

limit of the maritime mobile band 161.85-162 Mc to 161.825 Mc thus providing a 50 kc channel at 161.85 Mc for assignment to coast stations. Footnote NG35 allocates the band 161.40-161.85 Mc to fixed stations only in Puerto Rico and the Virgin Islands. Therefore, the frequency 161.85 Mc is unavailable, as proposed, for assignment to the Maritime Mobile Service in Puerto Rico and the Virgin Islands as indicated by new footnote NG56 shown below.

6. At the present time remote pickup stations in Puerto Rico may use frequencies in the band 159.48-160.02 Mc on a shared basis with the Railroad Radio Service. Rules proposed in Docket 11992 would expand the new Motor Carrier Radio Service into this band thereby making impractical the continued sharing of the band by remote pickup broadcast stations in Puerto Rico. Therefore, it was proposed in said Docket 11992 and in this docket to delete the above mentioned sharing arrangement and substitute therefor the provision for the use of the frequency band 160.86-161.40 Mc by remote pickup stations in Puerto Rico and the Virgin Islands on a shared basis with the Railroad Radio Service (Land Transportation Radio Services). No comment was received with respect to this proposal and it is hereby adopted.

7. The Commission's Notice in this docket proposed that frequencies made assignable by reducing channel spacing from 60 to 30 kc in the 152.24-152.48 Mc and 157.45-157.74 Mc bands be assigned exclusively to the Industrial Radio Service for use outside standard metropolitan areas of 50,000 or more population. No comment was received with respect to this proposal and it is hereby adopted.

8. In view of the foregoing, the Commission finds that the public interest, convenience and necessity will be served by the amendments herein ordered and, pursuant to authority contained in sections 4 (i) and 303 of the Communications Act of 1934, as amended,

9. It is ordered, That Remote Pickup stations in Puerto Rico authorized as of August 1, 1958, to operate in the frequency band 159.48-160.0 Mc may continue to operate in this band until their current licenses expire. No new Remote Pickup stations will be authorized to use this band in Puerto Rico but, in lieu thereof, applicants for such stations in Puerto Rico and the Virgin Islands may be assigned frequencies in the 160.86-161.40 Mc band on a shared basis with the Land Transportation Radio Service;

10. It is further ordered, That effective August 1, 1958, Part 2 of the Commission's rules, Frequency Allocations and Radio Treaty Matters; general rules and regulations, is hereby amended as set forth below.

(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. 309)

Adopted: June 18, 1958.

Released: June 23, 1958.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS, Secretary.

1. In the table of frequency allocations, § 2.104 (a) (5), change the entries in the bands shown below between 152.24 and 173.4 Mc and between 450 and 470 mc in columns 7 through 11 to read as follows:

Band Mc	Service	Class of station	Frequency	Nature (OF SERVICES of stations)
7	8	9	10	11
152.24-152.45 (NG1) (NG22) (NG57)	Land mobile.	a. Base. b. Land mobile.		LAND TRANSPORTATION.
157.45-157.74 (NG1) (NG22) (NG57)	Land mobile.	a. Base. b. Land mobile.		LAND TRANSPORTATION.
173.2-173.4 (NG1)	a. Fixed. b. Land mobile.	a. Base. b. Fixed. c. Land mobile.		INDUSTRIAL.
450-451 (NG1) (NG22)	Land mobile.	a. Base. b. Land mobile.		a. Remote pickup broadcast base; b. Remote pickup broadcast mobile.
451-452 (NG1) (NG22)	Land mobile.	a. Base. b. Land mobile.		INDUSTRIAL.
452-453 (NG1) (NG22)	Land mobile.	a. Base. b. Land mobile.		LAND TRANSPORTATION.
454-455 (NG1) (NG22)	Land mobile.	a. Base. b. Land mobile.		DOMESTIC PUBLIC.
455-456 (NG1) (NG22)	Land mobile.	a. Base. b. Land mobile.		a. Remote pickup broadcast base; b. Remote pickup broadcast mobile.
456-457 (NG1) (NG22)	Land mobile.	a. Base. b. Land mobile.		INDUSTRIAL.
457-458 (NG1) (NG22)	Land mobile.	a. Base. b. Land mobile.		LAND TRANSPORTATION.
459-460 (NG1) (NG22)	Land mobile.	a. Base. b. Land mobile.		DOMESTIC PUBLIC.
460-461 (NG1)	Land mobile.	a. Base. b. Land mobile.		CITIZENS.
461-462.525 (NG1)	Land mobile.	a. Base. b. Land mobile.		INDUSTRIAL.
462.525-463.225 (NG1)	Land mobile.	a. Base. b. Land mobile.		CITIZENS.
463.225-464.725 (NG1)	Land mobile.	a. Base. b. Land mobile.		INDUSTRIAL CITIZENS.
464.725-466.475 (NG1)	Land mobile.	a. Base. b. Land mobile.		CITIZENS.
466.475-470 (NG1)	Land mobile.	a. Base. b. Land mobile.		INDUSTRIAL CITIZENS (NG58).

2. Amend footnote NG40 to read as follows:

NG40 The frequency band 160.86-161.40 Mc is available for assignment to remote pickup base and remote pickup mobile stations in Puerto Rico and the Virgin Islands only, on a shared basis with the Land Transportation Radio Service.

3. Add new footnotes NG56, NG57, and NG58 to read as follows:

NG56 The frequency 161.85 Mc is not available for assignment to the Maritime

Mobile Service in Puerto Rico or the Virgin Islands.

NG57 Frequencies 152.30, 152.36, 152.42, 157.56, 157.62 and 157.68 Mc may be assigned exclusively to the Industrial Radio Service outside standard metropolitan areas of 50,000 or more population.

NG58 Citizens Radio Service operations may be authorized only in the 466.475-467.475 Mc portion of this band.

[P. R. Doc. 58-4853; Filed, June 27, 1958; 8:45 a. m.]

[Docket No. 12169]

PART 11—INDUSTRIAL RADIO SERVICES
CHANGES IN AVAILABILITY OF FREQUENCIES

In the matter of amendments of Parts 2, 6, 7, 8, 9, 10, 11 and 16 of the Commission's rules to reduce separation between assignable frequencies in the 42-50 Mc band, to effect changes in the 25-50 Mc and 150.8-152 Mc bands, and to effect other changes relating to the use of frequencies in the 25-50 Mc band.

The Commission having under consideration the First Report and Order in the above-entitled matter (FCC 57-1393) adopted December 18, 1957; and

It appearing that, by virtue of the above First Report and Order, Parts 2, 6, 7, 8, 9, 10, 11 and 16 of the Commission's rules were amended in the respects described and set forth therein; and

It further appearing that, although the formal codification of the rules-changes for Part 2 were appended to the said First Report and Order, such codification for Parts 6, 7, 8, 9, 10, 11, and 16 was to be accomplished by subsequent order of the Commission; and

It further appearing that, the Commission has this day adopted a First Report and Order in Docket No. 11991 which amends Part 11 in many respects; and

It further appearing that, for its own convenience and for the convenience of persons eligible or licensed under Part 11, the aforementioned codification for Part 11 is accomplished in full to the said First Report and Order in Docket No. 11991, and that no beneficial purpose would be served by its repetition in the instant proceeding;

It is ordered, This 18th day of June, 1958, and pursuant to section 0.341 of the Commission's rules, that, to the extent that the above First Report and Order in Docket No. 11991 are directed to the codification of the rules-changes for Part 11 heretofore adopted herein, it is hereby incorporated by reference, as if fully set forth herein.¹

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154)

Released: June 23, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-4854; Filed, June 27, 1958;
8:45 a. m.]

[Docket No. 11991; FCC 58-602]

[Rules Amdt. 11-15]

PART 11—INDUSTRIAL RADIO SERVICES
CHANGES IN AVAILABILITY OF FREQUENCIES

In the matter of amendment of Part 11, rules governing the Industrial Radio Services, to delete, modify and create Services, and to effect changes in the availability of frequencies.

Background and Nature of Proceeding

1. This proceeding was instituted by a Notice of Proposed Rule Making of April

¹ See F. R. Document 58-4852, *infra*.

3, 1957 (FCC 57-356—released April 9, 1957). The Notice provided for an original-comment date of June 10, 1957, and a reply-comment date of June 20, 1957. In subsequent Orders the Commission extended these dates and ultimately provided for an original-comment date of October 10, 1957, and a reply-comment date of November 12, 1957. Approximately 150 original and reply comments of all descriptions have been received in this proceeding. These comments, which range in length and scope from detailed, exhibit-supported documents of 100 pages or more to simple, one-page, supporting letters, have been carefully read and analyzed by the Commission, and have been of incalculable assistance to the Commission in the disposition of the issues involved in this proceeding.¹

2. For purposes of bringing the total picture of this Report and Order into sharper focus, a summary of some of the major accomplishments or rule changes hereinafter effected is here set forth. In brief, this Report and Order:

a. Reallocates 6,550 megacycles of space in the 460-470 Mc band from the Citizens Radio Service to the Industrial Radio Services.

b. Retains 2,450 megacycles of space in the 460-470 Mc band for the Citizens Radio Service. Of this space, 1,900 megacycles is earmarked for possible reallocation at a later date. Pending future developments, Class B Citizens Stations are extended the right to operate within a 4.950 Mc portion of the band centered approximately on 465 Mc.

c. Provides for the regular assignment of all Industrial frequencies in the 450-470 Mc band; reduces channel spacing in the latter band and in the 27.23-27.28 and 162-174 Mc bands; apportions and reapportions frequencies among the several subservices comprising the Industrial Radio Services

d. Establishes a Manufacturers Radio Service.

e. Retains the Special Industrial Radio Service in substantially modified form.

f. Combines the Low Power Industrial Radio Service, elements of the Special Industrial Radio Service and elements of the Citizens Radio Service into a new Business Radio Service.

g. Establishes a Telephone Maintenance Radio Service with eligibility for communications common carriers engaged in construction, maintenance or repair activities.

Reallocation of 460-470 Mc Frequencies

3. The Commission's Notice herein proposed that the 461-464.725 and 465.275-470 Mc segments of the 460-470 Mc band be reallocated from the Citizens Radio Service to the Industrial Radio Services. The most vigorous opposition to this proposal has been registered by Vocaline Company of America, Inc., a manufacturer of radio transceivers for

¹ The frequency allocation determinations arrived at herein should not be construed as being dispositive of allocation proposals on questions contained in or presented by other outstanding rule making proceedings.

Class B Citizens use.² Among its principal contentions can be listed the following: That, legitimately, the present proceeding should confine itself to an implementation of the Commission's Report and Order of September 19, 1956, in Docket No. 11253;³ that Docket No. 11253, wherein new technical standards were adopted for the 25-50 and 50-1000 Mc bands, involved only the 152-162 Mc band insofar as actual channel-splitting is concerned; that Part 19 (Citizens Radio Service) was not involved in Docket No. 11253; that any reallocation of frequencies among the several services at this time would constitute a pre-judgment of the issues and matters involved in Docket No. 11997⁴—the only proper forum for actions of the magnitude and importance here contemplated; that, in this connection, any reallocation of frequencies must be based upon comparative considerations developed by acceptable methods of proof and that a fair, equitable and efficient reallocation is precluded by the "piece-meal, ex parte, and summary" nature of the instant proceeding; that in proposing to reduce the Citizens allocation from 10 Mc to 0.55 Mc⁵ and the permissible bandwidth of Class B stations from 4.65 Mc to 0.45 Mc, the Citizens Radio Service—particularly the Class B segment thereof—would be destroyed; and that nothing has transpired which warrants deviation from the original concept of the Citizens Radio Service contained in the Commission's Report of Proposed Allocation from 25,000 Kilocycles to 30,000,000 Kilocycles (January 15, 1945). Consistent with the foregoing, Vocaline urges that the proposals involved be abandoned. Alter-

² Under the present Citizens rules, Class B stations are permitted to occupy up to 4.65 Mc of space centered on the frequency 465 Mc. Such stations are limited in power to 10 watts input to the final radio frequency stage, and they are afforded no interference-protection from other Class B stations or from Class A stations operating in any portion of the 460-470 Mc band. Vocaline presently manufactures two type-approved models of radio transceivers, each of which is said to sell at under \$100.00 per unit. Vocaline states that it has thus far sold in excess of 20,000 of the above units and that it is currently selling them at a rate of 2,000 per month. The principal market for these transceivers has been with small businesses, civic organizations, sportsmen, etc. having small-area communication requirements. Vocaline represents that it could modify its models so as to limit emission to plus or minus 1.5 Mc from the frequency 465 Mc with only a moderate increase in consumer-cost. It further states that equipment capable of meeting the emission limits (plus or minus 0.225 Mc) proposed in Docket No. 11994 would require a crystal controlled design; the increase in consumer-cost necessitated by such a modification is not specified—other than that it would be "substantial".

³ FCC 56-901—adopted September 19 and released September 24, 1956.

⁴ Statutory Inquiry into the Allocation of Frequencies to the Various Non-Governmental Services in the Radio Spectrum between 25 mcs and 890 mcs.

⁵ Dockets 11959 and 11995 propose the reallocation of the 460-461 segment of the 460-470 Mc band from the Citizens Radio Service to the Domestic Public Radio Services.

natively it suggests that a segment of the 460-470 Mc band at least 3 Mc wide* should be allocated solely for the use of Class B Citizens stations, or that at least 3 Mc (and preferably 6 Mc) of the present 420-450 Mc Amateur band be reallocated for such use.

4. Vocaline and others, in this and other companion proceedings,⁷ particularly object to the Commission's departure from its 1945 concept of the Citizens Radio Service, under which the frequency band 460-470 Mc was made available for Class A and Class B stations in that service. In part, the service was established with a view to providing for the requirements of individuals and of industrial and commercial enterprises for private, short distance radio-communications. The development of the service, however, clearly establishes that the primary need and demand of Class A Citizens users has not been for such short distance communications; rather, more and more commercial and industrial enterprises—for whose activities adequate provision has not previously been made elsewhere in the Commission's rules—have turned to the Citizens Service in an effort to meet their long-range, mobile and point-to-point communication needs. Of approximately 140,000 transmitters currently authorized in the Citizens Radio Service, nearly half are estimated to be operated under Class A authorization and devoted to the above uses, while less than 15 percent or approximately 21,000 transmitters are estimated to be operated under Class B authorization.

5. The above-mentioned original (1945) concept of the Citizens Radio Service and the allocation of 10 Mc of space thereto were principally derived from (a) the then existing state of the radio art and the capabilities of the equipment then available; (b) the comparative needs, as they were then known, of the variety of persons and activities sought to be accommodated; and (c) the Commission's estimate of future growth within the services provided for. The actual growth and expansion of the various services in the intervening thirteen years, and the additional demand on every side for more radiocommunication channels, could not have been foreseen but are now too well known to need to be detailed here. In the Safety and Special Radio Services alone, authorizations now exceed 400,000, and these authorizations represent in excess of 1,200,000 transmitters. In comparison to the 36,000 authorizations, representing 140,000 transmitters, in the Citizens Radio Service there are in the Special Industrial Radio Service, alone, some 6,000 licensees operating in excess of 115,000 transmitters. It was one of the purposes of this proceeding to arrive at a more equitable division of frequency space between services, in the light of this proven use. It is recognized that much of the growth and expansion of the various services can be attributed to the enormous improvement which has been made

in the performance capabilities of transmitters and receiving equipment—improvement that has opened the door to more efficient utilization of available spectrum space. Improved equipment-design has not been confined to the lower frequency (such as the 25-50 and 152-162Mc) bands, although it has progressed in that order. Equipment capable of reliable performance—occupying bandwidths of less than 50 kc—is readily available for use in the 450-470 Mc region, and is available for use by prospective licensees in the other services herein considered as well as in the Citizens Radio Service.

6. Notwithstanding that improved equipment-design has made reductions in separations possible between presently-assignable frequencies in many of the Commission's frequency bands—and has consequently enabled an approximate doubling of frequencies in such bands—the immediate and anticipated demands of existing eligibles and other persons for whom more adequate provisions must be made ensures that no surplus of desirable spectrum space is likely to result, even in the 450-470 Mc range. Indeed, it was these immediate and anticipated demands which dictated that the Commission turn to the Citizens band as a source of frequencies for other (and possibly more protected) services. While the distinction between Class A Citizens radio stations and stations in the Business or Manufacturers Radio Services (hereinafter established) may appear one of name only, there clearly exists a difference in operating authority as well as in eligibility for license in the respective services and hence in the protection afforded a licensee operating in that service. In view of the action taken elsewhere herein with respect to the conditions under which Class B Citizens Radio stations may continue to be operated, the transfer of frequencies in the 460-470 Mc range from the Citizens Radio Service to the Industrial Services would appear to have a little if any practical effect on the operating privileges of Class B stations. The Commission realizes that with the transfer of frequencies between services, higher station powers will be permitted in the frequency range 462-468 Mc where severe limitations were previously placed on the power of Class A stations for the protection of Class B station operation. The Commission is firmly convinced, however, that such higher powered operations by other stations in that range must be accepted by the Class B stations since it believes that the frequency spectrum is too valuable a resource to reserve a portion nearly 6 Mc in extent for the relatively inefficient Class B use only.

7. Vocaline seems to contend that the Commission is here limited to an implementation of the decisions arrived at in Docket No. 11253. Although an important purpose of this proceeding is to effect such implementation, the Commission's primary purposes have been to take additional steps in the matters of creating additional frequency-channels for assignment in the Industrial services and of expanding eligibility for the benefit of large numbers of industrial and

commercial enterprises. It is also contended that the issues joined herein by Vocaline should more properly be determined in the general inquiry in Docket No. 11997. With this latter proceeding, of course, the Commission did not intend to freeze or otherwise impede other proceedings dealing with individual services and allocations; on the contrary, it was specifically stated in the Notice in Docket No. 11997 that such proceedings would continue on an ad hoc basis. Vocaline urges (in effect) that frequency allocations must be arrived at on a comparative basis and that the instant "ex parte" proceedings precludes comparative consideration of the needs of Class B users. This argument is difficult to understand, particularly, in light of the fact that parties were not prohibited from including in their comments facts and data addressed to the question of comparative need—and certainly Vocaline's comments are replete with such information.

8. The substantive problems pointed up by the Vocaline comment and outlined above are not easily resolved. Although present trends of demand tend to support a view that virtually all Class B usage must eventually submit to the space-requirements of higher-priority applicants—particularly those in the Industrial services—a number of considerations would seem to warrant a relaxing of the proposals along lines more agreeable to Class B users. Prime among these considerations is the practical fact that, although a trend toward greater-coverage equipment in the band has been definitely established, the full consequences of the trend are not likely to be felt for several years. In this connection the Commission takes note of the facts that present loading in the band has not yet reached what might be termed the serious stage, and that a lower loading-rate can be expected by virtue of the large numbers of additional 25-50 and 150-172 Mc frequencies to which higher-priority users have and will have access. Not unrelated to the foregoing point is the consideration that substantial advantage can accrue to the Commission and its users by delaying commitment of all the 460-470 Mc space until the overall picture of needs and demands in the various Industrial services has adjusted itself in light of the new frequency-complements being established for such services. Further warrant for such a delay is afforded by proposals⁸—such as one by Aeronautical Radio, Inc.—that other needs be accommodated in the 450-470 Mc range. In arriving at what might be termed a compromise with respect to the various factors pertinent hereto, the Commission has given considerable weight to certain facts accentuated by Vocaline. Thus, the Commission is impressed with the remarkable rate of purchase of Class B units now available and the fact that many users have apparently found it economically more sound to pur-

* Vocaline's total Citizens allocation would consist of the 463.25-466.75 segment.

⁷ Docket Nos. 11959 and 11994.

⁸ In addition to the ARINC petition discussed in paragraph 8 and certain expressed needs in the Citizens and Industrial Radio Services, the Commission has received other proposals for disposition of space in this band.

chase less expensive equipment of small-area capabilities than to pay the premium for equipment of greater range.

9. Based upon the foregoing considerations, the Commission makes the following disposition of its proposals for the 460-470 Mc band:

a. A total of 6.550 megacycles (as opposed to the proposed 8.450 megacycles) is reallocated for use in the Industrial services. These 6.550 megacycles are comprised of the 461-462.525, 463.225-464.725 and 466.475-470 portions of the band.

b. As proposed, a total of 0.550 megacycles (consisting of the 464.725-465.275 Mc portion) of the band is being retained for use in the Citizens Radio Service.

c. With respect to a total of 1.900 megacycles (consisting of the 462.525-463.225 and 465.275-466.475 portions) of the band, the Commission is withholding a final determination at this time. Pending greater crystallization of the expressed and anticipated needs for fixed and mobile operations in the frequency range 460-470 Mc, these 1.9 megacycles will continue to be allocated to the Citizens Radio Service for use therein. Until further disposition is made of this space, no licensee on the frequencies involved will be required to vacate as a direct result of actions taken herein. With respect to the 1.9 megacycles, it should be noted that there is an approximate 4-megacycle span between the two blocks of frequencies. This spacing will permit the Commission to provide as many as fourteen pairs of frequencies for duplex operation and an additional ten frequencies for simplex-only operation, and will thus allow the Commission consideration flexibility in the eventual disposition of the space involved.

d. In connection with all of the foregoing, Class B Citizens stations will be permitted, at least for the time being, to operate within the 462.525-467.475 portion of the band subject to no interference-protection from other Class B stations, from Class A Citizens stations operating in any portion of the 460-470 Mc band, or from any station authorized to use a frequency in the 460-470 Mc band in the Industrial Radio Services. To lessen the probability of harmful interference being caused by Class B stations, their permissible power is being reduced to 5 watts input to the final radio frequency stage. This reduction will have only limited practical effect upon existing users and manufacturers since virtually all Class B equipment being sold or used at the present time already conforms to the new requirement. Manufacturers of Class B equipment are cautioned that the range of occupancy provided for by this Report and Order cannot be guaranteed on a permanent basis and that future developments may require a reduction to the limits originally proposed in this proceeding. Meanwhile, it may be possible for such manufacturers to design equipment capable of meeting these limits at prices attractive to the market.

* See footnote on p. 4785.

Reallocation of Taxicab Split-Channels

10. The Commission's Notice proposed that the split-channels between the present 60 kc channels in the 152.24-152.48 and 157.45-157.74 Mc Land Transportation blocks be made exclusively available in the Industrial Radio Services outside Standard Metropolitan Areas of 50,000 or more population. No opposition to this proposal has been filed in this proceeding and it is hereby adopted.

Channel-Splitting—27.23-27.28 and 162-174 Mc

11. The Notice proposed that the channel spacing in those portions of the 27.23-27.28 and 162-174 Mc bands which are presently available to the Industrial Radio Services should be reduced to 10 kc and 25 kc, respectively. The proposals with respect to these two bands find general support in the comments and they are hereby adopted.

Channel-Splitting and Regularization in the 450-470 Mc Band

12. Heretofore, operation in the Industrial Radio Services on present channels in the 450-460 Mc band has been on a developmental basis only. The Commission proposed that all future operation in the Industrial services on frequencies in the 450-460 Mc band and frequencies in the 460-470 Mc band being reallocated from the Citizens Radio Service be on a regular basis. The Commission further proposed that channel spacing for all Industrial frequencies in the 450-470 Mc band be reduced to 50 kc. Except as heretofore noted with respect to the Vocaline comments the proposals are generally supported by the comments filed herein. The Commission finds that a finalization of the foregoing proposals would be in the public interest and the proposals are hereby adopted. Technical standards covering bandwidth of emission, frequency stability and modulation limiters are already contained in the rules for the 450-470 Mc band. Electronic Industries Association (EIA) suggests that the requirement for audio low-pass filters now applicable to the 25-50 and 150-162 Mc ranges should be extended to the 450-470 Mc band. The Commission believes that this point is well taken and this feature is being incorporated into the rules. EIA also recommends that the maximum transmitter swing for frequency modulation in the 450-470 Mc range should be reduced to plus-or-minus 10 kc. This recommendation is not adopted by the Commission at this time for the reason that the present limitation of plus-or-minus 15 kc, with an authorized bandwidth of 40 kc, should adequately satisfy the requirements for adjacent channel operation.

13. EIA contends that all 450-470 Mc frequencies in the land mobile services should be made available in such services for secondary Operational Fixed purposes. The Commission believes, however, that the provision made for such Operational Fixed purposes in the Tables adopted herein is all that should be made at this time. Because these frequencies are primarily intended to serve mobile

requirements, the Commission is of the view that the trend of mobile-loading should be more fully developed before taking action as broad as that called for by EIA.

Denial of Certain Proposals

14. In this proceeding the Commission has received a large number of proposals which are (a) beyond the scope of this proceeding; (b) irrelevant to this proceeding; (c) already the subject matter of a pending proceeding; (d) being disposed of in one of the related Dockets 11959, 11990 and 11992-95; (e) more appropriately the subject matter of a new and independent proceeding; (f) unwarranted in light of actions taken herein with respect to related subject matter; (g) of insufficient importance to warrant the delay which would be occasioned by their extended consideration at this time; or (h) of insufficient merit to sustain a finding of public interest, convenience and necessity. Among such proposals, which must be denied for one or more of the foregoing reasons, are the following:

a. A proposal by EIA that at least one 2-watt (maximum output) frequency be allocated to each radio service in each of the bands 25-50, 152-174 and 450-470 Mc for base and mobile use.

b. A proposal by EIA that there be no restrictions as to the type of intelligence that may be transmitted on communication systems in the Industrial services.

c. A proposal by Radio Corporation of America that the split channels in a number of segments in the 152-174 Mc band be allocated for control, signalling and telemetering purposes on an Operational Fixed basis.

d. A proposal by EIA (joined in by General Electric Company) that the Commission specify maximum power in terms of "output power" instead of "input power to the final radio frequency stage".

e. A proposal by Dowell Incorporated (joined in by others) that some of the frequencies in the 88-108 Mc band presently allocated for FM Broadcasting be made available in the Industrial services.

f. A proposal by the American Medical Association that protected frequencies be made available to physicians for day-to-day use to receive and answer emergency calls, for undergraduate and postgraduate medical training, and for use in disaster or medical emergencies.

g. A proposal by the American Hospital Association that one protected frequency below 50 Mc and at least two protected frequencies in the 150 or 450 Mc ranges be made available for use by hospitals and hospital associations.

h. A joint proposal by Hawaiian Sugar Planters' Association and Pineapple Growers Associations of Hawaii that Special Industrial licensees in Hawaii be relieved from mandatorily complying with the narrow-band technical standards until September of 1966, and that the effective dates of the Report and Order in Docket No. 11253 and the instant Report and Order be held in abeyance until after the completion of the proceeding in Docket No. 11997 to the extent that Hawaii is concerned.

1. A proposal by Aeronautical Radio, Inc., that action in the instant proceeding be deferred until after the Commission disposes of a petition which ARINC intends to file in the matter of establishing an Aviation Terminal Mobile Radio Service.*

J. A proposal by United States Independent Telephone Association that an REA telephone cooperative and an REA electric cooperative be permitted to jointly use a single mobile radio system.

*Power—Petroleum—Forest Products—
152-174 Mc.*

15. Inter alia, the Notice proposed that the Power Radio Service receive the seven secondary splits between its present 152-162 Mc frequencies and the three secondary splits between the present 173.225-173.375 Mc Motion Picture-Relay Press frequencies except in the states of Texas, Oklahoma, Louisiana, Arkansas, Washington and Oregon; under the Notice the Petroleum Radio Service would receive the ten splits in the first four states and the Forest Products Radio Service would receive them in the last two states. NCUR resists the foregoing in several particulars. First, it contends that the three 173 Mc splits would be of little value in the Power service because of their proximity to Television Channel 7 and because of the coordination problem inherent in their interspersion among frequencies presently available to other services. In lieu of these frequencies NCUR would prefer the secondary frequencies 153.74 and 158.28 Mc and the tertiary frequency 158.295. With respect to the proposal to deprive Power of the seven splits mentioned above in the six states listed, NCUR states that the proposal reflects the heavy requirements of the Petroleum and Forest Products services in the areas involved, but does not provide corresponding relief in densely populated areas where Power has its heaviest requirement. API is unimpressed with the proposal to give it the ten splits in the states of Texas, Oklahoma, Louisiana and Arkansas; its lack of enthusiasm is generated by a contention that early utilization of the frequencies would be precluded by the wide dispersal of Power systems on regular frequencies throughout the four-state area and the lack of narrow-band equipment in use at present. Forest Industries Radio Communications (Forest Industries) acknowledges that the access to the above ten frequencies would be of great value in the two states but urges with respect to the seven Power splits that the sharing be in all six states, and that with respect to the three 173 Mc splits that Forest Products be given access to them also in California north of the 38th Parallel. Both API and Forest Industries register bids for the 158.31-158.44 Mc secondary channels proposed by the Notice for the Business Radio Service.

16. The Notice also proposed that Petroleum and Forest Products receive

(on a shared basis with the proposed Manufacturers Radio Service) the splits between their present frequencies in the 153 Mc range and the frequency 158.28 Mc which lies between the Power frequency 158.25 Mc and the Forest Products-Petroleum frequency 158.31 Mc. Additionally, it was proposed that Petroleum and Forest Products share the Taxicab splits in the 152 and 157 Mc ranges, the splits to be available only outside Standard Metropolitan Areas of 50,000 or more population. API's criticism of the Taxicab splits parallels its criticism of the Power splits, and Forest Industries also doubts their utility for similar reasons.

17. We consider first the NCUR contentions. By virtue of other action herein, the tertiary frequency 158.295 is being withheld from the frequency tables. The frequency 153.74 Mc is the band edge frequency between the Industrial and Public Safety allocations; its disposition was not proposed in this proceeding, and it would be inappropriate to allocate it here without further study of all of the considerations involved. Accordingly, NCUR's request with respect to the three 173 Mc splits reduces itself to an offer to trade the three frequencies for the frequency 158.28 Mc. We think that NCUR has underestimated the utility of the three 173 Mc frequencies and it occurs to us that judicious assignment of these frequencies could free other more desirable frequencies for use in areas where the Motion Picture-Relay Press use of the 173 Mc frequencies is relatively heavy. For this reason and for the further reason that the Manufacturers Radio Service hereinafter established has a greater need for the frequency sought, the NCUR request is denied. The Commission feels that with the low-band frequencies made available to it in this proceeding and in the recent proceeding in Docket No. 12169, the Power service has been treated in equitable fashion. The Commission does not dispute that the Power service can experience a frequency shortage in the more heavily populated cities; however, this condition will undoubtedly occur with respect to many other of the Commission's services, and it presents a situation which can probably never be solved to the complete satisfaction of everyone.

18. For reasons advanced by Forest Industries and for the further reason that the action will result in complete sharing by Forest Products and Petroleum of all their frequencies above 40 Mc, the Commission is making the seven Power splits and the three 173 Mc splits available to both Forest Products and Petroleum in each of the above six states. The Forest Industries request for access to the 173 Mc splits in California north of the 38th Parallel is denied because of the nearness of that Parallel to the San Francisco standard metropolitan area and because of the administrative inconvenience that would result from a grant of the request. The Commission has examined its proposal with respect to the Taxicab splits in the light of the comments received and has concluded that because they would afford only limited utility in the Forest Products and

Petroleum services, greater efficiency in their use would be promoted by making them available in the new Business Radio Service. This action finds additional justification in two other considerations: First, because the Business service is bearing the brunt of the reduction in the amount of 460-470 Mc space being reallocated from the Citizens service, it is logical to provide a measure of compensation in the form of additional frequencies from other parts of the spectrum. Second, the "expense" of this action to Petroleum and Forest Products interests is negligible by virtue of their eligibility in the Business service where, from a practical standpoint, they can effect as high a degree of utility as would have been probable were the frequencies to be made available as proposed. As in the case of the Power service the Commission feels that its actions herein and in Docket No. 12169 provides the Forest Products and Petroleum services with a fair and equitable share of the total frequencies available, notwithstanding the contentions that all of the frequencies are not immediately usable.

*Power—Petroleum—Forest Products—
27.23-27.28 and 450-470 Mc.*

19. The Notice proposed that the Power, Petroleum and Forest Products services have access to all of the 27.23-27.28 Mc frequencies; no opposition to this proposal is contained in the comments, and it is hereby adopted.

20. With respect to the disposition of 450-470 Mc frequencies the Notice proposed that Forest Products and Petroleum share six pairs of 450 Mc frequencies and that present Power users have exclusive access to five pairs of 450 Mc frequencies. Additionally it was proposed that five pairs of 450 Mc frequencies be made exclusively available to communications common carriers for repair and maintenance activities, and that a large number of 450-470 Mc frequencies be made available to the Business Radio Service. Forest Industries appears to be satisfied with the proposed allocation for Forest Products, and acknowledges that the multiple-eligibility contemplated by the Commission can be of great benefit to the services when applied to the UHF portion of the spectrum. API is sharply critical of the proposed distribution and challenges the allocation of 450-470 Mc frequencies for the Domestic Public Radio Services envisioned by Dockets 11959 and 11995. API contends that the Petroleum Service needs at least 15 pairs of 450-470 Mc frequencies, and advocates that all of the 450-470 Mc frequencies proposed for Business—including those designated as base or mobile only—be made available to "operational fixed stations in the Petroleum Radio Service on a shared basis with other services for use only in the tideland and marginal sea areas within the territorial limits of continental United States." NCUR contends that present Power users should be given the access to the five pairs of 450 Mc frequencies proposed for communications common carriers and that the repair and maintenance needs of the latter group should be accommodated from the 450-

*The petition was filed by ARINC on October 18, 1957. The above disposition of the ARINC comment filed in this proceeding is entirely without prejudice to a consideration of the foregoing petition.

470 Mc frequencies proposed for the Domestic Public Radio Services.

21. To the extent that the API and NCUR requests pertain to mobile operation, they cannot be justified or supported on the basis of past or anticipated usage of 450-470 Mc frequencies. And even if the future Power-Petroleum demands for assignment exceed those anticipated by the Commission, the Commission is confident that such demands can be readily accommodated in the Business service. In connection with the foregoing and by virtue of other actions taken herein, the Commission finds it necessary to make a departure from its original proposal. The Notice proposed a combining of the Special Industrial Radio Service into a new Business Radio Service. Because of the large number of 460-470 Mc frequencies being proposed for the new service, it was felt that three pairs of the available 450-460 Mc frequencies would be a fair and equitable share for such service. Elsewhere herein, the Commission has provided for a retention of the Special Industrial service in modified form and with a frequency complement independent of that of the Business service. The Commission has included within such complement the three pairs of 450-460 Mc frequencies originally proposed for Business, but has concluded that an additional pair for the retained service in the same general range is necessary and appropriate. Because the number of 460-470 Mc frequencies in the Business service has been sharply reduced from what was proposed, the Commission has determined that the most equitable procedure is to supply Special Industrial's fourth pair from the six pairs which were proposed for Forest Products-Petroleum. Of the nineteen 450-460 Mc frequencies available, the final distribution will be as follows: Four pairs for Special Industrial, and five each for communications common carriers, Power, and Petroleum-Forest Products. This distribution appears to be fair and equitable, particularly when it is remembered that the geographical separation between Forest Products and Petroleum usage tends to a practical effect of exclusivity insofar as either is concerned.

22. To the extent that the API and NCUR comments challenge the 450-470 Mc provision for the Domestic Public Radio Services they cannot appropriately be considered in this proceeding. The contention that the repair and maintenance requirements of communications common carriers should not be accommodated in the Industrial service on Industrial frequencies is rejected for the reason that the repair and maintenance activities in question are essentially industrial-type operations distinguishable from those of existing Industrial users in no major respects. With respect to the API plea for additional operational fixed frequencies in the tideland and marginal sea areas it should be observed that the frequency bands involved are intended primarily for mobile operation. Again, Petroleum's right of access to the Business frequencies made available herein for operational fixed use should satisfy the needs of the Petroleum service for some time to come.

Power Radio Service—Telephone Maintenance Radio Service

23. The Notice proposed to delete the word "primarily" in each of subparagraphs (1), (2) and (3) of § 11.251 (a) on the theory that anyone even partially engaged in activities contemplated by the section should have access to Power frequencies. In part by comments of NCUR, we are persuaded that the present wording of the section in this regard should be left unchanged.

24. It was proposed in the Notice that communications common carriers having a need for radio facilities in connection with construction and maintenance activities be provided for in the Industrial services. The Commission's rationale with respect to this proposal is well known and is adverted to in the Notice; this rationale is not controverted nor even seriously challenged by the comments filed herein. The Notice proposed that the above need be satisfied by providing for the communications common carriers a limited eligibility in the Power Radio Service. In part, the Commission's reluctance to establish a separate Industrial service for the communications common carriers was based upon the limited number of frequencies which the Commission contemplated making available to them. Thus, the Notice proposed that the above carriers be given only five pairs of frequencies—on an exclusive basis—in the 450 Mc band. As is generally known, however, the Commission's First Report and Order in Docket No. 12169 reserved for the carriers (should their eligibility be provided for in this proceeding) two frequencies in the 25-50 Mc band and two frequencies in the 150.8-152 Mc band.¹⁰ In the Commission's view the needs of the carriers are such as to justify not only the four latter frequencies but also the ten contemplated by the Notice. With the total number of frequencies thus provided for the carriers, a separate service for them is now more than warranted, and such service—to be known as the "Telephone Maintenance Radio Service"—is herein provided for. In view of this action, the proposal in the Notice that the "Power Radio Service" be retitled the "Utilities Radio Service" is abandoned.

25. Both NCUR and American Telephone and Telegraph Company object to an interspersing of the 450 Mc frequencies respectively proposed for present Power eligibles and communications common carriers. This interspersing of frequencies was occasioned by the Commission's desire to give the carriers exclusive frequencies ab initio by awarding them the split-channels derived from reducing the separations between the frequencies proposed for the Power users. Because both parties are in essential

¹⁰ The latter two frequencies are 151.955 and 151.985 Mc. In the proceeding in Docket No. 12169, American Telephone and Telegraph Company requested that the frequency 151.955 be exchanged for a split-channel four or five Mc removed to permit duplex operation. The Commission believes that the foregoing purpose can be served by substituting the frequency 158.34 Mc for the above 151.955 Mc.

agreement on the point the Commission sees no substantial reason why they cannot be accommodated; accordingly, appropriate revision of the frequency tables has been made.

26. United States Independent Telephone Association (USITA) has offered suggestions as to the wording of the eligibility rule for the new service. USITA's intentions are that there be excluded from eligibility community antenna operations, cooperative associations such as those presently contemplated by Part 11, and persons whose communications common carrier service is limited to telegraph or to wireless facilities. The Commission's proposal did not contemplate that the first two of the above groups would be eligible and the provision in question has been reworded to preclude such an interpretation. With respect to those communications common carriers whose service is entirely by wireless facilities, it is believed that their needs can and should be accommodated in the Business Service, and they are being excluded from the eligibility provision. To the extent, however, that such a carrier also serves the public with wireline facilities, it will be fully eligible in the new service.

27. In a petition filed on July 1, 1953 by the Rural Electrification Administration, it was requested that an "electrical" licensee in the Power Radio Service which has an operating agreement to construct, repair or maintain telephone facilities, be permitted to use its radio-communications system (under certain conditions) in connection with activities of the above nature. It appears to the Commission that the total demand for such permission is not so great as to warrant, at this time, the rules changes contemplated. Accordingly, the above petition is being denied without prejudice to its being refiled should such demand substantially increase.

Motion Picture and Relay Press Radio Services

28. In its Notice the Commission stated its belief that the existing and anticipated loading in these services justifies neither the making available therein of the split-channels in the 152-162, 162-174 or 450-460 Mc bands, nor continuing the access in these services to the 450-460 Mc frequencies which they have heretofore shared with the other Industrial Radio Services. It proposed, however, that both of the above new services be permitted to share in the use of the old and new channels in the 27.23-27.23 Mc band.

29. The Commission received no comment from any Motion Picture licensee or organization. The Commission, however, has reviewed the above proposal as it affects the Motion Picture service, and has concluded that it must be supplemented in light of the action (FCC 57-1016—adopted September 19, 1957) which resulted in the reallocation of Motion Picture's four 49 Mc frequencies to Government use. Accordingly, the Commission is adding to the Motion Picture table the split-channels 152.90, 152.96 and 153.02, which lie adjacent to present Motion Picture frequencies.

30. American Newspaper Publishers Association Subcommittee on Mobile Radio (ANPA) attacks the Commission's proposal to the extent that it applies to the Relay Press service. Calling the Commission's judgment with respect to usage in this service premature, ANPA particularly attacks what it terms a substitution of 27 Mc frequencies for the 450 Mc frequencies heretofore available; in this connection it calls attention to the outstanding proposal in Docket No. 12169 to limit the availability of 25-50 Mc frequencies to persons having wide-area communications requirements, and contends that only a few newspapers would be able to qualify for the use of the above 27 Mc frequencies. Aside from the fact that the above wide-area proposal has not yet been finalized, it was never intended that it apply to the 27 Mc frequencies in question. Accordingly, even if the wide-area proposal is ultimately enacted, Relay Press users could still be authorized on 27 Mc frequencies without the special showing.

31. Despite ANPA's protests, the Commission cannot conclude that existing or anticipated usage justifies the allocation of exclusive 450 Mc frequencies for the Relay Press service. In view thereof, Relay Press users must satisfy whatever needs cannot be met by the use of 27 Mc or 173 Mc frequencies by taking advantage of their eligibility in the new Business Radio Service. If, as ANPA forecasts, Relay Press usage materially increases in the coming months, a re-examination of their allocation will be in order.

Manufacturers Radio Service

32. In its Notice, the Commission acknowledged the special need by manufacturing plants for reliable radiocommunications circuits in connection with production control, security activities and localized materials-handling, and proposed the creation of a new Manufacturers Radio Service. It was further proposed that stations in the new service use no more than 30 watts plate power input, and that antennas be limited in height to the highest of either fifty feet above ground level or twenty feet above the top of any building within five hundred feet. With respect to frequencies the Notice proposed that the new service have exclusive access to ten frequency-pairs in the 460-470 Mc band and a shared access (with the Petroleum and Forest Products services) to a total of fifteen primary and secondary channels in the 152-162 Mc band. Fixed stations of all classes would be barred by the proposal. Stations would be permitted to transmit communications only in connection with plant security, production control and "materials-handling which constitutes an immediate part of the manufacturing process, as contrasted to the collection of raw or semi-processed materials from other sources or the distribution or delivery of the finished products."

33. The comments contain only limited opposition to the general proposal to establish a Manufacturers Radio Service, and this opposition is primarily grounded in contentions that it would be unduly

discriminatory to provide measures of protection for one group of present eligibles in the Special Industrial Radio Service while simultaneously relegating all other groups to the relatively unprotected Business Radio Service. With the retention of a modified Special Industrial service herein provided for, it is believed that most of the foregoing opposition is dissolved; in any event, the protesting parties have not overcome the basic premise that manufacturing plants have great need for reliable circuits for the communications purposes contemplated.

34. A number of parties contend that the proposed power and antenna height limitations are unduly restrictive and take no account of the needs of plants which extend over large areas or which have unusually high noise potential. The above limitations were proposed, in part, with a view to ensuring that the use of a particular frequency by one licensee in a predominately-manufacturing area would not seriously impair its utility to another company in a nearby area. Upon reconsideration of the limitations in the light of the comments received, it is believed that the power limitation should be increased to 60 watts and that the antenna restrictions should be eliminated entirely. The effect of the latter action is to place the Manufacturers Service in the same position as the other of the Commission's Industrial services.

35. The Commission detects no significant or specific opposition to the proposal to allocate ten pairs of 460-470 Mc frequencies to the Manufacturers service and this proposal is adopted. API and Forest Industries resist the proposal that the new service share with Petroleum and Forest Products in the use of a number of 152-162 Mc frequencies. Neither party, however, has been able to successfully refute the considerations which led the Commission to propose the shared use. The Commission is confident that with sincere cooperation among the three services involved, mutual use of the above frequencies can be effected without serious interference consequences. Such interference as is encountered will be more than justified by the high degree of efficiency that the mutual use will promote.

36. United States Steel Corporation contends that the new service should have access to a number of frequencies in the 35-47 Mc band. In the Commission's view, however, to allocate "long-range" frequencies to a service whose basic need is for "short-range" communications would be totally inconsistent and unjustified. Again, the Commission points out that the new Business service—in which manufacturers will be eligible—will have a large number of the above "long-range" frequencies. In connection with the foregoing the Commission has not overlooked the fact that a number of manufacturers will have to vacate their present frequencies as a result of this proceeding and other proceedings heretofore mentioned. Their situation in this respect is not unique, since many other users are similarly affected. To ease the burden of the required frequency shifts, the Commission has hereinafter established what it feels

will be adequate and equitable amortization provisions.

37. EIA contends that provision should be made in the Manufacturers service for operational fixed stations, particularly in the microwave regions. The Commission currently has pending a proceeding (Docket No. 11866) wherein the possibility of permitting the use of private microwave systems by manufacturers is a prime issue, and the Commission feels that the outcome of that proceeding should be awaited before a fixed allocation to the Manufacturers service is considered. Meanwhile, manufacturers having fixed requirements will have access to frequencies in the range 27.235-27.275 Mc; additionally, they will be permitted to use mobile-only frequencies in the range 460-470 Mc for control stations which are integrated into Mobile Relay Systems.

38. General Electric Company feels that manufacturers should be encouraged to use three-watt-input equipment for in-plant dispatching, but fears that they will have no incentive to apply for such systems in the Business service because no protection will be provided for them therein. Accordingly, General Electric would reserve at least two low-power frequencies in the Business service for the exclusive use of manufacturers. In light of the Commission's experience in administering the present Low Power Industrial Radio Service—where many manufacturers are currently licensed—the Commission concludes that General Electric's fears are with little foundation. In any event, the Commission has no intention or disposition to earmark any of the Business frequencies for particular categories of users, since to do so would be to destroy one of the basic concepts of the new service.

39. In its comments, United States Steel Corporation refers to that part of the proposed new rules which would prohibit the use of a system in the Manufacturers service in connection with the "collection of raw or semi-processed materials from other sources or the distribution or delivery of the finished products" (see the first paragraph under the above heading), and contends that such a prohibition could be interpreted as precluding the use of radio in connection with the movement of materials stored in locations outside the immediate yard area of the plant or the movement of finished products from the production line to other points before final shipment. The creation of the Manufacturers Radio Service was primarily dictated by the needs of manufacturers for in-plant communications. Consequently, the above prohibition was designed to confine the licensee's communications relating to materials-handling to those where the materials in question are in the immediate control of the licensee and are immediately needed in the manufacturing process; materials of this type would almost always be in or near the manufacturer's area. However, the Commission foresees that numerous problems of interpretation could arise as a result of the proposed wording, and that their case-by-case determination could seriously delay our

administrative processes. Accordingly, the Commission is modifying the rule in question along the lines suggested by United States Steel, and will permit licensees to use their systems in connection with all phases of materials-handling short of the retail distribution of the manufacturer's products to individual consumers.

Requests for Mining Radio Service

40. In this proceeding, a large number of comments—filed by mining companies and associations of mining companies—call for the establishment of a Mining Radio Service. These comments were primarily stimulated by the Commission's proposal to delete the Special Industrial Radio Service and to thereby dilute, to some degree, the protection that the mining industry currently enjoys as an eligible category in that service. In subsequent paragraphs hereof the Commission orders a retention of the Special Industrial service; in connection with this retention the Commission has eliminated a number of activities from eligibility in the service and has thereby made possible a higher degree of interference-protection than the service has heretofore enjoyed. Consequently, whatever justification may have existed for the establishment of a Mining Radio Service had the Commission finalized the proposal to delete the Special Industrial service, it is clear that none presently exists. In connection with the foregoing it can be pointed out that the use of radio by the mining industry—by virtue of such industry's primary concentration in remote and sparsely settled regions where other Special Industrial eligibles are, for the most part, absent—is highly compatible with usage by such other eligibles. In view of the above, the requests for a Mining Radio Service are denied.

Special Industrial Radio Service vs. Business Radio Service

41. For reasons set forth therein the Commission's Notice proposed the deletion of the Special Industrial Radio Service and the absorption of its licensees into a new service to be known as the Business Radio Service. With respect to the bare proposal to create the Business Radio Service, no significant opposition has been received. However, to the extent that the Commission's proposal involves the deletion of the Special Industrial service, it has been vigorously resisted. In addition to the opposition registered by the mining industry, protests have come from the petroleum industry and from licensees presently in the Special Industrial service and associations of such licensees. Among the associations filing extensive comments on the point were the Special Industrial Radio Service Association (SIRSA) and the Petroleum Equipment Suppliers Association (PESA). The consensus of all the comments relevant to the foregoing problem is that (a) the Business service should be established; (b) the Special Industrial service should be retained with a removal of many of the operating restrictions presently obtaining; (c) in connection with the foregoing, the eligi-

bility provisions of the Special Industrial service should be revised with a view to eliminating the access to the service by many persons not having long-range communications requirements and not having significant safety problems; and (d) the frequency complement of the Special Industrial service should be increased.

42. The Commission has studied the above comments in the particular light of the indisputable need of business generally for mobile radio facilities, of present usage and requirements within the Special Industrial service, and of the administrative difficulties it has experienced with respect to the latter service and has concluded that, at least temporarily, the above consensus should prevail. Accordingly, the Commission is here establishing a Business Radio Service and is retaining the Special Industrial Radio Service in modified form. The modifications which have been effected are readily apparent from the new rules which are appended hereto and they will not be dwelled upon to any great extent. The following principal points, however, should be noted:

(a) In addition to eliminating from eligibility certain "sub-activities" of an over-all category of activities, the Commission has, in a number of cases, eliminated the entire category. With respect to all the persons affected, it is felt that they can readily meet their communications requirements within the new Business service.

(b) For the same reason, those persons (such as electrical and plumbing contractors) who were "grandfathered" by the 1955 revision of the Special Industrial rules are also barred from further access to the Special Industrial service.

(c) Because a new service tailored to their most pressing requirements has been established for them, and because they will also be eligible in the Business service, manufacturers have been excluded by the new rules.

(d) With respect to all persons eliminated, a five-year amortization period has been established. Although a longer amortization period would be more attractive in the eyes of the persons displaced, the administrative difficulties and the inconvenience to the service as a whole which would result precludes such longer period.

(e) The Standard Metropolitan Area restrictions in the present rules have been eliminated.

(f) The present power limitations and the right of access to frequencies in the medium and high frequency-ranges have been retained for the Special Industrial service.

(g) Although this Report and Order speaks of a "retention" of the Special Industrial service, the Subpart K set forth below is regarded by the Commission as an entirely new set of rules. Thus, although similarities in language may exist in the old and the new rules, interpretations and policies effected under the old rules will not be binding upon the Commission with respect to the new ones. In administering these new rules a fundamental principle must be that the purposes here are to reduce the number of

activities eligible in the service, to ease to the greatest extent possible the administrative burden of processing what might be called "gray" applications, i. e., those which partly—but not completely—fell within old classifications, and to provide a higher quality service for the remaining eligibles.

43. The creation of the Business service and the retention of the Special Industrial service having been decided upon, the principal problem still remaining relates to the distribution of frequencies between the two services. Among the considerations which have been weighed by the Commission in arriving at this distribution are the following: (a) As a result of recent actions involving the ionospheric scatter problem, the Special Industrial service has lost four exclusive and eight shared frequencies in the 49 Mc range. Because a majority of the licensees on these frequencies will continue to be eligible in the Special Industrial service such available space as will permit the most economical frequency-shifts should be provided for them.

(b) Although existing loading within the Special Industrial service justifies a general supplementing of existing frequencies, the needs of business generally for frequencies in the 25-50, 152-174 and 450-470 Mc bands cannot be overlooked.

(c) Because of the lack of formal coordination facilities in the Business service, the interspersing of frequencies between the two services should be avoided to the greatest extent possible. Based upon its determinations with respect to the foregoing considerations, the Commission has made such distribution as it feels will promote the greatest and, at the same time, most equitable utilization of the total number of frequencies available. In making this distribution the Commission has to the maximum extent possible attempted to provide space which will permit economical frequency changes for those systems which will be displaced because of the "scatter" allocations and the changes adopted herein.

44. In the bands above and below the 450-470 Mc range, the Commission feels that, except for the frequencies 27.39, 27.43, 27.47, 35.90 and 35.94 Mc, Special Industrial should be permitted to retain all frequencies presently allocated to it. Additionally, and for purposes of (a) compensating the service for its recent losses in the 49 Mc range and (b) increasing its frequency complement beyond what formerly obtained, the Commission believes that Special Industrial should have (a) the seven split-channels in the 47 Mc range reallocated to the Industrial services in Docket No. 12169; (b) the three remaining split-channels between Special Industrial's present frequencies in the 43.02-43.18 Mc block;¹¹ (c) the three split-channels between its present frequencies in the 35.74-35.86 Mc block; (d) the frequency 158.40 Mc proposed by the Notice for use in the combined service; (e) four of sixteen 151 Mc frequencies reserved for Business by

¹¹ The frequency 43.16 Mc was made available by Docket No. 12169 for communications common carriers.

Docket No. 12169; and (f) a shared access to the three split-channels in the 152.87-153.05 Mc block. The Special Industrial service presently has five 40 kc channels (commencing with 27.31 and ending with 27.47 Mc) in the 27.29-27.53 Mc range. As indicated above, the Commission is depriving this service of the last three of these frequencies; to replace them, and to preserve block allocations in this range, the Commission is awarding Special Industrial the split-channels 27.29, 27.33, and 27.37 Mc. Finally, where Special Industrial previously enjoyed a shared access to ten frequency-pairs in the 450-460 Mc range, it will now have exclusive access to four pairs in such range.

45. It will be noted in the Subpart K set forth below that certain frequencies are identified as being available for "permanent", "itinerant" or "general" use. The "permanent" frequencies will be exclusively available for stations which are to be restricted in operation to a specified permanent area for which frequency coordination has been accomplished. The "itinerant" frequencies will be assigned only to stations to be used in itinerant operations, which require that the station be moved from time to time to various temporary communication areas. The "general" frequencies will be available to either of the above types of stations. In providing exclusive frequencies for both "permanent" and "itinerant" types of stations, it is the Commission's purpose to make possible for a station of either type an operation free of co-channel interference from stations of the opposite type. A similar system has been established for the Business service (see Subpart L set forth below).

46. For low-power purposes, Business will receive all five frequencies heretofore available to the Low Power Industrial Radio Service. In addition, and also subject to a three-watt power limitation, the low-power complement will receive the split-channels 27.53 and 154.60 Mc and ten of the 460-470 Mc frequencies being reallocated from the Citizens Radio Service.

47. The "non-low-power" complement of Business frequencies is to be composed as follows:

(a) It will receive a total of fifteen channels (regular and split) in the 35 Mc range.¹²

(b) It will receive the six regular and split channels commencing with 27.39 Mc and ending with 27.49 Mc, the split channel 154.54 Mc, the two split channels on either side of the low-power frequency 42.98 Mc, and twelve of the sixteen 151 Mc frequencies reserved for the combined service by Docket No. 12169.

(c) It will receive all of the 460-470 frequencies not heretofore reserved for other services.

(d) It will receive the six Taxicab split-channels in the 152 and 157 Mc ranges, the splits to be available only outside Standard Metropolitan Areas of 50,000 or more population.

(e) It will have access to the 27.23-27.28 Mc frequencies, the 72-76 Mc frequencies, the hydrological frequencies and the microwave frequencies on the same bases and conditions as will obtain for the Special Industrial service.

48. The eligibility provisions specified in the Notice for the Business service are adopted substantially as proposed with the addition of a paragraph eliminating any doubt as to the eligibility of hospitals, clinics, hospital associations and medical associations. A number of parties contend that eligibility in the new service should be limited to those persons having eligibility in no other service. Such a limitation would not only unduly burden our administrative processes but would also destroy a prime purpose of the Business service, namely, to provide other services with a source of supplementing their available frequencies.

49. A large number of commenting parties resist the Commission's proposal to limit input power in the Business service to 120 watts. Virtually all of these comments are from licensees and user groups in the Special Industrial service and, as heretofore indicated, the above limitation will not apply in that service. With the broad eligibility provisions of the Business rules, the Commission anticipates that it will be called upon to load frequencies in unprecedented proportions. To permit such loading and to otherwise promote the most efficient and equitable use of the available frequencies, the Commission feels that the 180 watt restriction must be finalized as proposed.

50. Many comments contend that the 1.6-6.0 Mc frequencies should be made available to the Business service; again, however, most of these were on behalf of Special Industrial licensees—who will continue to have access to most of such frequencies. In the Commission's view, the existing and potential loading of these frequencies by higher-priority users precludes their availability in the Business service.

51. With respect to Business usage of 25-50 Mc frequencies, one party contended that it should not be permitted in Standard Metropolitan Areas except upon a special showing; alternatively he suggested that each Business applicant for a 25-50 Mc frequency certify that higher orders of frequencies would not be adequate for the operation proposed. To a large extent, the first alternative is already within the scope of a remaining issue in Docket No. 12169. The second alternative would greatly increase the processing time for applications for the principal reason that many applications would have to be returned where the applicant inadvertently did not comply with the requirement. In any event, the certification would amount to no more than a statement that the applicant was complying with § 11.8 (b) of the rules—a section with which he is already expected to comply.

52. One party contends that two-frequency operation on frequencies above 450 Mc should not be permitted in the Business Radio Service except upon special showings of need therefor. The general justification for two-frequency

operation in the band involved was established a number of years ago; in the Commission's view such justification can be carried over to the Business service. The same party also contends that "more" frequencies above 450 Mc should be made available for Mobile Relay stations. From this party's arguments the Commission concludes that he is under the impression that a Mobile Relay station is an Operational Fixed station. By definition, however, a Mobile Relay station is a Base Station in the mobile service; accordingly, all of Business' Base Station frequencies above 450 Mc are available for Mobile Relay purposes.

53. Kaar Engineering Corporation (Kaar) and others make a number of points with respect to the Commission's low-power frequencies. Some of these points, dealing with availability of secondary frequencies and coordination of assignments, are expressly or impliedly disposed of in other portions of this Report and Order. Kaar also contends that if the Commission combines the Low Power Industrial service into the new Business service, the incentive to try to get by on low power will be destroyed, and applicants will tend to specify maximum power even though the areas to be served are relatively small. In connection with the foregoing, Kaar would also require applicants to make special showings of need where higher powers are specified. If the Commission's past experience in administering the Low Power service can be used as a basis, no significant change in the tendency to use low-power frequencies is likely to occur. In the past, people have been guided to the Low Power service because they were able to satisfy their communications requirements with low-power equipment costing less than the high-power equipment available for the other services. The low-power frequencies are still available and, in fact, their number has been increased; additionally, the same money-saving opportunities are present, and the Commission anticipates no slackening in the demand for low-power authorizations despite the fact that the Low Power service will no longer separately exist.

54. Halliburton Oil Well Cementing Company has no objection to the transfer of the Low Power service to the Business service so long as the same operating rules and technical standards for the frequencies involved are retained. In the foregoing connection Halliburton also believes that low-power stations should be classified as mobile stations, but that they should be permitted to be operated as base stations with antennas not exceeding twenty-five feet. The rules proposed in the Notice for the low-power frequencies differ from the old rules in only two major or significant respects: First, stations could only be used as mobile stations; second, antennas would not be limited to twenty-five feet. With respect to mobile stations, the Commission believes that antenna restrictions are inappropriate. In the first place, because they are mobile stations, an inherent restriction is present in the great majority of situations. However, there are some situations—such as where the station is to be in-

¹² The frequency 35.16 Mc was made available by Docket No. 12169 for communications common carriers.

stalled on a crane, aircraft or similar equipment—where the station could not function were it limited to twenty-five feet between the transmitter and the antenna. It is operating requirements such as these that the Commission is trying to accommodate. Upon consideration of Halliburton's other point, however, the Commission believes that there is substantial merit. Accordingly, it is revising the section in question to permit low-power stations to be located at fixed locations for indefinite periods of time, provided that the distance between the control point and the center of the radiating portion of the antenna involved does not exceed twenty-five feet.

55. By virtue of actions in Docket No. 12169, the frequencies 35.06, 35.10, 35.14 and 35.18 Mc were withdrawn from those available in the Maritime Mobile services and the Power Radio Service, and the frequencies 35.70 and 35.98 Mc were withdrawn from those available in the Automobile Emergency service. Because these frequencies will, with the effective date of this Report and Order, be available in the Business Radio Service, all licensees on such frequencies on such effective date will be considered as licensees in the Business Radio Service, and will be subject to all rules and regulations of the new service when the amortization privileges afforded by the above Docket No. 12169 have expired.

New Format

56. It will be noted from the attached Appendices that the format for the frequency tables appearing in the Special Industrial, Business, Manufacturers, and Telephone Maintenance Radio Services differs from what has previously uniformly obtained in the Industrial services. It is the Commission's intention to ultimately apply this same format to the tables appearing in the other Subparts of the Industrial services.

Availability of Split Channels

57. Pursuant to the First Report and Order in Docket No. 12169,³⁵ Industrial split-channels in the 35-36 and 42-50 Mc bands became available for assignment on April 1, 1958. The same document channelized the 150.8-152 Mc band on a 30 kc basis and provided for their availability, also on April 1, 1958. As proposed in the Notice and supported by the comments herein, all Industrial split-channels in the 27.23-27.28 and 450-470 Mc bands will become available on the effective date of this Report and Order. Because there is no basis for distinction as against other split-channels in the 25-50 Mc range, the split-channels in the 27.28-27.54 Mc range awarded herein to the Special Industrial and Business Services will also become available on the above effective date. The sole remaining question with respect to the availability of split-channels relates to those in the 152-174 Mc band.

³⁵ FCC 57-1303—adopted December 18 and released December 20, 1957.

58. In the Notice, the Commission proposed that secondary frequencies³⁶ and tertiary frequencies³⁷ become available on November 1, 1963, but that earlier assignments could be made upon specified showings by the applicant. It was also proposed that frequencies offset by less than 15 kc from those listed as available be assigned on the same basis and showing as tertiary frequencies when the application is also accompanied by an adequate showing of need for such irregular assignment. The proposed 1963 availability-date was, of course, geared to the date prescribed by Docket No. 11253 for mandatory-compliance with the narrow-band technical standards established for the band in that proceeding. However, there presently exist a number of factors which impress the Commission with the propriety of making the frequencies immediately available, i. e., on the effective date of this Report and Order. First, the recent scatter reallocation has resulted in a loss of a large number of prime Industrial frequencies; although this loss is most directly felt by the Special Industrial and Business Services, the accompanying readjustment of frequencies has tended to spread the total impact over all of the Industrial Services. Second, the percentages of narrow-band equipment already in use and currently being manufactured and sold greatly exceeds those originally anticipated by the Commission. These percentages are, of course, higher for the lower bands than for the higher bands, and this circumstance may tend to decrease the total demand for a short period of time for the 152-174 Mc split-channels because of the increased appeal of the lower-band split-channels. Third, Docket No. 12295 (see 58-78—adopted January 22 and released January 23, 1958) has reopened the question as to the dates by which compliance with the new technical standards must be effected. Of course, whatever dates evolve in the latter proceeding with respect to compliance will apply in the Industrial Services. Finally, and this is a factor upon which the Commission particularly relies, it is the general impression of many licensees operating in the Industrial Service that a large percentage of the adjacent-channel interference problems can be avoided by proper coordination procedures. As a result of this action in making the 152-174 Mc split-channels immediately available, the total interference-potential will be at a higher level in the coming months. The Commission believes, however, that increased cooperation among licensees, voluntary acceleration in equipment-changeover schedules, and intelligent counsel by equipment sellers will hold the interference within livable limits.

³⁶ In the 152-162 Mc block, secondary frequencies are those removed by 30 kc from presently-available frequencies; in the 162-174 Mc block, the separation is 25 kc.

³⁷ In the 152-162 Mc block, tertiary frequencies are those removed by 15 kc from presently-available frequencies; there are no tertiary frequencies in the 162-174 Mc block.

Assignment Policies

59. The general policy which has heretofore obtained with respect to the assignment of Industrial frequencies has been contained in § 11.8 (a) of the industrial rules. In brief, this policy recites that frequencies are available on a shared basis only and that applicants and licensees must cooperate in their selection and use. Although they have not been specifically contemplated by the foregoing rule or policy, frequency advisory committees for most services have been in existence for some time, and many applicants and licensees have utilized them to the extent of effecting the coordination required by the above § 11.8 (a). Consistent therewith, in proposing for the above § 11.8 amendments which appeared to be appropriate in light of the modified channel spacing, the Commission not only offered more definite and detailed procedures with respect to effecting coordination in the selection of frequencies, but also proposed an alternative procedure whereby the applicant could work through a representative advisory committee and secure a frequency recommendation for submission to the Commission. More specifically, the Commission's proposal would retain the basic, mandatory-cooperation features of the rule, but would require (in all services except the Business Radio Service) that applicants for frequencies not previously authorized to them give evidence of frequency coordination by (a) submitting a notarized statement that all licensees within 75 miles of the proposed station and not more than 60 kc removed from the requested frequency had been notified of the applicant's intention, and a report showing the probable interference to such stations, or (b) submitting an advisory recommendation from a frequency advisory committee organized in such a manner as to be representative of all persons eligible in the service involved in the area purported to be served by such committee.

60. As is generally known, Part 10 of the Commission's rules have contained provision for frequency advisory committees for a number of years, and it was a purpose of the proposal to effect between the two Parts a higher degree of consistency than has heretofore prevailed with respect to such committees. A large number of parties have expressed themselves on the proposal and their views have been considered in the Commission's decision to establish the alternative coordination procedure essentially as proposed. It is anticipated that our rules requiring cooperation in the use of assigned frequencies will provide the basis for effective cooperation whether on an individual basis or collectively within the framework of a committee.

61. NCUR and API would require that an existing licensee follow the coordination procedures of the rules where he proposes to add stations on the frequency, particularly where the operating area of the applicant would be thereby extended. In the Commission's view it is fundamental that an existing licensee

proposing to add stations in the same general area should be spared the burden of the coordinating requirements. However, the NCUR-API position has considerable merit where the additional stations are to be located in areas substantially removed from the existing area of operation, and, in such a situation, the applicant would be expected to coordinate.

62. A large number of parties have suggested that the coordinating procedures be made mandatory in the Business Radio Service and in the Special Industrial Radio Service should the latter service be retained. This point is well taken with respect to the Special Industrial Service and the procedures will be required therein. Because of the extreme lack of homogeneity in the new Business Service, however, and because of the anticipated frequency-loading therein, it is not considered practicable to apply the procedures to the latter service. Accordingly, except where the frequency requested is immediately adjacent to a frequency available in another service, licensees in the Business Service will be bound only by the general requirements pertaining to the use of frequencies.

63. In framing the proposed § 11.8 (a) the accent was upon its applicability to primary frequencies, and the figures of 60 kc and 75 miles were arrived at on the theory that until November 1, 1958 (under Docket No. 11253), applicants could be assigned such frequencies even though they specified broad-band equipment, and that adjacent-primary users should be protected to the extent of steering new applicants where possible to frequencies that were not adjacent to any other primary within the 75-mile radius. However, the Commission has restudied the matter in the light of (a) the proximity of the November 1, 1958, date and the possibility that an earlier date might evolve from the proceedings in Docket No. 12295; (b) the large percentage of narrow-band sets already in use; and (c) the fact that, as a practical matter, virtually all of the users in the interval will specify narrow-band equipment. On the basis of this restudy the Commission concludes that the advantage which would accrue in the matter of affording adjacent primary users a greater measure of protection would be more than overcome by the disadvantage of imposing upon new applicants the additional and resultant burden. Accordingly, the figure of 60 kc in the proposed § 11.8 (a) is being reduced to 30 kc, and the figure of 75 miles is being reduced—with respect to adjacent frequencies within 30 kc—to 35 miles. In light of the foregoing, except in those situations listed in § 11.8 (a) (1) set forth below, all applicants in the Industrial Services must coordinate the requested frequency to a distance of 35 miles in the case of adjacent-channel stations, and 75 miles in the case of co-channel stations.

64. By virtue of the Commission's previous action in making all split-channels in the 152-174 Mc band immediately available, the procedures specified in the new § 11.8 (a) apply to all frequencies listed in the new tables. In this con-

nection it should be noted that the Commission has not listed the tertiary frequencies proposed in the Notice. With respect to these tertiary frequencies, and all other "offset" frequencies above 152 Mc, the Commission has provided for their availability upon comprehensive showings specified in a new § 11.8 (i).

65. The Commission's Notice proposed that certain band-edge frequencies in the 154 and 173 Mc ranges be available in the Business Service for narrow-band, developmental operation. With little practical deviation from the proposal, these frequencies will be carried in a new § 11.8 (j), and they will be available in any of the Industrial Services.

66. The only significant point remaining with respect to the proposed changes to § 11.8 is the one wherein the Commission proposed that the use of any frequency could be restricted as to hours of operation. A number of comments in opposition to this proposal have been received from persons whose businesses operate on a round-the-clock basis. The proposal in question was dictated solely by the fact that, in the use of some frequencies—such as Government frequencies and medium and high frequencies—additional operating restrictions are sometimes prerequisite because of other operations on or near the frequency requested. In view thereof, the proposal is adopted.

67. With the changes outlined or referred to above and with other editorial changes, the proposed amendments to § 11.8 are adopted, and all comments inconsistent therewith are denied.

Pending Petitions

68. Considered herein in connection with the disposition of the instant proceeding were the following petitions: Petition of Administrator of the Rural Electrification Administration, filed on July 1, 1953; Petition of Allen B. Du Mont Laboratories, Inc., filed on September 19, 1956; Petition of Special Industrial Radio Service Association (152-162 Mc), filed on November 7, 1956; Petition of Special Industrial Radio Service Association (450-460 Mc), filed on November 7, 1956; Petition of National Committee for Utilities Radio, filed on November 15, 1956; Petition of Kaar Engineering Corporation, filed on December 14, 1956; Petition of Central Committee on Radio Facilities of the American Petroleum Institute, filed on January 2, 1957; Petition of Central Committee on Radio Facilities of the American Petroleum Institute, filed on January 9, 1957; Petition of Forest Industries Radio Communications, filed on January 23, 1957; Joint-Petition of National Ready Mixed Concrete Association and National Sand and Gravel Association, filed on March 6, 1957; Petition of Forest Industries Radio Communications, filed on March 11, 1957; and Petition of Petroleum Equipment Suppliers Association, filed on October 3, 1957.

Equipment Amortization

69. As a result of actions herein, frequencies upon which some licensees are currently operating will no longer be available in the services involved. In the Special Industrial service, there is the

additional problem that a number of present licensees will no longer be eligible in the service and will also be required to change frequencies. To allow all persons required to change frequencies by this Report and Order to amortize their equipment investments, the Commission is providing that no one will be required to shift prior to June 15, 1963. The foregoing, of course, is separate and apart from the frequency-shifts required by the recent actions reallocating the 49.51-50.00 Mc band for scatter purposes. In the Special Industrial service, however, the following exemplifying situation should be noted: Licensee X will no longer be eligible in the service. He is currently operating on the frequency 49.98 Mc. By virtue of prior proceedings, he must vacate this frequency by December 31, 1959 or at the expiration of his current license term (whichever is later); both of the dates, of course, will occur prior to June 15, 1963. Because he is allowed in Special Industrial until the latter date, he may, if he chooses, make an intermediate shift to another Special Industrial frequency at the time he vacates the frequency 49.98 Mc. Any authorization issued under this option will be limited in duration to June 15, 1963.

Codification of Rules—Changes in Docket No. 12169

70. In the Ordering Clause of the Report and Order in Docket No. 12169 (See FCC 57-1393—adopted December 18 and released December 20, 1957), it was ordered that the formal codification of the changes effected by the Report and Order would be accomplished by subsequent order of the Commission. For its own convenience, and for the convenience of persons eligible or licensed under Part 11, the above codification is accomplished as set forth below.

Requests for Oral Argument

71. The comments contain a number of requests, in one form or another, for the right to appear before the Commission to present oral argument in support of the positions advanced. Good cause for such oral argument not having been established the requests therefor are denied.

Conclusion and Order

72. Upon consideration of all of the comments filed herein and of all other matters relevant in this proceeding, the Commission concludes that the amendments outlined above and reflected in the amendments set forth below will materially serve the public interest, convenience and necessity. The authority for such amendments is set forth in sections 4 (i) and 303 of the Communications Act of 1934, as amended.

73. In view of the foregoing: *It is ordered*, This 18th day of June 1958 that effective August 1, 1958, Part 11 of the Commission's rules is hereby amended in the manners set forth below. *It is further ordered*, That all requests advanced herein for oral argument are denied; and that the petitions identified in paragraph 68 hereof are granted to the extent that such action is consistent

with other actions herein taken, and in all other respects are denied.

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

Released: June 23, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

A. Section 11.8 of the rules is amended in the following particulars:

1. Amend 11.8 (a) to read as follows:

§ 11.8 *Policy governing the assignment of frequencies.* (a) The frequencies which normally may be assigned to stations in any one of the several Industrial Radio Services are listed in the applicable subpart of this part. All licensees of stations in these services shall cooperate in the use of the frequencies assigned in order to minimize interference, and thereby obtain the most effective use of the authorized facilities. Each frequency or band of frequencies listed in this part is available on a shared basis only and will not be assigned for the exclusive use of any one licensee. The use of any frequency may be restricted as to specified geographical areas, maximum power, or such other operating conditions as are contained in these rules or in the station authorization. Except for applications listed in subparagraph (1) of this paragraph, each application requesting assignment of a frequency shall be accompanied by evidence of frequency coordination in the form set forth in either subparagraph (2) or (3) of this paragraph.

(1) The following applications need not be accompanied by evidence of frequency coordination:

(i) Any application requesting a frequency which is already authorized to the applicant for use in the area concerned.

(ii) Any application requesting a Federal Government frequency.

(iii) Any application requesting a frequency allocated primarily for Industrial, Scientific and Medical purposes.

(iv) Any application requesting a frequency in the 72-76 Mc band.

(v) Any application requesting a frequency below 25 Mc.

(vi) Any application requesting a frequency above 470 Mc.

(vii) Any application requesting a frequency assignment on a developmental basis only.

(viii) Any application in the Business Radio Service, where the frequency requested and both immediately adjacent frequencies are available for assignment in that service.

(ix) Any application in the Special Industrial or Business Radio Services specifying an itinerant operation only.

(2) Frequency coordination where required by the provisions of this section may be accomplished by the submission of a report, based on a field study, indicating the degree of probable interference to existing stations operating in the same area. The report shall consider all stations operating on the requested frequency within 75 miles of the proposed station, and all stations operating on any adjacent frequency within 30 kilocycles

of the requested frequency and within 35 miles of the proposed station. Further, the applicant shall submit a statement under oath that all existing licensees within the frequency and mileage limits contained herein have been notified of the applicant's intention to request the particular frequency.

(3) In lieu of the report and statement described in subparagraph (2) of this paragraph, the applicant may submit a statement from a frequency advisory committee recommending the specific frequency which in the opinion of the committee will result in the least amount of interference to existing stations operating in the particular area. The frequency advisory committee must be so organized that it is representative of all persons who are eligible for radio facilities in the service concerned in the area the committee purports to serve. In addition to the selection of specific frequencies, committee recommendations may appropriately include comments on other technical factors such as power, antenna height and characteristics which may serve to mitigate any contemplated interference situation. The functions of such committees must be purely advisory in character to the applicant and the Commission, and their recommendations cannot be considered as binding upon either the applicant or the Commission.

2. Amend 11.8 by the addition of the following new paragraphs (i) and (j):

(i) In the frequency range above 150 Mc the Commission may make assignments which are offset from the frequencies set forth in this part in those cases where it can be shown that all suitable listed frequencies are in use in the area concerned, or that for technical reasons a developmental program requires such offset assignment. In either event offset assignments will be made only if the results of an engineering study of each request indicates that the proposed operation can be accomplished without increasing the interference potential, as compared to that which would obtain if a listed frequency were used under the same conditions, and provided, that such offset assignment will not reduce the maximum potential frequency utilization in the area involved. Depending upon the degree of offset and other technical characteristics of the application the Commission may authorize the proposed operation on a developmental basis only.

(j) The bands of frequencies listed in this paragraph are available for assignment to any station in the Industrial Radio Services for narrow-band emission only under the terms of a developmental grant, provided, that the sum of the bandwidth occupied by the modulation and that required for frequency tolerance shall not exceed the limits of the frequency bands indicated. The bands of frequencies available for such assignment are as follows:

Mc
154.4600-154.4675
173.2000-173.2075
173.2075-173.2125
173.3875-173.3925
173.3925-173.4000

B. Subpart C—Technical Standards, is amended in the following particulars:

1. Amend paragraph (d) of § 11.105 to read as follows:

(d) Each transmitter which is operated on a frequency in the ranges 25-50 Mc, 150-174 Mc, or 450-470 Mc and which is provided with a modulation limiter in accordance with the provisions of paragraph (c) of this section shall also be equipped with an audio low-pass filter: *Provided, however,* That (except for transmitters operating in the range 150.8-152 Mc) this requirement shall not apply until November 1, 1963, to transmitters first authorized or installed prior to November 1, 1958, or to transmitters which are operationally integrated with existing radiocommunication systems which were authorized prior to November 1, 1958. The audio low-pass filter required by the foregoing shall be installed between the modulation limiter and the modulated stage and shall meet the specifications contained in paragraph (e) of this section.

2. Amend paragraph (e) of § 11.105 to read as follows:

(e) At audio frequencies between 3 kc and 15 kc, the low-pass filter required by paragraph (d) of this section shall have an attenuation greater than the attenuation at 1 kc by at least:

$$40 \log_{10} (f/3) \text{ decibels}$$

where "f" is the audio frequency in kilocycles. At audio frequencies above 15 kc, the attenuation shall be at least 28 decibels greater than the attenuation at 1 kc.

3. Delete paragraph (f) and (g) of § 11.105.

C. Subpart F—Power Radio Service, is amended in the following particulars:

1. Amend the table of frequencies appearing in § 11.252 (a) to read as follows:

Mc	Mc	Mc	Mc
37.46	47.80	48.12	48.44
37.50	47.82	48.14	48.46
37.54	47.84	48.16	48.48
37.58	47.86	48.18	48.50
37.62	47.88	48.20	48.52
37.66	47.90	48.22	48.54
37.70	47.92	48.24	153.41
37.74	47.94	48.26	153.47
37.78	47.96	48.28	153.53
37.82	47.98	48.30	153.59
37.86	48.00	48.32	153.65
47.70	48.02	48.34	153.71
47.72	48.04	48.36	153.13
47.74	48.06	48.38	153.19
47.76	48.08	48.40	153.25
47.78	48.10	48.42	

2. Amend paragraph (b) of § 11.252 to read as follows:

(b) The following frequencies are available for assignment to Base and Mobile Stations in the Power Radio Service except in the States of Texas, Oklahoma, Louisiana, Arkansas, Washington and Oregon:

Mc	Mc
153.44	158.16
153.50	158.22
153.56	173.25
153.62	173.30
153.68	173.35

3. Amend paragraph (a) of § 11.254 to read as follows:

§ 11.254 *Frequencies available for Base, Mobile and Operational Fixed Stations.* (a) The following frequency pairs are available for assignment to stations in the Power Radio Service only in accordance with paragraph (b) of this section:

Frequency pairs	
Base and mobile	Mobile only
Mc	Mc
451.05	456.05
451.10	456.10
451.15	456.15
451.20	456.20
451.25	456.25

4. Amend the introduction and subparagraph (1) to paragraph (b) of § 11.254 to read as follows:

(b) The frequencies listed in paragraph (a) of this section are available primarily for assignment to Base and Mobile Stations, and secondarily for assignment to Fixed Relay and Control Stations. Not more than one pair of frequencies will be assigned for use by the stations of any single mobile service and radio system, except upon adequate showing of need. Only one frequency of such pair will ordinarily be assigned to any Mobile Station, and the lower frequency of that pair will not be assigned to such Mobile Station unless the system is designed for the single frequency method of operation and the same frequency is also assigned to an associated Base Station. An Operational Fixed Station to be operated as a part of a mobile service radio system may be assigned either of the paired frequencies available to the Base or Mobile Stations of the same mobile service radio system, subject however, to the following additional restrictions and limitations on assignment and use.

(1) All use by Operational Fixed Stations is subject to the condition that harmful interference shall not be caused to stations in the mobile service operating on these frequencies in accordance with the table of frequency allocations as set forth in Part 2 of this chapter.

5. Delete the text of paragraphs (c) and (d) of § 11.254 and substitute the following new paragraphs (c), (d), and (e):

(c) The following frequencies are available for assignment to Base, Mobile, or Operational Fixed Stations in the Power Radio Service on a shared basis with stations in certain other services, subject to no protection from interference due to the operation of industrial, scientific, or medical devices on the frequency 27.12 Mc, and limited to the use of transmitters having not more than 30 watts plate power input to the final radio frequency stage:

Frequencies (Mc)
27.235
27.245
27.255
27.265
27.275

(d) Notwithstanding the provisions of § 11.103, stations authorized to be operated on the frequencies listed in

paragraph (c) of this section may be authorized to utilize any type of emission which occupies a bandwidth not greater than 8 kc.

(e) Stations authorized to be operated on the frequencies listed in paragraph (c) of this section may also be authorized to be operated by self-actuating or other mechanical or electrical means not under the direct control of any individual: *Provided, however,* That, whenever such unattended and uncontrolled operation is authorized, adequate means shall be provided to prevent the transmission of a carrier wave except when modulated for the purpose of transmitting authorized communications or signals.

D. Subpart G—Petroleum Radio Service, is amended in the following particulars:

1. Amend the table of frequencies appearing in § 11.302 (a) to read as follows:

Mc	Mc
25.02	25.30
25.06	33.18
25.10	33.22
25.14	33.26
25.18	33.30
25.22	33.34
25.26	33.38

2. Amend the table of frequencies appearing in § 11.302 (b) to read as follows:

Mc	Mc	Mc	Mc
30.66	48.86	49.26	153.26
30.70	48.88	49.28	153.28
30.74	48.90	49.30	153.32
30.78	48.92	49.32	153.35
30.82	48.94	49.34	153.38
48.56	48.96	49.36	¹ 153.44
48.58	48.98	49.38	¹ 153.50
48.60	49.00	49.40	¹ 153.56
48.62	49.02	49.42	¹ 153.62
48.64	49.04	49.44	¹ 153.68
48.66	49.06	49.46	¹ 158.16
48.68	49.08	49.48	¹ 158.22
48.70	49.10	49.50	158.28
48.72	49.12	153.05	158.31
48.74	49.14	153.08	158.37
48.76	49.16	153.11	158.43
48.78	49.18	153.14	¹ 173.25
48.80	49.20	153.17	¹ 173.30
48.82	49.22	153.20	¹ 173.35
48.84	49.24	153.23	

¹ Available for assignment only in States of Texas, Oklahoma, Louisiana, Arkansas, Washington and Oregon.

3. Amend paragraph (a) of § 11.304 to read as follows:

§ 11.304 *Frequencies available for Base, Mobile and Operational Fixed Stations.* (a) The following frequency pairs are available for assignment to stations in the Petroleum Radio Service on a shared basis with stations in certain other radio services in accordance with paragraph (b) of this section:

Frequency Pairs	
Base and Mobile (Mc)	Mobile only (Mc)
451.55	456.55
451.60	456.60
451.65	456.65
451.70	456.70
451.75	456.75

4. Amend the introduction and subparagraph (1) to paragraph (b) of § 11.304 to read as follows:

(b) The frequencies listed in paragraph (a) of this section are available

primarily for assignment to Base and Mobile Stations, and secondarily for assignment to Fixed Relay and Control Stations. Not more than one pair of frequencies will ordinarily be assigned for use by the stations of any single mobile service radio system, except upon adequate showing of need. Only one frequency of such pair will ordinarily be assigned to any Mobile Station and the lower frequency of that pair will not be assigned to such Mobile Station unless the system is designed for the single frequency method of operation and the same frequency is also assigned to an associated Base Station. An Operational Fixed Station to be operated as a part of a mobile service radio system may be assigned either of the paired frequencies available to the Base or Mobile Stations of the same mobile service radio system, subject, however, to the following additional restrictions and limitations on assignment and use.

(1) All use by Operational Fixed Stations is subject to the condition that harmful interference shall not be caused to stations in the mobile service operating on these frequencies in accordance with the table of frequency allocations as set forth in Part 2 of this chapter.

5. Delete the text of paragraphs (c) and (d) of § 11.304 and substitute the following new paragraphs (c), (d) and (e):

(c) The following frequencies are available for assignment to Base, Mobile, or Operational Fixed Stations in the Petroleum Radio Service (on a shared basis with stations in certain other services), subject to no protection from interference due to the operation of industrial, scientific, or medical devices on the frequency 27.12 Mc, and limited to the use of transmitters having not more than 30 watts plate power input to the final radio frequency stage:

Frequencies (Mc)
27.235
27.245
27.255
27.265
27.275

(d) Notwithstanding the provisions of § 11.103, stations authorized to be operated on the frequencies listed in paragraph (c) of this section may be authorized to transmit thereon any type of emission which occupies a bandwidth not greater than 8 kc.

(e) Stations authorized to be operated on the frequencies listed in paragraph (c) of this section may also be authorized to be operated thereon by self-actuating or other electrical or mechanical means not under the direct control of any individual: *Provided, however,* That, whenever such unattended and uncontrolled operation is authorized, adequate means shall be provided to prevent the transmission of a carrier wave except when modulated for the purpose of transmitting authorized communications or signals.

E. Subpart H—Forest Products Radio Service, is amended in the following particulars:

1. Amend the table of frequencies appearing in § 11.352 (a) to read as follows:

Mc
29.73
29.77

2. Amend the table of frequencies appearing in § 11.352 (b) to read as follows:

Mc	Mc	Mc	Mc
48.56	48.94	49.32	153.32
48.59	48.96	49.34	153.35
48.60	48.98	49.36	153.38
48.62	49.00	49.38	¹ 153.44
48.64	49.02	49.40	¹ 153.50
48.66	49.04	49.42	¹ 153.56
48.68	49.06	49.44	¹ 153.62
48.70	49.08	49.46	¹ 153.68
48.72	49.10	49.48	¹ 158.16
48.74	49.12	49.50	¹ 158.22
48.76	49.14	153.05	158.28
48.78	49.16	153.08	158.31
48.80	49.18	153.11	158.37
48.82	49.20	153.14	158.43
48.84	49.22	153.17	¹ 173.25
48.86	49.24	153.20	¹ 173.30
48.88	49.26	153.23	¹ 173.35
48.90	49.28	153.26	
48.92	49.30	153.29	

¹ Available for assignment only in States of Texas, Oklahoma, Louisiana, Arkansas, Washington and Oregon.

3. Amend paragraph (a) of § 11.354 to read as follows:

§ 11.354 *Frequencies available for Base, Mobile and Operational Fixed Stations.* (a) The following frequency pairs are available for assignment to stations in the Forest Products Radio Service on a shared basis with certain other radio services in accordance with paragraph (b) of this section:

Frequency Pairs

Base and Mobile (Mc)	Mobile only (Mc)
451.55	456.55
451.60	456.60
451.65	456.65
451.70	456.70
451.75	456.75

4. Amend the introduction and subparagraph (1) to paragraph (b) of § 11.354 to read as follows:

(b) The frequencies listed in paragraph (a) of this section are available primarily for assignment to Base and Mobile Stations, and secondarily for assignment to Fixed Relay and Control Stations. Not more than one pair of frequencies will ordinarily be assigned for use by the stations of any single mobile service radio system, except upon adequate showing of need. Only one frequency of such pair will ordinarily be assigned to any Mobile Station and the lower frequency of that pair will not be assigned to such Mobile Station unless the system is designed for the single frequency method of operation and the same frequency is also assigned to an associated Base Station. An Operational Fixed Station to be operated as a part of a mobile service radio system may be assigned either of the paired frequencies available to the Base or Mobile Stations of the same mobile service radio system, subject however, to the following additional restrictions and limitations on assignment and use.

(1) All use by Operational Fixed Stations is subject to the condition that

harmful interference shall not be caused to stations in the mobile service operating on these frequencies in accordance with the table of frequency allocations as set forth in Part 2 of this chapter.

5. Delete the text of paragraphs (c) and (d) of § 11.354 and substitute the following new paragraphs (c), (d) and (e):

(c) The following frequencies are available for assignment to Base, Mobile, or Operational Fixed Stations in the Forest Products Radio Service (on a shared basis with stations in certain other services), subject to no protection from interference due to the operation of industrial, scientific, or medical devices on the frequency 27.12 Mc, and limited to the use of transmitters having not more than 30 watts plate power input to the final radio frequency stage:

Frequencies (Mc)

27.235
27.245
27.255
27.265
27.275

(d) Notwithstanding the provisions of § 11.103, stations authorized to be operated on the frequencies listed in paragraph (c) of this section may be authorized to transmit thereon any type of emission which occupies a bandwidth not greater than 8 kc.

(e) Stations authorized to be operated on the frequencies listed in paragraph (c) of this section may also be authorized to be operated by self-actuating or other electrical or mechanical means not under the direct control of any individual: *Provided, however,* That, whenever such unattended and uncontrolled operation is authorized, adequate means shall be provided to prevent the transmission of a carrier wave except when modulated for the purpose of transmitting authorized communications or signals.

F. Subpart I—Motion Picture Radio Service, is amended in the following particulars:

1. Amend the table of frequencies appearing in § 11.402 (a) to read as follows:

Mc	Mc
152.87	153.02
152.90	173.225
152.93	173.275
152.96	173.325
152.99	173.375

2. Delete the text of paragraphs (a), (b), (c) and (d) of § 11.404 and substitute the following:

§ 11.404 *Frequencies available for Base, Mobile and Operational Fixed Stations.* (a) The following frequencies are available for assignment to Base, Mobile, or Operational Fixed Stations in the Motion Picture Radio Service (on a shared basis with stations in certain other services), subject to no protection from interference due to the operation of industrial, scientific, or medical devices on the frequency 27.12 Mc, and limited to the use of transmitters having not more than 30 watts plate power input to the final radio frequency stage:

Frequencies (Mc)

27.235
27.245
27.255
27.265
27.275

(b) Notwithstanding the provisions of § 11.103, stations authorized to be operated on the frequencies listed in paragraph (a) of this section may be authorized to transmit thereon any type of emission which occupies a bandwidth not greater than 8 kc.

(c) Stations authorized to be operated on the frequencies listed in paragraph (a) of this section may also be authorized to be operated thereon by self-actuating or other electrical or mechanical means not under the direct control of any individual: *Provided, however,* That whenever such unattended and uncontrolled operation is authorized, adequate means shall be provided to prevent the transmission of a carrier wave except when modulated for the purpose of transmitting authorized communications or signals.

G. Subpart J—Relay Press Radio Service, is amended in the following particulars:

1. Delete the text of paragraphs (a), (b), (c) and (d) of § 11.454 and substitute the following:

§ 11.454 *Frequencies available for Base, Mobile and Operational Fixed Stations.* (a) The following frequencies are available for assignment to Base, Mobile, or Operational Fixed Stations in the Relay Press Radio Service (on a shared basis with stations in certain other services), subject to no protection from interference due to the operation of industrial, scientific, or medical devices on the frequency 27.12 Mc, and limited to the use of transmitters having not more than 30 watts plate power input to the final radio frequency stage:

Frequencies (Mc)

27.235
27.245
27.255
27.265
27.275

(b) Notwithstanding the provisions of § 11.103, stations authorized to be operated on the frequencies listed in paragraph (a) of this section may be authorized to transmit thereon any type of emission which occupies a bandwidth not greater than 8 kc.

(c) Stations authorized to be operated on the frequencies listed in paragraph (a) of this section may also be authorized to be operated thereon by self-actuating or other electrical or mechanical means not under the direct control of any individual: *Provided, however,* That whenever such unattended and uncontrolled operation is authorized, adequate means shall be provided to prevent the transmission of a carrier wave except when modulated for the purpose of transmitting authorized communications or signals.

H. Delete the present index references, titles and texts of Subpart K, Special Industrial Radio Service, and substitute the following new index references, titles and texts:

SUBPART K—SPECIAL INDUSTRIAL RADIO SERVICE

- Sec.
- 11.501 Eligibility.
- 11.502 Availability and use of service.
- 11.503 Station limitations.
- 11.504 Frequencies available.
- 11.505 Ineligible licensees.
- 11.506 Unlisted frequencies.

Authority: §§ 11.501 to 11.506 issued under sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1062, as amended; 47 U. S. C. 303.

§ 11.501 *Eligibility.* The following persons are eligible to hold authorizations to operate radio stations in the Special Industrial Radio Service:

(a) Persons regularly engaged in the operation of farms or ranches or similar land installations for the quantity production of crops or plants, vines or trees (excluding forestry operations), or for the keeping, grazing or feeding of livestock for animal products, animal increase or value enhancement.

(b) Persons operating a commercial business regularly engaged in the construction of roads, bridges, sewers, pipelines, airfields, water, oil, gas or power production, collection or distribution systems and other engineering projects normally classified as heavy construction activities.

(c) Persons regularly engaged in the operation of mines for the recovery of solid fuels, minerals or metals from the earth or the sea, including the exploration for and development of mining properties.

(d) Persons operating a commercial business regularly rendering certain specialized services essential either to industrial operations or public health. Eligibility for these specialized services is limited to the following:

(1) Plowing, soil conditioning, seeding, fertilizing, or harvesting for agricultural or forestry activities.

(2) The spraying or dusting of insecticides, herbicides or fungicides in areas other than enclosed structures.

(3) Livestock breeding service.

(4) Maintaining, patrolling and repairing of gas or liquid transmission pipelines, tank cars, water or waste disposal wells, industrial storage tanks, or distribution systems of public utilities.

(5) Acidizing, cementing, logging, perforating, or shooting activities, and services of a similar nature incident to the drilling of new oil or gas wells, or the maintenance of production from established wells.

(6) Supplying of chemicals, mud, tools, pipe and other unique materials or equipment to the petroleum production industry as the primary activity of the applicant: *Provided*, That the delivery, installation or application of these materials require on the part of the supplier the use of specially fitted conveyances and unusual skills.

(7) The delivery of ice or fuel to the consumer in solid, liquid or gaseous form for heating, lighting, refrigerating or power generation purposes, by means other than pipelines or railroads.

(8) The delivering and pouring of ready-mixed concrete or hot asphalt mix.

(e) A subsidiary corporation proposing to furnish a non-profit communica-

tions service to its parent corporation or another subsidiary of the same parent where the party to be served is engaged in one of the activities set forth above.

§ 11.502 *Availability and use of service.* (a) The initial application from a person claiming eligibility in this service must be accompanied by a statement in detail sufficient to indicate clearly such eligibility.

(b) Authorizations to operate stations in this service are available only to the extent and for the purposes set forth in this subpart and the operation of all stations licensed hereunder shall be strictly confined to those activities on which the eligibility was established, except for transmissions relating to an immediate emergency involving the safety of life or property. Communications relating to any of the following shall not be transmitted by any station licensed in the Special Industrial Radio Service:

(1) Sales reports, or the dispatch of salesmen;

(2) Payrolls, accounts or inventory control;

(3) Any message relating to the retail delivery of any item or product, except where such retail delivery is specifically included in the eligibility provisions of this subpart; or

(4) Any message where the time element is not of immediate importance.

(c) Persons engaging in activities some of which are eligible under this subpart and some of which are not, and desiring to use radio in connection with both types should apply for authorization in the Business Radio Service.

§ 11.503 *Station limitations.* (a) Mobile relay stations will not be authorized in the Special Industrial Radio Service within the continental limits of the United States, except when such stations and all associated control and

mobile stations are to be operated exclusively on frequencies above 450 Mc: *Provided, however*, That this restriction shall not apply to the continued licensing of mobile relay systems authorized prior to November 1, 1955.

(b) Fixed stations will be licensed in the Special Industrial Radio Services only on a limited basis and extensive licensing of point to point systems must await further development of the Commission's microwave program. Request for point to point facilities, which will be considered on a case by case basis, should clearly establish either of the following:

(1) That the requested fixed stations are required to provide communications between isolated establishments with no other means of communication or from such establishments to points at which other communication facilities are available, or that all fixed stations operate in the frequency range 27.235 through 27.255 Mc.

(2) That the use of a control or fixed relay link is necessary for the operation of a remotely located base station and the fixed stations concerned are used exclusively as integral parts of a mobile service system.

(c) Base or mobile stations being utilized in itinerant operations at various temporary locations and not associated with a permanent service area will be authorized only on frequencies indicated for itinerant use or for general use.

§ 11.504 *Frequencies available.* (a) The following tabulation indicates the frequencies or bands of frequencies available for assignment to stations in the Special Industrial Radio Service together with the class of station(s) to which they are normally assigned, a general reference terminology and the specific assignment limitations, which are developed in paragraph (b) of this section:

Frequency or band	Class of station(s)	General reference	Limitations
Kc			
2292	Base or mobile	General use	10
2398	do	do	10
4637.5	do	do	10
Mc			
27.235	Base, mobile or fixed	ISM General use	2.8
27.245	do	do	2.8
27.255	do	do	2.8
27.265	do	do	2.8
27.275	do	do	2.8
27.29	Base or mobile	General use	
27.31	do	do	
27.33	do	do	
27.35	do	do	
27.37	do	do	
30.55	do	Permanent use	11
30.62	do	do	11
35.74	do	do	11
35.76	do	do	11
35.78	do	do	11
35.80	do	do	11
35.82	do	do	11
35.84	do	do	11
35.86	do	do	11
40.78	Operational fixed	Hydrological	4.5
43.02	Base or mobile	General use	
43.04	do	Itinerant use	12
43.06	do	General use	
43.08	do	do	
43.10	do	do	
43.12	do	do	
43.14	do	do	
43.18	do	Permanent use	11
47.44	do	do	11
47.48	do	do	11
47.52	do	do	11
47.56	do	do	11
47.60	do	do	11
47.64	do	do	11
47.68	do	do	11

Frequency or band	Class of station(s)	General reference	Limitations
Mc 72.02	Operational fixed	72 Mc fixed	
72.06	do	do	
72.10	do	do	
72.14	do	do	
72.18	do	do	
72.22	do	do	
72.26	do	do	
72.30	do	do	
72.34	do	do	
72.38	do	do	
72.42	do	do	
72.46	do	do	
72.50	do	do	
72.54	do	do	
72.58	do	do	
72.62	do	do	
72.66	do	do	
72.70	do	do	
72.74	do	do	
72.78	do	do	
72.82	do	do	
72.86	do	do	
72.90	do	do	
72.94	do	do	
72.98	do	do	
73.02	do	do	
73.06	do	do	
73.10	do	do	
73.14	do	do	
73.18	do	do	
73.22	do	do	
73.26	do	do	
73.30	do	do	
73.34	do	do	
73.38	do	do	
73.42	do	do	
73.46	do	do	
73.50	do	do	
73.54	do	do	
73.58	do	do	
73.62	do	do	
73.66	do	do	
73.70	do	do	
73.74	do	do	
73.78	do	do	
73.82	do	do	
73.86	do	do	
73.90	do	do	
73.94	do	do	
73.98	do	do	
74.02	do	do	
74.06	do	do	
74.10	do	do	
74.14	do	do	
74.18	do	do	
74.22	do	do	
74.26	do	do	
74.30	do	do	
74.34	do	do	
74.38	do	do	
74.42	do	do	
74.46	do	do	
74.50	do	do	
74.54	do	do	
74.58	do	do	
74.62	do	do	
74.66	do	do	
74.70	do	do	
74.74	do	do	
74.78	do	do	
74.82	do	do	
74.86	do	do	
74.90	do	do	
74.94	do	do	
74.98	do	do	
75.02	do	do	
75.06	do	do	
75.10	do	do	
75.14	do	do	
75.18	do	do	
75.22	do	do	
75.26	do	do	
75.30	do	do	
75.34	do	do	
75.38	do	do	
75.42	do	do	
75.46	do	do	
75.50	do	do	
75.54	do	do	
75.58	do	do	
75.62	do	do	
75.66	do	do	
75.70	do	do	
75.74	do	do	
75.78	do	do	
75.82	do	do	
75.86	do	do	
75.90	do	do	
75.94	do	do	
75.98	do	do	
76.02	do	do	
76.06	do	do	
76.10	do	do	
76.14	do	do	
76.18	do	do	
76.22	do	do	
76.26	do	do	
76.30	do	do	
76.34	do	do	
76.38	do	do	
76.42	do	do	
76.46	do	do	
76.50	do	do	
76.54	do	do	
76.58	do	do	
76.62	do	do	
76.66	do	do	
76.70	do	do	
76.74	do	do	
76.78	do	do	
76.82	do	do	
76.86	do	do	
76.90	do	do	
76.94	do	do	
76.98	do	do	
77.02	do	do	
77.06	do	do	
77.10	do	do	
77.14	do	do	
77.18	do	do	
77.22	do	do	
77.26	do	do	
77.30	do	do	
77.34	do	do	
77.38	do	do	
77.42	do	do	
77.46	do	do	
77.50	do	do	
77.54	do	do	
77.58	do	do	
77.62	do	do	
77.66	do	do	
77.70	do	do	
77.74	do	do	
77.78	do	do	
77.82	do	do	
77.86	do	do	
77.90	do	do	
77.94	do	do	
77.98	do	do	
78.02	do	do	
78.06	do	do	
78.10	do	do	
78.14	do	do	
78.18	do	do	
78.22	do	do	
78.26	do	do	
78.30	do	do	
78.34	do	do	
78.38	do	do	
78.42	do	do	
78.46	do	do	
78.50	do	do	
78.54	do	do	
78.58	do	do	
78.62	do	do	
78.66	do	do	
78.70	do	do	
78.74	do	do	
78.78	do	do	
78.82	do	do	
78.86	do	do	
78.90	do	do	
78.94	do	do	
78.98	do	do	
79.02	do	do	
79.06	do	do	
79.10	do	do	
79.14	do	do	
79.18	do	do	
79.22	do	do	
79.26	do	do	
79.30	do	do	
79.34	do	do	
79.38	do	do	
79.42	do	do	
79.46	do	do	
79.50	do	do	
79.54	do	do	
79.58	do	do	
79.62	do	do	
79.66	do	do	
79.70	do	do	
79.74	do	do	
79.78	do	do	
79.82	do	do	
79.86	do	do	
79.90	do	do	
79.94	do	do	
79.98	do	do	
80.02	do	do	
80.06	do	do	
80.10	do	do	
80.14	do	do	
80.18	do	do	
80.22	do	do	
80.26	do	do	
80.30	do	do	
80.34	do	do	
80.38	do	do	
80.42	do	do	
80.46	do	do	
80.50	do	do	
80.54	do	do	
80.58	do	do	
80.62	do	do	
80.66	do	do	
80.70	do	do	
80.74	do	do	
80.78	do	do	
80.82	do	do	
80.86	do	do	
80.90	do	do	
80.94	do	do	
80.98	do	do	
81.02	do	do	
81.06	do	do	
81.10	do	do	
81.14	do	do	
81.18	do	do	
81.22	do	do	
81.26	do	do	
81.30	do	do	
81.34	do	do	
81.38	do	do	
81.42	do	do	
81.46	do	do	
81.50	do	do	
81.54	do	do	
81.58	do	do	
81.62	do	do	
81.66	do	do	
81.70	do	do	
81.74	do	do	
81.78	do	do	
81.82	do	do	
81.86	do	do	
81.90	do	do	
81.94	do	do	
81.98	do	do	
82.02	do	do	
82.06	do	do	
82.10	do	do	
82.14	do	do	
82.18	do	do	
82.22	do	do	
82.26	do	do	
82.30	do	do	
82.34	do	do	
82.38	do	do	
82.42	do	do	
82.46	do	do	
82.50	do	do	
82.54	do	do	
82.58	do	do	
82.62	do	do	
82.66	do	do	
82.70	do	do	
82.74	do	do	
82.78	do	do	
82.82	do	do	
82.86	do	do	
82.90	do	do	
82.94	do	do	
82.98	do	do	
83.02	do	do	
83.06	do	do	
83.10	do	do	
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83.18	do	do	
83.22	do	do	
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83.34	do	do	
83.38	do	do	
83.42	do	do	
83.46	do	do	
83.50	do	do	
83.54	do	do	
83.58	do	do	
83.62	do	do	
83.66	do	do	
83.70	do	do	
83.74	do	do	
83.78	do	do	
83.82	do	do	
83.86	do	do	
83.90	do	do	
83.94	do	do	
83.98	do	do	
84.02	do	do	
84.06	do	do	
84.10	do	do	
84.14	do	do	
84.18	do	do	
84.22	do	do	
84.26	do	do	
84.30	do	do	
84.34	do	do	
84.38	do	do	
84.42	do	do	
84.46	do	do	
84.50	do	do	
84.54	do	do	
84.58	do	do	
84.62	do	do	
84.66	do	do	
84.70	do	do	
84.74	do	do	
84.78	do	do	
84.82	do	do	
84.86	do	do	
84.90	do	do	
84.94	do	do	
84.98	do	do	
85.02	do	do	
85.06	do	do	
85.10	do	do	
85.14	do	do	
85.18	do	do	

ing on this frequency shall not engage in communications with any station in the mobile service unless written authorization to do so has been obtained from the Commission. Persons who desire to operate stations on this frequency should communicate with the Commission for instructions concerning the procedure to be followed in filing formal application.

(5) Use of this frequency is limited to stations located in the States of Pennsylvania and West Virginia only and is subject to no protection from interference due to the operation of industrial, scientific or medical devices on this frequency.

(6) This frequency is intended for use primarily by fixed relay stations.

(7) This frequency will not be assigned to base stations.

(8) Other rule provisions of this part notwithstanding, this frequency may be authorized for use with any type of emission which does not exceed an occupied bandwidth of 8 kilocycles, for intermittent transmissions; further, authorizations may be issued to permit operation on this frequency by self-actuating or other electrical or mechanical means not under the direct control of any individual. All operations on this frequency are limited to a maximum plate power input of 30 watts to the final radio frequency stage.

(9) This frequency is available for assignment on a secondary basis to fixed relay or control stations which operate as integral parts of a radio circuit over which messages are sent to or received from a mobile station without interruption for manual relaying, provided that such operation causes no harmful interference to base or mobile stations, and further provided, that this frequency will not be assigned for such control or relay operation in any instance where its use will be in a radio circuit which involves more than two automatic retransmissions in each direction on mobile service frequencies.

(10) Frequencies below 25 Mc will be assigned to base or mobile stations in this service only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 Mc will not meet the operational requirements of the applicant. This frequency is available for assignment in many areas; however, in individual cases such assignment may be impracticable due to conflicting frequency use authorized to stations in other services by this and other countries. In such cases a substitute frequency, if found to be available, may be assigned from the following bands 1605-1750, 2107-2170, 2194-2495, 2505-2850, 3155-3400 or 4438-4650 kc. Since such assignments are in certain instances subject to additional technical and operational limitations, it is necessary that each application also include precise information concerning transmitter output power, type and directional characteristics, if any, of the antenna, and the minimum necessary hours of operation.

(11) This frequency will be assigned only to stations which are restricted in operation to a specified permanent area for which frequency coordination has been accomplished.

(12) This frequency will be assigned only to stations used in itinerant operations, which require that the station be transferred from time to time to various temporary communication areas.

(13) This frequency is shared with the Motion Picture Radio Service.

§ 11.505 Ineligible licensees. Persons presently ineligible in this service, but properly authorized to operate herein prior to June 15, 1958, may continue to operate under appropriate authorization until June 15, 1963; provided, however, that frequency modification will be required if the radio system is operating on any frequency, the availability of which will not extend until June 15, 1963. During the five-year period all affected authorizations will be eligible for appropriate renewals and any modification which does not constitute an assignment of license to a new licensee.

§ 11.506 Unlisted frequencies. (a) Radio systems authorized to operate in the band 49.6-50.0 Mc previously available to this service may continue to operate until the expiration of the existing licenses or until December 31, 1959, whichever is later. Where a single system involves licenses with different expiration dates, the date of the last expiring license will be considered the system expiration date and all authorization expiring prior to that date may be extended to, but not beyond, the date of the last expiring license.

(b) Radio systems authorized to operate on the frequencies 49.54 or 49.58 Mc, or other unlisted frequencies, may continue to operate on these frequencies under appropriate authorization until April 1, 1963.

(c) The fact that an authorized radio system is affected by the provisions of paragraph (a) or (b) of this section shall not be considered as a bar to modification, assignment or transfer of the authorization.

I. Delete the present index references, titles and text of Subpart L, Low Power Industrial Radio Service, and substitute the following new index references, titles and texts:

SUBPART L—BUSINESS RADIO SERVICE

Sec.

11.551 Eligibility.

11.552 Availability and use of service.

11.553 Station limitations.

11.554 Frequencies available.

AUTHORITY: §§ 11.551 to 11.554 issued under sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1062, as amended; 47 U. S. C. 303.

§ 11.551 Eligibility. The following persons when engaged in lawful activities are eligible to hold authorizations to operate radio stations in the Business Radio Service:

(a) Any person engaged in a commercial activity.

(b) Educational or philanthropic institutions.

(c) Clergymen or ecclesiastical institutions.

(d) Hospitals, clinics and medical associations.

(e) A subsidiary corporation proposing to furnish a nonprofit radiocommu-

nication service to its parent corporation or to another subsidiary of the same parent where the party to be served is engaged in one of the activities set forth above.

§ 11.552 Availability and use of service. (a) The Business Radio Service is available to the extent indicated in the eligibility provisions of this subpart and is intended for use by those eligibles without restriction as to the types of messages transmitted as long as they are necessary to the accomplishment of the business activity concerned; provided however, that all stations licensed in this service must accord first priority for the use of the frequency concerned to any station transmitting communications resulting from an actual emergency involving immediate danger to life or property.

(b) Each application for an authorization in the Business Radio Service shall be complete in itself including any necessary showings or attachments and without cross reference to information previously filed. Applications for modification of an existing station must show in precise detail all particulars of the desired operation; repeating in exact accordance those particulars of the outstanding authorization not being affected by the modification and including new entries in the appropriate items to reflect the changes desired.

(c) Pursuant to the provisions of § 11.8, frequencies authorized to stations in the Business Radio Service can be used only on a shared and cooperative basis. Any licensee in this service must expect operations in the same area by other licensees on the same frequency, and must cooperate fully in the joint use of the assigned frequency. In areas of extreme frequency congestion, the Commission may require monitoring of the assigned frequency before transmitting.

(d) In any area where the shared use of frequencies in the Business Radio Service results in an uneven distribution of the total communications load between the available frequencies, the Commission will consider applications for appropriate frequency change.

§ 11.553 Station limitations. (a) Mobile relay stations will not be authorized in the Business Radio Service within the continental limits of the United States, except when such stations and all associated control and mobile stations are to be operated exclusively on frequencies above 450 Mc.

(b) Fixed stations will be licensed in the Business Radio Service only on a limited basis and extensive licensing of point-to-point systems must await further development of the Commission's microwave program. Request for point-to-point facilities, which will be considered on a case-by-case basis, should clearly establish either of the following:

(1) That the requested fixed stations are required to provide communications between isolated establishments with no other means of communication or from such establishments to points at which other communication facilities are available, or that all fixed stations operate in

ence will be caused to the reception of television channels 4 or 5. Assignments will be made only in accordance with the criteria set forth in § 11.8.

(4) This frequency will be assigned only for the specific purpose of transmitting hydrological or meteorological data. The use of this frequency is subject to the condition that harmful interference will not be caused to Federal Government stations, and further, that the hydrological or meteorological data being handled is made available to interested governmental agencies. Other rule provisions of this part notwithstanding, an operational fixed station operating on this frequency shall not engage in communications with any station in the mobile service unless written authorization to do so has been obtained from the Commission. Persons who desire to operate stations on this frequency should communicate with the Commission for instructions concerning the procedure to be followed in filing formal application.

(5) Use of this frequency is limited to stations located in the States of Pennsylvania and West Virginia only and is subject to no protection from interference due to the operation of industrial, scientific or medical devices on this frequency.

(6) This frequency is intended for use primarily by fixed relay stations.

(7) This frequency will not be assigned to base stations.

(8) Other rule provisions of this part notwithstanding, this frequency may be authorized for use with any type of emission which does not exceed an occupied bandwidth of 8 kilocycles, for intermittent transmission; further, authorizations may be issued to permit operation on this frequency by self-actuating or other electrical or mechanical means not under the direct control of any individual. All operations on this frequency are limited to a maximum plate power input of 30 watts to the final radio frequency stage.

(9) This frequency is available for assignment on a secondary basis to fixed relay or control stations which operate as integral parts of a radio circuit over which messages are sent to or received from a mobile station without interruption for manual relaying, provided that such operation causes no harmful interference to base or mobile stations, and further provided, that this frequency will not be assigned for such control or relay operation in any instance where its use will be in a radio circuit which involves more than two automatic retransmissions in each direction on mobile service frequencies.

(10) Operation on this frequency is limited to a maximum plate power input of 180 watts to the final radio frequency stage.

(11) This frequency will be assigned only to stations which are restricted in operation to a specified permanent area.

(12) This frequency will be assigned

only to stations used in itinerant operations, which require that the station be transferred from time to time to various temporary communication areas.

(13) This frequency is limited to a maximum plate input power to the final radio frequency stage of 3 watts and each station authorized hereon will be classified and licensed as a mobile station. Any units of such a station, however, may be used to provide the operational functions of a base or fixed station, provided no harmful interference is caused to mobile service operations and further provided, that the separation between the control point and the center of the radiating portion of the antenna of any units so used shall not exceed 25 feet.

(14) This frequency may not be used aboard aircraft.

(15) This frequency is shared with the Taxicab Radio Service and is available for assignment in this service only to stations which are used exclusively in areas outside of Standard Metropolitan Areas of 50,000 or more population. All operations on this frequency are subject to the condition that no harmful interference is caused to the Taxicab Radio Service.

(16) This frequency is shared with the Citizens Radio Service for use in that service with a maximum plate input power to the final radio frequency stage of 5 watts.

(17) Operation on this frequency is limited to a maximum plate power input of 60 watts to the final radio frequency stage.

J. Add new index references, titles and texts for Subpart O—Manufacturers Radio Service.

SUBPART O—MANUFACTURERS RADIO SERVICE

Sec.	Definition
11.726	Definition
11.727	Eligibility
11.728	Availability and use of service
11.729	Station limitations
11.730	Frequencies available

AUTHORITY: §§ 11.726 to 11.730 issued under sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303.

§ 11.726 *Definition.* For the purpose of this subpart, manufacturing activities are defined as the activities directly involved in the mechanical or chemical transformation of organic or inorganic substances into new products within establishments usually described as plants, factories, shipyards, or mills and which employ, in that process, power-driven machines and materials-handling equipment. Establishments engaged in assembling components of manufactured products in plants, factories, shipyards or mills are also engaged in manufacturing activities if the new product is neither a new structure nor other fixed improvement. Establishments primarily engaged in the wholesale or retail trade, or in service activities, even though they fabricate or assemble any or all of the products or commodities handled, shall

not be considered to be engaged in manufacturing activities.

§ 11.727 *Eligibility.* (a) Persons directly engaged in manufacturing activities, as that term is defined in § 11.726, are eligible to hold authorizations to operate radio stations in the Manufacturers Radio Service.

(b) A subsidiary corporation proposing to furnish a non-profit radiocommunication service to its parent corporation or to another subsidiary of the same parent corporation is eligible in the Manufacturers Radio Service, if the parent corporation or the other subsidiary is engaged in a manufacturing activity as defined in § 11.726.

§ 11.728 *Availability and use of service.* (a) The initial application from a person claiming eligibility in the Manufacturers Radio Service must be accompanied by a statement in detail sufficient to indicate clearly such eligibility.

(b) Authorizations to operate stations in this service are available to persons establishing eligibility under the provisions of this subpart; however, except for transmissions relating to an immediate emergency involving the safety of life or property, such authorized stations may be used only for the transmission of communications incident to plant, security, production control or materials-handling, other than the retail distribution of the manufacturer's products.

§ 11.729 *Station limitations.* (a) Mobile relay stations will not be authorized in the Manufacturers Radio Service within the continental limits of the United States, except when such stations and all associated control and mobile stations are to be operated exclusively on frequencies above 450 Mc.

(b) No Base Station will be authorized in this service for operation at unspecified or temporary locations, or for operation at a location other than one within the boundaries of a plant, factory, shipyard, mill or other manufacturing area occupied and controlled by the applicant; *Provided, however,* That when it is shown that location within the boundaries of such manufacturing area is impracticable, the Commission may authorize a location immediately adjacent thereto.

(c) Authorizations for fixed stations in this service will be limited to those used for control stations, which operate as an integral part of a mobile relay system, and to those operating in the frequency range 27.235 through 27.275 Mc.

(d) No station in this service will be authorized to operate with a plate power input to the final radio frequency stage in excess of 60 watts.

§ 11.730 *Frequencies available.* (a) The following tabulation indicates the frequencies available for assignment to stations in the Manufacturers Radio Service together with the class of station(s) to which they are normally assigned and the specific assignment limitations, which are developed in paragraph (b) of this section:

Frequency	Class of station(s)	Limitations
<i>Mc</i>		
27, 235	Base, mobile or fixed.....	2, 3
27, 245	do.....	2, 3
27, 255	do.....	2, 3
27, 265	do.....	2, 3
27, 275	do.....	2, 3
153, 05	Base or mobile.....	1
153, 08	do.....	1
153, 11	do.....	1
153, 14	do.....	1
153, 17	do.....	1
153, 20	do.....	1
153, 23	do.....	1
153, 26	do.....	1
153, 29	do.....	1
153, 32	do.....	1
153, 35	do.....	1
153, 38	do.....	1
158, 28	do.....	1
158, 31	do.....	1
158, 43	do.....	1
462, 05	do.....	
462, 10	do.....	
462, 15	do.....	
462, 20	do.....	
462, 25	do.....	
462, 30	do.....	
462, 35	do.....	
462, 40	do.....	
462, 45	do.....	
462, 50	do.....	
467, 50	Mobile.....	4
467, 55	do.....	4
467, 60	do.....	4
467, 65	do.....	4
467, 70	do.....	4
467, 75	do.....	4
467, 80	do.....	4
467, 85	do.....	4
467, 90	do.....	4
467, 95	do.....	4

(b) Explanation of assignment limitations appearing in the frequency tabulation of this section:

(1) This frequency is shared with the Petroleum Radio Service and the Forest Products Radio Service.

(2) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical devices.

(3) Other rule provisions of this part notwithstanding, this frequency may be authorized for use with any type of emission which does not exceed an occupied bandwidth of 8 kilocycles, for intermittent transmissions; further, authorizations may be issued to permit operation on this frequency by self-actuating or other electrical or mechanical means not under the direct control of any individual. All operations on this frequency are limited to a maximum plate power input of 30 watts to the final radio frequency stage.

(4) This frequency will not be assigned to base stations.

K. Add new index references, titles and texts for Subpart P—Telephone Maintenance Radio Service.

SUBPART P—TELEPHONE MAINTENANCE RADIO SERVICE

Sec.	
11.751	Eligibility.
11.752	Availability and use of service.
11.753	Station limitations.
11.754	Frequencies available.

Authority: §§ 11.751 to 11.754 issued under sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303.

§ 11.751 *Eligibility.* The following persons are eligible to hold authorizations in the Telephone Maintenance Radio Service:

(a) Communications common carriers primarily engaged in rendering a wire-

line or wire-line and radio communications service to the public for hire.

(b) A subsidiary corporation proposing to furnish a non-profit radiocommunication service to its parent corporation or to another subsidiary of the same parent where the party to be served is engaged in the activity set forth above.

§ 11.752 *Availability and use of service.* (a) The initial application from a person claiming eligibility in this service must be accompanied by a statement in detail sufficient to indicate clearly such eligibility.

(b) Except for transmissions relating to an immediate emergency endangering life or property, stations in this service may be used only for the transmission of communications, incident to the technical or engineering aspects of construction, repair, maintenance or efficient operation of communications common carrier rights-of-way, plant facilities or customer stations.

(c) The facilities authorized in this service shall not be used for administrative or other non-technical business activities of the licensee, nor for the transmission of any common carrier or public correspondence communication.

§ 11.753 *Station limitations.* (a) Mobile relay stations will not be authorized in the Telephone Maintenance Radio Service within the continental limits of the United States, except when such stations and all associated control and mobile stations are to be operated exclusively on frequencies above 450 Mc.

(b) Authorizations for fixed stations in this service will be limited to those used for control or fixed relay links necessary for the operation of a remotely located base station and to those operating in the frequency range 27.235 through 27.275 Mc.

§ 11.754 *Frequencies available.* (a) The following tabulation indicates the frequencies available for assignment to stations in the Telephone Maintenance Radio Service together with the class of station(s) to which they are normally assigned and the specific assignment limitations, which are developed in paragraph (b) of this section:

Frequency	Class of station(s)	Limitations
<i>Mc</i>		
27, 235	Base, mobile or fixed.....	2, 3
27, 245	do.....	2, 3
27, 255	do.....	2, 3
27, 265	do.....	2, 3
27, 275	do.....	2, 3
35, 16	Base or mobile.....	
43, 16	Mobile.....	4
151, 985	Base or mobile.....	
158, 34	Mobile.....	4
451, 39	Base or mobile.....	1
451, 35	do.....	1
451, 49	do.....	1
451, 45	do.....	1
451, 50	do.....	1
456, 30	Mobile.....	1, 4
456, 35	do.....	1, 4
456, 40	do.....	1, 4
456, 45	do.....	1, 4
456, 50	do.....	1, 4

(b) Explanation of assignment limitations appearing in the frequency tabulation of this section:

(1) This frequency is available for assignment on a secondary basis to fixed relay or control stations which operate as integral parts of a radio circuit over which messages are sent to or received from a mobile station without interruption for manual relaying, provided that such operation causes no harmful interference to base or mobile stations, and further provided, that this frequency will not be assigned for such control or relay operation in any instance where its use will be in a radio circuit which involves more than two automatic retransmissions in each direction on mobile service frequencies.

(2) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical devices.

(3) Other rule provisions of this part notwithstanding, this frequency may be authorized for use with any type of emission which does not exceed an occupied bandwidth of 8 kilocycles, for intermittent transmissions; further, authorizations may be issued to permit operation on this frequency by self-actuating or other electrical or mechanical means not under the direct control of any individual. All operations on this frequency are limited to a maximum plate power input of 30 watts to the final radio frequency stage.

(4) This frequency will not be assigned to base stations.

[P. R. Doc. 58-4852; Filed, June 27, 1958; 8:45 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

Subchapter B—Trade Practice Conference Rules

[File No. 21-464]

PART 34—NURSERY INDUSTRY

Due proceedings having been held under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission:

It is now ordered, That the trade practice rules as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of June 28, 1958.

Statement by the Commission. Amended trade practice rules for the Nursery Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under the trade practice conference procedure. Such rules constitute a revision and extension of the trade practice rules for the Nursery Industry promulgated by the Commission on June 27, 1956, and supersede the 1956 rules.

The industry for which these rules are established is composed of persons, firms, corporations, and organizations engaged in the sale, offering for sale, or distribution of all types of trees, small fruit plants, shrubs, vines, ornamentals, herbaceous annuals, biennials and perenn-

nials, bulbs, corms, rhizomes, and tubers which are offered for sale or sold to the general public. Included are products propagated sexually or asexually and whether grown in a commercial nursery or collected from the wild state. Such products are customarily used for outdoor planting. Not included are florists' or greenhouse plants solely for inside culture or use and annual vegetable plants. Likewise, gladiolus bulbs and corms are excluded inasmuch as they are covered by trade practice rules promulgated January 17, 1952.

The rules are directed to the prevention and elimination of various unfair trade practices deemed to be violative of laws administered by the Commission. They are to be applied to such end and to the exclusion of any acts or practices which suppress competition or otherwise restrain trade.

Proceedings to amend and extend the 1956 trade practice rules for this industry were instituted pursuant to industry application. Two sessions of the industry trade practice conference were held, the first in Chicago, Illinois, on February 27, 1958, and the second in New York, New York, on March 10, 1958, at which proposals for amendment of the rules were fully discussed. After due consideration of such proposals, proposed amended rules for the industry were published by the Commission and made available to all industry members and other interested or affected parties upon public notice whereby they were afforded opportunity to present their views, including such pertinent information, suggestions, or amendments as they desired to offer, and to be heard in the premises. Pursuant to such notice, a public hearing was held in Washington, D. C., on June 16, 1958, and all matters there presented, or otherwise received in the proceeding, were duly considered by the Commission.

Following such hearing, and upon full consideration of the entire matter, final action was taken by the Commission whereby it approved the rules as herein-after set forth.

The rules as approved become operative thirty (30) days after the date of promulgation.

The rules. These rules promulgated by the Commission are designed to foster and promote the maintenance of fair competitive conditions in the interest of protecting industry, trade, and the public. It is to this end, and to the exclusion of any act or practice which fixes or controls prices through combination or agreement, or which unreasonably restrains trade or suppresses competition, or otherwise unlawfully injures, destroys, or prevents competition, that the rules are to be applied.

Sec.	
34.0	Definitions.
34.1	Deception (general).
34.2	Deception through use of names.
34.3	Substitution of products.
34.4	Size and grade designations.
34.5	Deception as to blooming, fruiting, or growing ability.
34.6	Misrepresenting products as conforming to standard, etc.
34.7	False claims of membership, deceptive use of seals, etc.

Sec.	
34.8	Plants collected from the wild state.
34.9	Misrepresentation as to character of business.
34.10	Deceptive guarantees.
34.11	Deceptive "salesmen wanted" advertisements.
34.12	Misrepresentation with respect to collection of accounts.
34.13	Deception as to origin or source of industry products.
34.14	Exclusive deals.
34.15	Tie-in sales—coercing purchase of one product as a prerequisite to the purchase of other products.
34.16	Deceptive pricing.
34.17	Enticing away employees of competitors.
34.18	Use of the word "free".
34.19	Use of lottery schemes.
34.20	Defamation of competitors or false disparagement of their products.
34.21	Prohibited forms of trade restraints (unlawful price fixing, etc.)
34.22	Prohibited discrimination.
34.23	Aiding or abetting use of unfair trade practices.

AUTHORITY: §§ 34.0 to 34.23 issued under sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45.

§ 34.0 Definitions—(a) Industry products. As used in this part, the term "industry products" includes all types of trees, small fruit plants, shrubs, vines, ornamentals, herbaceous annuals, biennials and perennials, bulbs, corms, rhizomes, and tubers which are offered for sale or sold to the general public. Included are products propagated sexually or asexually and whether grown in a commercial nursery or collected from the wild state. Such products are customarily used for outdoor planting. Not included are florists' or greenhouse plants solely for inside culture or use and annual vegetable plants. Likewise, gladiolus bulbs and corms are excluded inasmuch as they are covered by trade practice rules promulgated January 17, 1952.

(b) Industry members. Any person, firm, corporation, or organization engaged in the sale, offering for sale, or distribution in commerce of industry products, as defined above.

(c) Lining-out stock. Includes all plant material coming from propagating houses, beds, or frames, and young material such as seedlings rooted or unrooted cuttings, grafts or layers, of suitable size to transplant either in the nursery row or in containers for "growing on."

(d) Nursery-grown stock. Plants propagated and grown under cultivation, or plants transplanted from the wild and grown under cultivation for at least one full growing season.

§ 34.1 Deception (general). (a) It is an unfair trade practice to sell, offer for sale, or distribute industry products by any method, or under any circumstance or condition, which has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to quantity, size, grade, kind, species, age, maturity, condition, vigor, hardiness, number of times transplanted, growth ability, growth characteristics, rate of growth or time required before flowering or fruiting, price, origin or place where grown, or in any other material respect.

(b) The inhibitions of this section shall apply to every type of advertisement or method of representation, whether in newspaper, periodical, sales catalog, circular, by tag, label or insignia, by radio or television, by sales representatives, or otherwise.

(c) Among practices inhibited by the foregoing are direct or indirect representations:

(1) That plants have been propagated by grafting or bud selection methods, when such is not the fact.

(2) That industry products are healthy, will grow anywhere without the use of fertilizer, or will survive and produce without special care, when such is not the fact.

(3) That plants will bloom the year round, or will bear an extraordinary number of blooms of unusual size or quality, when such is not the fact.

(4) That an industry product is a new variety, when in fact it is a standard variety to which the industry member has given a new name.

(5) That an industry product cannot be purchased through usual retail outlets, or that there are limited stocks available, when such is not the fact.

(6) That industry products offered for sale will be delivered in time for the next (or any specified) seasonal planting when the industry member is aware of factors which make such delivery improbable.

(7) That the appearance of an industry product as to size, color, contour, foliage, bloom, fruit or other physical characteristic is normal or usual when the appearance so represented is in fact abnormal or unusual.

(8) That the root system of any plant is larger in depth or diameter than that which actually exists, whether accomplished by excessive packaging material, or excessive balling, or other deceptive or misleading practice.

(9) That bulbets are bulbs.

(10) That an industry product is a rare or unusual item when such is not the fact. [Rule 1]

§ 34.2 Deception through use of names. (a) In the sale, offering for sale, or distribution of an industry product, it is an unfair trade practice for any industry member to use a name for such product which has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to its true identity.

(b) Subject to the foregoing:

(1) When an industry product has a generally recognized and well-established common name, it is proper to use such name as a designation therefor, either alone or in conjunction with the correct botanical name of the product.

(2) When an industry product has a generally recognized and well-established common name, it is an unfair trade practice for an industry member to adopt and use a new name for the product unless such new name is immediately accompanied by the generally recognized and well-established common name, or by the correct botanical name, or by a description of the nature and properties of the product which is of sufficient detail to prevent confusion and

deception of purchasers or prospective purchasers as to the true identity of the product.

(3) When an industry product does not have a generally recognized and well-established common name, and a name other than the correct botanical name of the product is applied thereto, such other name shall be immediately accompanied by either the correct botanical name of the product, or a description of the nature and properties of the product which is of sufficient detail as to prevent confusion and deception of purchasers and prospective purchasers as to the true identity of the product.

NOTE: Industry recommendation. The industry recommends that in administering this rule the Commission give consideration to the use of plant names listed in horticultural works such as Hortus Secund, 1941, L. H. Bailey; Manual of Cultivated Plants, Rev. Ed. 1949, L. H. Bailey; Standard Encyclopedia of Horticulture, 2d Ed. 1925 (with reissues), L. H. Bailey; Check List of Native and Naturalized Trees of the United States, U. S. D. A. Agricultural Handbook 41, 1953, E. L. Little; Manual of Cultivated Trees and Shrubs Hardy in North America, 2d Ed. 1940, A. Rehder; Native Woody Plants of the United States, U. S. D. A. Misc. Publication 303, 1938, W. R. Van Dersal; Standardized Plant Names, 2d Ed. American Joint Committee on Horticultural Nomenclature, 1942; and to plant-name listings of well-recognized, nonprofit horticultural societies and organizations, such as the American Rose Society.

[Rule 2]

§ 34.3 *Substitution of products.* With respect to industry products offered for sale by an industry member, it is an unfair trade practice for any member of the industry:

(a) To ship or deliver industry products which do not conform to representations made prior to securing the order or to specifications upon which the sale is consummated, without advising the purchaser of the substitution and obtaining his consent thereto prior to making shipment or delivery, where such practice has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers; or

(b) To falsely represent the reason for making a substitution: *Provided, however,* That nothing in this section is intended to inhibit the shipment of products different from those ordered, prior to obtaining the purchaser's consent to such substitution, when the order is received by the industry member near the close of the planting season for the products ordered and the substitution involved relates but to a product or products the total price of which is comparatively small, and when:

(1) At the commencement of the planting season for the products ordered the industry member had a supply of such products sufficient to meet normal and reasonably expected orders therefor, and such supply has been exhausted; and

(2) The products substituted are of similar variety and of equal or greater value to those ordered by the purchaser and no additional charge is made therefor; and

(3) Notice of the substitution, with adequate identification of the substituted

item or items, and with commitment of the industry member to refund any purchase price received for the substituted products if such products are not acceptable to the purchaser and to compensate the purchaser for any expense involved in the return of the substituted products if refund is conditioned on the return thereof, is given the purchaser at the time of his receipt of such products;

And provided further, That nothing in this section is to be construed as sanctioning the dissemination of an advertisement of an industry product or products or the personal solicitation of orders therefor unless at the time of such dissemination or solicitation the industry member has a supply of such product or products sufficient to meet normal and reasonably expected orders therefor. [Rule 3]

§ 34.4 *Size and grade designations.*

(a) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice for an industry member to use any term, designation, number, letter, mark or symbol, as a size or grade designation for any industry product in a manner or under any circumstance having the capacity and tendency or effect of deceiving purchasers or prospective purchasers with respect to the actual size or grade of such products.

(b) Under this section industry members offering lining-out stock for sale shall specify conspicuously and accurately the size and age of such stock when failure to do so has the capacity and tendency or effect of deceiving purchasers or prospective purchasers.

(c) Nothing in this section is to be construed as inhibiting the designation of the size or grade of an industry product by use of a size or grade designation for which a standard has been established which is generally recognized in the industry when the identity of such standard is conjunctively disclosed, the product qualifies for the designation under such standard, and no deception of purchasers or prospective purchasers results in the use of such designation.

NOTE: It is the consensus of the industry that the grade and size standard set forth in American Standard For Nursery Stock, as revised April 15, 1956, and approved by American Standards Association, Inc., is generally recognized in the industry, and that use of the size and grade designations therein set forth, in accordance with the requirements of the standard for the designations, in the marketing of industry products to which such standard relates, will prevent deception and confusion of purchasers and prospective purchasers of such products.

[Rule 4]

§ 34.5 *Deception as to blooming, fruiting, or growing ability.* In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice for any industry member to deceive purchasers or prospective purchasers as to the ability of such products:

(a) To bloom, flower, or fruit within a specified period of time; or

(b) To produce crops within a specified period of time, or to give multiple crops

each year, or to produce crops in unfavorable climatic regions; or

(c) To bear fruit through self-pollination; or

(d) To grow, flourish, and survive irrespective of the climatic conditions, the care exercised in or after planting, or the soil characteristics of the locality in which they are to be planted.

NOTE 1: Under this section, when flower bulbs are of such immaturity as not reasonably to be expected to bloom and flower the first season of their planting, such fact shall be clearly and conspicuously disclosed in all advertisements and sales promotional literature relating to such products: *Provided, however,* That such disclosure need not be made when sales are confined to nurseries and commercial growers for their use as planting stock.

NOTE 2: Under this section, in order to avoid deception of purchasers and prospective purchasers thereof, when rose bushes have been used in a greenhouse for the commercial production of cut flowers, they shall be tagged or labeled so as to clearly, adequately and conspicuously disclose such fact, and such tags and labels shall be so attached thereto as to remain thereon until consummation of consumer sale. A similar disclosure shall be made in all advertising and sales promotional literature relating to such products. And when, by reason of such previous greenhouse use or their condition at the time of removal therefrom or their handling during or subsequent thereto, there is probability that such rose bushes will not satisfactorily thrive and produce flowers when replanted outdoors, or will satisfactorily thrive and produce flowers outdoors only if given special treatment and attention during and after their replanting, such fact shall also be clearly, conspicuously and non-deceptively disclosed in close conjunction with, and in the same manner as, the aforesaid required disclosure that such products have been used in a greenhouse for the commercial production of cut flowers.

[Rule 5]

§ 34.6 *Misrepresenting products as conforming to standard, etc.* In connection with the sale or offering for sale of industry products, it is an unfair trade practice to represent, through advertising or otherwise:

(a) That any product of the industry conforms to the requirements of any standard recognized in or applicable to the industry, when such is not the fact; or

(b) That an industry product conforms to the requirements of any standard when (1) no such standard exists, or (2) no disclosure of the identity of the standard is made, or (3) when the product does not in fact conform to the requirements of the identified standard.

NOTE: Among the types of misrepresentation inhibited by this section is the practice of claiming that an industry product has been approved by a governmental authority or private agency, when in fact the product has not been so approved.

[Rule 6]

§ 34.7 *False claims of membership, deceptive use of seals, etc.* In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice for any industry member:

(a) To represent or claim falsely that he is a member of any association or other organization; or

(b) To use the seal or other insignia of any association or organization without the authorization of such association or organization; or

(c) To use any seal or insignia which is of such form or design, or contains such wording as to simulate the seals or insignia which are issued by an association or organization for use by its members—

when such representation, claim, or use has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers in any material respect. [Rule 7]

§ 34.8 *Plants collected from the wild state.* It is an unfair trade practice to sell, offer for sale, or distribute industry products collected from the wild state without disclosing that they were collected from the wild state: *Provided, however,* That if collected plants are grown in the nursery row for at least one growing season before being marketed, such disclosure is not required. [Rule 8]

§ 34.9 *Misrepresentation as to character of business.* (a) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice for any industry member to represent or imply that he is a grower or propagator of such products or any portion thereof, or that he has any other experience or qualification either relating to the growing or propagation of such products or which enables him to be of assistance to purchasers or prospective purchasers in the selection by them of the kinds or types of products or the placement thereof when such is not the fact, or in any other manner to misrepresent the character, nature, or extent of his business.

Note: Among practices subject to the inhibitions of this section are representations by an industry member to the effect that he is a landscape architect when his training, experience, and knowledge do not qualify him for such representation.

(b) It is also an unfair trade practice for an industry member to use the word "guild", "club", "association", "council", "society", "foundation", or any other word of similar import or meaning, as part of a trade name, or otherwise, in such a manner or under such circumstances as to indicate or imply that his business is other than a commercial enterprise operated for profit, unless such be true in fact, or so as to deceive purchasers or prospective purchasers in any other material respect. [Rule 9]

§ 34.10 *Deceptive guarantees.* (a) It is an unfair trade practice to represent, in advertising or otherwise, that a nursery product is "guaranteed" unless the nature and extent of such guarantee is conjunctively disclosed and without deceptively minimizing the terms and con-

ditions relating to the obligations of the guarantor.

(b) It is also an unfair trade practice to use or cause to be used any guarantee in which the obligations of the guarantor are impracticable of fulfillment, or in respect to which the guarantor fails or refuses to observe his liabilities thereunder. [Rule 10]

§ 34.11 *Deceptive "salesmen wanted" advertisements.* In connection with the promotion or the sale of industry products, it is an unfair trade practice for an industry member to use or cause to be used any advertisement which, directly or by implication, is false, misleading, or deceptive concerning:

(a) The salary, commission, income, earnings, or other form of remuneration which agents, canvassers, solicitors, sales representatives, or sales-contact personnel may expect to receive; or

(b) The opportunities to become a local manager, district supervisor, field representative, or to start in an established nursery or landscape business; or

(c) Any form of inducement which leads the prospective salesman to believe he will be employed as anything other than a commission agent. [Rule 11]

§ 34.12 *Misrepresentation with respect to collection of accounts.* It is an unfair trade practice for an industry member to use collection letters, notices, forms, or other communications purporting to emanate from his "legal department," when in fact he does not maintain a legal department for the collection of accounts; or to use the names of fictitious or nonexistent collection agencies, or to represent that collection offices set up by him are independent, bona fide collection agencies, or to use simulated legal forms or other intimidating, threatening or deceptive methods to induce payment. [Rule 12]

§ 34.13 *Deception as to origin or source of industry products.* (a) It is an unfair trade practice to sell, offer for sale, or advertise an industry product under any representation which has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to the origin or source of such product (e. g., by use of the term "Holland" to describe bulbs which were grown in the U. S. A.): *Provided, however,* That when a plant has an accepted common name which incorporates a geographical term and such term has lost its geographical significance as so used, the mere use of such common name does not constitute a misrepresentation as to source or origin (e. g., "Colorado Blue Spruce," "Arizona Cypress," "Black Hills Spruce," "California Privet," "Japanese Barberry," etc.).

(b) It is also an unfair trade practice to advertise, sell, or offer for sale an industry product of foreign origin without adequate and nondeceptive disclosure of the name of the foreign country from which it came, where the failure to make such disclosure has the capacity and

tendency or effect of deceiving purchasers or prospective purchasers. [Rule 13]

§ 34.14 *Exclusive deals.* It is an unfair trade practice for any member of the industry engaged in commerce,¹ in the course of such commerce, to make a sale or contract for sale of any industry product, for use, consumption, or resale within any place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the purchaser thereof shall not use or deal in the goods of a competitor or competitors of the seller, where the effect of such sale or contract for sale, or such condition, agreement, or understanding, may be substantially to lessen competition or tend to create a monopoly in any line of commerce. [Rule 14]

§ 34.15 *Tie-in sales; coercing purchase of one product as a prerequisite to the purchase of other products.* The practice of coercing the purchase of one or more products as a prerequisite to the purchase of one or more other products, where the effect may be substantially to lessen competition or tend to create a monopoly or unreasonably to restrain trade, is an unfair trade practice. [Rule 15]

§ 34.16 *Deceptive pricing.* (a) It is an unfair trade practice to represent, in advertising or otherwise, that the price of an industry product has been reduced from a price which, in fact, is a fictitious price; or that the price is a wholesale, introductory, or special price, when it is in fact the regular selling price of the product; or that the regular price of a product is higher than is actually the fact; or otherwise to represent falsely or deceptively the past or current price of an industry product.

(b) It is also an unfair trade practice to make a comparison, in advertising or otherwise, between the price of an industry product offered for sale and the price of a comparable industry product obtainable from competitive sources, unless the comparison is made in the same grade and size of product and in the same general market area, or unless the differences in grade, size, and market area are clearly stated. [Rule 16]

§ 34.17 *Enticing away employees of competitors.* It is an unfair trade practice for any member of the industry wil-

¹ As used in this section, the word "commerce" means "trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States."

fully to entice away employees or sales-contact personnel of competitors with the intent and effect of thereby unduly hampering or injuring competitors in their business and destroying or substantially lessening competition; provided, that nothing in this section shall be construed as prohibiting such persons from seeking more favorable employment, or as prohibiting employers from hiring or offering employment to employees of a competitor in good faith and not for the purpose of inflicting injury on such competitor. [Rule 17]

§ 34.18 *Use of the word "free."* In connection with the sale, offering for sale, or distribution of industry products, it is an unfair trade practice to use the word "free," or any other word or words of similar import, in advertisements or in other offers to the public, as descriptive of an article of merchandise, or service, which is not an unconditional gift, under the following circumstances:

(a) When all the conditions, obligations, or other prerequisites to the receipt and retention of the "free" article of merchandise or service offered are not clearly and conspicuously set forth at the outset so as to leave no reasonable probability that the terms of the offer will be misunderstood; and, regardless of such disclosure:

(b) When, with respect to any article of merchandise required to be purchased in order to obtain the "free" article or service, the offerer (1) increases the ordinary and usual price of such article of merchandise, or (2) reduces its quality, or (3) reduces the quantity or size thereof.

NOTE: The disclosure required by paragraph (a) of this section shall appear in close conjunction with the word "free" (or other word or words of similar import) wherever such word first appears in each advertisement or offer. A disclosure in the form of a footnote, to which reference is made by use of an asterisk or other symbol placed next to the word "free," will not be regarded as compliance.

[Rule 18]

§ 34.19 *Use of lottery schemes.* The offering or giving of prizes, premiums, or gifts in connection with the sale or distribution of industry products, or as an inducement thereto, by any method which involves a lottery or scheme of chance, and the sale or distribution of industry products by any method or plan which involves a lottery or scheme of chance, are unfair trade practices. [Rule 19]

§ 34.20 *Defamation of competitors or false disparagement of their products.* It is an unfair trade practice to defame competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of competitors' products in any respect, or of their business methods, selling prices, values, credit terms, policies, or services. [Rule 20]

§ 34.21 *Prohibited forms of trade restraints (unlawful price fixing, etc.)*²

It is an unfair trade practice for any member of the industry, either directly or indirectly, to engage in any planned common course of action, or to enter into or take part in any understanding, agreement, combination, or conspiracy, with one or more members of the industry, or with any other person or persons, to fix or maintain the price of any goods or otherwise unlawfully to restrain trade; or to use any form of threat, intimidation, or coercion to induce any member of the industry or other person or persons to engage in any such planned common course of action, or to become a party to any such understanding, agreement, combination, or conspiracy. [Rule 21]

§ 34.22 *Prohibited discrimination*³—

(a) *Prohibited discriminatory prices, rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential, where such rebate, refund, discount, credit, or other form of price differential, effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce, and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however:*

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States, and are not purchased by schools, colleges, universities, public libraries, churches, hospitals, and charitable insti-

¹ See footnote on p. 4806.

² The prohibitions of this section are subject to Public Law 542, approved July 14, 1952, 66 Stat. 632 (the McGuire Act) which provides that with respect to a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, a seller of such a commodity may enter into a contract or agreement with a buyer thereof which establishes a minimum or stipulated price at which such commodity may be resold by such buyer when such contract or agreement is lawful as applied to intrastate transactions under the laws of the State, Territory, or territorial jurisdiction in which the resale is to be made or to which the commodity is to be transported for such resale, and when such contract or agreement is not between manufacturers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other.

tutions not operated for profit, as supplies for their own use.

(2) That nothing contained in this paragraph shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered.

(3) That nothing contained in this section shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade.

(4) That nothing contained in this paragraph shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(5) That nothing contained in this section shall prevent the meeting in good faith of an equally low price of a competitor, or the services or facilities furnished by a competitor. (See paragraphs (c) and (d) of this section.)

(b) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity

bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

(e) *Inducing or receiving an illegal discrimination in price.* It is an unfair trade practice for any member of the industry engaged in commerce in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by the foregoing provisions of this section.

(f) *Purchases by U. S. Government; applicability of Robinson-Patman Antidiscrimination Act to same.* In an opinion submitted to the Secretary of War under date of December 28, 1936, the U. S. Attorney General advised that the Robinson-Patman Antidiscrimination Act "is not applicable to Government contracts for supplies." (38 Opinions, Attorney General 539.) [Rule 22]

§ 34.23 *Aiding or abetting use of unfair trade practices.* It is an unfair trade practice for any person to aid, abet, coerce, or induce another, directly or indirectly, to use or promote the use of any unfair trade practice specified in this part. [Rule 23]

Issued: June 25, 1958.

Promulgated by the Federal Trade Commission June 28, 1958.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 58-4935; Filed, June 27, 1958;
8:49 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign Commerce, Department of Commerce

Subchapter B—Export Regulations

[9th Gen. Rev. of Export Regs.,
Amdt. P. L. 1¹]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

MISCELLANEOUS AMENDMENTS

Section 399.1 *Appendix A—Positive List of Commodities* is amended in the following particulars:

1. The following entries set forth below are substituted for entries presently on the Positive List. Where the Positive List contains more than one entry under a Schedule B number, the entry to be superseded is identified by a numerical reference in parentheses following the commodity description in the revised entry:

¹ This amendment was published in Current Export Bulletin 801, dated June 5, 1958.

Dept. of Commerce Schedule B No.	Commodity	Unit	Processing code and related commodity group	GLV dollar value limits	Validated license required	Commodity lists
54809	Carbon or graphite products (natural and artificial): Graphite greases and lubricants, petroleum base (formerly 548098) (2). ¹⁷	Lb.	PETR 1	25	RO	A
64010	Copper ores, concentrates, matte, and other unrefined copper (copper content) (formerly 640100). ¹⁸	Content lb.	NONF	500	RO	A C
65455	Nickel ore, concentrates, and matte (formerly 654501). ¹	Lb.	NONF	500	RO	A
65460	Nickel metal in ingots, bars, rods, and other crude forms, and scrap, except spent nickel catalyst (see § 399.2, Interpretations 10 and 12) (formerly 654502) (1). ^{1, 18}	Lb.	NONF	100	RO	A C
65460	Nickel alloy metal scrap. (Specify percentage of each alloying element, or the recognized standard commercial brand or trade name.) (See § 399.2, Interpretations 10 and 12.) (Formerly 654502.) (2). ^{1, 18}	Lb.	NONF	100	RO	A C
65460	Nickel alloy metal in ingots, bars, rods, and other crude forms. (Report nickel-silver in 64400-64490.) (Formerly 654502.) (3). ^{1, 18}	Lb.	NONF	100	RO	A C
65465	Nickel and nickel alloy metal sheets, plates, and strip. (Report nickel-silver in 64400-64490.) (Formerly 654504). ^{1, 18}	Lb.	NONF 16	100	RO	A
65470	Nickel-chrome electric resistance wire, except insulated. (Report insulated wire in 70972-70995.) (Formerly 654508). ¹⁸	Lb.	NONF	100	RO	A
65475	Nickel catalysts (formerly 619950). ¹⁸	Lb.	NONF 12	100	RO	A C
65480	Nickel and nickel alloys in semifabricated forms, n. e. c. (Specify by name and nickel content.) (Report cupro-nickel wire in 64271.) (Formerly 654510). ¹⁸	Lb.	NONF 16	100	RO	A C
66420	Nickel-bearing cobalt scrap metal (include alloy steel scrap containing 5 percent or more cobalt by weight). (Specify percentage of each alloying element, or the recognized standard commercial brand or trade name.) (See § 399.2, Interpretations 10 and 12.) (Formerly 664526.) (3). ¹⁸	Lb.	MINL 5	None	RO	A
66429	Other cobalt-bearing scrap metal (include alloy steel scrap containing 5 percent or more cobalt by weight). (See § 399.2, Interpretations 10 and 12.) (Formerly 664526.) (4). ¹⁸	Lb.	MINL 5	None	RO	A
66449	Molybdenum ores and concentrates (molybdenum content) (formerly 664550). ¹⁸	Content lb.	MINL 8	500	RO	A E
70106	Welding sets, n. e. c., and parts: 3-phase resistance welding sets (formerly 701032). ¹	No.	ELME 4	None	R	
70108	Parts specially fabricated for 3-phase type resistance welding sets (formerly 709998). ¹	-----	ELME 4	100	R	
70840	Electronic equipment, n. e. c., and parts: Electron tubes and parts: Electron tubes, n. e. c., except rectifier bulbs for automotive battery chargers. (Specify type numbers and quantity of each type.) (Formerly 707830.) (4). ¹⁸	No.	RARA 51	50	RO	A
70960	Electrical apparatus, n. e. c., and parts, n. e. c.: Parts, n. e. c., specially fabricated for belt-type electrostatic generators (Van de Graaff machines) (formerly 709998). (2). ¹	-----	ELME 1	500	RO	A C
72245	Construction and maintenance equipment, n. e. c., and specially fabricated parts and accessories, n. e. c.: Parts and accessories, n. e. c., specially fabricated for off-the-road haulers (trucks), having front and rear axle drive. (1). ¹⁸	-----	CONS 1	500	RO	E
72245	Parts and accessories, n. e. c., specially fabricated for other off-the-road haulers (trucks, wagons and trailers) and chassis therefor included on the Positive List under Schedule B No. 72227. (Specify rated axle capacity of haulers for which parts are intended.) (Formerly 722945.) (1). ¹⁸	-----	CONS 1	500	R	E
77588	Separators and collectors, industrial process type, n. e. c., and specially fabricated accessories and parts, n. e. c.: Drum filters, vapor-tight, and specially fabricated parts, n. e. c. (formerly 775049). (5). ¹⁸	-----	GIEQ	500	RO	A
91972	Nuclear radiation detection and measuring instruments, n. e. c., except student-type and metal-leaf-type electroscopes; and specially fabricated parts and accessories, n. e. c. (Report electron tubes in 70824-70840; and handling equipment in 91980.) (Formerly 707550, 700995, and 919080.) (1, 2 and 3). ¹⁷	-----	SATE 2	100	RO	A C

¹ The GLV dollar-value limit is increased.

² The symbol "A" is deleted in the column headed "Commodity Lists," indicating that the commodity is no longer subject to the IC/DV procedure (see § 373.2).

³ The symbol "G" is deleted in the column headed "Commodity Lists" indicating that the commodity may be exported to Group O destinations under General License GLV within the \$500 value limit provisions (see § 371.10 (d)).

⁴ The destination control is changed from R to RO, effective June 12, 1958.

⁵ The commodity description is revised without substantive change.

⁶ The unit of quantity is changed.

⁷ The commodity coverage is decreased.

⁸ Two entries are substituted for an entry presently on the Positive List under this Schedule B number.