "If the applicant", the words "on part 1 of" and inserting in lieu thereof the words "in his application on".

(B) By inserting immediately following the fourth sentence, which begins "The name of", a new sentence reading, "If the applicant desires packaged spirits to be dumped and consolidated prior to transfer, he shall so state in his application on Form 236."

PAR. 40. Section 225.754 is amended as follows:

(A) By striking from the first sentence the word "storage".

(B) By striking from the fourth sentence, which begins, "If spirits", the words "storage tanks, they will be drawn into packages or" and inserting in lieu thereof the words "warehouse tanks, they may be drawn into packages, if eligible, or".

PAR. 41. By inserting, immediately after § 225.876, the following new section:

§ 225.876a *Mingling in gauging tank of spirits intended for transfer.* Distilled spirits which conform to the limitations of § 225.809 may be mingled in a warehouse gauging tank preparatory to transfer in bond to a customs manufacturing bonded warehouse in approved containers. If the entire contents of the gauging tank are not so transferred, the spirits remaining in the tank must be immediately taxpaid, or, if eligible, bottled in bond.

PAR. 42. Section 225.111 is amended as follows:

(A) By inserting in the third sentence, which begins, "The total original", a comma immediately after the words "Form 1513".

(B) By inserting in the third sentence, immediately after the words "into packages" the words "or deposited in warehouse tanks for storage".

PAR. 43. Section 225.1140 is amended by striking the third, fourth, and fifth sentences.

[F. R. Doc. 57-833; Filed, Feb. 4, 1957; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

17 CFR Part 27 I

COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, in accordance with section 4 of the Administrative Procedure Act (5 U. S. C. 1003), that the Agricultural Marketing Service is considering the amendment, as hereinafter stated, of the regulations in 7 CFR Part 27, as amended, pursuant to authority contained in section 4863 of the Internal Revenue Code of 1954 (68A Stat. 582; 26 U. S. C. 4863).

The primary purposes of the proposed amendments are to (1) clarify the definition of reginned cotton, (2) provide that effective April 1, 1957, all samples classed by the Service for cotton futures purposes shall become the property of the Government, and (3) adjust the fees charged for classification and Micronaire determination of samples.

The proposed amendments are as follows:

1. Section 27.28 would be amended to read:

§ 27.28 *Disposition of samples.* Samples representing bales for classification or Micronaire determination, which come into the custody of the Department of Agriculture on or after April 1, 1957, shall become the property of the Department after classification or Micronaire determination and shall be disposed of in accordance with the property regulations of the Department. Samples in the custody of the Department of Agriculture on March 31, 1957, representing bales which are covered by outstanding cotton class certificates issued pursuant to this subpart, will be retained by the Department until the certificates are surrendered for cancellation and will then be made available to the persons who surrender the certificates for cancellation.

2. Section 27.38 (d) would be amended to read:

(d) *Reginned cotton.* Cotton that has passed through the ginning process, including baling, more than once, or cotton that, after having been ginned and baled, has been subjected to a cleaning process and then rebaled.

3. Section 27.80 would be amended to read:

§ 27.80 *Fees; classification and Micronaire determination.* For the initial classification, review of classification, Micronaire determination, and certification of cotton pursuant to this subpart, whether such cotton be tenderable or not, the person requesting these services shall pay fees as follows: (a) If the same request covers initial classification, review of classification, and Micronaire determination, and only the review of classification and Micronaire determination results are to be certified on cotton class certificates covering the cotton involved, the entire fee shall be 60 cents per bale; or (b) under all other conditions the fee

for initial classification and certification shall be 25 cents per bale, the fee for review of classification and certification shall be 50 cents per bale, and the fee for Micronaire determination and certification shall be 25 cents per bale.

4. Sections 27.82 and 27.86 and the reference to § 27.82 in § 27.85 would be deleted.

5. Sections 27.14, 27.39, 27.62, 27.69 and 27.70 would be amended to permit the filing of requests for review of classification at the same time as requests for initial classification and Micronaire determination and for the certification in such cases of the results of the review and the Micronaire determination only.

Any interested person who wishes to submit written data, views, or arguments concerning the proposed amendments may do so by filing them with the Director, Cotton Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., not later than February 20, 1957.

Done at Washington, D. C., this 30th day of January 1957.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Agricultural Marketing Service.

[F. R. Doc. 57-819; Filed, Feb. 4, 1957; 8:46 a. m.]

[7 CFR Part 58]

GRADING, INSPECTION, SAMPLING, GRADE LABELING AND SUPERVISION OF PACKAGING OF BUTTER, CHEESE AND OTHER MANUFACTURED OR PROCESSED DAIRY PRODUCTS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the United States Department of Agriculture is considering the issuance, as hereinafter proposed, of amendments to the regulations governing the grading, inspection,

sampling, grade labeling and supervision of packaging butter, cheese and other manufactured or processed dairy products (7 CFR Part 58) issued pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.). The proposed amendments provide, under § 58.45 *Fees for laboratory analyses*, for a slight reduction in fees for certain laboratory tests, and also for certain additional laboratory tests not now included in the regulations. The purpose of the slight reduction in charges is to bring certain fees more nearly in line with laboratory operating expense. The additional tests included provide a fee structure for certain specific laboratory tests.

All persons who desire to submit written data, views or arguments in connection with this amendment should file the same in triplicate with the Chief of the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Room 2977, South Building, Washington 25, D. C., not later than 15 days after publication hereof in the FEDERAL REGISTER.

The proposed amendments are as follows:

1. Change § 58.45 *Fees for laboratory analyses*, as follows:

In paragraph (a) *Dry Milk, dry whey*, change one item as follows:

Moisture..... 1.50

In paragraph (b) *Evaporated milk*, change one item as follows:

Fat..... 2.00

In paragraph (c) *Sweetened condensed milk*, change one item as follows:

Fat..... 2.00

In paragraph (d) *Natural cheese*, change to read as follows:

Moisture..... 2.00
Moisture in duplicate..... 3.00

Moisture in duplicate and fat (dry basis) complete..... 5.00
Fat (dry basis) single sample..... 4.00
Fat (dry basis) for each additional sample in the same shipment..... 3.00

In paragraph (e) *Process cheese*, change to read as follows:

Moisture..... 2.00
Moisture and fat (dry basis) complete..... 4.00

In paragraph (f) *Butter Oil (milk fat)*, change one item as follows:

Fat..... 2.00

In paragraph (g) *Butter*, change to read as follows:

Salt..... .50
Moisture..... 1.50
Fat..... 2.00
Complete Kohman analysis, single sample..... 3.50
Complete Kohman analysis (for each additional sample in same shipment)..... 2.50

Add the following items to paragraph (i) *Ice cream*:

Fat..... 2.00
Total solids..... 1.50
Bacteriological plate count..... 1.50
Coliform (presumptive)..... 1.50
Net weight..... .50

Add the following items to paragraph (j) *Fluid milk*:

Fat (Babcock)..... 1.00
Milk solids not fat..... 1.50
Bacteriological plate count..... 1.50
Bacteriological direct count..... 1.50
Cryoscope test for added water..... 1.50
Coliform (presumptive)..... 1.50

(60 Stat. 1090; 7 U. S. C. 1624)

Done at Washington, D. C., this 30th day of January 1957.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 57-821; Filed, Feb. 4, 1957; 8:47 a. m.]

NOTICES

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce

[Case 221]

COMPANIA COMERCIAL COLON, S. A. AND JAIME GINARD

ORDER REVOKING EXPORT LICENSES AND DENYING EXPORT PRIVILEGES

In the matter of Compania Comercial Colon, S. A. and Jaime Ginard, Av. Juarez 64, Mexico 1, D. F., Mexico, respondents, Case No. 221.

The respondents, Compania Comercial Colon, S. A. and Jaime Ginard, were charged by the Director, Investigation Staff, Bureau of Foreign Commerce, with having violated the Export Control Act of 1949, as amended, and regulations promulgated thereunder. They duly appeared herein and demanded an oral hearing. Said hearing was held by the

Compliance Commissioner and he has filed his report and recommendation.

Now, after reading the entire record and considering the report of the Compliance Commissioner, I hereby make the following findings of fact.

1. At all times hereinafter mentioned, Compania Comercial Colon, S. A. was engaged, in Mexico City, Mexico, in the business of importing used rails from the United States, and Jaime Ginard was its president. It is still so engaged. For all practical purposes, Ginard and Compania Comercial Colon, S. A. are one and wherever reference is hereinafter made to Ginard, such reference includes also Compania Comercial Colon, S. A.

2. Prior to September 13, 1951 and until and following April 1952, National Production Authority, Department of Commerce, Order M-64 provided that no person might deliver or receive used

rails except in accordance with written authorization of that agency unless such rails were to be delivered to a person for track-laying purposes.

3. On September 13, 1951, and at all times hereinafter mentioned, in accordance with the policy of NPA, the Office of International Trade (now the Bureau of Foreign Commerce) did not issue validated licenses to export used rails to Mexico for rerolling purposes, but did allow exportations of such rails for relaying purposes.

4. On September 17, 1951, Richard Nathan Corporation, an exporter engaged in business in the City of New York, submitted to the OIT an application for a license to export to Ginard in Mexico material described by it as relaying rails and, in support of said application, the Richard Nathan Corporation represented and stated to the OIT

that Ginard intended to use such rails for relaying purposes.

5. At about the time of the submission of that application, and while it was pending, Ginard had obtained an order for rerolling rails from a rolling mill in Mexico City, Mexico, transmitted said order to Richard Nathan Corporation and supported it with a letter of credit providing for the delivery of 1,000 tons of used rails for rerolling purposes to said rolling mill in Mexico City, Mexico.

6. While said application was pending, the Richard Nathan Corporation and Ginard entered into an arrangement for the purpose of utilizing the license which might be granted upon the said application then pending, pursuant to which arrangement Ginard caused the letter of credit to be amended so that his firm was named therein as the firm designated to receive the rails and so that the words describing the rails as rails for rerolling purposes were omitted.

7. Upon the representations and statements contained in and submitted in connection with the application by the Richard Nathan Corporation, the OIT issued to it an export license authorizing the exportation of used rails for relaying purposes to the consignee named therein.

8. The Richard Nathan Corporation thereafter utilized said license to effectuate the exportation from the United States of used rails by executing and stating or causing to be stated in export declarations filed at the time of such exportations that the rails being exported were relaying rails, that the ultimate consignee was Ginard's firm, which was named in the export license and that the exportations were being made under the authority of such license.

9. Ginard, at all times involved, knew that export licenses were not being granted at the time involved for rails to be used for rerolling purposes.

10. After the said rails arrived in Mexico, in accordance with the arrangement made by Ginard, the bank which opened the letters of credit, instead of delivering the rails to Ginard, caused them to be delivered to the rolling mill which had originally been named in the letters of credit as the purchaser of the rails and they were thereafter used by said rolling mill for rerolling in its steel mill.

And, from the foregoing, I conclude that Ginard, contrary to the terms and conditions of an export license, and with full knowledge thereof, caused commodities exported from the United States to be delivered to a party not therein named and for a purpose not therein authorized and, thereby, effected a change of party named in export control documents and participated in the violation of export control regulations, all in violation of §§ 381.3 (a), 381.3 (b) (2), and 384.2 (a) then in effect.

In his report, the Compliance Commissioner said,

Ginard is an active used steel broker in Mexico. Not only does he import steel from the United States in his own name, but he arranges transactions whereby importations are made in the names of customers obtained by him. * * * Any denial of export privileges by reason of his conduct herein is bound to cause him large financial loss,

measured only by the length of the period of denial. NPA Order M64 was promulgated at a time when rerolling rails were scarce and sorely needed by the steel mills of this country. It was an order necessary for the protection of our economy. Any violation thereof necessarily had an adverse effect on our economy. In the case involving the Richard Nathan Corporation, on the consent of that corporation and by reason of particular circumstances advanced in support thereof, an order denying export privileges for thirty days was imposed on the Richard Nathan Corporation and Geiger. The violations by Ginard involve the same rails and are almost parallel with the violations by Richard Nathan Corporation.

However, even though I take into consideration that what Ginard did was upon the suggestion of Richard Nathan Corporation, the special circumstances which resulted in leniency towards Richard Nathan Corporation do not appear in this case. Moreover, Ginard did not rely upon any representations or assurances from Richard Nathan Corporation that what was being done was in conformance with American regulations. He knew, of his own knowledge, that rails, at the time involved, could not be exported from the United States if their intended use was for rerolling purposes. With this knowledge and having made arrangements to sell the rails to a rerolling mill, he, nevertheless, provided Richard Nathan Corporation with the means whereby that corporation was enabled to export the rails from the United States as relaying rails. Moreover, Ginard did not avail himself of the consent procedure, which was made known to him, but he chose instead to put the Government to the expense of a fully litigated hearing. Considering all this, but taking into consideration also the present business which Ginard will lose and the time lapse since the violations were committed, it is my recommendation that he be denied export privileges for a period of two months from the date of the order to be entered herein.

Now, after reading the entire record and having concluded that the recommendation of the Compliance Commissioner is fair and just, and being of the opinion that the action hereinafter provided is necessary to achieve effective enforcement of the law:

It is hereby ordered:

I. All outstanding validated export licenses in which Compania Comercial Colon, S. A. or Jaime Ginard appears or participates as purchaser, intermediate or ultimate consignee, or otherwise, are hereby revoked and shall be returned forthwith to the Bureau of Foreign Commerce for cancellation.

II. For a period of two months following the date hereof, the respondents Compania Comercial Colon, S. A. and Jaime Ginard are hereby suspended from and denied all privileges of participating, directly or indirectly in any manner or capacity, in an exportation of any commodity or technical data from the United States to any foreign destination, including Canada, whether such exportation has heretofore or hereafter been completed. Without limitation of the generality of the foregoing denial of export privileges, participation in an exportation is deemed to include and prohibit participation by either of said respondents, directly or indirectly in any manner or capacity, (a) as a party or as a representative of a party to any validated export license application, (b) in the obtaining or using of any validated or general export license or other export

control documents, (c) in the receiving, ordering, buying, selling, using, or disposing in any foreign country of any commodities in whole or in part exported or to be exported from the United States, and (d) in storing, financing, forwarding, transporting, or other servicing of such exports from the United States.

III. Such denial of export privileges shall extend not only to each of the said respondents, Compania Comercial Colon, S. A. and Jaime Ginard, but also to any person, firm, corporation, or business organization with which they may be now or hereafter related by ownership, control, position of responsibility, or other connection in the conduct of trade in which may be involved exports from the United States or services connected therewith.

IV. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, during any time when either respondent, Compania Comercial Colon, S. A. or Jaime Ginard, is prohibited under the terms hereof from engaging in any activity within the scope of Part II hereof, shall, without prior disclosure to, and specific authorization from the Bureau of Foreign Commerce, directly or indirectly in any manner or capacity (a) apply for, obtain, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any such prohibited activity, (b) order, receive, buy, use, dispose of, finance, transport or forward, any commodity on behalf of or in any association with such respondent, or (c) do any of the foregoing acts with respect to any commodity or exportation in which such respondent may have an interest of any kind or nature, direct or indirect.

Dated: January 30, 1957.

JOHN C. BORTON,
Director,
Office of Export Supply.

[F. R. Doc. 57-831; Filed, Feb. 4, 1957;
8:49 a. m.]

Federal Maritime Board

MATSON NAVIGATION CO. ET AL.

NOTICE OF AGREEMENTS FILED WITH THE BOARD 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, 39 Stat. 733, 46 U. S. C. 814:

(1) Agreement No. 8196, between Matson Navigation Company and Hamburg-American Line, covers the transportation of canned pineapple and canned pineapple juice under through bills of lading from Hawaii to European Continental sea ports, with transshipment at ports on the Pacific Coast of the United States; and

(2) Agreement No. 8198, between Matson Navigation Company and North German Lloyd, covers the transportation of canned pineapple and canned pineapple juice under through bills of lading from Hawaii to European Continental

sea ports, with transshipment at ports on the Pacific Coast of the United States.

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 30, 1957.

By order of the Federal Maritime Board.

[SEAL] GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 57-826; Filed, Feb. 4, 1957;
8:47 a. m.]

Office of the Secretary

[Appeals Board Docket No. FC-24 and
B. F. C. Case 189]

MERCHANT PARTNERS (HOME & OVERSEAS)
LTD. AND N. V. HANDELMAATSCHAPPIJ J.
SMITS IMPORT-EXPORT

APPEALS BOARD DECISION

In the matter of Merchant Partners (Home & Overseas) Ltd., John J. Driscoll, 2 Castle Court, Burchin Lane, London EC3, England, Appeals Board Docket No. FC-24; N. V. Handelmaatschappij J. Smits Import-Export, J. Smits, Molstraat 1, Rotterdam, Holland, B. F. C. Case No. 189.

Upon reading the transcript of the hearing held in Washington, D. C., August 3d, 4th, and 5th, 1954, by Paul M. Greene, Compliance Commissioner, together with the exhibits introduced into evidence at said hearing; the report and recommendation dated September 27, 1954, of said Commissioner to John C. Borton, Director, Office of Export Supply, Bureau of Foreign Commerce; the Order Revoking Licenses and Denying Export Privileges, dated October 28, 1954, issued by said John C. Borton thereon; and upon reading the letter of appeal of appellant, J. J. Driscoll, (hereinafter referred to as Driscoll) dated November 14, 1954, and the letter of appeal dated January 15, 1955 of appellant, N. V. Handelmaatschappij J. Smits Import-Export, (hereinafter referred to as Smits); and upon oral arguments by counsel for the Bureau of Foreign Commerce and appellant Smits before the Appeals Board in Washington, D. C., January 11, 1957, upon appeal from said Order Revoking Licenses and Denying Export Privileges,

The Appeals Board finds as follows:

(1) That an Order Revoking Licenses and Denying Export Privileges as to both Driscoll and Smits was justified by the evidence;

(2) That the provisions of the Order Revoking Licenses and Denying Export Privileges, dated October 28, 1954, while generally appropriate in view of the nature of the acts of the appellants and the need for elimination of fraud and

misrepresentation in dealings which involve the administration of export controls, can, in part, be modified in this instance;

(3) That Driscoll and Smits have now been denied export privileges under the order of October 28, 1954 for a period of two years and three months;

(4) That Driscoll and Smits, upon appeal, have made a showing that clemency is appropriate in their cases;

(5) That, as to Driscoll, the period during which he has been denied export privileges is now sufficient in the light of his explanations to the Board, and in the light of the minor scale of the international trade operations in which he was engaged prior to the suspension order and in which he will probably engage in the future;

(6) That, as to Smits, the period during which he has been denied export privileges is now sufficient in the light of his explanations to the Board, but that Smits played a more substantial role in the transaction which was the subject of the order appealed from, and is engaged in more extensive international trade operations, so that certain conditions upon his relief are called for.

Now therefore; it is ordered that:

(1) As to Driscoll, the Order Revoking Licenses and Denying Export Privileges, dated October 28, 1954, be and hereby is sustained and confirmed in all respects except that the period during which the suspension of privileges thereunder shall be effective be and hereby is modified so that said period of suspension will terminate as of the date of issuance of this order, rather than continuing for the duration of export controls.

(2) As to Smits, the Order Revoking Licenses and Denying Export Privileges, dated October 28, 1954, be and hereby is sustained and confirmed in all respects except that the period during which the suspension of privileges thereunder shall be effective be and hereby is modified so that, as of the date of issuance of this order, said period of suspension will terminate as to shipments from the United States of commodities not on the United States Positive List and which at the time of shipment are exportable under the authority of general licenses established by the Bureau of Foreign Commerce, but not as to shipments of Positive List Commodities under validated or general licenses or any other commodities shipped under validated licenses: *Provided, however,* That for a period of twelve months after the date of issuance of this order, the Director, Office of Export Supply, Bureau of Foreign Commerce, may summarily issue an order reinstating and making fully effective the order of October 28, 1954 for the remainder of said period of twelve months at any time that, in his opinion, Smits violates any orders or regulations of the Bureau of Foreign Commerce or Director, Office of Export Supply, relating to export control, without prejudice to such other or additional action as may be deemed proper by reason of such new violation: *And further provided,* That, as to shipments of Positive List Commodities under validated or general licenses or any other com-

modities shipped under validated licenses, nothing in this order shall be construed as preventing Smits from applying to the Director, Office of Export Supply, for further modification as may be deemed appropriate in the discretion of said Director.

(3) Except as to the modifications provided for herein, the appeals of the appellants be and hereby are denied.

GRISWOLD FORBES,
Deputy Chairman.
Appeals Board.

JANUARY 29, 1957.

[F. R. Doc. 57-830; Filed, Feb. 4, 1957;
8:49 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[61417]

FLORIDA

NOTICE OF FILING OF PLATS OF SURVEY

JANUARY 31, 1957.

Notice is given that the plats of original survey of the following described lands, accepted September 16, 1955, will be officially filed in the Bureau of Land Management, effective at 10:00 a. m. on the 35th day after the date of this notice:

TALLAHASSEE MERIDIAN, FLORIDA

- T. 66 S., R. 27 E.,
Sec. 34, Lot 5, containing 1.36 acres.
- T. 66 S., R. 28 E.,
Sec. 27, Lot 5, containing 0.59 acre.
- T. 67 S., R. 25 E.,
Sec. 25, Lot 2, containing 0.26 acre.
- T. 67 S., R. 28 E.,
Sec. 2, Lot 3, containing 5.11 acres,
Lot 4, containing 1.05 acres.

The plats of survey represent the survey of certain islands which were not included in the original plats of survey of the above-mentioned townships.

Available information indicates that the islands or keys are situated in the lower Florida Key area, in the general vicinity of Boca Chica, Summerland and Sugarloaf Keys. They are of sandy shell and marl formation, ranging in elevation from 1 to 3 feet above mean high tide. Each island contains a scattered growth of tropical vegetation and small trees. The island described as Lot 5, sec. 34, T. 66 S., R. 27 E., adjoins U. S. Highway No. 1. The other islands are surrounded by open waters, access to which is only by small boat, and lying off the mainland shores from 1/4 to 1 mile distant.

Lot 5 sec. 27, T. 66 S., R. 28 E., has been withdrawn pending inclusion in the proposed Key Deer Refuge. Lot 2 sec. 25, T. 67 S., R. 25 E., has been withdrawn and reserved permanently by the Navy Department. Lot 4, sec. 2, T. 67 S., R. 28 E., is privately owned land.

Inquiries concerning these lands shall be addressed to the Supervisor, Eastern States Office, Bureau of Land Management, Department of the Interior, Washington 25, D. C.

H. K. SCHOLL,
Acting Manager.

[F. R. Doc. 57-842; Filed, Feb. 4, 1957;
8:51 a. m.]

Office of the Secretary

WILLIAM SIMON

NOTICE OF APPOINTMENT AND STATEMENT OF FINANCIAL INTERESTS

JANUARY 30, 1957.

Pursuant to section 302 (a) of Executive Order 10647, the following information on a WOC appointee in the Department of the Interior is furnished for publication in the FEDERAL REGISTER:

1. Name of appointee: William Simon.
2. Name of employing agency: Department of the Interior, Office of the Solicitor.
3. Title of the appointee's position: Legal Consultant.
4. Name of the appointee's private employer: Howrey & Simon, Washington, D. C.
5. Date of appointment: January 2, 1957.

The statement of "financial interests" for the above appointee is set forth below.

THOMAS H. TELIER,
Personnel Officer.

APPOINTMENT AS WOC CONSULTANT

JANUARY 4, 1957.

Pursuant to Section 302 of Executive Order 10647 issued by the President November 28, 1955, and my appointment as a WOC Consultant to the Solicitor of your Department, I furnish you herewith the following information:

(a) I have no private employer or employers. I am a partner in the law firm of Howrey & Simon with offices at 1300 Connecticut Avenue, Washington, D. C. Our firm specializes in antitrust work and the very great bulk of the matters we are now handling for clients relate to the antitrust laws. Our clients include a number of oil companies, including both companies engaged in domestic oil operations and companies engaged in foreign oil operations.

(b) (1) I am not, and have not within sixty days preceding my appointment, been an officer or a director of any corporation.

(2) The corporations in which I own stock, bonds, or have any other financial interest, or have had within the sixty days preceding my appointment, or in which my wife owns any such interests acquired with funds provided by me, and the nature of such interest is as follows:

- 100 shares common stock, Standard Oil Company of Indiana.
- 100 shares common stock, General Motors Corporation.
- 100 shares common stock, Shell Trading and Transport Company.
- 25 shares common stock, Bethlehem Steel Company.
- 50 shares common stock, Clark Equipment Company.
- 50 shares common stock, General Portland Cement Company.
- 26 shares common stock, Gulf Oil Corporation.
- 25 shares common stock Inland Steel Company.
- 55 shares common stock, Shell Oil Company.
- 50 shares common stock, The Texas Company.
- 25 shares common stock, United States Steel Corporation.

8 shares old common stock, Missouri-Pacific Railroad.

1 share common stock, Standard Oil Company (New Jersey).

(3) I am, and have been since July 1, 1956, a partner in the law firm of Howrey & Simon with offices at 1300 Connecticut Avenue, Washington, D. C. Our firm specializes in antitrust work and the very great bulk of the matters we are now handling for clients relate to the antitrust laws. Our clients include a number of oil companies, including both companies engaged in domestic oil operations and companies engaged in foreign oil operations.

(4) I do not now, and have not within sixty days preceding my appointment, owned any businesses or any interest in any business other than as stated above.

WILLIAM SIMON.

[F. R. Doc. 57-828; Filed, Feb. 4, 1957;
8:48 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 11621, 11892; FCC 57M-93]

LAS VEGAS BROADCASTERS, INC. (KLAS)
AND PALM SPRINGS BROADCASTING CORP.
(KCMJ)

ORDER CONTINUING HEARING CONFERENCE

In re applications of Las Vegas Broadcasters, Inc. (KLAS), Las Vegas, Nevada; Docket No. 11621, File No. BP-8528; Palm Springs Broadcasting Corp. (KCMJ), Palm Springs, California; Docket No. 11892, File No. BP-10359; for construction permits.

The Hearing Examiner having under consideration a joint motion, filed on January 28, 1957, on behalf of Las Vegas Broadcasters, Inc. (KLAS), and Palm Springs Broadcasting Corp. (KCMJ), applicants in the above-entitled proceeding, requesting that the pre-hearing conference therein now scheduled to be held on February 1, 1957, be continued for a period of thirty days; and

It appearing that sufficient good cause has been set forth in the said motion to warrant a grant of the relief requested therein; and

It further appearing that the Chief of the Commission's Broadcast Bureau, the only other party to the proceeding, has consented to immediate consideration of the said motion and favorable action thereon;

It is ordered, This 29th day of January 1957, that the above motion be, and it is hereby, granted, and that the pre-hearing conference in the above-entitled proceeding is hereby continued until 10:00 o'clock a. m., on Friday, March 1, 1957, in the offices of this Commission, Washington, D. C.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-835; Filed, Feb. 4, 1957;
8:50 a. m.]

[Docket Nos. 11763, 11764; FCC 57-92]

J. E. WILLIS AND CRAWFORDSVILLE
BROADCASTERS, INC.

MEMORANDUM OPINION AND ORDER AMENDING ISSUES

In re application of J. E. Willis, Lafayette, Indiana; Docket No. 11763, File No. BP-10253; Crawfordsville Broadcasters, Inc., Crawfordsville, Indiana; Docket No. 11764, File No. BP-10460; for construction permits.

1. The Commission has under consideration (1) a petition to enlarge the issues filed by J. E. Willis on July 30, 1956; (2) answer thereto filed by Crawfordsville Broadcasters, Inc. on August 9, 1956; (3) comment and opposition to petition to enlarge filed by the Broadcast Bureau on August 16, 1956; (4) response to Crawfordsville's answer to petition to enlarge and reply to the Broadcast Bureau's comment and opposition to petition to enlarge filed by J. E. Willis on August 23, 1956; (5) a supplemental response to answer to petition to enlarge filed by J. E. Willis on October 30, 1956; and (6) an opposition to supplemental response filed by Crawfordsville on November 7, 1956.

2. J. E. Willis (hereinafter referred to as Willis) and Crawfordsville Broadcasters, Inc. (hereinafter referred to as Crawfordsville) have filed mutually exclusive applications for construction permits for a standard broadcast station to operate on 1410 kilocycles with power of one kilowatt, directional antenna, daytime only. Willis would operate at Lafayette, Indiana, and Crawfordsville at Crawfordsville, Indiana. J. E. Willis urges in the petition that the issues be enlarged to include the following issues:

(a) To determine whether a grant of the application of Crawfordsville may be made consistent with the provisions of § 3.35 of the Commission's rules on multiple ownership.

(b) To determine whether Crawfordsville has made, or will be able to make, arrangements to obtain and use the site specified in its application and, if so, the cost of obtaining such site and the cost of preparing the property for use.

(c) To determine the circumstances surrounding the filing of the application of Crawfordsville in which it specified such site in an abandoned brickyard north of Crawfordsville and east of Highway #43 and, in the light of these circumstances, whether applicant has acted in good faith.

(d) To determine whether Crawfordsville is financially qualified to construct and operate the proposed station.

3. The issue under (a) above is requested because O. E. Richardson, sole owner of WFAM, Inc., the licensee of Stations WASK and WFAM-TV in Lafayette, Indiana, owns 25 percent of the stock, and is a director, of Crawfordsville. In support, Willis includes an engineering exhibit showing that the WASK 2 mv/m contour would overlap the Crawfordsville 2 mv/m contour by a distance of approximately 15 miles and that the 0.5 mv/m contours of WASK and the proposed operation of Craw-

fordsville would substantially overlap each other. Crawfordsville maintains in opposition (1) that the City of Lafayette is approximately thirty miles north of Crawfordsville, and that though there might be some overlap with the service contours of the proposed Crawfordsville station, the same would occur only during the daylight hours; (2) that neither Station WASK nor the proposed Crawfordsville station renders or would render a primary service to the city in which the other is located, and that Station WASK renders a different type of program service than that which is proposed for the Crawfordsville station; (3) that numerous other broadcast services are available in the so-called overlap areas; and (4) that Mr. Richardson is not an officer of Crawfordsville and is in no position to control the proposed station, nor will he play a substantial part in the day-to-day operation thereof. The Commission, in light of the substantial amount of overlap in question, and Mr. Richardson's position as sole owner of WFAM, Inc., as well as substantial stockholder and director of Crawfordsville, is of the view that the issues should be enlarged by adding the aforementioned issue (a).

4. The issues requested under (b), (c) and (d) above concern the availability and adequacy of the transmitter site as proposed in the Crawfordsville application and their effect on the good faith and financial qualifications of Crawfordsville. With respect to the question whether Crawfordsville has an "option or legal right" to its proposed site, petitioner submitted, with a supplemental pleading, a document which purports to be a photostatic copy of a contract under the terms of which a Crawfordsville realty company (Clements Smith Corporation) is authorized by a third party to sell the real estate which had been proposed by Crawfordsville as the site for their station. This document is dated May 21, 1956, and purports to grant to Clements Smith Corporation the right to sell for three months the property therein described for \$10,500. On the other hand, Crawfordsville submitted with its "Answer to Petition for Enlargement of Issues" a copy of an "option for lease," dated December 30, 1955, which purports to grant an option to rent to Crawfordsville for 20 years 6½ acres of a 22 acre plot at \$90.00/month; the option to be exercised by lessee "within six months of date which an engineering survey shall be made to determine if said tract will meet the technical requirements." Willis states that this option has now expired. Crawfordsville claims that the language with respect to the date upon which an engineering survey shall be made was intended to mean that the option would be good if exercised within six months from date of the grant of the application.

5. Crawfordsville, in its application, submitted a photograph of its proposed site which shows that the proposed towers would be located in an area where there is apparently a pit, several buildings and trees. On the photograph,

there is a note which states "buildings on site abandoned and to be razed." Thus, it is conceivable that a considerable amount of work would be required in preparing the property for the installation of the proposed station. The applicant did not set forth in the application where funds, if necessary, would originate for the preparation of its site, but now submits affidavits from the lessors which state that it is their intention to lease the property in such condition to Crawfordsville that they could erect any building or buildings without additional cost for clearing and grading. Willis filed with its petition a copy of a letter from a construction company in which it is stated that the estimated cost of preparing the land for use would be \$8,000. Willis claims that the road to the proposed site is accessible only by an unused private road 0.9 of a mile long which would be unusable during periods of heavy snow and muddy weather. An affidavit from the Auditor of Montgomery County is attached to the petition which states this road is not under county maintenance. Crawfordsville answered with another affidavit from owner indicating that the road would be provided and maintained by the lessors.

6. In view of the statements and counter-statements thus made by the two parties to this proceeding, the Commission is unable, on the basis of pleadings before it, to resolve the allegations made by Willis and is of the view that the issues should be enlarged to permit an inquiry into issues (b), (c) and (d).

7. On the basis of the foregoing, *It is ordered*, This 30th day of January, 1957, That the petition of J. E. Willis for Enlargement of Issues in the above-entitled case is hereby granted: *And it is further ordered*, That the Commission's Order of July 5, 1956 (FCC 56-620, Mimeo No. 33098) is amended by renumbering present issue number 5 as number 9 and by adding four new issues 5, 6, 7 and 8 to read as follows:

5. To determine whether a grant of the application of Crawfordsville may be made consistent with the provisions of § 3.35 of the Commission's rules on multiple ownership.

6. To determine whether Crawfordsville has made, or will be able to make, arrangements to obtain and use the site specified in its application and, if so, the cost of obtaining such site and the cost of preparing the property for use.

7. To determine the circumstances surrounding the filing of the application of Crawfordsville in which it specified a transmitter site in an abandoned brickyard north of Crawfordsville and east of Highway #43 and, in the light of these circumstances whether applicant has acted in good faith.

8. To determine whether Crawfordsville is financially qualified to construct and operate the proposed station.

Released: January 31, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

1 The Crawfordsville application showed the price of acquiring real estate as \$4,000.

[Docket No. 11923; FCC 57-99]

KAISER HAWAIIAN VILLAGE TELEVISION,
INC.

MEMORANDUM OPINION AND ORDER SCHEDULING ORAL ARGUMENT

In re application of Kaiser Hawaiian Village Television, Inc., Honolulu, Hawaii (KHVH-TV); Docket No. 11923, File No. BPCT-2217; for construction permit for a new television broadcast station.

1. The Commission has before it for consideration a "Petition Protesting Grant and for Reconsideration or Rehearing" filed on January 4, 1957, pursuant to sections 309 (c) and 405 of the Communications Act of 1934, as amended, by Television Corporation of America (protestant), licensee of Television Broadcast Station KULA-TV, Honolulu, Hawaii, directed against the Commission's action of December 5, 1956, granting without hearing the above-captioned application of Kaiser Hawaiian Village Television, Inc. (Kaiser), for a permit to construct a new television broadcast station to operate on Channel 13 in Honolulu, Hawaii; an "Opposition of Kaiser Hawaiian Village Television, Inc. to Petition Protesting Grant and for Reconsideration or Rehearing", filed on January 4, 1957; and protestant's reply to opposition filed on January 17, 1957.

2. The protestant claims standing as a "party in interest" and "a person aggrieved or whose interests are adversely affected" within the meaning of sections 309 (c) and 405 of the Communications Act of 1934, as amended, as the licensee of an existing television broadcast station in Honolulu. It requests that the Commission reconsider its action on December 5, 1956, set aside the grant and designate Kaiser's application for hearing; or, pending a hearing and decision on its protest, postpone the effective date of the grant.

3. The protestant contends that the Kaiser grant " * * * threatens serious deleterious economic effects upon it" inasmuch as the area proposed to be served by Kaiser is presently served by three operating television stations in Honolulu (including that of protestant), and that the economic resources of the area will not support four television stations. In support of its contention, protestant states that of the three operating television stations in Honolulu, only one is being operated by the original parties; that of the three, two are operating at a loss and if the third one is operating profitably, its profit is insignificant. The protestant further points out that Honolulu is listed as the 117th television market in the United States; that available statistics, assuming them to be correct, indicate that the percentage of television homes in relation to population is considerably higher in Honolulu than the average in the United States; that, therefore, the possibility of an increase in television homes is remote; that most current television revenue figures, those for the year 1955, show that Honolulu has the second highest dollar television revenue for each home, indicating that the revenue ceiling, if not reached, is close to being reached; that the Commission's files will disclose that

certain communities having a greater television set count than Honolulu's have been unable to support a fourth television station; that there are only three television networks at present; that operation of a television station without a network affiliation is difficult; that Kaiser will so have to operate since all three Honolulu stations are affiliated; that if Kaiser were to secure an affiliation, it would necessarily result in a loss of network affiliation by one of the three existing stations and its eventual economic destruction; and that financial losses which the existing stations would incur as a result of the operation of the additional station would cause the operators of said stations, if able to continue operating, so to curtail their operations as to injure the public interest because of necessary impairment of the quality of programs.

4. The protestant requests that the above-captioned application be designated for hearing upon the following specified issues:

(1) To determine whether the Honolulu market will provide sufficient revenues to the proposed television station so as to permit the applicant to adequately serve the public.

(2) To determine whether the advertising potential of the Honolulu market is such as may indicate that all four stations, the three existing stations and the proposed, or three, or two, or one of the stations will go under with the result that the listening public, or a portion of the listening public, will be left without adequate service.

(3) To determine whether the advertising potential of the Honolulu market is so slight that by a division of the field the petitioner's station, the applicant's proposed operation, and/or one and/or more of the other two existing television stations will be compelled to render inadequate service.

(4) To determine whether the grant of such application would result in depriving the public of the service of the petitioner's station or the proposed operation of the applicant, or both, or would result in depriving the public of the service of one or both of the other existing television stations in Honolulu.

(5) To determine whether the applicant is financially qualified to construct, own and operate the proposed station if economic support is not available.

(6) To determine, in the light of the evidence adduced with respect to the foregoing issues, whether the public interest, convenience or necessity require that the Commission's action of December 5, 1956, granting the above entitled application should be vacated.

5. In its Opposition, Kaiser concedes the protestant's standing under sections 309 (c) and 405 of the Communications Act, but asks that the petition for reconsideration be denied, and that the protest be designated for oral argument pursuant to section 309 (c) to determine whether the facts alleged, even if true, would constitute grounds for setting aside the grant. Kaiser contends that the public interest requires that its construction permit remain in effect pending disposition of the protest. In support of the

request for oral argument, Kaiser argues that the only issue presented is whether the grant of its application would result in depriving the public of the service of one of the existing Honolulu television stations because of the alleged inability of the community to support four TV stations. Kaiser states that proposed issue (1) is directed to its ability to obtain sufficient revenues, but that no facts are alleged with respect to its ability to compete for revenue; that issue (2) is directed at the ability of any station to survive if a 4th station is added, though no facts are alleged indicating that 3 stations will not survive; that issue (3) is directed to the advertising potential of the Honolulu market, though no supporting facts have been alleged as to the size of that potential, and the protestant merely drew speculative comparisons with other markets not shown to be comparable; that issue (4) is repetitive of issue (2); that issue (5) is directed to Kaiser's financial qualifications, although no allegations of fact are made as to its financial qualifications. Kaiser contends, therefore, that the protest should be disposed of by oral argument, since the well pleaded facts as alleged, even if true, would not militate against the grant. In reliance upon *FCC v. Sanders Bros. Radio Station*, 309 U. S. 470, Kaiser argues that the Commission is not empowered to grant or withhold authorizations on the basis of the effect upon competition. Kaiser alleges further that it is not the Commission's function to insulate weak, poorly-run stations from the effects of competition from better stations; that the Commission cannot regulate programming, charges for time, size of staff or any of the factors which affect the economic success of the broadcaster; that the Commission cannot determine with certainty whether in a given market stations are making or losing money, or whether success or failure results from market characteristics or management actions; that the Commission cannot reliably determine market potential; that Kaiser is prepared to test its ideas competitively in the market place; and that, should it develop that Honolulu will only support 3 stations, Kaiser intends to assure that it is one of the survivors.

6. With respect to protestant's request for a stay of the effective date of the grant pending disposition, of the petition, Kaiser urges that a stay would not be in the public interest because the service it will provide is not merely a duplication of existing services, but a service not now available in Honolulu. This alleged new service consists of MGM and Warner Brothers feature films. Additionally, Kaiser proposes intensive live local news coverage, which it will film in color.

7. Inasmuch as the protestant is the licensee of Television Broadcast Station KULA-TV, Honolulu, Hawaii, and has alleged that it will be financially injured by the grant in question, we find the protestant to be a "party in interest" and "a person aggrieved or whose interests are adversely affected" within the meaning of sections 309 (c) and 405, respectively, of the Communications Act.

T. E. Allen and Sons, Inc., 9 Pike and Fischer R.R. 197; *FCC v. Sanders Bros. Radio Station*, 309 U. S. 470, 9 Pike and Fischer R.R. 2008. We find further that the protestant has specified with particularity, within the meaning of section 309 (c), sufficient facts upon which it relies in support of its protest. A hearing is therefore necessary. The initial question to be determined is the type of hearing required with respect to the issues specified.

8. In substance, the issues specified concern the ability of the Honolulu market to provide sufficient economic support to permit the operation of four television broadcast stations. The protestant's position is that the Honolulu market will not support four such stations; that the addition of a fourth station may cause one, two or all stations to fail or, at least, to curtail their programs so severely that the public interest will suffer. Thus, the protestant contends that a determination of these "economic issues" is required because the alleged deterioration of the program services involved is a public interest consideration. In this respect, the Commission pointed out in *Voice of Cullman*, 6 Pike and Fischer R.R. 161, that an initial economic injury sustained as a result of competition might be readily overcome by a resourceful licensee and, that in any event, degradation of program service was not a necessary consequence of economic injury since "quality of program service cannot be measured by cost alone." We believe, further, that the Communications Act contemplates the free entry into the broadcasting field by persons legally, technically, financially and otherwise qualified to construct and operate stations even where competition from such stations might have an adverse economic effect upon existing stations or other mass media; and that as a matter of policy, the competitive effect a new station may have on existing stations is not a factor to be considered by the Commission in determining whether a new operation is in the public interest, *FCC v. Sanders Bros.*, supra. We have recently reasserted these principles in *WWSW, Inc.*, 14 Pike and Fischer R.R. 492, *Perry County Broadcasting Company*, FCC 56-1031, Docket No. 11852, adopted October 24, 1956, and *Richard F. Lewis, Jr., Inc.* of Mount Jackson, Virginia, FCC 56-1055, Docket No. 11852, adopted October 31, 1956. Consequently, the Commission is of the view that even if the protestant's "economic injury" facts were proven, no grounds are presented for setting aside the grant in question. Accordingly, oral argument will be held on the issues specified by the protestant as on demurrer.

9. We turn now to the question of whether we should stay the effective date of our grant of the above-captioned application. In this connection, section 309 (c) of the Communications Act provides that—

*** Pending hearing and decision [of cases arising under this statute] the effective date of the Commission's action to which protest is made shall be postponed to the effective date of the Commission's decision after hearing, unless the authorization in-

involved is necessary to the maintenance or conduct of an existing service, or unless the Commission affirmatively finds for reasons set forth in the decision that the public interest requires that the grant remain in effect, in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing.

10. Kaiser argues that the service it is proposing is not merely additional service, but a new type of programming not now available in Honolulu which will satisfy a particular public need. Although the Commission does not question the quality of the feature films proposed to be shown or the representations with respect to added local news coverage, we believe that, in view of the fact that there are three operating television stations in Honolulu, we cannot make an affirmative finding that the public interest requires that this grant remain in effect. Accordingly, the effective date of the Commission's action here in question will be postponed to the effective date of the Commission's decision in the proceeding hereinafter ordered.

11. In view of the foregoing: *It is ordered*, That, effective immediately, the effective date of the grant of the above-captioned application is postponed pending a final determination by the Commission; that the petition for reconsideration herein is granted to the extent provided for below and is denied in all other respects; and that pursuant to section 309 (c) of the Communications Act of 1934, as amended, oral argument be held before the Commission en banc, commencing at 10:00 a. m. on February 12, 1957, on the question whether, if the facts alleged in the protest were proven, grounds have been presented for setting aside the grant of said application;

It is further ordered, That Television Corporation of America and the Chief of the Broadcast Bureau are hereby made parties to the proceeding herein, and that—

(1) The parties intending to participate in the oral argument shall file their appearances not later than February 5, 1957;

(2) The parties to the proceeding shall have until the date of oral argument to file briefs or memoranda of law.

Adopted: January 30, 1957.

Released: January 30, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-837; Filed, Feb. 4, 1957;
8:50 a. m.]

[Docket No. 11924; FCC 57-101]

BELOIT BROADCASTERS, INC. (WBEL)
ORDER DESIGNATING APPLICATION FOR
HEARING ON STATED ISSUES

In re application of Beloit Broadcasters, Incorporated (WBEL), Beloit, Wisconsin; Docket No. 11924, File No. BP-10531; for construction permit.

At a session of the Federal Communications Commission held at its offices in No. 24—3

Washington, D. C., on the 30th day of January, 1957;

The Commission having under consideration the above-captioned application of Beloit Broadcasters, Incorporated, for a construction permit to change the directional antenna system of Station WBEL, Beloit, Wisconsin, and to increase hours of operation from daytime only to unlimited time; to operate on the presently assigned frequency of 1380 kilocycles with a power of 5 kilowatts; and a request of Beloit Broadcasters, Incorporated, for a waiver of § 3.28 (c) of the Commission's rules;

It appearing that the applicant is legally, technically, financially and otherwise qualified, except as may appear from the issues specified below, to operate WBEL as proposed, but that nighttime interference to the proposed operation from Station KWK, St. Louis, Missouri (1380 kc, 5 kw, DA-N, U) would affect more than 10 percent of the population within its normally protected primary service area; 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 October 8, 1956, of the aforementioned deficiency 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, in a reply dated October 31, 1956, the applicant requested a waiver of § 3.28 (c) of the Commission's rules; and

It further appearing that the Commission is unable to make a determination in this matter on the basis of the data before it and is of the opinion that an evidentiary hearing is necessary to obtain complete information relative to the above-captioned application and the grounds advanced in support of the request for waiver of § 3.28 (c) of the rules to enable the Commission to determine whether the public interest would be served by a grant thereof;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-captioned 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 operation of Station WBEL as proposed, and the availability of other primary service to such areas and populations.

2. To determine whether, because of the interference received, the proposal of WBEL, would comply with § 3.28 (c) of the Commission's rules; and if compliance with § 3.28 (c) is not achieved, whether circumstances exist which would warrant a waiver of said section of the rules.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether the above-captioned application should be granted.

It is further ordered, That to avail itself of the opportunity to be heard, Beloit Broadcasters, Incorporated, pursuant to § 1.387 of the Commission's rules, in person or by attorney, shall

within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: January 31, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-838; Filed, Feb. 4, 1957;
8:50 a. m.]

[Docket Nos. 11925, 11926; FCC 57-102]

NORTHWEST BROADCASTERS, INC., AND REV.
HALDANE JAMES DUFF

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Northwest Broadcasters, Inc., Bellevue, Washington; Docket No. 11925, File No. BP-10521; Rev. Haldane James Duff, Seattle, Washington; Docket No. 11926, File No. BP-10638; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of January, 1957;

The Commission having under consideration the above-captioned applications of Northwest Broadcasters, Inc. and the Reverend Haldane James Duff, each for a construction permit for a new standard broadcast station to operate on 1540 kilocycles with powers of one kilowatt and 10 kilowatts, respectively, directional antenna, unlimited time, at Bellevue and Seattle, Washington, respectively;

It appearing that both applicants are legally, technically, financially and otherwise qualified, except as may appear from the issues specified below, to operate their proposed stations, but that the operation of both stations as proposed would result in mutually destructive interference and that the nighttime interference which would be received by the proposed operation of the Reverend Haldane James Duff would result in a loss of population which would be excessive under § 3.28 (c) of the Commission's rules; and

It further appearing that, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicants were advised by letter dated October 8, 1956, of the aforementioned interference and that the Commission was unable to conclude that a grant of either application would be in the public interest; and

It further appearing that a timely reply was filed by each of the applicants; and

It further appearing that the Reverend Haldane James Duff has requested a waiver of § 3.28 (c) of the Commission's rules; and

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act

of 1934, as amended, the said applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

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

2. To determine, whether, because of the interference which would be received by the proposed operation of the Reverend Haldane James Duff, his proposed operation would comply with § 3.28 (c) of the Commission's rules; and if compliance with § 3.28 (c) is not achieved, whether circumstances exist which would warrant a waiver of said section of the rules.

3. To determine in the light of section 307 (b) of the Communications Act of 1934, as amended, which of the operations proposed in the above-captioned applications would better provide a fair, efficient and equitable distribution of radio service.

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

It is further ordered, That, to avail themselves of the opportunity to be heard, Northwest Broadcasters, Inc., and the Reverend Haldane James Duff, pursuant to § 1.387 of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: January 31, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-839; Filed, Feb. 4, 1957;
8:50 a. m.]

[Docket No. 11927; FCC 57-113]

Q BROADCASTING Co.

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Q Broadcasting Company, Phoenix, Arizona; Docket No. 11927, File No. BP-10178; for construction permit.

1. The Commission has before it for consideration a "Protest, Petition for Reconsideration, and Request for other Appropriate Relief" filed on January 4, 1957, pursuant to sections 309 (c) and 405 of the Communications Act of 1934, as amended, by Poole Broadcasting Company (hereinafter sometimes referred to as Poole), and directed against the Commission's action of December 5, 1956, in granting without a hearing the above-captioned application of the Q Broadcasting Company (hereinafter sometimes referred to as Q Broadcasting or Q) for a construction permit for

a new standard broadcast station to operate on 740 kilocycles with a power of 1 kilowatt, directional antenna, daytime only, at Phoenix, Arizona.¹

2. Poole claims to be a "party in interest" or "person aggrieved or whose interests are adversely affected" within the meaning of sections 309 (c) and 405 of the act, respectively, because it had ready and available for immediate timely filing with the Commission an application for the facility granted Q Broadcasting but did not file it for the sole reason that it had reached an agreement with Q Broadcasting to merge interests and that under the doctrine of the Ashbacher case, 326 U. S. 327, its application would have been entitled to a comparative hearing with the application of Q Broadcasting. The protestant also states that it believes the agreement to be enforceable in court but that should it be mistaken, "it is manifest that [it] was deprived of its right to a comparative hearing by the misrepresentations and trickery of Q and its principals." Poole asserts that if the agreement is valid, and may be ordered effectuated, it stands in the position of a minority stockholder and is entitled to be heard under the decisions of the Commission and the Court of Appeals in the WGMS case (Smith v. F. C. C., No. 13,571), and that if the agreement only gives Poole an option to buy stock in Q Broadcasting, then it has standing under Granik, et al. v. F. C. C., 234 F. (2d) 682; 13 Pike and Fischer RR 2185.

3. As noted above, the Commission on December 5, 1956 granted the application of Q Broadcasting for a new standard broadcast station to operate on 740 kilocycles with a power of 1 kilowatt at Phoenix, Arizona. The application was originally mutually exclusive with an application of David M. Segal for the same facilities, and the applicants were so notified by letter of October 8, 1956. In the same letter Q Broadcasting was notified, among other things, of an apparent lack of financial qualifications and the possibility of objectionable interference to Radio Station KBIG, Avalon, California, licensed to Poole. On November 1, 1956, Segal voluntarily dismissed his application.

4. In the subject protest, Poole alleges, in general, that substantially prior to the Commission's letter of October 8, 1956, it had made a decision to file an application in Phoenix, Arizona, for 740 kilocycles; that by on or about November 20, 1956, it had ready and available for immediate filing with the Commission its application for said facility meeting all pertinent requirements of the Commission; that before that time it undertook to explore with Q Broadcasting the possibility of reaching some kind of mutually satisfactory agreement for merging their interests; that in furtherance of this aim, on or about October 26, 1956, Cliff Gill, an officer and director of Poole,

¹In a letter dated January 14, 1957, and received in the Commission on January 15, 1957, counsel for the grantee advised that a "reply will be forthcoming within the next week or ten days". As of January 28, 1957, a reply has not been received in the Commission.

and Frank Barc, Jr., president and majority stockholder of Q Broadcasting met in Phoenix, Arizona to discuss various merger possibilities; that Barc was then advised of Poole's intention to file a competing application and of Poole's willingness to join forces with Q Broadcasting and thus aid it in meeting the Commission's objection to Q's financial qualifications by providing Q with the funds necessary for the construction and operation of the proposed station; that Barc expressed definite interest in a merger and later informed Gill by telephone that the minority stockholders were willing to go along with his recommendation which would lead to a merger of the Poole and Q interests; that an offer for the purchase of a stock interest in Q was made by Poole and accepted by Barc in principle; that subsequent to this discussion a meeting was held in Washington, D. C., on November 16, 1956, in the offices of Poole's attorneys at which meeting Gill, Q Broadcasting's attorney, and Poole's attorneys participated; that an oral agreement was reached; that Barc through telephonic communication with his attorney approved the agreement; that it was understood that the filing of the Poole application was unnecessary; that such forbearance was specifically conditioned upon the agreement between Poole and Q Broadcasting; that Q Broadcasting's attorney was to prepare a formal written agreement embodying the oral agreement, for submission to the Commission as an amendment to Q's pending application; that in order to insure that the Commission would be advised of the changes affecting the applicant, Q's attorney, at the request of Poole, advised the Commission in a letter dated November 23, 1956, that an amendment was forthcoming;² that the formal agreement was prepared by Q's attorney and sent to the parties for signatures; that on December 4, 1956, Barc told Mr. Poole by telephone that signed copies of the agreement were being placed in the mail that night and was in turn advised that the copies signed by Poole were already in the mail; that the next day, December 5, 1956, the Commission granted the Q Broadcasting application; that in the period between the oral agreement and the Commission's action, all material for the amendment, other than the formal written signed agreement, had been forwarded to Q's Washington counsel; that immediately after issuance of the construction permit by the Commission, Washington counsel for Poole and Q agreed that the agreement which had been reached by the parties would be brought to the attention of the Commission by means of an immediate filing of an ownership report and amendment; that repeated efforts on the part of Q's attorney and Poole's attorney to contact Barc to ascertain the whereabouts of the signed document proved fruitless; and that on December 19, 1956, Poole's attorney was advised by Q's Phoenix counsel, that

²This letter had not been associated with the application nor called to the attention of the Commission when the application was granted on December 5, 1956.

Q did not intend to live up to the agreement.

5. The protestant further alleges, in substance, that the actions of Mr. Barc, majority stockholder of Q, go to Q's qualifications to be a licensee; that the Commission's processes have deliberately been misused; that while Q appeared to be taking necessary steps to advise the Commission of the existence of the agreement and had advised the Commission of the pendency of an amendment, Q's position now is to conceal the very existence of such agreement from the Commission; that the Commission must therefore reconsider the qualifications of Q as a prospective licensee, especially in view of Barc's actions, since the Court stated in the Granik Case, supra, "Good faith and fair dealing bear upon the public interest."; that at the time the Commission made the grant it was not fully apprised of the negotiations preceding the oral agreement, of the terms of the agreement, and of its effect upon the make-up of the applicant and its proposal to the Commission; that it is evident these facts are presently being deliberately concealed from the Commission by Q and its principals; that the financial qualifications of Q are to be questioned, since the statement in Q Broadcasting's application that Barc would pay \$9,000 for 90 shares of stock subscribed for by him, is directly contradictory to Poole's information that this stock would be issued to Barc by Q for promotional and similar services, and would not be paid for in cash; and that the precarious financial condition of Q has been rendered more difficult in view of the legal and other expenses required by the pendency of the protest and petition, and by the probable damages which are likely to be assessed against Q and Barc as a result of court action by Poole based on the above stated facts.

6. Poole requests that the Commission, on its own motion, set aside or postpone the effective date of the grant to Q and investigate the qualifications of Q and Barc to be a licensee; that the Commission, pursuant to the provisions of section 405 of the Communications Act of 1934, as amended, reconsider its action of December 5, 1956, granting a construction permit to Q, and set aside such grant; or that the Commission, pursuant to section 309 (c) of the Communications Act, grant the protest of Poole and (a) set aside or postpone the effective date of its December 5, 1956 action granting the application of Q for a construction permit, (b) designate said application for hearing upon the issues hereinbelow set forth, and such other issues as the Commission may adopt; and (c) make Protestant, Poole Broadcasting Company, a party to said proceeding.

7. More than thirty days having now elapsed since the grant of the Q application,³ Poole's request that the Commission on its own motion, pursuant to section 1.726 (c) of the Commission's rules, vacate the grant and investigate the

qualifications of Q and Barc may not be granted.⁴ Nor do we find any necessity for such action in this case, since the public interest may be fully protected by a hearing on the protest, which we find to be in order.

8. Poole asserts that it has standing as a "party in interest" within the meaning of section 309 (c) of the Communications Act and as a "person aggrieved" by the grant of the Q application within the meaning of section 405 of the act on two grounds: (1) as an applicant by reason of the facts that it was ready, willing and able to file a competing application at any time prior to the grant and refrained from doing so only because of the agreement with Q and the misrepresentations of Q and its principals; and (2) as a stockholder, or at least the holder of an option to purchase stock, in Q by virtue of a contract. We agree that Poole has the necessary standing, at least by reason of a combination of the grounds asserted. We have many times held that the filing of a conflicting application after a grant has been made does not give standing to protest the grant, but that protestant's application must have been pending at the time of the grant. Polan Industries, 8 Pike and Fischer RR398; Chief Pontiac Broadcasting Co., 9 Pike and Fischer RR 413. We do not impeach those holdings, but find them inapplicable here. In none of those cases was there any allegation that the failure to file a timely application was due to misrepresentations by the grantee. And, if the allegations in the protest are accepted as true, it seems to us that, insofar as Q Broadcasting is concerned, the present case should be considered as if a competing application had been timely filed. Moreover, there is the additional feature that the alleged misrepresentations are interconnected with the refusal to comply with an oral agreement which, though reduced to writing, was never formally executed. This oral contract may not generate the same contract rights as the written contract involved in *Granik v. FCC*, 234 F. (2d) 682, 13 Pike and Fischer RR 2185. And since we have been consistently of the view that the validity and enforceability of contracts should more appropriately be determined by the courts, we are not disposed to make any such determination here. For our purposes here in determining standing to protest, it is sufficient to acknowledge that in view of the various exceptions to the principle that oral contracts are not enforceable, especially the effect of part performance, estoppel or a memorandum in writing, it is not possible for us to say with any degree of certainty that an appropriate court would not find the alleged contract to be valid and enforceable. Therefore, in the peculiar combination of circumstances present in this case, it appears to

⁴That is not to say, however, that the Commission could not on its own motion, prior to issuance of a license pursuant to section 319 (c) of the Communications Act, consider new matter, bearing on the qualifications of a permittee, coming to its attention after a grant of a construction permit and take appropriate action. See also section 312 of the act.

us that Poole has suffered injury, or incurred the likelihood of injury, above that of a member of the general public, and that it has standing as a party in interest or a person aggrieved by the grant to Q Broadcasting.⁵

9. The Commission also finds that Poole has satisfied the requirement of section 309 (c) of specifying with particularity the facts relied upon to show that the grant in question was improperly made or would otherwise not be in the public interest. It follows, therefore, that there must be a hearing on the issues presented. Since the protestant has knowledge of the circumstances surrounding the discussions, negotiations and alleged contract, it is the person best suited to present all the facts of the case to the Commission. Therefore, while we are including the protestant's proposed issues in the hearing ordered herein, we are not adopting these issues, and the burden of proceeding with the introduction of evidence and the burden of proof on these issues shall be on the protestant.

10. On the basis of the facts before us, we are unable to conclude that the subject grant should remain in effect during the pendency of the hearing hereinafter ordered.

11. *Accordingly, it is ordered*, That the subject Protest, Petition for Reconsideration and Request for Other Appropriate Relief is granted to the extent provided for below and is denied in all other respects; that, pursuant to section 309 (c) of the Communications Act of 1934, as amended, effective immediately, the effective date of the grant of the above-captioned application is postponed pending final determination by the Commission in the hearing described below; and that the above-captioned application is designated for evidentiary hearing at the offices of the Commission in Washington, D. C., on the following issues:

1. To determine all of the facts and circumstances concerning the oral and written agreement between Q, and the stockholders of Q, with Poole, and specifically; (a) the date on which said oral agreement was reached; (b) the terms of such oral agreement; (c) the circumstances surrounding the written agreement; (d) the terms of the written agreement; and (e) the failure to disclose to the Commission, and the present effort to withhold from the Commission, the facts concerning such oral and written agreement.

2. To determine: (a) whether Q wrongfully and wilfully misled Poole into not filing a competing application on 740 kc at Phoenix, Arizona; and (b) whether Poole did in fact have ready for

⁵It is to be noted that, even if Poole's standing should be denied, the matters raised in the petition could be the subject of inquiry in later proceedings on an order to show cause why the construction permit should not be revoked or in a hearing on the license application. See Footnote 4, supra. Clearly it is in the public interest, as well as the interests of both Q and Poole, that such inquiry be held at the earliest possible date. A hearing on the protest affords the opportunity for such inquiry.

³It is to be noted that the pleading under consideration was not filed with the Commission until January 4, 1957, the thirtieth day after the grant.

filing, a mutually exclusive application for the use of said frequency in Phoenix.

3. To determine whether in the light of (a) the failure to disclose to the Commission, and the effort to withhold information from the Commission, concerning the agreement between Q and Poole; and (b) the effort of Q and its stockholders to violate the terms of such agreement; and (c) the misuse of the Commission's processes with respect to the above; Q and its stockholders possess the requisite character and other qualifications to become a permittee or licensee of a radio station.

4. To determine whether in the light of all of the evidence the grant to Q was improperly made, particularly in view of the requirements of the Communications Act, and the requirements established by the Supreme Court in *Ashbacker v. F. C. C.*, concerning the need for comparative consideration of mutually exclusive applications.

5. To determine whether Q, without the financial support of Poole as incorporated in said agreement between Poole and Q, is financially qualified to construct and operate the proposed station.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof as to each of the issues shall be on the protestant;

It is further ordered, That the protestant and the Chief of the Broadcast Bureau are made parties to the proceeding herein and that:

1. The hearing on the above issues is to commence at a time and place and before an Examiner to be specified in a subsequent order; and

2. The parties to the proceeding herein shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and seven (7) days thereafter to file replies to any such exceptions; and

3. The appearances by the parties intending to participate in the above hearing shall be filed not later than February 15, 1957.

Adopted: January 30, 1957.

Released: January 31, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-840; Filed, Feb. 4, 1957;
8:50 a. m.]

COMMITTEE FOR RECIPROcity INFORMATION

NEGOTIATIONS RESULTING FROM CANADIAN
DESIRE TO RENEGOTIATE TARIFF CONCES-
SION ON POTATOES IN GENERAL AGREE-
MENT ON TARIFFS AND TRADE

SUBMISSION OF INFORMATION

Submission of information to the Com-
mittee for Reciprocity Information:

Closing date for applications to appear at
hearing February 27, 1957.

Closing date for submission of briefs by
persons making application to appear at the
hearing February 27, 1957.

Closing date for submission of briefs for
persons not desiring to be heard March 6,
1957.

Public hearings open March 6, 1957.

The Government of Canada intends to renegotiate, with a view to its upward modification, the Canadian concession on potatoes contained in item 83 in Part I of Schedule V (Geneva—1947) to the General Agreement on Tariffs and Trade (61 Stat. (pt. 5) A396). The United States will participate in such renegotiations, which will be carried out under the procedures provided for in the Declaration on the Continued Application of Schedules, of March 10, 1955 (Treaties and Other International Agreements Series 3438).

Interested persons are invited to submit their views with regard to the anticipated effect on United States trade of modification of this concession on potatoes, or with regard to products on which the United States might request new or further tariff concessions from Canada as compensation to the United States for such modification of the Canadian concession. Views may also be submitted with regard to possible upward modification, or withdrawal, of United States tariff concessions in Part I of any Schedule XX to the General Agreement, including the concessions on potatoes (items 771, Schedule XX (Geneva—1947), 61 Stat. (pt. 5) A1244 and A1245).

Should the United States modify a rate of duty provided for in Part I of Schedule XX, such modification might involve a modification also of the rate or the margin of preference applicable to the product of Cuba, other than the modification of a rate specified in Part II of any Schedule XX.

No concession involving reduction in duties or other import restrictions of the United States, or continuance of existing customs or excise treatment of an article not now included in any Schedule XX to the General Agreement, will be granted by the United States pursuant to this notice.

The Committee for Reciprocity Information hereby gives notice that all applications for oral presentation of views in regard to the proposed renegotiations shall be submitted to the Committee for Reciprocity Information not later than February 27, 1957. The application must indicate the product or products on which the individual or groups desire to be heard and an estimate of the time required for oral presentation. All persons who make application to be heard shall also submit to the Committee their views in writing in regard to the foregoing proposal not later than February 27, 1957. Written statements of persons who do not desire to be heard shall be submitted not later than March 6, 1957. Such communications shall be addressed to "Committee for Reciprocity Information, Tariff Commission Building, Washington 25, D. C." Fifteen copies of written statements, either typed, printed, or duplicated shall be submitted, of which one copy shall be sworn to.

Written statements submitted to the Committee, except information and business data proffered in confidence, shall be open to inspection by interested

persons. Information and business data proffered in confidence shall be submitted on separate pages clearly marked "For Official Use Only of Committee for Reciprocity Information."

Public hearings will be held before the Committee for Reciprocity Information, at which oral statements will be heard, beginning at 10:00 a. m., March 6, 1957, in the hearing room in the Tariff Commission Building, Eighth and E Streets NW., Washington 25, D. C. Witnesses who make application to be heard will be advised regarding the time and place of their individual appearances. Appearances at hearings before the Committee may be made only by or on behalf of those persons who have filed written statements and who have within the time prescribed made written application for oral presentation of views. Statements made at the public hearings shall be under oath.

By direction of the Committee for Reciprocity Information this 4th day of February 1957.

EDWARD YARDLEY,
Secretary, Committee
for Reciprocity Information.

[F. R. Doc. 57-904; Filed, Feb. 4, 1957;
11:34 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3554]

WEST PENN ELECTRIC CO. AND POTOMAC
EDISON CO.

NOTICE OF PROPOSED ISSUE AND SALE OF
ADDITIONAL COMMON STOCK BY PARENT
COMPANY PURSUANT TO UNDERWRITTEN
RIGHTS OFFERING, AND PROPOSED CHARTER
AMENDMENT AND ISSUE AND SALE OF AD-
DITIONAL COMMON STOCK BY SUBSIDIARY
TO PARENT COMPANY

JANUARY 30, 1957.

The West Penn Electric Company ("Electric"), a registered holding company, and its subsidiary The Potomac Edison Company ("Potomac"), a registered subholding company, have filed a joint application-declaration and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("act"), designating sections 6, 7, 9, 10, and 12 thereof and Rules U-43, U-44, and U-50 thereunder as applicable to the proposed transactions, which are summarized as follows:

Issue and sale of additional common stock by Electric. Electric proposes to issue and sell, through an underwritten rights offering to its stockholders, 528,000 additional shares of its Common Stock (at the rate of 1 share for each 16 shares held on the record date), and in this connection to issue transferable warrants to such stockholders. The warrants will be issued on February 27 to stockholders of record at the close of business on February 26, 1957, and will expire on March 14, 1957. No fractional shares will be issued. The subscription agent will endeavor, to the extent practicable, to purchase any number of rights (up to 15) required to complete any subscription, and to sell any excess rights (up to 15) not required to complete a subscription.

Charges for this service (other than transfer taxes) will be paid by Electric.

Electric proposes on or about February 19, 1957, publicly to invite bids from prospective underwriters for the underwriting of said offering, such underwriters to name the amount of compensation, if any, to be paid by Electric to them for their services and agreement to purchase, at the subscription price, any shares not subscribed for as a result of the offering to the stockholders and also the shares, if any, purchased by Electric in connection with its stabilizing activities referred to below. It is proposed that the bids will be submitted before 12 o'clock noon on February 26, 1957.

The price per share at which Electric proposes to offer the additional Common Stock to its common stockholders and the unsubscribed stock to the underwriters will be determined by Electric. Prospective underwriters will be notified of the price per share as so determined not later than 4 o'clock p. m. on the day prior to the day for the submission of bids. Such price will be not more than the last reported sale price on the New York Stock Exchange and not less than 85 percent of such last reported sale price.

Electric proposes, if it considers the same necessary or desirable, to effect transactions to stabilize or maintain the price of its Common Stock for the purpose of facilitating the offering and distribution of the additional Common Stock. In connection therewith Electric may, during the period commencing with the third full business day prior to the time for the submission of bids and continuing until the acceptance of a bid, purchase not in excess of 52,800 shares of its Common Stock through regular brokerage channels.

The underwriters will pay to Electric 50 percent of any excess over \$1.50 per share above the subscription price on shares sold before April 14, 1957. Any shares not sold prior to that date shall be deemed to have been sold at the mean of the high and low prices on April 12.

Electric will use the net proceeds from its proposed sale of Common Stock to purchase additional common stock from its subsidiary companies in the aggregate amount of about \$13,400,000. The subsidiaries will use such funds together with other cash resources and the proceeds from the issue in 1957 of about \$34,000,000 of senior securities, to finance their construction programs during 1957 and 1958, estimated at \$101,500,000.

Electric's fees and expenses in connection with the issuance and sale of its additional Common Stock, other than the compensation to be paid to the underwriters, are estimated as follows:

Independent accountants.....	\$20,000
Counsel fee—Sullivan & Cromwell.....	8,500
Printing prospectuses, warrants, stock certificates, etc.....	17,500
Transfer Agent and Registrar.....	25,000
Subscription Agent.....	42,000
Federal stamp tax.....	4,000
New York Stock Exchange Listing fee.....	1,325
Registration fee.....	1,743
Miscellaneous.....	4,932
Total.....	125,000

Amendment of charter and issue and sale of additional common stock by Potomac, and pledge of such stock by Electric. Potomac, a Maryland corporation, which now has outstanding 775,000 shares of Common Stock, all of which are owned by Electric, proposes to amend its Charter to increase its authorized Common Stock from 800,000 to 1,500,000 shares without nominal or par value; and thereafter, on or before June 30, 1957, to issue and sell to Electric 100,000 additional shares of such stock for \$2,000,000 cash. Potomac will use the funds for the construction programs of itself and its subsidiaries, or to reimburse its treasury for expenditures in connection therewith.

Upon acquisition of the additional Common Stock of Potomac, Electric proposes to pledge same with Chemical Corn Exchange Bank, Trustee under the Trust Indenture dated as of September 1, 1949, securing Electric's 3½ percent Sinking Fund Collateral Trust Bonds, in accordance with the requirements of said Indenture.

Potomac's fees and expenses in connection with its charter amendment and the issuance and sale of its additional Common Stock are estimated at \$3,350, including Federal stamp taxes \$3,000, legal fees \$150, and miscellaneous \$200.

It is stated that prior authorization of the Maryland Public Service Commission is required for the issue and sale of the additional Common Stock by Electric, and for the issue and sale of the additional Common Stock by Potomac and its acquisition by Electric; that authorization of the Interstate Commerce Commission may also be required for the issue and sale of Common Stock by Potomac, which owns and operates a railway tie-line between Frederick and Thurmont, Maryland; that appropriate applications have been filed with such commissions; that no further approvals by regulatory commissions, other than this Commission, are required.

Notice is further given that any interested person may, not later than February 15, 1957 at 5:30 p. m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date the application-declaration, as now amended or as further amended, may be granted and permitted to become effective as provided in Rule U-23 of the Rules and Regulations promulgated under the act, or the Commission may grant exemption from its rules as provided in Rules U-20 (a) and U-100, or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 57-818; Filed, Feb. 4, 1957; 8:46 a. m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 120]

OKLAHOMA

DECLARATION OF DISASTER AREA

Whereas, it has been reported that on or about January 23, 1957, because of the disastrous effects of a tornado, damage resulted to residences and business property located in certain areas in the State of Oklahoma;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected; and

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act of 1953, as amended:

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 207 (b) (1) of the Small Business Act of 1953, as amended, may be received and considered by the Offices below indicated from persons or firms whose property situated in the County of Sequoyah (including any areas adjacent to said County) suffered damage or other destruction as a result of the catastrophe above referred to:

Small Business Administration Regional Office, 1114 Commerce Street, Dallas 2, Tex.
Small Business Administration Branch Office, Bankers Service Life Building, Room 616, 114 North Broadway, Oklahoma City, Okla.

2. No special field office will be established at this time.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to July 31, 1957.

Dated: January 24, 1957.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 57-825; Filed, Feb. 4, 1957; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[No. MC-C-2086]

SAFEWAY TRUCK LINES, INC.

COMMODITY RATES

At a session of the Interstate Commerce Commission, Board of Suspension, held at its office in Washington, D. C., on the 23rd day of January A. D. 1957.

There being under consideration the matter of rates and charges, and the rules, regulations and practices affecting such rate and charges, applicable on interstate or foreign commerce of various commodities, subject to various minimum weights, between points in Central Territory, on the one hand, and, on the other, points in Middle Atlantic and New England Territories, as set forth in:

SAFEWAY TRUCK LINES, INC.:
MF-1. C. C. No. 40;

NOTICES

On page 19, Item 330;
 On page 20, Item 400;
 On page 22, Item 430;
 On page 24, Item 540;
 On page 26, Item 590;
 On page 27, Item 600;
 On Page 28, Items 680 and 690;
 On page 29, Items 750 and 790, in full, and in Item 760 the 236 cent rate;
 On page 30, Items 820, 840, 880, 890 and 910;
 On page 31, in Item 950, the rate from Yonker, N. Y., and Item 960, in full;
 On page 32, Item 980;
 On page 34, in Item 1130, the rate between Chicago, Ill. and New York, N. Y.;
 On page 35, in Item 1150, the rates between Chicago, Ill. and New York, Syracuse and Utica, N. Y.; and in Item 1160, the 169 cent rates;
 On page 36, Items 1240 and 1250;
 On page 37, Items 1300, 1320 and 1330;
 On page 38, in Item 1380, the 120 cent rates; and in Item 1390, all rates except to Poughkeepsie, N. Y.;
 On page 39, Item 1410 and 1430; and
 On page 40, Items 1480, 1490, 1500, 1510 and 1530;
 Supplement No. 19 to MF-I. C. C. No. 40;
 On page 6, in Item 390-A, the 114 cent rate;
 On page 10, in Item 560-B, the 111 cent rate between Chicago, Ill. and New York, N. Y.;
 On page 11, Item 595-A;
 On page 14, Item 810-A;
 On page 15, Item 970-A; in full; and in Item 990-A, the rates to Chicago, Ill., Cincinnati, Cleveland and Columbus,

Ohio, Indianapolis, Ind. and St. Louis, Mo.;

On page 17, Item 1260-A, in full; in Item 1110-A, the 115 cent rate; and in Item 1470-A, the 114 cent rate; and

On page 18, in Item 1520-A, the 153 cent rate;

Supplement No. 22 to MF-I. C. C. No. 40;

On page 5, in Item 1010-C, the 128 cent rate; and

On page 6, in Item 1360-B, the 114 cent rate;

Supplement No. 25 to MF-I. C. C. No. 29;

On page 9, in Item 146-C, the rates to New York, N. Y.;

MF-I. C. C. No. 39 (LEE BROTHERS, INC., series);

On page 12, Item 335; and

On page 25, Item 705;

Supplement No. 26 to MF-I. C. C. No. 39 (LEE BROTHERS, INC., series);

On page 6, in Item 356-A, the 109 cent rate;

On page 7, in Item 420-D, the rates between Chicago, Ill. and Poughkeepsie, N. Y.;

On page 9, in Item 507-A, the 398 cent rate to New York, N. Y.; and

On page 15, Item 518;

It appearing that upon consideration of the tariff schedules and protests thereto, there is reason to institute an investigation to determine whether they result in rates and charges, rules or regulations and practices that are unjust and unreasonable in violation of the Interstate Commerce Act; and good cause appearing therefor:

It is ordered, That an investigation be, and it is hereby, instituted, into and concerning the lawfulness of the rates, charges, rules, regulations and practices contained in said schedules, with a view to making such findings and orders in the premises as the facts and circumstances shall warrant.

It is further ordered, That the investigation in this proceeding shall not be confined to the matters and issues hereinbefore stated as the reason for instituting this investigation, but shall include all matters and issues with respect to the lawfulness of the said rates, charges, rules, regulations and practices under the Interstate Commerce Act.

It is further ordered, That the carriers parties to the said schedules be, and they are hereby, made respondents to this proceeding; and that a copy of this order be forthwith served upon the said respondents; and that a copy of this proceeding be given to the public by posting a copy of this order in the office of the Secretary of the Commission, and by filing a copy with the Director, Division of the Federal Register.

And it is further ordered, That this matter be assigned for hearing at a time and place to be hereafter fixed.

By the Commission, Board of Suspension.

[SEAL]

HAROLD D. MCCOY,

- Secretary.

[F. R. Doc. 57-829; Filed, Feb. 4, 1957; 8:48 a. m.]