THE NATIONAL ARCHIVES
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OF THE UNITED STATES 1934

Pages 8051–8094

FEDERAL REGISTER

VOLUME 26 NUMBER 166

Washington, Tuesday, August 29, 1961

THE UNIVERSITY OF MICHIGAN
AUG 30 1961
MAIN READING ROOM

Contents

(Continued on next page)

Codification Guide

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

5 CFR

6---------- 8069

7 CFR

722 (2 documents)---------- 8069
992---------- 8069
993---------- 8070

9 CFR

27---------- 8053

12 CFR

545---------- 8053

14 CFR

302---------- 8054

PROPOSED RULES:
302---------- 8074
600 (2 documents)---------- 8076
601 (2 documents)---------- 8076
608---------- 8076

19 CFR

10---------- 8070

21 CFR

120 (2 documents)---------- 8071
121---------- 8072
146c---------- 8072
146e---------- 8072

29 CFR

PROPOSED RULES:
687 (2 documents)---------- 8074
689 (2 documents)---------- 8074
699 (2 documents)---------- 8074

31 CFR

315---------- 8072

41 CFR

50–202---------- 8073

42 CFR

72---------- 8073

47 CFR

PROPOSED RULES:
3 (3 documents)---------- 8077, 8078

Volume 74

UNITED STATES STATUTES AT LARGE

[86th Cong., 2d Sess.]

Contains laws and concurrent resolutions enacted by the Congress during 1960, proposed amendment to the Constitution, and Presidential proclamations

Price: $8.75

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration

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

FEDERAL REGISTER

Telephone WOrth 3-3261

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

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Rules and Regulations

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 14,891]

PART 545—OPERATIONS

Give-Aways

AUGUST 24, 1961.

Resolved that, notice and public procedure having been duly afforded (26 F.R. 6559), and all relevant matter presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration and of determination by it of the advisability of amendment of Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) by the addition of a new section as hereinafter set forth imposing, under the circumstances and to the extent set forth therein, restrictions and prohibitions upon Federal savings and loan associations relating to the distribution of give-aways, the reference to give-aways in advertisements, and the entering into of agreements or understandings with, or the accepting of funds for investment in savings accounts from, brokers or other persons engaging in activities prohibited by other provisions of such section, and for the purpose of effecting such restrictions and prohibitions, hereby amends said Part 545 by adding thereto, immediately after § 545.4, the following new section, effective September 29, 1961:

§ 545.5 Give-aways.

(a) *Scope of section.* The provisions of this section shall be applicable to a Federal association when, and only when, (1) such association is doing business in a State hereinafter referred to in this sentence, (2) there is in effect a statutory provision of such State authorizing a specified official of such State to impose on domestic associations of such State, by regulation, a restriction or prohibition equivalent to that imposed on Federal associations by paragraph (b) of this section, if, during the period of any such restriction or prohibition, Federal associations doing business in such State are not permitted to use the subject matter of such restriction or prohibition to a greater extent than domestic associations of such State are permitted to do pursuant to such official's regulations, and (3) there is in effect a regulation of such official, pursuant to such statute, imposing such a restriction or prohibition as is hereinbefore referred to in this sentence. Nothing in this section shall impose on any Federal association any restriction or prohibition to which such association would not be subject under regulation of such official, authorized by statute of such State, if such association were a domestic association of such State.

(b) *General prohibition.* No Federal association shall condition the distribution of a give-away on the recipient's possessing, opening, or adding to a savings account, or maintaining a minimum balance therein.

(c) *Prohibition on advertising.* Except as provided in paragraph (d) of this section, no Federal association shall refer in any of its advertisements to any give-away, other than printed material of an educational or informational nature of a cost not exceeding $2.50 or a coin bank not exceeding said cost.

(d) *Exception.* The provisions of paragraph (c) of this section shall not prohibit a Federal association which has not opened an office prior to the effective date of this section from referring to give-aways in its advertisements for a single period of 30 days ending not more than one year after the opening of its first office.

(e) *Additional prohibitions.* No Federal association shall enter into any agreement or understanding with, or accept funds for investment in savings accounts from, any broker or other person engaging in activities that are prohibited by the preceding provisions of this section if done by an association.

(f) *Effect on other provisions.* The provisions of this section shall be cumulative to, and shall not affect the applicability to any Federal association of, the provisions of § 563.24 of this chapter (Rules and Regulations for Insurance of Accounts).

(g) *Definitions.* As used in this section:

(1) The term "doing business" has the meaning which it has under the statutory provision referred to in subparagraph (2) of paragraph (a) of this section, and the term "domestic association" means such savings and loan, building and loan, and homestead associations and cooperative banks as are domestic associations within the meaning of such statutory provision;

(2) The term "give-away" means any merchandise or other thing of value, or services performed in whole or in part outside the premises of an association, furnished the recipient as a gift or premium or as a result of a drawing or contest or otherwise without adequate payment; and

(3) The term "State" means the States of the Union, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1947 Supp.)

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN, *Secretary.*

[F.R. Doc. 61-8251; Filed, Aug. 28, 1961; 8:54 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER A—MEAT INSPECTION REGULATIONS

PART 27—IMPORTED PRODUCTS

Haiti

Pursuant to section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), § 27.2(b) of the Federal meat inspection regulations (9 CFR 27.2(b), as amended) is hereby amended by inserting the word "Haiti" in proper alphabetical order in the list of countries specified therein from which certain products (meat, meat food product, and meat by-product) may be imported into the United States as provided in said regulations.

The amendment is based upon a determination by this Department that the system of meat inspection maintained by Haiti is the substantial equivalent of, or is as efficient as, the system maintained by the United States and that reliance can be placed upon certificates required under the regulations from authorities of Haiti. This determination was made after a careful investigation of the facts and it does not appear that further information would be obtained by publication of notice of rule-making and other public procedure with respect to the amendment. The amendment relieves restrictions, and, in order to be of maximum benefit to persons in this country who wish to import the products involved, and to affected exporters in Haiti, the amendment must be made effective as soon as possible. Therefore under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice of rule-making and other public procedure on the amendment are impracticable and unnecessary and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 24th day of August 1961.

M. R. CLARKSON, *Acting Administrator.*

[F.R. Doc. 61-8244; Filed, Aug. 28, 1961; 8:52 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Regulation No. PR-53]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Amendments and Reissuance

Upon review of Part 302 of the Procedural Regulations, it appears to the Board that editorial changes should be made therein wherever necessary to bring terminology up to date, to correct references, and the like. These amendments do not involve changes of substance. In addition, however, there are three minor substantive amendments which should be made in § 302.21 to reflect statutory changes regarding subsistence and mileage allowances to witnesses in Board proceedings. Specifically, the allowance for subsistence should be raised to $8 per day, and that for mileage to 8 cents per mile, while a new provision should be added stating that the computation of mileage shall be made on the basis of a uniform table of distances adopted by the Attorney General where the travel is covered therein.

It is also recognized that Part 302 was last reissued in revised form on April 8, 1952, effective April 28, 1952. Since then, 30 amendments of Part 302 have been adopted. It therefore appears to the Board that Part 302 should be reissued at this time with all outstanding amendments incorporated in the text. Incorporation of these amendments into the regulation does not constitute any substantive change therein.

Since Part 302 constitutes a procedural regulation, notice and public procedure hereon are not required, and the subject amendments and reissuance may be made effective upon less than 30 days after publication.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends and reissues Part 302 of the Procedural Regulations (14 CFR Part 302) effective September 1, 1961, as attached hereto.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Sec.

AUTHORITY: §§ 302.1 to 302.705 issued under secs. 5, 7, 8, 12, 60 Stat. 239, 241, 242, 244, secs. 101, 204, 406, 416, 1001, 1002, 72 Stat. 737, 743, 763, 771, 788; 5 U.S.C. 1004, 1006, 1007, 1011, 49 U.S.C. 1301, 1324, 1376, 1386, 1481, 1482.

§ 302.1 Application and description of part.

(a) *Application.* This part governs the conduct of all economic proceedings before the Board whether instituted by order of the Board or by the filing with the Board of an application, complaint or petition. The provisions of Part 263 of the economic regulations are applicable to participation of air carrier

associations in proceedings under this part. However, there are exceptions to the applicability of this part with respect to two classes of proceedings:

(1) Proceedings involving "Alaskan Air Carriers" and "Alaskan air taxi operators" are governed by these rules, but only as modified by Parts 292 and 298 of this chapter, respectively;

(2) Proceedings governed by Part 301 and Part 303 of this subchapter (Rules of Practice in Air Safety Proceedings and Rules of Practice in Aircraft Accident Inquiries) are not governed by this part.

(b) *Description.* Subpart A of this part sets forth general rules applicable to all types of proceedings. Each of Subparts B through G of this part sets forth special rules applicable to the type of proceedings described in the title of the subpart. Therefore, for information as to applicable rules, reference should be made to Subpart A and to the rules in the subpart relating to the particular type of proceeding, if any. In addition, reference should be made to the Federal Aviation Act, the Board's Principles of Practice (Part 300 of this subchapter), and to the substantive rules, regulations and orders of the Board relating to the proceeding.[1] Wherever there is any conflict between one of the general rules in Subpart A and a special rule in another subpart applicable to a particular type of proceeding, the special rule will govern.

§ 302.2 Reference to part and method of citing rules.

This part shall be referred to as the "Rules of Practice". Each section, and any paragraph or subparagraph thereof, shall be referred to as a "Rule". The number of each rule shall include only the numbers and letters at the right of the decimal point. For example, "302.8 *Service of documents*", shall be referred to as "Rule 8". Subparagraph (2) of paragraph (a) of that rule, relating to service of documents by the parties, shall be referred to as "Rule 8 (a) (2)".

Subpart A—Rules of General Applicability

§ 302.3 Filing of documents.

(a) *Filing address, date of filing, hours.* Documents required by any section of this part to be filed with the Board shall be filed with the Docket Section of the Civil Aeronautics Board, Washington 25, D.C. Such documents shall be deemed to be filed on the date on which they are actually received by the Board. The hours of the Board are from 8:30 a.m. to 5:00 p.m., eastern standard or daylight saving time, whichever is in effect in the District of Columbia at the time, Monday to Friday, inclusive, except on legal holidays for the Board.

(b) *Formal specifications of documents.* (1) All documents filed under this part shall be on strong, durable paper not larger than 8½ by 14 inches in size except that tables, charts and other documents may be larger, folded to the size of the document to which they are attached. The left margin shall be at least 1½ inches wide and, if the document is bound, it shall be bound on the left side.

(2) Papers may be reproduced by printing or by any other process, provided the copies are clear and legible. Appropriate notes or other indications shall be used, so that the existence of any matters shown in color will be accurately indicated on photostatic copies.

(c) *Number of copies.* Unless otherwise specified, an executed original and nineteen (19) true copies of each document required or permitted to be filed under these rules, shall be filed with the Docket Section. The copies need not be signed but the name of the person signing the original shall be reproduced.

(d) *Table of contents.* All documents filed under this part consisting of twenty or more pages must contain a subject-index of the matter in such document, with page references.

§ 302.4 General requirements as to documents.

(a) *Contents.* In case there is no rule, regulation or order of the Board which prescribes the contents of the formal application, complaint, petition or motion, such document shall contain a proper identification of the parties concerned, a reference to the provision of the statute and regulation under which the document is filed, and a concise but complete statement of the facts relied upon and the relief sought.

(b) *Subscription.* Every application, petition, complaint, motion or other document filed in a proceeding shall be signed by the party filing the same, or by a duly authorized officer or the attorney-at-law of record of such party, or by any other person: *Provided,* That, if signed by some other person, the reason therefor must be stated and the power of attorney or other authority authorizing such other person to subscribe the document must be filed with the document. The signature of the person signing the document constitutes a certification that he has read the document; that to the best of his knowledge, information and belief every statement contained in the instrument is true and no such statements are misleading; and that it is not interposed for delay.

(c) *Designation of person to receive service.* The initial document filed by any person in any proceeding shall state on the first page thereof the name and post office address of the person or persons who may be served with any documents filed in the proceeding.

§ 302.5 Amendment of documents and dismissal.

If any document initiating, or filed in, a proceeding is not in substantial conformity with the applicable rules or regulations of the Board as to the contents thereof, or is otherwise insufficient, the Board, on its own motion, or on motion of any party, may strike or dismiss such document, or require its amendment. If amended, the document shall be made effective as of the date of original filing.

§ 302.6 Answers, protests or memoranda.

Answers to certain documents are required in economic enforcement proceedings and reference should be made to Subpart B of this part for such requirements. Answers to formal complaints, petitions or other documents or orders instituting proceedings may be filed but will not usually be required. In case an answer is required the parties will be notified. The issues in the proceeding will ordinarily be formulated at the prehearing conference. Answers to any document shall be filed within seven (7) days except where otherwise specifically provided. It is not hereby intended to give a right to answer documents where the rules or any other provisions of the Economic Regulations do not specifically so provide. Protests or memoranda of opposition or support, where permitted by statute, shall be filed before the close of the hearing in the case to which they relate, and shall be served as provided in subparagraph 302.8(a)(2) of this Part.

§ 302.7 Retention of documents by the Board.

All documents filed with or presented to the Board, may be retained in the files of the Board. However, the Board may permit the withdrawal of original documents upon the submission of properly authenticated copies to replace such documents.

§ 302.8 Service of documents.

(a) *Who makes service*—(1) *The Board.* Formal complaints, notices, orders to show cause, other orders, and similar documents issued by the Board will be served by the Board upon all parties to the proceeding.

(2) *The parties.* Answers, petitions, motions, briefs, exceptions, notices or any other documents filed by any party or other person with the Board or an examiner shall be served by the person filing such document upon all parties to the proceeding in which it is filed; provided that motions to expedite filed in any proceeding conducted pursuant to sections 401 and 402 of the Act, shall, in addition, be served on all persons who have petitioned for intervention in or consolidation of applications with such proceeding. Proof of service shall accompany all documents when they are tendered for filing.

(b) *How service may be made.* Service may be made by regular mail, by registered mail, or by personal delivery. In the case of mailing to or from persons located in the territories or west of the Mississippi River to or from persons located in other territories or east of the said river mailing shall be by air mail. The means of service selected must be such as to permit compliance with section 1005 (c) of the act, which provides for service of notices, processes, orders, rules, and regulations by personal service or registered or certified mail.

(c) *Who may be served.* Service upon a party or person may be made

[1] The Federal Aviation Act of 1958 may be found at 72 Stat. 731, and at 49 U.S.C. 1301 et seq. The Board's substantive rules may be found in its Economic Regulations and Special Regulations (Subchapters A and D of this chapter).

upon an individual, or upon a member of a partnership, or firm to be served, or upon the president or other officer of the corporation, company, firm, or association to be served, or upon the assignee or legal successor of any of the foregoing, or upon any attorney of record for the party, or upon the agent designated by an air carrier under section 1005 (b) of the act, but it shall be served upon a person designated by a party to receive service of documents in a particular proceeding in accordance with § 302.4 (c) once a proceeding has been commenced.

(d) *Where service may be made.* Personal service may be made on any of the persons described in paragraph (c) of this section wherever they may be found, except that an agent designated by an air carrier under section 1005 (b) of the act may be served only at his office or usual place of residence. Service by regular or registered or certified mail shall be made at the principal place of business of the party to be served, or at his usual residence if he is an individual, or at the office of the party's attorney of record, or at the office or usual residence of the agent designated by an air carrier under section 1005 (b) of the act, or at the post office address stated for a person designated to receive service pursuant to § 302.4 (c).

(e) *Proof of service.* Proof of service of any document shall consist of one of the following:

(1) A certificate of mailing executed by the person mailing the document.

(2) An acknowledgment of service signed by a person receiving service personally, or a certificate of the person making personal service.

(f) *Date of service.* Whenever proof of service by mail is made, the date of mailing shall be the date of service. Whenever proof of service by personal delivery is made, the date of such delivery shall be the date of service.

§ 302.9 Parties.

The term party wherever used in this part shall include any individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic, and any trustee, receiver, assignee or legal successor thereof, and shall include Bureau Counsel and the Enforcement Attorney in any proceeding.

§ 302.10 Substitution of parties.

Upon motion and for good cause shown, the Board may order a substitution of parties, except that in case of death of a party, substitution may be ordered without the filing of a motion.

§ 302.11 Limitations on practice.

(a) *Registration.* Any person may appear before the Board and be heard in person or by attorney. No register of attorneys who may practice before the Board is maintained and no application for admission to practice is required. However, any person practicing before the Board or desiring so to practice may, for good cause shown, be barred or suspended from so practicing, but only after he has been afforded an opportunity to be heard in the matter.

(b) *Representation by persons formerly associated with the Board—(1) Appearance and representation.* (i) No person who has been associated with the Board as a member, officer, or employee shall be permitted at any time to appear before the Board in behalf of, or to represent in any manner, any party in connection with any proceeding or matter which such person has handled or passed upon while associated in any capacity with the Board. No person appearing before the Board in any matter or proceeding shall in relation thereto knowingly accept assistance from or share fees with any person who would himself be precluded by this section from appearing before the Board in such matter or proceeding.

(ii) No person who has been associated with the Civil Aeronautics Board as a member, officer, or employee thereof shall be permitted within six months from the date of the termination of such association, to appear before the Board in behalf of, or to represent in any manner, any party in connection with any proceeding which was pending before the Board at the time of his association with the Board, unless he shall first have obtained the written consent of the Board upon a verified showing that he did not give personal consideration to the matter or proceeding as to which consent is sought or gain particular knowledge of the facts thereof during his association with the Board.

(2) *Use of confidential information.* No person who has been associated with the Board as a member, officer or employee, or any person associated with him, shall ever use or undertake to use in any proceeding or matter before the Board any confidential facts or information which came into the possession or to the attention of any former member, officer, or employee during his official association with the Board without first applying for and obtaining the consent of the Board for the use of such facts or information.

(3) *Pending proceeding defined.* For the purpose of this section a proceeding shall be considered as pending from the date of receipt by the Docket Section of the Board of any formal application, complaint, or petition for the institution of a proceeding by the Board or from the date of adoption of any order to show cause or other procedures of the Board evidencing the initiation of a proceeding. A consolidated proceeding shall be considered as pending for the purpose of this section from the date of the first individual proceeding therein.

§ 302.12 Consolidations.

(a) The Board, upon its own initiation or upon motion, may consolidate for hearing or for other purposes or may contemporaneously consider two or more proceedings which involve substantially the same parties, or issues which are the same or closely related, if it finds that such consolidation or contemporaneous hearing will be conducive to the proper dispatch of its business and to the ends of justice and will not unduly delay the proceedings. Although the Board may, in any particular case, consolidate or contemporaneously consider two or more proceedings on its own motion, the burden of seeking consolidation or contemporaneous consideration of a particular application shall rest upon the applicant and the Board will not undertake to search its docket for all applications which might be consolidated or contemporaneously considered.

(b) *Time for filing.* Unless the Board has provided otherwise in a particular proceeding, a motion to consolidate or contemporaneously consider an application with any other application shall be filed not later than the prehearing conference in the proceeding with which consolidation or contemporaneous consideration is requested. If made at such conference, the motion may be oral. All motions for consolidation or considerations of issues which enlarge, expand and change the nature of the proceeding shall be addressed to the Board, unless made orally at the prehearing conference, in which event the presiding Examiner shall present such motion to the Board for its decision. A motion which is not filed at or prior to the prehearing conference, or within the time prescribed by the Board in a particular proceeding, as the case may be, shall be dismissed unless the movant shall clearly show good cause for his failure to file such motion on time. A motion which does not relate to an application pending at the time of the prehearing conference in the proceeding with which consolidation or contemporaneous consideraton is requested, or on the date specifically prescribed by the Board in a particular proceeding for filing of motions for consolidation or contemporaneous consideration, shall likewise be dismissed unless the movant shall clearly show good cause for his failure to file the application within the prescribed period.

(c) *Answer.* If a motion to consolidate two or more proceedings is filed with the Board, any party to any of such proceedings, or any person who has a petition for intervention pending, may file an answer to such motion within such period as the Board may permit. The Examiner may require that answers to such motions be stated orally at the prehearing conference in the proceeding with which the consolidation is proposed.

(d) *Dismissal of remaining portions of applications partially designated for hearing or consolidated hearing.* When the Board severs parts of applications filed under section 401 of the act and designates them for hearing or for consolidated hearing in a proceeding, it will dismiss without prejudice the remaining portions of such applications.

§ 302.13 Joinder of complaints or complainants.

Two or more grounds of complaints involving substantially the same purposes, subject or state of facts may be included in one complaint even though they involve more than one respondent. Two or more complainants may join in one complaint if their respective causes of complaint are against the same party or parties and involve substantially the same purposes, subject or state of facts. The Board may separate or split complaints if it finds that the joinder of complaints, complainants,

or respondents will not be conducive to the proper dispatch of its business or the ends of justice.

§ 302.14 Participation in hearing cases by persons not parties.

(a) *Requests for expedition.* In any case to which the Board's principles of practice, Part 300, are applicable, any interested person, including any State, subdivision thereof, State aviation commission, or other public body, may by motion request expedition of such case or file an answer in support of or in opposition to such motions. Such motions and answers shall be served as provided in § 302.8 hereof.

(b) *Participation in hearings.* Any person, including any State, subdivision thereof, State aviation commission, or other public body, may appear at any hearing, other than in an enforcement proceeding, and present any evidence which is relevant to the issues. With the consent of the Examiner or the Board, if the hearing is held by the Board, such person may also cross-examine witnesses directly. Such persons may also present to the examiner a written statement on the issues involved in the proceeding. Such written statements, or protests or memoranda in opposition or support where permitted by statute, shall be filed and served on all parties prior to the close of the hearing.

§ 302.15 Formal intervention.

(a) *Who may intervene.* (1) Any person who has a statutory right to be made a party to a proceeding shall be permitted to intervene therein.

(2) Any person whose intervention will be conducive to the ends of justice and will not unduly impede the conduct of the Board's business may be permitted to intervene in any proceeding.

(b) *Considerations relevant to determination of petition to intervene.* In passing upon a petition to intervene, the following factors, among other things, will be considered: (1) The nature of the petitioner's right under the statute to be made a party to the proceeding; (2) the nature and extent of the property, financial or other interest of the petitioner; (3) the effect of the order which may be entered in the proceeding on petitioner's interest; (4) the availability of other means whereby the petitioner's interest may be protected; (5) the extent to which petitioner's interest will be represented by existing parties; (6) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record; and (7) the extent to which participation of the petitioner will broaden the issue or delay the proceeding.

(c) *Petition to intervene*—(1) *Contents.* Any person desiring to intervene in a proceeding shall file a petition in conformity with this part setting forth the facts and reasons why he thinks he should be permitted to intervene. The petition should make specific reference to the factors set forth in paragraph (b) of this section.

(2) *Time for filing.* Unless otherwise ordered by the Board, any petition for leave to intervene shall be filed within the following time limits:

(i) In a proceeding where the Board issues a show cause order proposing fair and reasonable mail rates, such petition shall be filed within the time specified for filing notice of objection.

(ii) In all other proceedings, including mail rate proceedings where no show cause order is issued, the petition shall be filed with the Board prior to the first prehearing conference, or, in the event that no such conference is to be held, not later than fifteen (15) days prior to the hearing.

(iii) A petition to intervene in any Board proceeding filed by a city, other public body, or a chamber of commerce shall be filed with the Board not later than the last day prior to the beginning of the hearing thereon.

A petition for leave to intervene which is not timely filed shall be dismissed unless the petitioner shall clearly show good cause for his failure to file such petition on time.

(3) *Answer.* Any party to a proceeding may file an answer to a petition to intervene, making specific reference to the factors set forth in paragraph (b) of this section, within seven (7) days after the petition is filed.

(4) *Disposition.* The decision granting, denying or otherwise ruling on any petition to intervene may be issued without receiving testimony or oral argument either from the petitioner or other parties to the proceeding.

(d) *Effect of granting intervention.* A person permitted to intervene in a proceeding thereby becomes a party to the proceeding. However, interventions provided for in this section are for administrative purposes only, and no decision granting leave to intervene shall be deemed to constitute an expression by the Board that the intervening party has such a substantial interest in the order that is to be entered in the proceeding as will entitle it to judicial review of such order.

§ 302.16 Computation of time.

In computing any period of time prescribed or allowed by this part, by notice, order or regulation of the Board, the Chief Examiner, or an Examiner, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday for the Board, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor holiday. When the period of time prescribed is (7) days or less, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

§ 302.17 Continuances and extensions of time.

Whenever a party has the right or is required to take action within a period prescribed by this part, by a notice given thereunder, or by an order or regulation, the Board, the Chief Examiner or the Examiner assigned to the proceeding may (a) before the expiration of the prescribed period, with or without notice, extend such period; or (b) upon motion, permit the act to be done after the expiration of the specified period, where the failure to act is clearly shown to have been the result of excusable neglect.

§ 302.18 Motions.

(a) *Generally.* An application to the Board or an Examiner for an order or ruling not otherwise specifically provided for in this part shall be by motion. After the assignment of an Examiner to a proceeding, and prior to his recommended decision, or the expiration of the period within which exceptions to his initial decision may be filed, or the certification of the record to the Board, all motions shall be addressed to the Examiner. At all other times motions shall be addressed to the Board. All motions shall be made at an appropriate time depending upon the nature thereof and the relief requested therein.

(b) *Form and contents.* Unless made during a hearing, motions shall be made in writing in conformity with §§ 302.3 and 302.4 shall state with particularity the grounds therefor and the relief or order sought, and shall be accompanied by any affidavits or other evidence desired to be relied upon. Motions made during hearings, answers thereto, and rulings thereon, may be made orally on the record unless the Examiner directs otherwise.

(c) *Answers to motions.* Within seven (7) days after a motion is filed, or such other period as the Board or Examiner may fix, any party to the proceeding may file an answer in support of or in opposition to the motion, accompanied by such affidavits or other evidence as it desires to rely upon.

(d) *Oral arguments; briefs.* No oral argument will be heard on motions unless the Board or the Examiner otherwise directs. Written memoranda or briefs may be filed with motions or answers to motions, stating the points and authorities relied upon in support of the position taken.

(e) *Disposition of motions.* The Examiner shall pass upon all motions properly addressed to him, except that, if he finds that a prompt decision by the Board on a motion is essential to the proper conduct of the proceeding, he may refer such motion to the Board for decision. The Board shall pass upon all motions properly submitted to it for decision.

(f) *Appeals to the Board from rulings of Examiners.* Rulings of Examiners on motions may not be appealed to the Board prior to its consideration of the entire proceeding except in extraordinary circumstances and with the consent of the Examiner. An appeal shall be disallowed unless the Examiner finds, either on the record or in writing, that the allowance of such an appeal is necessary to prevent substantial detriment to the public interest or undue prejudice to any party. If an appeal is allowed, any party may file a brief with the Board within such period as the Examiner directs. No oral argument will be heard unless the Board directs otherwise. The rulings of the Examiner on motion may

be reviewed by the Board in connection with its final action in the proceeding irrespective of the filing of an appeal or any action taken on it.

(g) *Effect of pendency of motions.* The filing or pendency of a motion shall not automatically alter or extend the time fixed by this part (or any extension granted thereunder) to take action.

§ 302.19 Subpenas.

(a) An application for a subpena requiring the attendance of a witness or the production of documentary evidence at a hearing may be made without notice by any party to the Examiner designated to preside at the reception of evidence or, in the event that an Examiner has not been assigned to a proceeding or the Examiner is not available, to the Chief Examiner, for action by himself or by a member of the Board.

(b) A subpena for the attendance of a witness shall be issued on oral application at any time.

(c) An application for a subpena for documentary or tangible evidence shall be in duplicate except that if it is made during the course of a hearing, it may be made orally on the record with the consent of the Examiner. All such applications, whether written or oral, shall contain a statement or showing of general relevance and reasonable scope of the evidence sought, and shall be accompanied by two copies of a draft of the subpena sought which shall describe the documentary or tangible evidence to be subpenaed with as much particularity as is feasible.

(d) The Examiner or member of the Board considering any application for a subpena shall issue the subpena requested if the application complies with this section. No attempt shall be made to determine the admissibility of evidence in passing upon an application for a subpena, and no detailed or burdensome showing shall be required as a condition to the issuance of a subpena. It is the purpose of this section, on the one hand, to make subpenas readily available to parties, and, on the other hand, to prevent the improvident issuance of subpenas to secure evidence which is unrelated to the issues of the proceeding or wholly unreasonable in its scope.

(e) Where it appears at a hearing that the testimony of a witness or documentary evidence is relevant to the issues in a proceeding, the Examiner or Chief Examiner may issue on his own motion a subpena requiring such witness to attend and testify or requiring the production of such documentary evidence.

(f) Subpoenas issued under this section shall be served upon the person to whom directed in accordance with § 302.8 (b). Any person upon whom a subpoena is served may within seven (7) days after service or at any time prior to the return date thereof, whichever is earlier, file a motion to quash or modify the subpoena with the Examiner designated to preside at the reception of evidence or, in the event an Examiner has not been assigned to a proceeding or the Examiner is not available, to the Chief Examiner for action by himself or by a Member of the Board. If the person to whom the motion to modify or quash the subpoena has been addressed or directed, has not acted upon such a motion by the return date, such date shall be stayed pending his final action thereon. The Board may at any time review, upon its own initiative, the ruling of an Examiner or the Chief Examiner or a member of the Board denying a motion to quash a subpoena. In such cases, the Board may at any time order that the return date of a subpoena which it has elected to review be stayed pending Board action thereon.

(g) The provisions of this section are not applicable to the attendance of Board Members, officers or employees or the production of documentary evidence in the custody thereof at a hearing. Applications therefor shall be addressed to the Examiner in writing and shall set forth the need of the moving party for such evidence and the relevancy to the issues of the proceeding. Such applications shall be processed as motions in accordance with § 302.18 except that a grant of such motion by an Examiner, in whole or in part, shall be immediately reviewed by the Board on its own initiative and shall be subject to final Board action. No application will be required for the attendance of Board personnel or the production of records in their custody when requested by an Enforcement Attorney. Where a Board employee has testified in an enforcement proceeding that he used documents in his custody, or parts thereof, to refresh his recollection, a ruling by the Examiner for their production shall be final in the absence of an objection by the Enforcement Attorney. In the event of such objection, Board review will be limited to the documents, or portions thereof, to which objection is taken by the Enforcement Attorney.

§ 302.20 Depositions.

(a) For good cause shown, the Board, or any member or Examiner assigned as a hearing officer in a proceeding may order that the testimony of a witness be taken by deposition and that the witness produce documentary evidence in connection with such testimony. Ordinarily an order to take the deposition of a witness will be entered only if (1) the person whose deposition is to be taken would be unavailable at the hearing, or (2) the deposition is deemed necessary to perpetuate the testimony of the witness, or (3) the taking of the deposition is necessary to prevent undue and excessive expense to a party and will not result in an undue burden to other parties or in undue delay.

(b) Any party desiring to take the deposition of a witness shall make application therefor in duplicate to a member of the Board or Examiner designated to preside at the reception of evidence or, in the event that a hearing officer has not been assigned to a proceeding or is not available, to the Board, setting forth the reasons why such deposition should be taken, the name and residence of the witness, the time and place proposed for the taking of the deposition, and a general description of the matters concerning which the witness will be asked to testify. If good cause be shown, the Board or the hearing officer (member or Examiner) may, in its or his discretion, issue an order authorizing such deposition and specifying the witness whose deposition is to be taken, the general scope of the testimony to be taken, the time when, the place where, and the designated officer (authorized to take oaths) before whom the witness is to testify, and the number of copies of the deposition to be supplied. Such order shall be served upon all parties by the person proposing to take the deposition a reasonable period in advance of the time fixed for taking testimony.

(c) Witnesses whose testimony is taken by deposition shall be sworn or shall affirm before any questions are put to them. Each question propounded shall be recorded and the answers shall be taken down in the words of the witness.

(d) Objections to questions or evidence shall be in short form, stating the grounds of objection relied upon, but no transcript filed by the officer shall include argument or debate. Objections to questions or evidence shall be noted by the officer upon the deposition, but he shall not have power to decide on the competency or materiality or relevance of evidence, and he shall record the evidence subject to objection. Objections to questions or evidence not made before the officer shall not be deemed waived unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(e) The testimony shall be reduced to writing by the officer, or under his direction, after which the deposition shall be subscribed by the witness unless the parties by stipulation waived the signing or the witness is ill or cannot be found or refuses to sign, and certified in usual form by the officer. If the deposition is not subscribed to by the witness, the officer shall state on the record this fact and the reason therefor. The original deposition and exhibits shall be forwarded to the Docket Section of the Board and shall be filed in the proceedings.

(f) Depositions may also be taken and submitted on written interrogatories in substantially the same manner as depositions taken by oral examination. Ordinarily such procedure will only be authorized if necessary to achieve the purposes of an oral deposition and to serve the balance of convenience of the parties. The interrogatories shall be filed in quadruplicate with two copies of the application and a copy of each shall be served on each party. Within seven (7) days after service any party may file with the person to whom application was made two copies of his objections, if any, to such interrogatories and may file such cross-interrogatories as he desires to submit. Cross-interrogatories shall be filed in quadruplicate, and a copy thereof together with a copy of any objections to interrogatories, shall be served on each party, who shall have five (5) days thereafter to file and serve his objections, if any, to such cross-interrogatories. Objections to interrogatories or cross-interrogatories shall be settled by the Board or hearing officer considering the application. Objections to interrogatories shall be made before the order for

taking the deposition issues and if not so made shall be deemed waived. When a deposition is taken upon written interrogatories, and cross-interrogatories, no party shall be present or represented, and no person other than the witness, a stenographic reporter, and the officer shall be present at the examination of the witness, which fact shall be certified by the officer, who shall propound the interrogatories and cross-interrogatories to the witness in their order and reduce the testimony to writing in the witness' own words. The provisions of paragraph (e) of this section shall be applicable to depositions taken in accordance with this paragraph.

(g) All depositions shall conform to the specifications of § 302.3 except that the filing of three copies thereof shall be sufficient. Any fees of a witness, the stenographer, or the officer designated to take the deposition shall be paid by the person at whose instance the deposition is taken.

(h) The fact that a deposition is taken and filed in a proceeding as provided in this section does not constitute a determination that it is admissible in evidence or that it may be used in the proceeding. Only such part or the whole of a deposition as is received in evidence at a hearing shall constitute a part of the record in such proceeding upon which a decision may be based.

§ 302.21 Attendance fees and mileage.

(a) *Where tender of attendance fees and mileage is a condition of compliance with subpena.* No person whose attendance at a hearing or whose deposition is to be taken shall be obliged to respond to a subpena unless upon a service of the subpena he is tendered attendance fees and mileage by the party at whose instance he is called in accordance with the requirements of paragraph (b) of this section: *Provided,* That a witness summoned at the instance of the Board or one of its employees, or a salaried employee of the United States summoned to testify as to matters related to his public employment, need not be tendered such fees or mileage at that time.

(b) *Amount of mileage and attendance fees to be paid.* (1) Witnesses who are not salaried employees of the United States, or such employees summoned to testify on matters not related to their public employment, shall be paid the same fees and mileage paid to witnesses for like services in the courts of the United States, as provided in subdivisions (i) through (iii) of this subparagraph: *Provided,* That no employee, officer or attorney of an air carrier who travels under the free or reduced rate provisions of section 403 (b) of the act shall be entitled to any fees or mileage.

(i) *Per diem for attendance.* There shall be tendered $4 for each day of expected attendance at a hearing or place where deposition is to be taken, and for the time necessarily occupied in going to and returning from the place of attendance.

(ii) *Allowance for subsistence.* In addition to per diem for attendance, when attendance is required at a point so far removed from the witness' residence as to prohibit daily return thereto, there shall be tendered an additional sum of $8 per day for expenses of subsistence for each day of expected attendance and for the time necessarily occupied in going to and returning from the place of attendance.

(iii) *Mileage.* There shall be tendered an amount equal to 8 cents per mile for the round-trip distance between the witness' place of residence and the place where attendance is required. Regardless of the mode of travel employed, computation of mileage shall be made on the basis of a uniform table of distances adopted by the Attorney General where the travel is covered by such table: *Provided,* That in lieu of this mileage allowance witnesses who are required to travel between the territories, possessions or to and from the continental United States or between two foreign points shall be tendered a ticket for such transportation at the lowest first-class rate available at the time of reservation plus the required per diem attendance fees: *And provided further,* That in Alaska where permitted by section 403(b) of the Federal Aviation Act of 1958, as amended, the witness may, at his option, accept a pass for travel by air.

(2) Witnesses who are not salaried employees of the United States, or such employees summoned to testify on matters not related to their public employment, who are summoned to testify at the instance of the Board or one of its employees or the United States or one of its agencies shall be paid in accordance with the provisions of subparagraph (1) of this paragraph. Such witnesses shall be furnished appropriate forms and instructions for the submission of claims for attendance fees, subsistence and mileage from the Government before the close of the proceedings which they are required to attend. Only persons summoned by subpena shall be entitled to claim attendance fees, subsistence or mileage from the Government.

(3) Witnesses who are salaried employees of the United States and who are summoned to testify on matters relating to their public employment, irrespective of or at whose instance they are summoned, shall be paid in accordance with applicable Government regulations.

(4) Whenever the sums tendered to a witness are inadequate for reimbursement under the requirements of this section, and such witness has complied with the summons, he shall upon request within a reasonable period of time be entitled to such additional sums as may be due him under the provisions of this section. Whenever the sums tendered and paid to a witness are excessive under the above requirements, either because the witness traveled under the free or reduced rate provisions of section 403 (b) of the act, or for any other reason, the witness shall upon request within a reasonable period of time refund such sums as may be excessive under the provisions of this section.

§ 302.22 Examiners.

(a) *Defined.* The term "Examiner" as used in this part includes presiding officers, hearing examiners, individual members of the Board or any other representative of the Board assigned to hold a hearing in a proceeding.

(b) *Disqualification.* An Examiner shall withdraw from the case if at any time he deems himself disqualified. If, prior to the initial or recommended decision in the case, there is filed with the Examiner, in good faith, an affidavit of personal bias or disqualification with substantiating facts and the Examiner does not withdraw, the Board shall determine the matter, if properly presented by exception or brief, as a part of the record and decision in the case. The Board shall not otherwise consider any claim of bias or disqualification. The Board, in its discretion, may order a hearing on a charge of bias or disqualification.

(c) *Powers.* An Examiner shall have the following powers, in addition to any others specified in this part:

(1) To give notice concerning and to hold hearings;

(2) To administer oaths and affirmations;

(3) To examine witnesses;

(4) To issue subpenas and to take or cause depositions to be taken;

(5) To rule upon offers of proof and to receive relevant evidence;

(6) To regulate the course and conduct of the hearing;

(7) To hold conferences, before or during the hearing, for the settlement or simplification of issues;

(8) To rule on motions and to dispose of procedural requests or similar matters;

(9) Within his discretion, or upon the direction of the Board, to certify any question to the Board for its consideration and disposition;

(10) To make initial or recommended decisions as provided in § 302.27;

(11) To take any other action authorized by this part, by the Administrative Procedure Act, or by the Federal Aviation Act. The Examiner's authority in each case will terminate either upon the service of a recommended decision, or upon the certification of the record in the proceeding to the Board, or upon the expiration of the period within which exceptions to his initial decision may be filed, or when he shall have withdrawn from the case upon considering himself disqualified.

§ 302.23 Prehearing conference.

(a) *In general.* Prior to any hearings there will ordinarily be a prehearing conference before an Examiner, although in economic enforcement proceedings where the issues are drawn by the pleadings such conference will usually be omitted. Written notice of the prehearing conference shall be sent by the Chief Examiner to all parties to a proceeding and to other persons who appear to have an interest in such proceeding. The purpose of such a conference is to define and simplify the issues and the scope of the proceeding, to secure statements of the positions of the parties with respect thereto and amendments to the pleadings in conformity therewith, to schedule the exchange of exhibits before the date set for hearing, and to arrive at such agreements as will aid in the conduct and disposition of the proceeding. For ex-

ample, consideration will be given to: (1) Matters which the Board can consider without the necessity of proof; (2) admissions of fact and the genuineness of documents; (3) admissibility of evidence; (4) limitation of the number of witnesses; (5) reducing of oral testimony to exhibit form: (6) procedure at the hearing, etc. If necessary, the Examiner may require further conference, or responsive pleadings, or both. The Examiner may also on his own motion or on motion of any party direct any party to a proceeding (air carrier or non-air carrier) to prepare and submit exhibits setting forth studies, forecasts, or estimates on matters relevant to the issues in the proceeding.

(b) *Report of prehearing conference.* The Examiner shall issue a report of prehearing conference, defining the issues, giving an account of the results of the conference, specifying a schedule for the exchange of exhibits and rebuttal exhibits, the date of hearing, and specifying a time for the filing of objections to such report. The report shall be served upon all parties to the proceeding and any person who appeared at the conference. Objections to the report may be filed by any interested person within the time specified therein. The Examiner may revise his report in the light of the objections presented. The revised report, if any, shall be served upon the same persons as was the original report. Exceptions may be taken on the basis of any timely written objection which has not been met by a revision of the report if they are filed within the time specified in the revised report. Such report shall constitute the official account of the conference and shall control the subsequent course of the proceeding, but it may be reconsidered and modified at any time to protect the public interest or to prevent injustice.

§ 302.24 Hearings.

(a) *Notice.* The Examiner to whom the case is assigned or the Board shall give the parties reasonable notice of a hearing or of the change in the date and place of a hearing and the nature of such hearing.

(b) *Evidence.* Evidence presented at the hearing shall be limited to material evidence relevant to the issues as drawn by the pleadings or as defined in the report of prehearing conference, subject to such later modifications of the issues as may be necessary to protect the public interest or to prevent injustice and shall not be unduly repetitious. Evidence shall be presented in written form by all parties wherever feasible, as the Examiner may direct.

(c) *Objections to evidence.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds of objections relied upon, and the transcript shall not include argument or debate thereon except as ordered by the Examiner. Rulings on such objections shall be a part of the transcript.

(d) *Exceptions.* Formal exceptions to the rulings of the Examiner made during the course of the hearing are unnecessary. For all purposes for which an exception otherwise would be taken, it is sufficient that a party, at the time of the ruling of the Examiner is made or sought, makes known the action he desires the Examiner to take or his objection to an action taken, and his grounds therefor.

(e) *Offers of proof.* Any offer of proof made in connection with an objection taken to any ruling of the Examiner rejecting or excluding proferred oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony, and if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall constitute the offer of proof.

(f) *Exhibits.* When written exhibits are offered in evidence, one copy must be furnished to each of the parties at the hearing, and two copies to the Examiner, unless the parties previously have been furnished with copies or the Examiner directs otherwise. If the Examiner has not fixed a time for the exchange of exhibits, the parties shall exchange copies of exhibits at the earliest practicable time, preferably before the hearing or, at the latest, at the commencement of the hearing.

(g) *Substitution of copies for original exhibits.* In his discretion, the Examiner may permit a party to withdraw original documents offered in evidence and substitute true copies in lieu thereof.

(h) *Designation of parts of documents.* When relevant and material matter offered in evidence by any party is embraced in a book, paper, or document containing other matter not material or relevant, the party offering the same shall plainly designate the matter so offered. The immaterial and irrelevant parts shall be excluded and shall be segregated insofar as practicable. If the volume of immaterial or irrelevant matter would unduly encumber the record, such book, paper, or document will not be received in evidence, but may be marked for identification, and, if properly authenticated, the relevant or material matter may be read into the record, or, if the Examiner so directs, a true copy of such matter, in proper form, shall be received as an exhibit, and like copies delivered by the party offering the same to opposing parties or their attorneys appearing at the hearing, who shall be afforded an opportunity to examine the book, paper, or document, and to offer in evidence in like manner other portions thereof.

(i) *Records in other proceedings.* In case any portion of the record in any other proceeding or civil or criminal action is offered in evidence, a true copy of such portion shall be presented for the record in the form of an exhibit unless:

(1) The portion is specified with particularity in such manner as to be readily identified; and

(2) The party offering the same agrees unconditionally to supply such copies later, or when required by the Board; and

(3) The parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference, and that any portion offered by any other party may be incorporated by like reference upon compliance with subparagraphs (1) and (2) of this paragraph; and

(4) The Examiner directs such incorporation or waives the above requirement with the consent of the parties.

(j) *Receipt of documents after hearing.* No document or other writings shall be accepted for the record after the close of the hearing except in accordance with an agreement of the parties and the consent of the Examiner.

(k) *Transcript of hearings.* Hearings shall be recorded and transcribed by a contract reporter of the Board under supervision of the Examiner. Copies of the transcript shall be supplied to the parties to the proceeding by the reporter at rates not to exceed the maximum rates fixed by contract between the Board and the reporter.

(l) *Corrections to transcript.* Changes in the official transcript may be made only when they involve errors affecting substance. A motion to correct a transcript shall be filed with the Docket Section of the Board within ten (10) days after receipt of the completed transcript by the Board. If no objections to the motion are filed within ten (10) days thereafter, the transcript may, upon the approval of the Examiner, be changed to reflect such corrections. If objections are received, the motion and objections shall be submitted to the official reporter by the Examiner together with a request for a comparison of the transcript with the stenographic record of the hearing. After receipt of the report of the official reporter an order shall be entered by the Examiner settling the record and ruling on the motion.

§ 302.25 Argument before the Examiner.

(a) The Examiner shall give the parties to the proceeding adequate opportunity during the course of the hearing for the presentation of arguments in support of or in opposition to motions, and objections and exceptions to rulings of the Examiner.

(b) When, in the opinion of the Examiner, the volume of the evidence or the importance or complexity of the issues involved warrants, he may, either of his own motion, or at the request of a party, permit the presentation of oral argument. He may impose such time limits on the argument as he may determine, having regard for other assignments for hearing before him. Such argument shall be transcribed and bound with the transcript of testimony and will be available to the Board for consideration in deciding the case.

§ 302.26 Proposed findings and conclusions before the Examiner or the Board.

Within such limited time after the close of the reception of evidence fixed by the Examiner, any party may, upon request and under such conditions as the Examiner may prescribe, file for his consideration briefs to include proposed findings and conclusions of law which shall contain exact references to the record and authorities relied upon.

The provisions of this section shall be applicable to proceedings in which the record is certified to the Board without the preparation of an initial or recommended decision by the Examiner.

§ 302.27 Action by Examiner after hearing.

(a) Except where the Board directs otherwise, after the taking of evidence and the receipt of proposed findings and conclusions, if any, the Examiner shall take the following action:

(1) *Rates, fares, charges, etc., mail compensation.* In cases relating to rates, fares, or charges, classification, rules or regulations or practices affecting such matters or value of service, or mail compensation, the Examiner shall render an initial decision orally on the record or in writing if, before the close of the hearing, any party so requests, or, if no such request is made, he shall certify the record to the Board for decision.

(2) *Cases subject to section 801 of the act.* In cases where the action of the Board is subject to the approval of the President pursuant to section 801 of the act, the Examiner shall render a recommended decision orally on the record or in writing.

(3) *Other matters.* If the proceeding relates to any matter not provided for in subparagraphs (1) or (2) of this paragraph, the Examiner shall render an initial decision orally on the record or in writing.

(b) Every initial or recommended decision issued other than orally on the record shall state the names of the persons who are to be served with copies of it, the time within which exceptions to such decision may be filed, and the time within which briefs in support of the exceptions may be filed. In addition, every initial decision shall state the date on which it will become final. In the event the Examiner certifies the record to the Board without an initial or recommended decision, he shall notify the parties of the time within which to file proposed findings and conclusions with the Board and supporting briefs.

§ 302.28 Effect of initial decision.

Whenever a Member of the Board or hearing examiner makes the initial decision in a hearing case and in the absence of timely exceptions thereto pursuant to § 302.30 of this part, such initial decision shall become the decision of the Board 20 days after expiration of the time for filing exceptions unless the Board, within said 20-day period, makes an order constituting its final disposition of the proceeding or providing for further review.

§ 302.29 Tentative decision of the Board.

(a) Except as provided in paragraph (b) of this section, whenever the Examiner certifies the record in a proceeding directly to the Board without issuing an initial or recommended decision in the matter, the Board shall, after consideration of any proposed findings and conclusions submitted by the parties, prepare a tentative decision and serve it upon the parties. Every tentative decision of the Board shall state the names of the persons who are to receive copies of it, the time within which exceptions to such decision may be filed, the time within which briefs in support of the exceptions may be filed, and the date when such decision will become final in the absence of exceptions thereto. If no exceptions are filed to the tentative decision of the Board within the period fixed (which in no event shall be less than 10 days), it shall become final at the expiration of such period unless the Board orders otherwise.

(b) Notwithstanding the provisions of paragraph (a) of this section, in rule making proceedings or proceedings determining applications for initial licenses, the Board may omit a tentative decision in any case in which it finds upon the record that due and timely execution of its functions imperatively and unavoidably so requires.

§ 302.30 Exceptions to initial or recommended decisions of Examiners or tentative decisions of the Board.

Within ten (10) days after service of any initial or recommended decision of an examiner or tentative decision of the Board, or such longer period as may be fixed therein, any party to a proceeding (including Bureau Counsel or an Enforcement Attorney) may file exceptions to such decision with the Board. Each separately numbered exception shall identify the part of the initial, recommended or tentative decision excepted to, shall designate, by exact and specific reference, the portions of the record relied upon in support of such exception, and shall state the grounds for such exception, including the citation of the statutory provisions or principal authorities in support thereof. Any objection to a ruling, finding or conclusion which is not excepted to shall be deemed to have been waived, and the Board need not consider such objections if raised at a later time.

§ 302.31 Briefs before the Board.

(a) *Time for filing.* Within such period after the date of service of any initial or recommended decision of an Examiner or tentative decision by the Board, as may be fixed therein, any party may file a brief addressed to the Board, in support of his exceptions to such decision, or in opposition to the exceptions filed by any other party. In cases where the Board or the Examiner is of the opinion that, because of the limited number of parties and the nature of the issues, the filing of opening, answering and reply briefs will not unduly delay the proceeding and will assist in its proper disposition, the Board or the Examiner may direct that the parties file briefs at different times rather than at the same time.

(b) *Formal specifications of briefs*—(1) *Length.* Except by special permission or direction of the Board or the Chief Examiner, briefs shall not exceed 50 pages. Typed briefs shall be double spaced, except for footnotes and quotations which may be single spaced. The pages contained in any appendix, table, chart, or similar document, other than a map, which is physically attached to a brief shall be counted in determining its length.

(2) *Incorporation by reference.* A party filing a brief in support of, or in opposition to, the exceptions involved may not incorporate by reference any portion of his prior brief to the examiner assigned to the proceeding. However, in lieu of submitting a brief to the Board a party may adopt by reference specifically identified pages or the whole of his prior brief to the Examiner. In such cases, the party may file with the Board a letter expressing his intention to avail himself of this privilege which shall be filed with the Docket Section and served upon all parties in the same manner as a brief to the Board.

(3) *Size, margin and type limitations.* Briefs which are printed shall be on paper not exceeding 6⅛ inches in width and 9¼ inches in length, having all margins at least 1 inch in width. The text, footnotes and all physical attachments to briefs shall be printed in clear and readable type, not smaller than 11 point type, which is adequately leaded. Briefs which are typewritten, mimeographed, multigraphed or reproduced by any process other than printing shall utilize type not smaller than Elite type and be on paper not exceeding 8½ inches in width and 11 inches in length which has left-hand margins not less than 1½ inches, and all other margins at least 1 inch in width. However, numerical tables, maps and charts which are physically attached to a brief may be printed or otherwise reproduced on paper not exceeding 8½ inches in width and 14 inches in length, provided they are folded to the size of the brief.

(4) *Subject index.* Any brief which exceeds 10 pages shall contain a subject index of its contents, including appropriate page references.

(5) *Definition of map.* As used in this section, the term "map" means only those pictorial representations of routes, flight paths, mileage and similar ancillary data which are superimposed on geographic drawings and contain only such text as is needed to explain the pictorial representation.

§ 302.32 Oral arguments before the Board.

(a) If any party desires to argue a case orally before the Board he must request leave to make such argument in his exceptions or brief. Such request shall be filed no later than the date when briefs before the Board are due in the proceeding. The Board will rule on such request, and if oral argument is to be allowed, all parties to the proceeding will be advised of the date and hour set for such argument and the amount of time allowed to each such party.

(b) Pamphlets, charts, and other written data may be presented to the Board at oral argument only in accordance with the following rules: All such material shall be limited to facts in the record of the case being argued. All such material shall be served on all parties to the proceeding and eight copies transmitted to the Docket Section of the Board at least five (5) days in advance of the argument. As used herein, "material" includes, but is not limited to, maps, charts included

in briefs, and exhibits which are enlarged and used for demonstration purposes at the argument, but does not include the enlargements of such exhibits.

§ 302.33 Waiver of procedural steps after hearing.

The parties to any proceeding may agree to waive any one or more of the following procedural steps provided in §§ 302.25 through 302.32: Oral argument before the Examiner, the filing of proposed findings and conclusions for the Examiner or for the Board, a recommended decision of the Examiner, a tentative decision of the Board, exceptions to an initial or recommended decision of the Examiner or to a tentative decision of the Board, the filing of briefs with the Board, or oral argument before the Board.

§ 302.34 Petition for consideration of exceptions to initial decision which has become final.

Where a party has, within the time allowed therefor, failed to file exceptions to an initial decision, and such decision has become final, he may petition the Board for leave to file exceptions, but no such petition shall be granted except on a showing of unusual and exceptional circumstances, constituting good cause for failure to make timely filing. The petition shall be accompanied by the exceptions for which late filing is sought. Such exceptions shall comply with the requirements of § 302.30. No such petition shall be granted unless the exceptions raise a substantial doubt as to the correctness of the initial decision. A petition under this section does not affect the finality of the initial decision or suspend its operation. However, the Board may in its discretion suspend the effectiveness of such decision pending its decision on the petition and exceptions.

§ 302.35 Shortened procedure.

In cases where a hearing is not required by law, §§ 302.23 through 302.34, relating to prehearing, hearing, and post-hearing procedures, shall not be applicable except to the extent that the Board shall determine that the application of some or all of such rules in the particular case will be conducive to the proper dispatch of its business and to the ends of justice.

§ 302.36 Final decision of the Board.

Upon submittal of a case to the Board for final decision on the merits the Board will consider the whole record, including the initial or recommended decision of the Examiner or its tentative decision, and the exceptions thereto, will resolve all questions of fact by what it deems to be the greater weight of the evidence thereon, will make its decision, stating the reasons or basis therefor, and enter an appropriate order.

§ 302.37 Petition for reconsideration.

(a) *Time for filing.* A petition for reconsideration, rehearing or reargument may be filed by any party to a proceeding within twenty (20) days after the date of service of a final order by the Board in such proceeding unless the time is shortened or enlarged by the Board, except that such petition may not be filed with respect to an initial decision which has become final through failure to file exceptions thereto. However, neither the filing nor the granting of such a petition shall operate as a stay of such final order unless specifically so ordered by the Board. Within ten (10) days after a petition for reconsideration, rehearing, or reargument is filed, any party to the proceeding may file an answer in support of or in opposition to the petition. Motions for extension of time to file a petition or answer, and for leave to file a petition or answer after the time for the filing thereof has expired, will not be granted by the Board except on a showing of unusual and exceptional circumstances, constituting good cause for movant's inability to meet the established procedural dates.

(b) *Contents of petition.* A petition for reconsideration, rehearing, or reargument shall state, briefly and specifically, the matters of record alleged to have been erroneously decided, the ground relied upon, and the relief sought. If the petition is based, in whole or in part, on allegations as to the consequences which would result from the Board's order, the basis of such allegations shall be set forth. If the petition is based, in whole or in part, on new matter, such new matter shall be set forth, accompanied by a statement to the effect that petitioner, with due diligence, could not have known or discovered such new matter prior to the date the case was submitted for decision. Unless otherwise directed by the Board upon a showing of unusual or exceptional circumstances, petitions for reconsideration, rehearing or reargument or answers thereto which exceed twenty-five (25) pages (including appendices) in length shall not be accepted for filing by the Docket Section.

(c) *Successive petitions.* A successive petition for rehearing, reargument, or reconsideration filed by the same party or parties, and upon substantially the same ground as a former petition which has been considered or denied by the Board, will not be entertained.

§ 302.38 Petitions for rule making.

(a) *Scope.* Any interested person may petition the Board for the issuance, amendment, modification, or repeal of any Economic Regulation. For purposes of this section, such proposed action will be termed rule making. However, the procedures set forth in this section shall not apply to recommendations for rule making submitted by other agencies of the Government.

(b) *Form and contents.* Petition for rule making shall conform to the requirements of §§ 302.3 and 302.4; and no request for the issuance, amendment, modification, or repeal of a rule which does not conform to such requirements will be considered by the Board.

(c) *Procedure.* Petitions for rule making will be given a docket number, and will become matters of public record upon filing. No public hearing, oral argument, or other form of proceedings will be held directly on any such proceeding, but if the Board determines that the petition discloses sufficient reasons in support of the relief requested to justify the institution of public rule making procedures, an appropriate notice of proposed rule making will be issued. Thereafter, the procedures to be followed will be as set forth in section 4 (b) of the Administrative Procedure Act. Where the Board determines that the petition does not disclose sufficient reasons to justify the institution of public rule making procedures, petitioner will be so notified together with the grounds for such denial. The provisions of this section shall not operate to prevent the Board, on its own motion, from acting on any matter disclosed in any petition.

§ 302.39 Objections to public disclosure of information.

(a) *Information contained in paper to be filed.* Any person who objects to the public disclosure of any information contained in any paper filed in any proceeding, or in any application, report, or other document filed pursuant to the provisions of the Federal Aviation Act of 1958, as amended, or any rule, regulation, or order of the Board thereunder, shall segregate, or request the segregation of, such information into a separate paper and shall file it, or request that it be filed, with the Examiner or the person conducting the hearing or proceeding, as the case may be, or with the person with whom said application, report, or document is required to be filed, separately in a sealed envelope, bearing the caption of the enclosed paper and the notation "Classified or Confidential Treatment Requested Under § 302.39." At the time of filing such paper, or when the objection is made by a person not himself filing the paper, application, report or other document, within five (5) days after the filing of such paper, the objecting party shall file a motion to withhold the information from public disclosure, in accordance with the procedure outlined in paragraph (d) of this section, or in accordance with the procedure outlined in paragraph (c) of this section if objection is made by a Government department or a representative thereof. Notwithstanding any other provision of this section, copies of the filed paper and of the motion need not be served upon any other party unless so ordered by the Board.

(b) *Information contained in oral testimony.* Any person who objects to the public disclosure of any information sought to be elicited from a witness or deponent on oral examination shall, before such information is disclosed, make his objection known. Upon such objection duly made, the witness or deponent shall be compelled to disclose such information only in the presence of the Examiner or the person before whom the deposition is being taken, as the case may be, the official stenographer and such attorneys for and lay representative of each party as the Examiner or the person before whom the deposition is being taken, as the case may be, shall designate, and after all present have been sworn to secrecy. The transcript of testimony containing such information shall be segregated and filed in a

sealed envelope, bearing the title and docket number of the proceeding, and the notation "Classified or Confidential Treatment Requested Under § 302.39 Testimony Given by (name of witness or deponent)." Within five (5) days after such testimony is given, the objecting person shall file a motion, except as hereinafter provided in paragraph (c) of this section, in accordance with the procedure outlined in paragraph (d) of this section, to withhold the information from public disclosure. Notwithstanding any other provision of this section, copies of the segregated portion of the transcript and of the motion need not be served upon any other party unless so ordered by the Board.

(c) *Objection by Government departments or representative thereof.* In the case of objection to the public disclosure of any information filed by or elicited from any United States Government department, or representative thereof, under paragraph (a) or (b) of this section, the department making such objection shall be exempted from the provisions of paragraphs (a), (b), and (d) of this section insofar as said paragraphs require the filing of a written objection to such disclosure. However, any department, or person representing said department, if it so desires, may file a memorandum setting forth the reasons on the basis of which it is claimed that a public disclosure of the information should not be made. If such a memorandum is submitted, it shall be filed and handled as is provided by this section in the case of a motion to withhold information from public disclosure.

(d) *Form of motion to withhold information from public disclosure.* Subject to the exception of paragraph (c) of this section, no information covered by paragraphs (a) and (b) of this section need be withheld from public disclosure unless written objection to such disclosure is filed with the Board in accordance with the following procedure:

(1) The motion shall be headed with the title and docket number of the proceeding and shall be signed by the objecting person, any duly authorized officer or agent thereof, or by counsel representing such person in the proceeding.

(2) The motion shall include (i) a description of the information sought to be withheld, sufficient for identification of the same, and (ii) a full statement of the reasons on the basis of which it is claimed that a public disclosure of the information would adversely affect the interests of the objecting person and is not required in the interest of the public, or that the information is of a secret nature affecting the national defense.

(3) Such motion shall be filed with the Examiner or the person conducting the hearing or proceeding, as the case may be, or with the person with whom said application, report, or document is required to be filed.

If such motion relates to contracts, agreements, understandings, or arrangements filed pursuant to section 412 (a) of the Federal Aviation Act of 1958, as amended, and Part 261 of this chapter, or pursuant to Part 262 of this chapter, an executed original copy and two copies of such motion shall be filed.

(e) *Motions referred to the Board.* The order of the Board containing its ruling upon each such motion will specify the extent to which, and the conditions upon which, the information may be disclosed to the parties and to the public, which order shall become effective upon the date stated therein, unless, within five (5) days after the date of the entry of the Board's order with respect thereto, a petition is filed by the objecting person requesting reconsideration by the Board, or a written statement is filed indicating that the objecting person in good faith intends to seek judicial review of the Board's order.

(f) *Objections in proceeding before the Board.* Notwithstanding any of the provisions of this section, whenever the objection to disclosure of information shall have been made, in the first instance, before the Board itself, the written motion of objection contemplated by paragraphs (a), (b), and (d) of this section shall not be necessary but may be submitted if the parties so desire or if the Board, in a particular case, shall so direct.

§ 302.40 Saving clause.

Repeal, revision or amendment of any Economic Regulation of the Board shall not affect any pending enforcement proceeding or any enforcement proceeding initiated thereafter with respect to causes arising or acts committed prior to said repeal, revision or amendment, unless the act of repeal, revision or amendment specifically so provides.

Subpart B—Rules Applicable to Economic Enforcement Proceedings

§ 302.200 Applicability of this subpart.

(a) *In general.* This subpart sets forth the special rules applicable to proceedings for enforcement of the economic regulatory provisions of the act, and rules, regulations, orders, limitations, conditions and requirements issued thereunder. For information as to other applicable rules, reference should also be made to Subpart A of this part, to the act and to the substantive rules, regulations and orders of the Board.

(b) *Informal complaints.* Informal complaints may be made in writing with respect to anything done or omitted to be done by any person in contravention of any provision of the act or any requirement established pursuant thereto without compliance with this part. Matters so presented may, if their nature warrants, be handled by the Board by correspondence or conference with the appropriate persons. Any matter not disposed of informally may be made the subject of a formal proceeding pursuant to this subpart. The filing of an informal complaint shall not bar the subsequent filing of a formal complaint.

§ 302.201 Formal complaints.

Any person may make a formal complaint to the Board with respect to anything done or omitted to be done by any person in contravention of any economic regulatory provisions of the act, or any rule, regulation, order, limitation condition or other requirement established pursuant thereto. Every formal complaint shall conform to the requirements of § 302.3, concerning the form and filing of documents. The submission of a formal complaint by a person other than an Enforcement Attorney (hereinafter called a third party) shall not in itself result in the institution of a formal economic enforcement proceeding and a hearing with respect to the complaint unless and until the Director of the Bureau of Enforcement dockets a petition for enforcement with respect to such complaint, or a portion thereof, in accordance with § 302.206. A formal complaint, whether filed by a third party or an Enforcement Attorney, may be amended at any time prior to the service of an answer to a complaint. Thereafter, such amendment may be filed only upon the grant of a motion filed in accordance with § 302.18, except that permission to amend a third-party complaint after the filing of an answer but before the docketing of a petition for enforcement must be obtained from the Director of the Bureau of Enforcement.

§ 302.202 Subscription and verification.

Every formal complaint, supplemental complaint, answer or other pleading filed in an economic enforcement proceeding shall be signed by the party filing the same, or by a duly authorized officer, agent or attorney of such party. In addition, such documents shall be verified under oath by the person so signing. Such verification shall set forth that the person verifying the document has read the same and knows the contents thereof and the attached exhibits, if any, and that the matters and things therein stated are true of his own knowledge, except such matters therein stated on information and belief, and as to such matters he believes them to be true. If the subscription and verification, or either of them, be by anyone other than the party filing the same or an officer or attorney of such party, the reason therefor must be stated and the power of attorney or other authority authorizing such affiant to subscribe the document and make the verification must be filed with the document.

§ 302.203 Insufficiency of formal complaint.

In any case where the Director of the Bureau of Enforcement is of the opinion that a complaint does not sufficiently set forth the material required by any applicable rule, regulation or order of the Board, or is otherwise insufficient, he may advise the party filing the same of the deficiency and require that any additional information be supplied by amendment.

§ 302.204 Third-party complaints.

(a) A third-party complaint, and any amendments thereto, submitted pursuant to § 302.201 shall be served by the person filing such documents upon each party complained of and upon the Director of the Bureau of Enforcement.

(b) Within fifteen (15) days after the date of service of a third-party complaint, each person complained of shall file an answer in conformance with and

subject to the requirements of § 302.207 (b). Extensions of time for filing an answer may be granted by the Director of the Bureau of Enforcement for good cause shown.

(c) A person complained against in a third-party complaint may offer to satisfy the complaint through submission of facts, offer of settlement or proposal of adjustment. Such offer shall be in writing and shall be served, within fifteen (15) days after service of the complaint, upon the same persons and in the same manner as an answer. The submittal of an offer to satisfy the complaint shall not excuse the filing of an answer.

(d) Motions to dismiss a third-party complaint shall not be fileable prior to the docketing of a petition for enforcement with respect to such complaint or a portion thereof.

§ 302.205 Procedure when no enforcement proceeding is instituted.

(a) Within a reasonable time after a formal third-party complaint has been processed, the Director of the Bureau of Enforcement shall either institute an enforcement proceeding in accordance with § 302.206 or shall advise the complainant in writing that no enforcement proceeding will be instituted in whole or in part, with respect to his complaint, and the reasons therefor.

(b) The letter of the Director of the Bureau of Enforcement shall conform to the requirements of § 302.3 and shall be deemed an order of the Board dismissing the complaint unless review of such ruling is requested by the complainant or is initiated by the Board in accordance with the provisions of paragraph (c) of this section.

(c) Within fifteen (15) days after receipt of a letter from the Director of the Bureau of Enforcement refusing to institute an enforcement proceeding with respect to all or any part of a complaint, the complainant may file a motion with the Board to review such action. The proceedings on such motion shall be in accordance with § 302.18. Upon conclusion of such proceedings, the Board shall enter an order either dismissing the complaint or directing such other action as it deems appropriate. If a complainant does not appeal, the Board may review the action of the Director of the Bureau of Enforcement on its own initiative within 15 days after the expiration date for appeal.

§ 302.206 Docketing of petition for enforcement.

Whenever in the opinion of the Director of the Bureau of Enforcement there are reasonable grounds to believe that any provision of the act or any rule, regulation, order, limitation, condition or other requirement established pursuant thereto, has been or is being violated, that, in the case of third-party complaints, efforts to satisfy a complaint insofar as required by § 302.204 have failed, and that investigation of any or all of the alleged violations is in the public interest, the Director of the Bureau of Enforcement may institute an economic enforcement proceeding by docketing a petition for enforcement. The petition for enforcement shall incorporate by reference a formal complaint submitted pursuant to § 302.201 or shall be accompanied by a complaint complying with § 302.3 which is verified by an Enforcement Attorney. The petition for enforcement, and accompanying complaint, if any, shall be formally served upon the respondent and complainant. The proceedings thus instituted shall be processed in regular course in accordance with this part. However, nothing in this part shall be construed to limit the authority of the Board to institute or conduct any investigation or inquiry within its jurisdiction in any other manner or according to any other procedures which it may deem necessary or proper.

§ 302.207 Answer.

(a) Within fifteen (15) days after the date of service of a petition for enforcement docketed pursuant to § 302.206, the respondent shall file an answer to the complaint attached thereto or incorporated therein unless an answer has already been filed in accordance with § 302.204. Any requests for extension of time for filing of answer to a complaint attached to or incorporated in a petition for enforcement shall be filed with the Board in accordance with § 302.17.

(b) All answers shall conform to the requirements of § 302.8 (a) (2) and shall fully and completely advise the parties and the Board as to the nature of the defense and shall admit or deny specifically and in detail each allegation of the complaint unless the person complained of is without knowledge, in which case, his answer shall so state and the statement shall operate as a denial. Allegations of fact not denied or controverted shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered and shall, in the absence of a reply, be deemed to be controverted.

§ 302.208 Default.

Failure of a respondent to file and serve an answer within the time and in the manner prescribed by this part shall be deemed to authorize the Board, in its discretion, to find the facts alleged in the petition to be true and to enter such order as may be appropriate without notice or hearing, or, in its discretion, to proceed to take proof, without notice, of the allegations or charges set forth in the complaint or order, provided that the Board or Examiner may permit late filings of an answer for good cause shown.

§ 302.209 Reply.

The Board (or the Examiner) may, in its discretion, require or permit the filing of a reply in appropriate cases, otherwise no reply shall be filed.

§ 302.210 Parties.

The parties to an economic enforcement proceeding shall be the Board (represented by an Enforcement Attorney), the respondent, any person whose formal complaint alleged violations which were later covered by the petition for enforcement, and any other person permitted to intervene pursuant to § 302.15.

§ 302.211 Prehearing conference.

Ordinarily the issues in an economic enforcement proceeding will be drawn by the pleadings and no prehearing conference shall be held. However, such a conference may be held where the Board or the Examiner believes that the fair and expeditious disposition of the proceeding so requires. In the event a prehearing conference is to be held it shall be conducted in accordance with § 302.23.

§ 302.212 Admissions as to facts and documents.

At any time after answer has been filed, any party may file with the Board and serve upon the opposing side a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request or for the admission of the truth of any relevant matters of fact stated in the request with respect to such documents. Each of the matters of which an admission is requested shall be deemed admitted unless within a period designated in the request, not less than ten (10) days after service thereof, or within such further time as the Board or the Examiner may allow upon motion and notice, the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny such matters. Service of such request and answering statement shall be made as provided in § 302.9. Any admission made by a party pursuant to such request is only for the purposes of the pending proceeding, or any proceeding or action instituted for the enforcement of any order entered therein, and shall not constitute an admission by him for any other purpose or be used against him in any other proceeding or action.

§ 302.213 Hearing.

After the issues have been formulated, whether by the pleadings or otherwise, the Examiner or the Board shall give the parties reasonable written notice of the time and place of the hearing.

§ 302.214 Appearances by persons not parties.

With consent of the Examiner or the Board, appearances may be entered without request for or grant of permission to intervene by interested persons who are not parties to the proceeding. Such persons may, with consent of the Examiner or the Board, cross-examine a particular witness or suggest to any party or counsel therefor questions or interrogations to be propounded to witnesses called by any party, but may not otherwise examine witnesses and may not introduce evidence or otherwise participate in the proceeding. However, such persons may present to both the Examiner and the Board an oral or written statement of their position on the issues involved in the proceeding.

§ 302.215 Offers of settlement.

Any party to an economic enforcement proceeding at any time prior to final decision thereof may submit offers of set-

tlement or proposals of adjustment. Each such offer or proposal shall be submitted in writing and addressed to the Director of the Bureau of Enforcement, who will promptly advise the party or parties submitting same whether he will recommend acceptance thereof to the Board. If the Director of the Bureau of Enforcement advises the party or parties that he will not recommend acceptance, and the party or parties so request in writing, he will transmit such offer or proposal directly to the Board for its consideration and acceptance or rejection. The submission of such offer or proposal shall not alter or delay the course of the proceeding unless so ordered by the Board.

§ 302.216 Evidence of previous violations.

Evidence of previous violations by any person of any provision of the act or any requirement thereunder found by the Board or a court in any other proceeding or criminal or civil action may, if relevant and material, be admitted in any enforcement proceeding involving such person.

§ 302.217 Motions for immediate suspension of operating authority pendente lite.

All motions for the suspension of the economic operating authority of an air carrier during the pendency of proceedings to revoke such authority shall be filed with, and decided by the Board. Proceedings on the motion shall be in accordance with § 302.18. In addition, the Board shall afford the parties an opportunity for oral argument on such motion.

Subpart C—Rules Applicable to Mail Rate Proceedings

§ 302.300 Applicability of this subpart.

This subpart sets forth the special rules applicable to proceedings for the establishment of mail rates by the Board. For information as to other applicable rules, reference should be made to Subpart A of this part, to the Federal Aviation Act, and to the substantive rules, regulations and orders of the Board.

§ 302.301 Parties to the proceeding.

The parties to the proceeding shall be the air carrier or carriers for whom rates are to be fixed, the Postmaster General, Bureau Counsel, and any other person whom the Board permits to intervene. (See § 302.15.)

Final Mail Rate Proceedings

§ 302.302 Participation by persons other than parties.

In addition to participation in hearings in accordance with § 302.14, persons other than parties may, within the time fixed for filing notice of objections to an order to show cause in a mail rate proceeding as provided in § 302.305, submit a memorandum of opposition to, or in support of, the position taken in the petition or order. Such memorandum shall not be received as evidence in the proceeding.

§ 302.303 Institution of proceedings.

Proceedings for the determination of rates of compensation for the transportation of mail may be commenced by the filing of a petition by an air carrier whose rate is to be fixed, or the Postmaster General, or upon the issuance of an order by the Board.

(a) The petition shall set forth the rate or rates sought to be established, a statement that they are believed to be fair and reasonable, the reasons supporting the request for a change in rate, and a detailed economic justification sufficient to establish the reasonableness of the rate or rates proposed.

(b) In any case where a carrier is operating under a final mail rate uniformly applicable to an entire rate-making unit as established by the Board, a petition must clearly and unequivocally challenge the rate for such entire rate-making unit and not only a part of such unit. Unless such a petition clearly and unequivocally requests review of the rate for the entire rate-making unit, it shall be dismissed. No amendment intended to cure the omission shall be given retroactive effect.

(c) All petitions, amended petitions, and documents relating thereto shall be served upon the Postmaster General by sending a copy to him by registered mail, postpaid, prior to the filing thereof with the Board. Proof of service on the Postmaster General shall consist of a statement in the document that the person filing it has served a copy on the Postmaster General as required by this section. The petition need not be accompanied by any further proof of service, but, upon setting any petition down for public hearing, the Board will cause notice of such hearing to be given to such interested persons as it deems appropriate in the particular case.

Procedure When an Order To Show Cause is Issued

§ 302.304 Order to show cause.

Whether the proceeding is commenced by the filing of a petition or upon the Board's own initiative, the Board may issue an order directing the respondent to show cause why the Board should not adopt such provisional findings and conclusions, and such rates, as may be specified in the order to show cause.

§ 302.305 Objections and answer to order to show cause.

(a) Any person having objections to the provisional rates specified in such order shall file with the Board a notice of objection within ten (10) days after the date of service of such order.

(b) If such notice is filed as aforesaid, written answer and any supporting documents shall be filed within thirty (30) days after the service of the order to show cause. The Board may specify different times for filing a notice of objection or an answer. An answer to an order to show cause shall contain specific objections, and exhibits in support thereof, and shall set forth the findings and conclusions, the rates, and the supporting exhibits which would be substituted for the corresponding items in the Statement of Provisional Findings and Conclusions, if such objections were found valid.

(c) A notice or answer filed by a person who is neither a party nor a person ultimately permitted to intervene shall be treated as a memorandum filed under § 302.302.

§ 302.306 Effect of failure to file notice or answer.

If no notice, or if after notice, no answer is filed within the designated time, all parties shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision of the Board fixing rates, and the Board may thereupon, upon the basis of all of the documents filed in the proceeding, enter a final order fixing the fair and reasonable rate or rates as specified in the order to show cause.

§ 302.307 Procedure after answer.

If an answer is filed within the time designated in the Board's order, a prehearing conference and hearing shall be held unless waived by all parties. The issues shall be limited to those specifically raised by the answer, except that at the prehearing conference, the Examiner may permit the parties to raise such additional issues as he deems necessary to a full and fair determination of a fair and reasonable rate. (Reference should be made to Subpart A of this part for rules applicable to hearings.)

§ 302.308 Evidence.

All direct evidence shall be in writing and shall be filed in exhibit form in advance of the hearing unless, for good cause shown, the Examiner otherwise directs.

Procedure When No Order To Show Cause is Issued

§ 302.309 Hearing to be ordered.

When no order to show cause is to be issued by the Board, the Board will order a hearing before an Examiner similar to that provided for in §§ 302.307 and 302.308, except that the issues at such hearing shall be formulated initially at a prehearing conference.

Temporary Rate Proceedings

§ 302.310 Procedure for fixing temporary mail rates.

(a) At any time during the pendency of a proceeding for the determination of final mail rates, the Board, upon its own initiative, or on petition by the carrier whose rates are in issue or the Postmaster General, may fix temporary rates of compensation for the transportation of mail subject to downward or upward adjustment upon the determination of final mail rates.

(b) The procedure for determining temporary mail rates shall be the same as for the determination of final mail rates, except that:

(1) Notice of objections to the Board's show cause order proposing temporary mail rates must be filed by any party or petitioner for intervention within 8 days,

and an answer within 15 days, of the time such order is served;

(2) Failure to file notice of objections within the 8-day period shall be deemed to be a waiver of all further procedural steps before final decision, including hearing and a tentative decision, and the proceeding will stand submitted to the Board for final decision:

(3) Upon the conclusion of the hearing after objections and answer have been filed, the examiner shall immediately certify the entire record to the Board for a tentative decision;

(4) Neither proposed findings and conclusions and supporting briefs nor oral argument will be permitted, except upon the Board's request.

(5) After the issuance by the Board of a tentative decision, the parties shall have 10 days in which to file exceptions and supporting reasons. If no exceptions are filed within the prescribed time, the tentative decision shall without further proceedings become the final decision of the Board. If exceptions are duly filed, the proceeding will stand submitted to the Board for final decision as of the time of such filing.

(c) In absence of a convincing showing that it will result in substantial prejudice to any party or delay the proceeding, the examiner shall require the parties to submit all their testimony in writing and shall closely limit cross-examination to the essential issues (bearing in mind the purpose and urgency of fixing temporary mail rates together with the fact that such temporary rates are subject to downward or upward adjustment upon the fixing of final rates), and shall in all other respects urgently expedite the proceeding.

INFORMAL MAIL RATE CONFERENCE PROCEDURE

§ 302.311 Invocation of procedure.

Conferences between members of the Board's staff, representatives of air carriers, the Post Office Department and other interested persons may be called by the Board's staff for the purpose of considering and clarifying issues and factual material in pending proceedings for the establishment of rates for the transportation of mail.

§ 302.312 Scope of conferences.

The mail rate conferences shall be limited to the discussion of, and possible agreement on, particular issues and related factual material in accordance with sound rate-making principles. The duties and powers of the Board's staff in rate conferences essentially will not be different, therefore, from the duties and powers it has in the processing of rate cases not involving a rate conference. The staff function in both instances is to present clearly to the Board the issues and the related material facts, together with recommendations. The Board will make an independent determination of the soundness of the staff's analyses and recommendations.

§ 302.313 Participants in conferences.

The persons entitled to be present in mail rate conferences will be the representatives of the carrier whose rates are in issue, the staff of the Postmaster General, and the Board's staff. No other person will attend unless the Board's staff deems his presence necessary in the interest of one or more purposes to be accomplished, and in such case his participation will be limited to such specific purposes. No person, however, shall have the duty to attend merely by reason of invitation by the Board's staff.

§ 302.314 Conditions upon participation.

(a) *Nondisclosure of information.* As a condition to participation, every participant, during the period of the conference and for 90 days after its termination, or until the Board takes public action with respect to the facts and issues covered in the conference, whichever is earlier: (1) Shall, except for necessary disclosures in the course of employment in connection with conference business, hold the information obtained in conference in absolute confidence and trust; (2) shall not deal, directly or indirectly, for the account of himself, his immediate family, members of his firm or company, or as a trustee, in securities of the carrier involved in the rate conference except that under exceptional circumstances special permission may be obtained in advance from the Board; and (3) shall adopt effective controls for the confidential handling of such information and shall instruct personnel under his supervision, who by reason of their employment come into possession of information obtained at the conference, that such information is confidential and must not be disclosed to anyone except to the extent absolutely necessary in the course of employment, and must not be misused. The word "information", as used in paragraph (b) of this section, shall refer only to information obtained at the conference regarding the future course of action or position of the Board or the Board's staff with respect to the facts or issues discussed at the conference.

(b) *Signed statement required.* Every representative of a carrier actually present at any conference shall sign a statement that he has read this entire instruction and promises to abide by it and advise any other participant to whom he discloses any confidential information of the restrictions imposed above. Every representative of the Postmaster General actually present at any conference shall, on his own behalf, sign a statement to the same effect.

(c) *Presumption of having conference information.* A director of any carrier, which has had a representative at the conference, who deals either directly or indirectly for himself, his immediate family, members of his firm or company, or as a trustee, in securities of the air carrier involved in the conference, during the restricted period set forth above, shall be presumed to have come into possession of information obtained at the conference knowing that such information was subject to the restrictions imposed above; but such presumption can be rebutted.

(d) *Compliance report required.* Within ten (10) days after the expiration of the time specified for keeping conference matters confidential every participant, as defined in this section, shall file a verified compliance report with the Secretary of the Board stating that he has complied in every respect with the conditions of this section, or if he has not so complied, stating in detail in what respects he has failed to comply.

(e) *Persons subject to the provisions of this section.* For the purposes of this section, participants shall include (1) any representative of any carrier and any representative of the Postmaster General actually present at the conference; (2) the carrier and the officers of any carrier which has had a representative at the conference; (3) the directors of any carrier, which has had a representative at the conference, the members of any firm of attorneys or consultants, which has had a representative at the conference, and the members of the Postmaster General's staff, who come into possession of information obtained at the conference, knowing that such information is subject to the restrictions imposed in this section.[2]

§ 302.315 Information to be requested from carrier.

With respect to the rate for the future period, the carrier will be requested to submit detailed estimates as to traffic, revenues and expenses by appropriate periods and the investment which will be required to perform the operations for a full future year. Full and adequate support shall be presented for all estimates, particularly where such estimates deviate materially from the carrier's past experience. With respect to the rate for a past period, essentially the same procedure shall be followed. Other information or data likewise may be requested by the Board's staff. All data submitted by the carrier shall be certified by a responsible officer.

§ 302.316 Staff analysis of data for submission of answers thereto.

After a careful analysis of these data, the Board's staff will, in most cases, send the carrier what might be termed a statement of exceptions showing areas of differences. Where practicable, the carrier may submit its answer to these exceptions. Conferences will then be scheduled to work out a clear understanding and resolution of the issues and facts from the standpoint of sound rate-making principles.

§ 302.317 Availability of data to Post Office Department.

The representatives of the Postmaster General shall have access to all conference data and, insofar as practicable, shall be furnished copies of all pertinent data prepared by the Board's staff and the carrier, and a reasonable time shall be allowed to get acquainted with the facts and issues and to make any presentation deemed necessary. *Provided,* That in cases other than those involving an issue as to the service mail rates payable by the Postmaster General pursuant to section 406(c) of the act or Reorgani-

[2] Restrictions on disclosure of confidential information and dealing in air carrier securities are imposed upon the Board's staff pursuant to applicable law.

zation Plan 10 of 1953, or those involving any period prior to October 1, 1953, representatives of the Postmaster General shall be furnished with copies of data under this provision only upon their written request.

§ 302.318 Post-conference procedure.

The rate conferences not being in the nature of proceedings, no briefs, or argument, or any formal steps, will be entertained by the Board. The form, content and time of the staff's presentation to the Board are entirely matters of internal procedure. Any party to the mail rate proceeding may, through the Board's staff, request the opportunity to submit a written or oral statement to the Board on any unresolved issue. The Board will grant such requests whenever it deems such action desirable in the interest of further clarification and understanding of the issues. The granting of an opportunity for such further presentation shall not, however, impair the rights that any party might otherwise have under the act and the rules of practice.

§ 302.319 Effect of conference agreements.

No agreements or understanding reached in rate conferences as to facts or issues shall in any respect be binding on the Board or any participant. Any party to mail rate proceedings will have the same rights to file an answer and take other procedural steps as though no rate conference had been held. The fact, however, that rate conferences were held and certain agreements or understandings may have been reached on certain facts and issues renders it proper to provide that upon the filing of an answer by any party to the rate proceeding all issues going to the establishment of a rate shall be open, except insofar as limited in prehearing conference in accordance with § 302.23.

§ 302.320 Waiver of §§ 302.313 and 302.314.

After the termination of a mail rate conference hereunder, the carrier, whose rates were in issue, may petition the Board for a release from the obligations imposed upon it and all other persons by §§ 302.313 and 302.314. The Board will grant such petition only after a detailed and convincing showing is made in the petition and supporting exhibits and documents that there is no reasonable possibility that any of the abuses sought to be prevented will occur or that the Board's processes will in any way be prejudiced. There will be no hearing or oral argument on the petition and the Board will grant or deny the request without assigning reasons therefor.

§ 302.321 Time of commencing and terminating conference.

At the commencement of an informal mail rate conference pursuant to this section, the members of the Board's staff conducting such conferences shall issue to each person present at such conference a written statement to the effect that such conference is being conducted pursuant to this section and stating the time of commencement of such conference; and at the termination of such conference the members of the Board's staff conducting such conference shall note in writing on such statement the time of termination of such conference.

Subpart D—Rules Applicable to Exemption Proceedings

§ 302.400 Applicability of this subpart.

This subpart sets forth the special rules applicable to proceedings on applications for exemption orders pursuant to § 101(3) or § 416(b)(1) of the Act. It further provides for the granting of exemptions upon the Board's own initiative and for the granting of emergency exemptions. As far as is consistent with this subpart, the provisions of Subpart A of this Part also apply to such proceedings. Proceedings for the issuance of exemptions by regulation shall remain subject to the provisions governing rule making.

§ 302.401 Filing of application.

(a) *Filing.* An application for exemption shall conform to the formal requirements of §§ 302.3 and 302.4. Such application shall be assigned a docket number and any additional documents filed in connection with such exemption shall be identified by the assigned docket number.

§ 302.402 Contents of application.

(a) *Title.* An application filed pursuant to this subpart shall be entitled "Application for Exemption".

(b) *Factual detail.* The application shall set forth the section or sections of the act, or the rule, regulation, term, condition, or limitation prescribed thereunder from which exemption is desired and shall state in detail the facts relied upon to establish that the enforcement of the provisions from which exemption is sought, is or would be an undue burden upon the applicant by reason of the limited extent of, or unusual circumstances affecting, the operations of such applicant and that enforcement of such provision is not in the public interest.

(c) *Supporting evidence.* The application shall be accompanied by a statement of economic data or other matters which the applicant desires the Board to officially notice, and by affidavits establishing such other facts as the applicant desires the Board to rely upon.

(d) *Record of service.* An application shall indicate the names of the parties served as required by § 302.403.

§ 302.403 Service of application.

(a) *Manner of service.* An application for exemption shall be served as provided by § 302.8.

(b) *Persons to be served.* Except in the case of an application for an exemption from sections 403 and 404 of the act or an application for exemption which will permit the applicant to render irregular services only other than between specified points, a copy of an application shall be served on the following parties who shall be presumed to have an interest in the subject matter of the application: (1) Any air carrier which is authorized to render regular service to any point involved in the application; (2) any person whose application for a certificate of public convenience and necessity, or for an exemption, authorizing regular service to or from any such point has been filed with, and has not finally been disposed of by, the Board; (3) the chief executive of any State, territory, or possession of the United States in which any such point is located; and (4) the chief executive of the city, town, or other unit of local government at any such point located in the United States or any territory or possession thereof.

(c) *Additional service of notice.* The Board may, in its discretion, order additional service made on such person or persons as the facts of the situation warrant.

§ 302.404 Posting of application.

The Board shall cause a copy of every application for exemption filed with it to be posted promptly on a public bulletin board at its principal offices in Washington, D. C.

§ 302.405 Dismissal of incomplete application.

(a) *Dismissal.* The Board may, on its own motion or the motion of any party in interest, dismiss an application for exemption which fails in any material respect to comply with the requirements of this part.

(b) *Additional data.* The Board may request the filing of additional data with respect to any application for exemption or any answer or reply filed by a party in interest in connection therewith.

§ 302.406 Answers to applications for exemptions.

Within ten (10) days after filing of an application for exemption, any party in interest may file an answer in support of or in opposition to the grant of a requested exemption. Such answer shall set forth in detail the reasons why the party believes the exemption should be granted or denied. The answer shall be accompanied by a statement of economic data or other matters which it is desired that the Board officially notice, and by affidavits establishing such other facts as are relied upon.

§ 302.407 Reply.

Within seven (7) days after service of an answer, an applicant for exemption may file a reply thereto in conformity with the provisions of § 302.402.

§ 302.408 Request for hearing.

Although in the usual course of disposition of an application for exemption no formal hearing will be granted to the applicant or to a party in interest opposing such exemption, the Board may, in its discretion, order such proceeding set down for hearing. Any applicant, or any party in interest opposing an application, who desires to request a hearing on an application for exemption shall set forth in detail in his request the reasons why the filing of affidavits or other written evidence will not permit the fair and expeditious disposition of the application, and, to the extent that such request is dependent upon factual assertions, shall accompany such request

by affidavits establishing such facts. In the event a hearing is ordered by the Board, Subpart A of this part shall govern the proceedings.

§ 302.409 Exemptions on the Board's initiative.

Where required by the circumstances and the public interest, the Board may enter exemption orders on its own initiative.

§ 302.410 Emergency exemptions.

(a) *Applicability.* Where required by the circumstances and the public interest, the Board may, upon request or upon its own initiative, enter exemption orders pursuant to § 101(3) or § 416(b) of the Act, or deny applications therefor, upon less than the normal period provided for filing answers (§ 302.406) and replies thereto (§ 302.407) and upon no notice. In particular proceedings the Board may specify a lesser time within which answers and replies thereto may be filed and notify interested persons of this time period. Where the public interest so requires, the Board may act without awaiting the filing of answers or replies thereto.

(b) *Applications.* Applications for emergency exemption need not conform to the requirements of Subparts A and D of this part except that they must be in writing and must set forth, with detailed facts and evidence in support thereof, the grounds on which the exemption is requested. In addition, any applicant requesting such action shall state the reasons it deems adequate to justify departure from the normal procedures and shall state which air carriers have been notified in accordance with paragraph (c) of this section. The Board, moreover, may require additional information from any applicant before acting on the application.

(c) *Notice.* Except where the Board consents that no notice need be given, applicants for emergency exemption shall notify any air carrier which is authorized to render route-type service between points or areas involved in the application that such request has been filed. Such notification shall be made in the same manner of communication, contain the same information, and be dispatched at the same time, as the application made with the Board.

Subpart E—Rules Applicable to Proceedings With Respect to Rates, Fares and Charges

§ 302.500 Applicability of this subpart.

This subpart sets forth the special rules applicable to proceedings with respect to rates, fares and charges. For information as to other applicable rules, reference should be made to Subpart A of this part, to the Federal Aviation Act, and to the substantive rules, regulations and orders of the Board.

§ 302.501 Institution of proceedings.

A proceeding to determine rates, fares, or charges for the transportation of persons or property by aircraft, or the lawful classification, rule, regulation, or practice affecting such rates, fares or charges, may be instituted by the filing of a petition or complaint by any person, or by the issuance of an order by the Board.

§ 302.502 Contents of petition or complaint.

If a petition or complaint is filed it shall state the reasons why the rates, fares, or charges, or the classification, rule, regulation, or practice complained of are unlawful and shall support such reasons with a full factual analysis.

§ 302.503 Dismissal of petition or complaint.

If the Board is of the opinion that a petition or complaint does not state facts which warrant an investigation or action on its part, it may dismiss such petition or complaint without hearing.

§ 302.504 Order of investigation.

The Board on its own initiative, or if it is of the opinion that the facts stated in a petition or complaint warrant it, may issue an order instituting an investigation of the lawfulness of any present or proposed rates, fares, or charges for the transportation of persons or property by aircraft or the lawfulness of any classification, rule, regulation, or practice affecting such rates, fares, or charges, and assigning the proceeding for hearing before an examiner. (Reference should be made to Subpart A of this part for rules applicable to hearings.)

§ 302.505 Complaints requesting suspension of tariffs.

(a) Formal complaints seeking suspensions of tariffs pursuant to section 1002(g) of the act shall fully identify the tariff and include reference to the name of the publishing carrier or agent, to the CAB number, and to specific items or particular provisions protested or complained against. The complaint should indicate in what respect the tariff is considered to be unlawful, and state what complainant suggests by way of substitution.

(b) A complaint requesting suspension of any tariff filed under the act ordinarily will not be considered unless made in conformity with this section and filed with the Board at least fifteen (15) days before the effective date of the tariff. In an emergency satisfactorily shown by complainant, and within the time limits herein provided, a telegraphic complaint may be sent to the Board and to the publishing carrier or agent stating the grounds relied upon, but such telegraphic complaint must immediately be confirmed by complaint filed and served in accordance with this section.

§ 302.506 Burden of going forward with the evidence.

At any hearing involving a change in a rate, fare, or charge for the transportation of persons or property by aircraft, or the lawful classification, rule, regulation, or practice affecting such rate, fare, or charge, the burden of going forward with the evidence shall be upon the person proposing such change to show that the proposed changed rate, fare, charge, classification, rule, regulation or practice is just and reasonable, and not otherwise unlawful.

Subpart F—Rules Applicable to Proceedings for Leave to Conduct Charter Trips or Special Services

§ 302.600 Applicability of this subpart.

This subpart sets forth the special rules applicable to proceedings brought by air carriers holding certificates of public convenience and necessity who seek to obtain Board approval to perform charter trips or special services in overseas or foreign air transportation to points or areas where such service would otherwise be contrary to the provisions of § 207.8 of this chapter.

§ 302.601 Petitions to conduct charter trips or special services into areas protected by § 207.8 of this chapter.

(a) Petitions filed pursuant to this section need not conform to the requirements of §§ 302.3 and 302.4 but must be submitted in triplicate, signed by a managing officer of the company. Such petition shall set forth the proposed date(s), number of trips, and area(s) or point(s) between which the service is desired to be performed, together with the equipment to be utilized, the approximate number of passengers or amount and kind of cargo to be carried, and the compensation to be received. In the case of charter trips, a copy of the proposed charter agreement(s) shall be annexed to the petition. A copy of the petition, together with all supporting documents, shall be served upon the air carrier certificated to serve the points or areas concerned at its principal office, and proof of such service shall accompany the petition when filed with the Board.

(b) The air carrier certificated to serve the points or areas concerned shall have five days (not including Saturday or Sunday or legal holidays) after the filing of such a petition in which to file notice of objections thereto, if any, with the Board and if such notice is filed, an additional ten days (not including Saturday or Sunday or legal holidays) in which to file supporting reasons or arguments as to why the petition should not be granted in the public interest. Such objections shall include a statement as to the objecting carrier's ability to handle the traffic and may, if desired, include the terms upon which the service requested would be performed by it.

(c) Thereafter the Board will grant the petition to such extent and subject to such terms and conditions as it finds to be in the public interest. Petitions for the approval of service which it finds not in the public interest will be denied.

Subpart G—Rules Applicable to Adequacy of Service Petitions

§ 302.700 Applicability of this subpart.

This subpart sets forth the special rules applicable to proceedings with respect to the adequacy of the service, equipment and facilities provided by a certificated air carrier at a duly authorized point. For information as to other applicable rules, reference should be made to Subpart A of this part to the

Federal Aviation Act and to the substantive rules, regulations and orders of the Board.

§ 302.701 Institution of proceedings.

A proceeding to determine the adequacy of the service, equipment and facilities being provided by a certificated air carrier at a duly authorized point may be instituted by the filing of a petition or complaint, or by the issuance of an order by the Board on its own initiative pursuant to section 1002 of the act.

§ 302.702 Contents of petition.

If a petition or complaint is filed, it shall state the reason why the service, equipment or facilities complained of are inadequate and shall support such reasons with a full factual analysis. Within fifteen (15) days after the date of service of a petition or complaint, the respondent may file an answer thereto.

§ 302.703 Parties to the proceeding.

The parties to the proceeding shall be the person filing the petition or complaint, the air carrier or carriers whose service is being challenged, Bureau Counsel and any other person whom the Board permits to intervene.

§ 302.704 Action on petition or complaint.

If the Board is of the opinion that a petition or complaint does not state facts which warrant an investigation or action on its part, it may dismiss such petition or complaint without hearing. If the air carrier complained against shall not satisfy the complaint and there shall appear to be any reasonable ground for investigating the complaint, the Board shall investigate the matter complained of.

§ 302.705 Hearing.

In the event a hearing is ordered by the Board, Subpart A of this part shall govern the proceeding.

[F.R. Doc. 61-8294; Filed, Aug. 28, 1961; 8:55 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of State

Effective upon publication in the FEDERAL REGISTER, paragraph (g) of § 6.302 is revoked, the headnote and subparagraphs (2) and (7) of paragraph (o) are amended, and subparagraph (10) is added to paragraph (o) as set out below.

§ 6.302 Department of State.

* * * * *

(o) *Policy Planning Council.* * * *

(2) The Deputy Counselor and Vice Chairman.

* * * * *

(7) One Private Secretary to the Counselor and Chairman.

* * * * *

(10) One Staff Assistant.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

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

[F.R. Doc. 61-8295; Filed, Aug. 28, 1961; 9:32 a.m.]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

[Farm Marketing Quotas and Acreage Allotments; Amdt. 2]

PART 722—COTTON

Subpart—Regulations Pertaining to Marketing Quotas for Upland Cotton of the 1961 and Succeeding Crops

COUNTY NORMAL YIELDS

Correction

In F.R. Doc. 61-7995, appearing at page 7755 of the issue for Saturday, August 19, 1961, the following corrections are made in the tabular material of § 722.50(a):

1. For Baldwin County, Ala., the normal yield should read "298" instead of "296".

2. For Newton County, Ark., the normal yield should read "283" instead of "686".

3. For Riverside County, Calif., the normal yield should read "1062" instead of "1962".

4. For Pointe Coupee County, La., the normal yield should read "385" instead of "365".

5. Under North Carolina, the counties listed from "Adair" to "Woodward", inclusive, should appear under a separate heading reading "Oklahoma".

6. Under South Carolina, the counties listed from "Bedford" to "Wilson", inclusive, should appear under a separate heading reading "Tennessee".

7. Under Texas:

a. The following entry should be made immediately after the listing for "El Paso": "Erath____ 138".

b. The entry reading "Falls____ 216" should be deleted.

[Farm Marketing Quotas and Acreage Allotments; Amdt. 1]

PART 722—COTTON

Subpart—Regulations Pertaining to Marketing Quotas for Extra Long Staple Cotton of the 1961 and Succeeding Crop Years

COUNTY NORMAL YIELDS

Correction

In F.R. Doc. 61-7994, appearing at page 7758 of the issue for Saturday, August 19, 1961, in the tabular material of § 722.151(a), the heading "*County*" should appear over the list of counties, and the heading "*Normal yield (pounds per acre)*" should appear over the list of normal yields.

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

PART 992—IRISH POTATOES GROWN IN WASHINGTON

Approval of Proposed Expenses and Rate of Assessment

Notice of rule making regarding the proposed expenses and rate of assessment, to be made effective under Marketing Agreement No. 113, and Order No. 92 (7 CFR Part 992), regulating the handling of Irish potatoes grown in the State of Washington, was published in the FEDERAL REGISTER August 4, 1961 (26 F.R. 7017). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The notice afforded interested persons an opportunity to file data, views, or arguments pertaining thereto, not later than 15 days after publication in the FEDERAL REGISTER.

After consideration of all relevant matters presented it is hereby determined that:

§ 992.213 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the State of Washington Potato Committee, established pursuant to Marketing Agreement No. 113 and Order No. 92, to enable such committee to perform its functions pursuant to the provisions of the marketing agreement and order, during the fiscal year ending on May 31, 1962, will amount to $22,863.

(b) The rate of assessment to be paid by each handler, pursuant to Marketing Agreement No. 113 and Order No. 92, shall be three-eighths of one cent ($0.00375) per hundredweight of potatoes handled by him, as the first handler thereof, during the fiscal year.

(c) The terms used in this section shall have the same meaning as when used in said marketing agreement and order.

It is hereby found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001-1011) in that: (1) The relevant provisions of said marketing agreement and this part require that rates of assessment fixed for a particular fiscal year shall be applicable to all assessable potatoes from the beginning of such period and (2) the current fiscal year began on June 1, 1961, and the rate of assessment herein fixed will automatically apply to all assessable potatoes beginning with such date.

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

Dated: August 24, 1961.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61–8243; Filed, Aug. 28, 1961; 8:52 a.m.]

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

Expenses of Prune Administrative Committee for 1961–62 Crop Year and Rate of Assessment for Such Crop Year

Notice was published in the August 8, 1961, issue of the FEDERAL REGISTER (26 F.R. 7096) that, pursuant to Marketing Agreement No. 110, as amended, and Order No. 93, as amended (7 CFR Part 993; 26 F.R. 475), hereinafter referred to collectively as the "order", regulating the handling of dried prunes produced in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), that the Department had under consideration the proposed expenses of the Prune Administrative Committee, established under the order, for the 1961–62 crop year and a rate of assessment for that crop year. Interested persons were afforded the opportunity to file written data, views, or arguments with respect to the proposals within the time limit specified in the said notice. None was filed.

After consideration of all relevant matters presented, including the information and recommendations submitted by the Prune Administrative Committee, and other available information, it is hereby found and determined and, therefore, ordered, that the expenses of the committee and rate of assessment for the crop year beginning August 1, 1961, shall be as follows:

§ 993.312 Expenses of the Prune Administrative Committee and rate of assessment for the 1961–62 crop year.

(a) *Expenses.* Expenses in the amount of $68,250 are reasonable and likely to be incurred by the Prune Administrative Committee during the crop year beginning August 1, 1961, and ending July 31, 1962, for its maintenance and functioning, and for such purposes as the Secretary may pursuant to the provisions of this part determine to be appropriate.

(b) *Rate of assessment.* Each handler shall pay to the Prune Administrative Committee, in accordance with the provisions of § 993.81(a) of Marketing Agreement No. 110, as amended, and Order No. 93, as amended, as such handler's pro rata share of the aforesaid expenses, an assessment of 50 cents for each ton of prunes received by him as the first handler thereof during the crop year beginning August 1, 1961, and ending July 31, 1962; and such rate of assessment is hereby fixed for such crop year.

It is hereby found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that: (1) The relevant provisions of the order require that a rate of assessment fixed for a particular crop year shall be applicable to all assessable tonnage dried prunes from the beginning of such year; and (2) the current crop year began on August 1, 1961, and the rate of assessment herein fixed will automatically apply to all assessable tonnage dried prunes beginning with that date.

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

Dated: August 25, 1961.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division.

[F.R. Doc. 61–8305; Filed, Aug. 28, 1961; 9:32 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 55456]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Temporary Reduction in Duty

Exemptions, Returning Residents, Regulations; temporary reduction in duty, free allowance for returning residents, temporary elimination of 48-hour absence requirement respecting articles acquired in the Virgin Islands of the United States.

Public Law 87–132, 87th Congress, approved August 10, 1961, further amended paragraph 1798(c)(2), Tariff Act of 1930,[1] and is effective as to persons arriving in the United States on or after September 9, 1961, and before July 1, 1963. It reduces the basic $200 exemption to $100, except with respect to the Virgin Islands of the United States, and suspends the application of the additional $300 exemption during the period indicated. It makes no change in the provision that the basic exemption of $100 ($200 in the case of the Virgin Islands) may be claimed not more than once every 30 days. No change is made respecting the limitations on alcoholic beverages and cigars.

A resident returning directly or indirectly from the Virgin Islands of the United States is still entitled to a $200 exemption, but not more than $100 of the exemption shall be applied to articles acquired elsewhere than in the Virgin Islands of the United States. Articles acquired by the resident in the Virgin Islands of the United States up to the amount allowed are also exempt, during the specified period, from the 48-hour absence requirement.

The following regulations are prescribed during the effective period of Public Law 87–132 and so much of §§ 10.17, 10.19, 10.20, Customs Regulations, and any other provisions inconsistent or in conflict therewith are hereby suspended:

§ 10.17a Temporary regulations applicable during effective period of Public Law 87–132.

(a) *Reduced exemptions.* Public Law 87–132, approved August 10, 1961, reduces the exemptions from duty under paragraph 1798(c)(2), Tariff Act of 1930, as amended, during the effective period of such law (September 9, 1961, through June 30, 1963). The $200 exemption previously permitted is reduced to $100 with the exception of the exemption permitted to residents returning from the Virgin Islands (see paragraph (e) of this section). The additional $300 exemption is suspended during the effective period.

(b) *Arrivals at seaports or by air.* A resident of the United States returning at a seaport or by air from any foreign country shall itemize on customs Form 6063, or on customs Form 6063–B where such form is used, all articles acquired abroad, except that a resident returning by air who is precleared in Canada shall be subject to the procedure prescribed for residents returning at border ports otherwise than by air.

(c) *Arrivals at Canadian and Mexican border ports.* (1) A resident of the United States returning otherwise than by air at ports on the Canadian or Mexican border may be permitted to declare orally articles acquired abroad for his personal or household use if the total value of such articles does not exceed

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[1] "(2) articles (including not more than one wine gallon of alcoholic beverages and not more than one hundred cigars) acquired abroad as an incident of the journey from which he is returning, for his personal or household use, but not imported for the account of any other person nor intended for sale, if declared in accordance with regulations of the Secretary of the Treasury, up to but not exceeding in aggregate value—

"(A) $100 (or $200 in the case of persons arriving directly or indirectly from the Virgin Islands of the United States, not more than $100 of which shall have been acquired elsewhere than in the Virgin Islands of the United States) if such person arrives before July 1, 1963 (or $200 if such person arrives on or after July 1, 1963), and he either arrives from a contiguous country which maintains a free zone or free port (see subparagraph (d) of this paragraph), or arrives from any other country after having remained beyond the territorial limits of the United States for a period of not less than forty-eight hours, and in either case has not claimed an exemption under this subdivision (A) within the thirty days immediately preceding his arrival; and

"(B) $300 in addition, if such person arrives on or after July 1, 1963, and he has remained beyond the territorial limits of the United States for a period of not less than twelve days and has not claimed an exemption under this subdivision (B) within the six months immediately preceding his arrival. Tariff Act of 1930, paragraph 1798(c)(2), as amended (19 U.S.C. 1201 (par. 1798(c)(2)).

"In applying paragraph 1798(c)(2)(A) of the Tariff Act of 1930, as amended, to articles acquired in the Virgin Islands of the United States by any person who arrives in the United States * * * the 48-hour requirement in such paragraph 1798(c)(2)(A) shall be treated as satisfied." (Public Law 87–132, sec. 2.)

$100 unless there are articles which do not accompany the resident. In the latter instance, a written declaration shall be required for all articles acquired abroad.

(2) A family group traveling together may be permitted to declare orally articles acquired abroad for the personal or household use of any member of the family if the value of such articles does not exceed an amount totaling more than $100 times the number of members of the family group.

(3) A written declaration on customs Form 6059 shall be required for all articles acquired abroad for personal or household use of the returning resident where the total value of the articles exceeds the value of articles which may be permitted to be declared orally.

(4) A written declaration on customs Form 6059 shall be required for articles subject to duties or duties and taxes, such as alcoholic beverages in excess of the quantity allowed under the exemption or articles not brought in for the personal or household use of the resident.

(d) *Miscellaneous.* Individual items not exceeding $5 in value per item may be grouped as "Miscellaneous" up to but not exceeding a total value of $50 where a written declaration is required, unless such articles are not accompanying the resident, in which case, they shall be itemized on the written declaration.

(e) *Virgin Islands of the United States.* Residents of the United States who have visited the Virgin Islands of the United States, whether returning directly or indirectly from those Islands, shall present a written declaration on customs Form 6063–C for all articles acquired in the Virgin Islands or elsewhere. A resident returning directly or indirectly from the Virgin Islands of the United States shall be allowed an exemption up to $200 for articles acquired for personal or household use, but not more than $100 of the exemption shall be applied to articles not acquired in the Virgin Islands. The exemption for articles acquired in the Virgin Islands of the United States is not conditioned upon any length of absence from the United States. Not more than one wine gallon of alcoholic beverages and not more than 100 cigars may be included in the $200 exemption. (Sec. 201 (par. 1798), 46 Stat. 683, as amended; 19 U.S.C. 1201 (par. 1798); Public Law 87–132).

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

Approved: August 22, 1961.

JAMES POMEROY HENDRICK,
Acting Assistant Secretary of the Treasury.

[F.R. Doc. 61–8230; Filed, Aug. 28, 1961; 8:50 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Tolerance for Residues of Toxaphene

A petition was filed with the Food and Drug Administration by Hercules Powder Company, 910 Market St., Wilmington 99, Delaware, requesting the establishment of a tolerance for residues of toxaphene (chlorinated camphene containing 67 percent–69 percent chlorine) in or on bananas at 3 parts per million.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which a tolerance is being established.

After consideration of the data submitted in the petition and other relevant material which show that the tolerance established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities are amended by adding to § 120.138 (21 CFR 120.138; 26 F.R. 1465) a new item, as follows:

§ 120.138 Tolerances for residues of toxaphene.

* * * * *

3 parts per million in or on bananas (of which residue not more than 0.3 part per million shall be in the pulp after the peel is removed and discarded).

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: August 22, 1961.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 61–8248; Filed, Aug. 28, 1961; 8:53 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Bacillus Thuringiensis Berliner; Exemption From Requirement of Tolerance for Residues of Viable Spores

A petition was filed with the Food and Drug Administration by Nutrilite Products, Inc., Post Office Box 1166, Hemet, California, requesting exemption from the requirement of a tolerance for residues of the viable spores of the microorganism Bacillus thuringiensis Berliner for pesticide use in or on melons and tomatoes. Evidence before the Commissioner of Food and Drugs shows that the micro-organism Bacillus thuringiensis Berliner, when eaten by man or other warmblooded animals, is harmless and will cause no disease condition.

The Secretary of Agriculture has certified that this pesticide chemical is useful on melons and tomatoes.

After consideration of the data submitted in the petition and other relevant material which show that the exemption from the requirement of a tolerance established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated to the Commissioner by the Secretary (25 F.R. 8625), § 120.176 (21 CFR 120.176) is amended by adding melons and tomatoes to the list of raw agricultural commodities in paragraph (b) of this section for which exemption from requirement of a tolerance is established for this microorganism.

As amended, § 120.176(b) reads as follows:

§ 120.176 Exemption from the requirement of a tolerance for residues of viable spores of the micro-organism Bacillus thuringiensis Berliner.

* * * * *

(b) Exemption from the requirement of a tolerance is established for residues of the microbial pesticide Bacillus thuringiensis Berliner as specified in paragraph (a) of this section in or on the following raw agricultural commodities: Alfalfa, apples, artichokes, beans, broccoli, cabbage, cauliflower, celery, cotton-

seed, lettuce, melons, potatoes, spinach, tomatoes.

Any persons who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: Aug. 22, 1961.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 61-8249; Filed, Aug. 28, 1961; 8:53 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

CALCIUM DISODIUM EDTA

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by The Dow Chemical Company, Midland, Michigan, and other relevant material, has concluded that the following regulation should issue with respect to the food additive calcium disodium EDTA in pecan pie fillings to prevent discoloration. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.1017 (21 CFR 121.1017) is amended by adding pecan pie filling, in alphabetical order, to the list of foods in paragraph (b)(1) as follows:

§ 121.1017 Calcium disodium EDTA (calcium disodium ethylenediaminetetraacetate; calcium disodium (ethylenedinitrilo) tetraacetate).

* * * * * * *

(b) * * *

(1) * * *

Food	Limitation (parts per million)	Use
* *	* *	* * *
Pecan pie filling--	100	Promote color retention.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: August 23, 1961.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 61-8246; Filed, Aug. 28, 1961; 8:52 a.m.]

SUBCHAPTER C—DRUGS

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

PART 146e—CERTIFICATION OF BACITRACIN AND BACITRACIN-CONTAINING DRUGS

Labeling; Exemption From Certification

CHANGES IN EXPIRATION DATES

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), the regulations for the certification of antibiotic and antibiotic-containing drugs (21 CFR 146c.248, 146e.402) are amended in the following respects:

1. In § 146c.248 *Pyrrolidinomethyl tetracycline,* paragraph (c) *Labeling,* subparagraph (3) is amended by changing the period after the word "certified" to a comma and inserting the following clause: "except that the blank may be filled in with the date that is 24 months after the month during which the batch was certified if the person who requests certification has submitted to the Commissioner results of tests and assays showing that after having been stored for such period of time such drug as prepared by him complies with the standards prescribed in paragraph (a) of this section."

2. Section 146e.402 *Bacitracin ointment; zinc bacitracin ointment* is amended as follows:

a. In paragraph (c) *Labeling,* subparagraph (1)(iv) is amended by changing the words "48 months" to read "48 months or 60 months".

b. In paragraph (f) *Exemption of bacitracin ointment from certification,* subparagraph (1) is amended by changing the words "48 months" to read "60 months."

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since the nature of the change is such that it cannot be applied to any specific product unless and until the manufacturer thereof has supplied adequate data regarding that article.

Effective date. This order shall become effective 30 days from the date of its publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: August 23, 1961.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 61-8250; Filed, Aug. 28, 1961; 8:53 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

[Department Circular No. 530; Rev. 8, Amdt. 3, 1961]

PART 315—UNITED STATES SAVINGS BONDS

Method of Interest Payments, and Maturation

AUGUST 2, 1961.

Sections 315.32(b)(5) and 315.37 of Department Circular No. 530, Eighth Revision, as amended, dated December 26, 1957 (31 CFR Part 315), are hereby amended to read as follows:

§ 315.32 Current income bonds.

* * * * *

(b) *Method of interest payments.*

* * *

(5) The interest due at maturity in the case of bonds for which an optional extension privilege has not been granted and at the final maturity for all bonds for which an optional extension privilege has been granted will be paid with the principal and in the same manner. However, if the registered owner of a bond in beneficiary form dies on or after the due date without having presented and surrendered the bond for payment or authorized reissue, and is survived by the beneficiary, the interest may be paid to the legal representative of or the person entitled to the registered owner's estate. To obtain such payment, the bonds with a request therefor by the ben-

eficiary should be submitted together with the evidence required in § 315.70.

§ 315.37 At or after maturity.

Pursuant to its terms, a savings bond of any series will be paid at or after maturity at the maturity value fixed by the terms of the Department Circular offering the particular series of bonds to the public, current at the time of redemption, and in no greater amount. No advance notice will be required for the redemption of matured savings bonds except that any current income bond for which an optional extension period has been provided will, beginning with the first day of the third calendar month following the calendar month in which the bond originally matured, be regarded as unmatured until it reaches its final maturity date, and the same notice prior to redemption will be required for it as required for bonds of the same series which have not reached original maturity.

Compliance with the notice, public procedure, and effective date requirements of the Administrative Procedure Act (P.L. 404, 79th Cong.; 60 Stat. 237) is found to be unnecessary with respect to this amendment.

[SEAL] DOUGLAS DILLON,
Secretary of the Treasury.

[F.R. Doc. 61-8227; Filed, Aug. 28, 1961; 8:50 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter 50—Division of Public Contracts, Department of Labor

PART 50-202—MINIMUM WAGE DETERMINATIONS

Manifold Business Forms Industry

Pursuant to authority in the Walsh-Healey Public Contracts Act (41 U.S.C. 35), 41 CFR 50-202.29(d) (26 F.R. 7698) is amended as herein below set out. This amendment will merely change the effective date of the minimum wage determination for Manifold Business Forms Industry from August 24, 1961, to August 28, 1961. The purpose of this change is to permit consideration to be given to the motion of the Printing Industry of America Incorporated requesting that this determination be reconsidered.

§ 50-202.29 Manifold business forms industry.

* * * * *

(d) *Effective date.* This section shall be effective and the minimum herein shall apply as to all contracts subject to the Walsh-Healey Public Contracts Act, bids for which are solicited or negotiations otherwise commenced on or after August 28, 1961.

(Secs. 1, 4, 49 Stat. 2036, as amended, 2038; 41 U.S.C. 35, 38)

Signed at Washington D.C., this 23d day of August, 1961.

ARTHUR J. GOLDBERG,
Secretary of Labor.

[F.R. Doc. 61-8222; Filed, Aug. 28, 1961; 8:49 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

PART 72—INTERSTATE QUARANTINE

Subpart C—Shipment of Certain Things

ETIOLOGIC AGENTS

Notice of proposed rule making, public rule making procedures and postponement of effective date have been omitted as unnecessary in the issuance of the following amendment to § 72.25(b) which relieves restrictions.

Section 72.25(b) is amended to read:

§ 72.25 Etiologic agents.

* * * * *

(b) A person shall not knowingly transport or cause to be transported in interstate traffic any etiologic agent unless the agent is packaged in a minimum of two sealed containers, and each such double container is enclosed in a third container, hereinafter referred to as an individual shipping container, in accordance with the following requirements:

(1) (i) The materials shall be placed in a watertight and airtight container which shall then be enclosed in a second durable watertight and airtight container. In the case of liquid (including frozen materials), the intervening space between the containers shall be provided with sufficient absorbent material so placed as to absorb the entire contents in case of breakage or leakage. Each such double container shall then be enclosed in an individual shipping container constructed of corrugated cardboard, fiber glass, wood, or other material of equivalent strength.

(ii) If dry ice is used as a refrigerant, the individual shipping container shall be vented, and if an outside shipping container is used, it shall also be vented.

(2) (i) The maximum amount of etiologic agent which may be shipped in an individual shipping container shall not exceed one U.S. gallon provided that two or more individual shipping containers may be overpacked in a single outside shipping container.

(ii) All containers and closures are so designed and constructed of such materials that they are capable of withstanding without rupture or leakage of contents, all shocks, pressure changes, or other conditions ordinarily incident to transportation handling.

(3) The shipping documents and the manifest accompanying the shipment include statements that the shipment contains infectious material and identifies the etiologic agent involved. The shipment itself shall be appropriately labeled.

(4) The requirements of this paragraph are in addition to and not in lieu of any other packaging or labeling requirements for the interstate shipment of etiologic agents established by the Interstate Commerce Commission and Civil Aeronautics Board.

(5) With respect to shipments made to carry out the national defense program, the Surgeon General may approve variations as to the requirements in subparagraphs (2) (i) and (3) of this paragraph if upon review and evaluation he finds that such variations and the required attendant changes in packaging, handling, and shipment procedures will provide protection at least equivalent to the above requirements.

(Sec. 215, 58 Stat. 690; 42 U.S.C. 216. Interpret or apply sec. 361, 58 Stat. 703, 42 U.S.C. 264)

Dated: August 15, 1961.

[SEAL] LUTHER L. TERRY,
Surgeon General.

Approved: August 22, 1961.

ABRAHAM RIBICOFF,
Secretary.

[F.R. Doc. 61-8224; Filed, Aug. 28, 1961; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Parts 687, 689, 699]

REVIEW COMMITTEES FOR VARIOUS INDUSTRIES IN PUERTO RICO

Public and Employer Members

By virtue of Administrative Order No. 558 published in the FEDERAL REGISTER on August 17, 1961 (26 F.R. 7706), Review Committee 1–A, 1–B, and 1–C were appointed pursuant to section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) and paragraph (C) of proviso (1) of subsection 6(c) of the aforementioned Act, as amended by the Fair Labor Standards Amendments of 1961 (sec. 5(c), Pub. Law 87–30), to recommend the minimum rate or rates payable under paragraph (C) of proviso (1) of subsection 6(c) in lieu of those provided under paragraph (A) of proviso (1) to employees in the designated industries. Administrative Order No. 558 advised that the names of the members of the review committees would be published at a later date.

Therefore, as provided in Administrative Order No. 558, I hereby name the following committee members to represent the public and employers on Review Committees 1–A, 1–B, and 1–C:

Public (for All Committees)

Kenneth R. Redden, Chairman, Charlottesville, Va.
Reece B. Bothwell, Rio Piedras, P.R.
Homero Monsanto-Diaz, Rio Piedras, P.R.

Employers

Gilbert J. Durbin, New Orleans, La. (for all Committees).
Martin Velez-Rosado, Vega Alta, P.R. (for Committee 1–A).
Thaddeus C. V'Soske, Vega Baja, P.R. (for Committee 1–A).
Malcolm Gordon, Cayey, P.R. (for Committee 1–B).
Cesar A. Silva, Arecibo, P.R. (for Committee 1–B).
Jesus M. Guzman, Santurce, P.R. (for Committee 1–C).
Antonio Roig, Jr., Humacao, P.R. (for Committee 1–C).

The names of the employee members for Review Committees 1–A, 1–B, and 1–C shall be published in the FEDERAL REGISTER at a later date.

Signed at Washington, D.C., this 24th day of August 1961.

ARTHUR J. GOLDBERG,
Secretary of Labor.

[F.R. Doc. 61–8241; Filed, Aug. 28, 1961; 8:51 a.m.]

[29 CFR Parts 687, 689, 699]

REVIEW COMMITTEES FOR VARIOUS INDUSTRIES IN PUERTO RICO

Employee Members

By virtue of Administrative Order No. 568 published in the FEDERAL REGISTER on August 17, 1961 (26 F.R. 7706), among other things, Review Committees 1–A, 1–B, and 1–C were appointed pursuant to section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) and paragraph (C) of proviso (1) of subsection 6(c) of the aforementioned Act, as amended by the Fair Labor Standards Amendments of 1961 (sec. 5(c), Pub. Law 87–30), to recommend the minimum rate or rates payable under paragraph (c) of proviso (1) of subsection 6(c) in lieu of those provided under paragraph (A) of proviso (1) to employees in the designated industries. Administrative Order No. 558 advised that the names of the members of the review committees would be published at a later date.

Therefore, as provided in Administrative Order No. 558, I hereby name the following committee members to represent the employee members on Review Committees 1–A, 1–B, and 1–C:

Employee Members on Review Committees 1–A and 1–B

Ted Benton, Chattanooga, Tenn.
Roy S. Whitmire, Asheville, N.C.
Prudencio Rivera-Martinez, San Juan, P.R.

Employee Members on Review Committee 1–C

Thomas E. Harris, Washington, D.C.
Robert L. Schutt, Chicago, Ill.
Luis G. Estades, San Juan, P.R.

Signed at Washington, D.C., this 24th day of August 1961.

ARTHUR J. GOLDBERG,
Secretary of Labor.

[F.R. Doc. 61–8242; Filed, Aug. 28, 1961; 8:51 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 302]

[Docket No. 12955]

RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Prohibition of Unauthorized and Informal Documents

AUGUST 23, 1961.

Notice is hereby given that the Civil Aeronautics Board has under consideration a proposed amendment of §§ 302.4, 302.5, 302.6, and 302.18 which provides that unauthorized or informal documents which are submitted to the Board will not be accepted for filing; expressly prohibits post-answer responsive documents and establishes procedures whereby requests for leave to file documents subject to such rejection may be granted upon a show of good cause.

The principal features of the proposed regulation are explained in the attached Explanatory Statement and the proposed amendment is set forth in the attached Proposed Rule. This rulemaking action is proposed under the authority of sections 204(a) and 1001 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 788; 49 U.S.C. 1324, 1481).

Interested persons may participate in the proposed rule making through submission of ten (10) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington 25, D.C. All relevant matter in communications received on or before September 27, 1961, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

Explanatory statement. The Board has recently noted that many parties to its economic proceedings have adopted the practice of submitting pleadings, motions and other formal documents which are not authorized by the governing provisions of Part 302.[1] Apart from the fact that such documents generally serve no useful purpose, they do not fit the framework of Part 302 so that it is exceedingly difficult for other parties to the proceeding to know which of the various procedural rules therein set forth govern their rights to make responsive filings and the applicable time limitations. Frequently, moreover, these documents are filed as informal correspondence rather than as formal documents of the type contemplated by the rules or are improperly filed.[2] The Board's staff and its Docket Section are unduly burdened by the processing of such documents.

In order to remedy these procedural deficiencies, the proposed rule would amend Rule 4 by prohibiting the filing of unauthorized documents, and of otherwise proper documents by persons who lack standing in the proceeding to file such documents. Finally, the proposed rule provides that the Board will refuse to accept any document which is filed in violation of these or any other prohibitions or is not timely filed.

A related problem which the Board has frequently encountered is the tendency of parties in its economic proceed-

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[1] Under Rule 1(a), the Rules of Practice in Economic Proceedings govern the conduct of all economic proceedings before the Board, whether instituted by an order of the Board or by filing of an initiating application or pleading. Thus, Part 302 applies both to hearing and non-hearing cases. Moreover, the general provisions of Subpart A are applicable to economic proceedings instituted pursuant to substantive provisions of other Board regulations, such as Part 202 of the Economic Regulations which authorize the filing of applications for airport authorizations and service pattern changes.

[2] Proposed § 302.4(d)(ii) provides an exception whereby the pleadings of any public body or civic organization may be submitted by letter.

ings to file a multiplicity of responsive documents in the form of answers, replies to answers and replies to replies. Except in certain situations where responsive filings are permitted by the rules, pleadings following answers do not generally serve any useful purpose. Therefore, the proposed rule would amend Rules 6 and 18 to expressly prohibit the filing of post-answer responsive documents, which have not been expressly authorized or required by general rule or specific action of the Board or an examiner.

The prohibitions which would be newly imposed by Rules 4 and 6 are designed principally to curb unnecessary responsive pleadings and preclude informal filings. It should be noted that these procedural changes will not impair the present freedom of parties to file answers to documents which institute proceedings, under Rule 6.

However, any party who wishes to initiate a proceeding outside the procedural framework of Part 302 or seek a final decision on the merits of an authorized proceeding in a manner not contemplated therein could obtain such relief by securing specific permission from the Board or an examiner. In the same manner, a party who can demonstrate that special circumstances make it necessary or appropriate for him to file an unauthorized responsive pleading or one which fails to comply with the formal requirements prescribed for an authorized pleading might seek such affirmative relief. In order to insure that the Board and its examiners would enjoy the power to grant such requests upon good cause shown, proposed Rule 4 expressly authorizes the filing of motions for permission to file otherwise prohibited documents.

It is also proposed to amend Rule 5 to expressly permit amendments of applications prior to the filing of answers thereto or, if no answer is filed, prior to the designation of such applications for hearing. Subsequent amendments to applications could be made only if leave is granted by the Board or an examiner under the procedures prescribed in Rule 18. Finally, certain editorial revisions and regrouping of provisions have been proposed.

Proposed rule. It is proposed to amend §§ 302.4, 302.5, 302.6, and 302.18 of Part 302 of the Procedural Regulations (14 CFR Part 302), respectively, to read as follows:

§ 302.4 General requirements as to documents.

(a) *Contents.* In case there is no rule, regulation, or order of the Board which prescribes the contents of a formal application, petition, complaint, motion or other authorized or required document, such document shall contain a proper identification of the parties concerned, and a concise but complete statement of the facts relied upon and the relief sought.

(b) *Subscription.* Every application, petition, complaint, motion or other authorized or required document shall be signed by the party filing the same, or by a duly authorized officer or the attorney-at-law of record of such party, or by any other person: *Provided,* That, if signed by some other person, the reason therefor must be stated and the power of attorney or other authority authorizing such other person to subscribe the document must be filed with the document. The signature of the person signing the document constitutes a certification that he has read the document; that to the best of his knowledge, information and belief every statement contained in the instrument is true and no such statements are misleading; and that it is not interposed for delay.

(c) *Designation of person to receive service.* The initial document filed by any person shall state on the first page thereof the name and post office address of the person or persons who may be served with any documents filed in the proceeding.

(d) *Prohibition of certain documents.* No document which is subject to the general requirements of this subpart concerning form, filing, subscription, service and similar matters shall be filed with the Board or an examiner unless:

(1) Such document and its filing by the person submitting it has been expressly authorized or required in the Federal Aviation Act of 1958, any other law, this part, other Board regulations, or any order or other document issued by the Board, the Chief Examiner or an examiner assigned to the proceeding, and

(2) Such document complies with each of the requirements of §§ 302.3 and 302.8, and is submitted as a formal application, complaint, petition, motion, pleading or similar paper rather than as a letter, telegram or other written communication: *Provided, however,* That for good cause shown, pleadings of any public body or civic organization may be submitted by letter. *Provided further,* That comments concerning section 412 agreements, which have not been docketed, may be submitted by letter.

(e) *Documents improperly filed.* A document which is filed in violation of the prohibition imposed by paragraph (d) of this section, or a requirement imposed by any other provision of this part, will not be accepted for filing by the Board and will not be physically incorporated in the docket of the proceeding. The sender of such document will be notified informally of the Board's action thereon.

(f) *Motions for leave to file otherwise unauthorized documents.* (1) The Board will not accept any unauthorized document for filing unless leave has previously been obtained, from the examiner or the Board, on written motion and for good cause shown.

(2) After the assignment of an examiner to a proceeding, and before the issuance of a recommended decision or the expiration of the period within which exceptions to his initial decision may be filed, or the certification of the record to the Board, these motions shall be addressed to him. At all other times, such motions shall be addressed to the Board. The examiner or the Board will promptly pass upon such motions.

(3) Such motions shall be filed within seven days after service of any document or order or ruling to which the proposed filing is responsive. Such motions shall be served on all parties to the proceeding but answers thereto may not be filed.

(4) Such motions shall contain a concise statement of the matters relied upon as good cause for such relief and there shall be attached thereto the pleading or other document for which leave to file is sought.

§ 302.5 Amendment of documents and dismissal.

If any document initiating, or filed in, a proceeding is not in substantial conformity with the applicable rules or regulations of the Board as to the contents thereof, or is otherwise insufficient but not subject to rejection under § 302.4(e), the Board, on its own initiative, or on motion of any party, may strike or dismiss such document, or require its amendment. An application may be amended prior to the filing of answers thereto, or, if no answer is filed, prior to its designation for hearing. Thereafter, applications may be amended only if leave is granted by the Board or an examiner pursuant to the procedures set forth in § 302.18. If properly amended, a document shall be made effective as of the date of original filing but the time prescribed for the filing of an answer or any further responsive document directed towards the amended document shall be computed from the date of the filing of the amendment.

§ 302.6 Responsive documents.

(a) Answers to applications, complaints, petitions, motions or other documents or orders instituting proceedings may be filed by any party to such proceeding or any person who has a petition for intervention pending. Except as otherwise provided, answers are not required.

(b) *Further responsive documents.* Except as otherwise provided, no reply to an answer, reply to a reply, or any further responsive document shall be filed. Where a reply to an answer or any further responsive document is not fileable, all new matter contained in such answer shall be deemed controverted.

(c) *Time for filing.* Except as otherwise provided, an answer or any further responsive document shall be filed within seven days after service of the document to which such responsive filing is directed.

§ 302.18 Motions.

* * * * *

(c) *Answers to motions.* Within seven days after a motion is served, or such other period as the Board or examiner may fix, any party to the proceeding may file an answer in support of or in opposition to the motion, accompanied by such affidavits or other evidence as it desires to rely upon. Except as the Board or the examiner otherwise provides, no reply to an answer, reply to a reply, or any further responsive document shall be filed. Where a reply to an answer or any other further responsive document is not fileable, all new

matter contained in such answer shall be deemed controverted.

[F.R. Doc. 61-8240; Filed, Aug. 28, 1961, 8:51 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 600]

[Airspace Docket No. 61-NY-29]

FEDERAL AIRWAY

Designation

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 600 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration the designation of intermediate altitude VOR Federal airway No. 1749 as a 10-mile wide airway from the Cleveland, Ohio, VORTAC via the Cleveland VORTAC 024° True radial to the United States/Canadian border.

This proposed airway would provide the United States portion of a route for VOR equipped aircraft operating at intermediate altitudes between Toronto, Canada, and Cleveland and terminals within the Southern United States.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Eastern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on August 22, 1961.

R. E. THOMAS,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 61-8212; Filed, Aug. 28, 1961; 8:48 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 60-LA-88]

FEDERAL AIRWAYS AND CONTROLLED AIRSPACE

Withdrawal of Proposal To Modify Federal Airways, Associated Control Areas and Control Area Extension, and Revoke a Control Area Extension

In a notice of proposed rule making published in the FEDERAL REGISTER as Airspace Docket No. 60-LA-88 on December 1, 1960 (25 F.R. 12328), it was stated that the Federal Aviation Agency proposed to:

1. Combine the Tucson, Ariz., control area extensions (§§ 601.1186 and 601.1441) and include additional area to the south and west.

2. Realign Victor 105 from the Tucson VORTAC via the intersection of the Tucson VORTAC 273° and the Casa Grande VOR 146° True radials; to the Casa Grande VOR.

3. Revoke the segment of Victor 202, and its associated control areas between Tucson and Cochise, Arizona.

Subsequent to publication of the notice, a review of the requirements for controlled airspace in the Tucson area has indicated that, upon implementation of the provisions of Amendment 60-21 to Part 60 of the Civil Air Regulations, numerous changes will be required in the dimensions of the controlled airspace proposed in the notice. The need for these changes will be considered in an Amendment 60-21 implementation study to be made on an area basis in which requirements for controlled airspace in the Tucson area will be correlated with requirements in adjacent areas. Accordingly, the notice is being withdrawn, and a new Proposal will be issued upon completion of the study.

In consideration of the foregoing, the notice of proposed rule making contained in Airspace Docket No. 60-LA-88 is hereby withdrawn.

Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on August 23, 1961.

R. E. THOMAS,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 61-8213; Filed, Aug. 28, 1961; 8:48 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-WA-127]

CONTROLLED AIRSPACE

Withdrawal of Proposal To Modify Control Area Extension

In a notice of proposed rule making published in the FEDERAL REGISTER in Airspace Docket No. 60-WA-127 on May 18, 1960 (25 F.R. 4393), it was stated that the Federal Aviation Agency proposed the modification of the Brunswick, Ga., control area extension.

Subsequent to publication of the notice, a review of the requirements for controlled airspace in the Brunswick area has indicated that, upon implementation of the provisions of Amendment 60-21 to Part 60 of the Civil Air Regulations, numerous changes will be required in the dimensions of the controlled airspace proposed in the notice. The need for these changes will be considered in an Amendment 60-21 implementation study to be made on an area basis in which requirements for controlled airspace in the Brunswick area will be correlated with requirements in adjacent areas. Accordingly, the notice is being withdrawn, and a new proposal will be issued upon completion of the study.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), notice is hereby given that the proposal contained in Airspace Docket No. 60-WA-127 is withdrawn.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on August 22, 1961.

R. E. THOMAS,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 61-8210; Filed, Aug. 28, 1961; 8:48 a.m.]

[14 CFR Part 608]

[Airspace Docket No. 59-LA-60]

SPECIAL USE AIRSPACE

Alteration of Restricted Area

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 608.64 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration a request by the Department of the Army for the alteration of the Tooele, Utah, Restricted Area R-6403. R-6403 is used for the burning and demolition of high explosives.

The Federal Aviation Agency is considering the alteration of R-6403 by changing the time of designation from "Sunrise to sunset" to "0800 to 2000 PST". This change in the time of designation will provide safety to air traffic during those periods when demolition activities are conducted.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Manager, Western Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency,

Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on August 23, 1961.

R. E. THOMAS,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 61-8211; Filed, Aug. 28, 1961; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 13389; FCC 61-1034]

RADIO BROADCAST SERVICES

Notice of Proposed Rule Making

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 23d day of August 1961;

The Commission having under consideration the provisions of §§ 3.119, 3.289, 3.654, and 3.789 of its rules relating to the announcement of sponsored programs on standard broadcast stations, FM broadcast stations, television broadcast stations and international broadcast stations, respectively;

It appearing that a Notice of Proposed Rule Making was released in this Docket on February 8, 1960 (FCC 60-111), for the purpose of amending the above-mentioned sections of the rules and regulations of the Commission; and

It further appearing that in the aforementioned notice, written comments and reply comments were invited to be submitted in this rule making proceeding and that such documents were filed with the Commission in response to said invitation; and

It further appearing that no Report and Order was adopted or released by the Commission in this Docket and that the matter is presently pending; and

It further appearing that Public Law 86-752 (signed into law on September 13, 1960), among other things, amends section 317 of the Communications Act of 1934 to redefine the situations in which broadcast licensees must make sponsorship identification announcements; and

It further appearing that said Public Law 86-752 added a new section 508 to the Act requiring disclosure by persons, other than broadcast licensees, who provide or receive valuable consideration for the inclusion of any matter in a program intended for broadcast, and that such persons had not previously been directly subject to any previous provisions of the Act; and

It further appearing that subsection (e) of the revised section 317 directs the Commission to prescribe appropriate rules and regulations to implement the Congressional intent expressed in the new wording of section 317; and

It further appearing that the Commission by a Notice of Proposed Rule Making, Docket No. 14094 (FCC 61-546), released on April 27, 1961, instituted a rule making proceeding for the purpose of amending §§ 3.119, 3.289, 3.654, and 3.789 of the rules and regulations of the Commission so as to implement the new section 508 and the revised section 317 of the Act, thereby complying with the mandate of the subsection (e) mentioned immediately above; and

It further appearing that in view of the new rule making proceeding thus instituted, the present proceeding in Docket No. 13389 should be terminated;

It is ordered, That this proceeding is terminated.

Released: August 24, 1961.

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

[F.R. Doc. 61-8252; Filed, Aug. 28, 1961; 8:54 a.m.]

[47 CFR Part 3]

[Docket No. 14185 (RM-94)]

RADIO BROADCAST SERVICES

Order Extending Time for Filing Comments and Reply Comments

In the matter of revision of FM broadcast rules, particularly as to allocation and technical standards, Docket No. 14185; petition of: FM Unlimited, Inc. (RM-94); for changes in FM station assignment rules.

1. The National Association of Broadcasters, the Federal Communications Bar Association and the Association of Federal Communications Consulting Engineers on August 14, 1961, filed with the Commission a Petition For Extension Of Time Within Which To File Comments in this proceeding.

2. In the aforementioned petition the parties concur with the Commission that it is desirable to update the rules governing FM broadcast service. They point out, however, that the proposals are of far-reaching significance and raise substantial problems of a technical and legal nature.

3. For this reason, they believe that additional time within which to study the proposals will enable them to furnish the Commission with data and information which will be of substantial assistance to it in reaching a final decision in the matter. They accordingly request that the date for filing comments in this proceeding be extended until November 10, 1961.

4. On August 15, 1961, Station WBEN, Inc., Buffalo, New York, filed with the Commission a Petition For Additional Time For Comments.

5. This petition states that, because of fact that the present proceeding completely revises the basic structure of FM allocations, considerable time will be needed to study and evaluate the proposals herein. WBEN, Inc., also states that because of the heavy workload of its consulting engineer resulting from the many notices of proposed rule making adopted by the Commission in the latter part of July and the first part of August, 1961, it would be highly impractical for its consultant to perform a proper analysis of the proposed new FM rules within the time contemplated by the notice of proposed rule making released herein on July 5, 1961.

6. WBEN, Inc., therefore requests that the time for filing comments herein be extended for 90 days and that the time for filing reply comments be fixed at 30 days thereafter.

7. The Commission is of the opinion that, in view of the far-reaching significance of this proceeding and its overall effect on the growth and development of FM broadcasting, additional time should be granted. However, it is of the opinion that an extension of approximately two months for filing comments and the fixing of a date about one month thereafter for filing reply comments would provide sufficient time.

8. *Accordingly, it is ordered,* That the Petition For Extension Of Time Within Which To File Comments, filed by the National Association of Broadcasters, the Federal Communications Bar Association and the Association of Federal Communications Consulting Engineers is granted and that the portion of Petition For Additional Time For Comments filed by WBEN, Inc., which requests a 90-day extension of time for filing comments is denied, and that the time for filing comments in this proceeding be extended from September 5, 1961, to and including November 10, 1961.

9. *It is further ordered,* That the portion of the Petition For Additional Time For Comments filed by WBEN, Inc., which requests that the date for filing reply comments be fixed at 30 days after an extended date for filing comments is granted, and that the time for filing reply comments in this proceeding be extended from October 5, 1961, to and including December 11, 1961 (since the date 30 days after November 10, 1961, falls upon Sunday, December 10, 1961).

Adopted: August 18, 1961.

Released: August 18, 1961.

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

[F.R. Doc. 61-8253; Filed, Aug. 28, 1961; 8:54 a.m.]

[47 CFR Part 3]

[Docket Nos. 13961, 14187 (RM-256); FCC 61-1033]

RADIO BROADCAST SERVICES

Order Extending Time for Filing Comments and Reply Comments and Order of Clarification

In the matter of amendment of section IV (Statement of Program Service) of Broadcast Application Forms 301, 303, 314 and 315, Docket No. 13961; in the matter of amendment of §§ 3.111, 3.112, 3.114, 3.281, 3.282, 3.284, 3.581, 3.582, 3.584, 3.663(a), 3.664 (a) and (c), 3.781, 3.782, and 3.784 of the Commission's rules governing logging requirements for broadcast stations, Docket No. 14187 RM-256.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 22d day of August 1961;

1. These proceedings were instituted by a notice of proposed rule making in Docket 13961, released on February 21, 1961, and continued by a notice of further proposed rule making in said docket released on July 7, 1961, and by a notice of proposed rule making in Docket 14187 released on that same date. The latter notices invited comments to be filed on or before September 7, 1961, and reply comments on or before September 18, 1961.

2. On August 18, 1961, Oklahoma Television Corporation (Oklahoma) licensee of Station KWTV-TV, filed with the Commission a request for additional time for comments in which they requested that the time for filing comments in these proceedings be extended to October 9, 1961, and the time for filing reply comments be extended to October 23, 1961.

3. Oklahoma sets forth as its reason for the request the fact that it is concerned about the possibility of undue burden being placed on its operating personnel in following the proposed amendments set forth herein. They therefore propose to obtain more accurate information about and understanding of the impact of the proposed changes by a "trial run" during which the proposed new requirements will be followed to the maximum extent possible.

4. They then plan to perform a time and work-hour analysis which it is hoped will reveal some accurate information as to the administrative burden which will be imposed by functioning under the proposed new rules. They also feel that the test may bring up other problems concerning the implementation of the proposed new rules.

5. Oklahoma states that there would be insufficient time to carry out such a test unless the times for filing comments and reply comments are extended.

6. Recently, the National Association of Broadcasters has indicated an intention to arrange for similar experiments by representative broadcast stations for the purpose of studying the impact of the proposed changes on the operation of various types of stations.

7. In addition, the Georgia Association of Broadcasters has recently agreed to underwrite the expense of a field test of the proposed logging requirements. It has also urged all Georgia stations to try out the proposed program form and supply information to the Commission as to its actual use, together with any suggestions that they may have.

8. In light of the interest shown in making practical tests of the logging requirements and the value to the Commission of receiving reports as to as wide experience as possible with the forms, it is concluded that the times for filing comments should be extended. The Commission urges licensees to run trial tests and to recommend improvements in the proposals, bearing in mind the need the Commission has for meaningful reports as to the operations of its licensees.

9. In the period since the release of the notices herein on July 7, 1961, the Commission's staff has been engaged in a study of the probable impact of the proposed changes on various types of stations, and this study is presently continuing.

10. In the notice of further proposed rule making released in Docket No. 13961 on July 7, 1961, the Commission stated in paragraph 4 that in the absence of most unusual circumstances the dates set therein for the filing of comments and reply comments (these dates having been identical for both dockets herein) would not be extended.

11. The suggested experiments mentioned above would afford the Commission the benefit of comments herein based on actual test operations which would be more realistic and helpful than comments submitted in a more speculative framework. This is considered to be within the meaning of "most unusual circumstances" mentioned above. It appears, however, that more than two weeks should be allowed for the filing of reply comments. Since the Commission desires to carry forward these proceedings with minimum delay consistent with thoroughness, it is felt that the time for filing comments should be extended to October 2, 1961, and that the time for the filing of reply comments should be extended to October 23, 1961, the final date suggested by Oklahoma.

12. Although this extension of time will be granted in view of the great value to the Commission of the proposed test results, the nature and importance of the matters in these proceedings and the need for their resolution with a minimum of delay are such that no further extensions of time are anticipated.

13. The National Educational Television and Radio Center (NET) filed with the Commission on August 21, 1961, a request for clarification of commission's notices of proposed rule making in which it points out that it would appear that the proposed rule making in the present proceedings is directed at commercial broadcasters and not at noncommercial educational broadcasters. In support of this it indicates, for example, that the Commission refers in detail to commercial operations in proposed paragraph 6 of the TV broadcast application form and in other portions of the proposed form. It also suggests that in its proposed definitions and in its breakdown of program types and sources the Commission's proposal is particularly adapted to commercial operations and not to the distinctive type of programming that non-commercial educational stations provide. It further states that with regard to matters of logging, the proceeding is similarly directed to commercial broadcasters, commercial practices and commercial reporting-record keeping requirements.

14. NET accordingly requests clarification, and asks, further, that if this is indeed a proceeding directed at commercial stations the Commission so state and that in such a case the Commission should simultaneously announce that it will at an early date issue a notice of proposed rule making to consider analogous amendments for non-commercial educational stations only.

15. A review of the proposed amendments in the light of the functioning of educational stations leads to the conclusion that the position of NET has merit. For that reason, comments and reply comments from educational stations or from groups interested in educational broadcasting will not be expected by the Commission in these proceedings. The Commission will reserve the determination of the steps to be taken with regard to the forms to be filed and the logging rules to be met by educational stations as to their past or proposed programming.

16. *Accordingly, it is ordered,* This 22d day of August 1961, that the request for additional time for comments filed by Oklahoma Television Corporation is granted insofar as it requests an extension of time for filing comments but is denied with regard to the exact date requested, and that the date for the filing of comments in both of the proceedings herein is extended from September 7, 1961, to October 2, 1961.

17. *It is further ordered,* That the aforementioned request is granted with regard to its request for an extension of time for the filing of reply comments, and that the date for the filing of reply comments in both of the proceedings herein is extended from September 18, 1961, to October 23, 1961.

18. *It is further ordered,* That the request for clarification of commission's notices of proposed rule making filed by the National Educational Television and Radio Center is granted insofar as it requests clarification, and the present proceedings are hereby limited to commercial broadcasters only; but that the request in other respects is denied. The Commission will take such other action with regard to logging rules and program forms for educational stations as it may hereafter find to be appropriate.

19. This action is taken pursuant to authority found in sections 4(i) and 303 (r) of the Communications Act of 1934, as amended.

Released: August 22, 1961.

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

[F.R. Doc. 61-8254; Filed, Aug. 28, 1961; 8:54 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Coast Guard

[CGFR 61-32]

EQUIPMENT, INSTALLATIONS, OR MATERIALS

Approval Notice

1. Various items of lifesaving, fire-fighting, and miscellaneous equipment, installations, and materials used on merchant vessels subject to Coast Guard inspection or on certain motorboats and other pleasure craft are required by law and various regulations in 46 CFR Chapter I to be of types aproved by the Commandant, United States Coast Guard. The procedures governing the granting of approvals, and cancellation, termination or withdrawal of approvals are set forth in 46 CFR 2.75–1 to 2.75–50, inclusive. For certain types of equipment, installations, and materials, specific specifications have been prescribed by the Commandant and are published in 46 CFR Parts 160 to 164, inclusive (Subchapter Q—Specifications), and detailed procedures for obtaining approvals are also described therein.

2. The Commandant's approval of a specific item is intended to provide a control over its quality. Therefore, such approval applies only to the item constructed or installed in acccordance with the applicable requirements and the details described in the specific approval. If a specific item when manufactured does not comply with the details in the approval, then such item is not considered to have the Commandant's approval, and the certificate of approval issued to the manufacturer does not apply to such modified item. For example, if an item is manufactured with changes in design or material not previously approved, the approval does not apply to such modified item.

3. After a manufacturer has submitted satisfactory evidence that a particular item complies with the applicable laws and regulations, a Certificate of Approval (Form CGHQ–10030) will be issued to the manufacturer certifying that the item specified complies with the applicable laws and regulations and approval is given, which will be in effect for a period of 5 years from the date given unless sooner canceled or suspended by proper authority.

4. The purpose of this document is to notify all concerned that certain approvals were granted during the period from June 2, 1961, through July 7, 1961. These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50, inclusive.

5. The delegations of authority for the Coast Guard's actions with respect to approvals may be found in Treasury Department Orders 120, dated July 31, 1950 (15 F.R. 6521), 167–14, dated November 26, 1954 (19 F.R. 8026), 167–15, dated January 3, 1955 (20 F.R. 840), 167–20, dated June 18, 1956 (21 F.R. 4894), CGFR 56–28, dated July 24, 1956 (21 F.R. 5659), or 167–38, dated October 26, 1959 (24 F.R. 8857), and the statutory authority may be found in R.S. 4405, as amended, 4462, as amended, 4488, as amended, 4491, as amended, secs. 1, 2, 49 Stat. 1544, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 346, as amended, sec. 3, 70 Stat. 152 (46 U.S.C. 375, 416, 481, 489, 367, 526p, 1333, 390b), sec. 4(e), 67 Stat. 462 (43 U.S.C. 1333 (e)), or sec. 3(c), 68 Stat. 675 (50 U.S.C. 198), and implementing regulations in 46 CFR Chapter I or 33 CFR Chapter I.

6. In Part I of this document is listed the approvals granted which shall be in effect for a period of 5 years from the dates granted, unless sooner canceled or suspended by proper authority.

PART I—APPROVALS OF EQUIPMENT, INSTALLATIONS, OR MATERIALS

BUOYS, LIFE, RING, CORK, OR BALSA WOOD

Approval No. 160.009/36/0, 30-inch cork ring life buoy, dwg. No. 5–1–51, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn 1, New York, effective June 26, 1961. (It is an extension of Approval No. 160.009/36/0 dated June 26, 1956.)

BUOYANT APPARATUS

Approval No. 160.010/61/0, 5′ x 2.5′ (7½″ x 9″ body section), solid balsa wood fiber glass covered buoyant apparatus, 5-person capacity, Atlantic-Pacific Mfg. Co. dwg. No. 32761, Rev. A dated June 6, 1961, and Specification, Rev. II, dated June 6, 1961, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn 2, New York, effective June 19, 1961.

GAS MASKS, SELF-CONTAINED BREATHING APPARATUS, AND SUPPLIED AIR-RESPIRATORS

Approval No. 160.011/3/1, Davis Type BLS fresh air hose mask assembly with velocity blower, Davis Unit Nos. 4066, 4067, 4087, 4088, 4090, 4091, 4092, or 4093 with a maximum length of hose not exceeding 150 feet, Bureau of Mines Approval No. BM–1906 when assembled with BM–1902 face piece and BM–1902 or 1902A harness and hose, manufactured by Davis Emergency Equipment Co., Inc., 45 Halleck Street, Newark 4, New Jersey, effective June 26, 1961. (It is an extension of Approval No. 160.011/3/1 dated June 26, 1956.)

Approval No. 160.011/9/1, Davis Type BLS fresh air hose mask assembly with positive pressure blower, Davis Unit Nos. 4402, 4403, 4408, 4409 with a maximum length of hose not exceeding 150 feet, Bureau of Mines Approval No. BM–1904 when assembled with BM–1902 face piece and BM–1902 or 1902A harness and hose, manufactured by Davis Emergency Equipment Co., Inc., 45 Halleck Street, Newark 4, New Jersey, effective June 26, 1961. (It is an extension of Approval No. 160.011/9/1 dated June 26, 1956.)

WATER, EMERGENCY DRINKING (IN HERMETICALLY SEALED CONTAINERS)

Approval No. 160.026/20/0, container for emergency provisions, dwg. No. 202–P, dated March 26, 1951, and Specification 202–S–1, dated April 6, 1951, two containers required per ration, manufactured by Globe Equipment Corporation, 257 Water Street, Brooklyn 1, New York, effective June 26, 1961. (It is an extension of Approval No. 160.026/20/0, dated June 26, 1956, and change of address of manufacturer.)

BUOYANT VESTS, KAPOK OR FIBROUS GLASS, ADULT AND CHILD

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.047/438/0, Type I, Model AK–1, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Siegmund Werner Co., 3951 South Canal Street, Chicago, Illinois, effective June 15, 1961. (It supersedes Approval No. 160.047/438/0 dated July 6, 1960, to show change of address of manufacturer.)

Approval No. 160.047/439/0, Type I, Model CKM–1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Siegmund Werner Co., 3951 South Canal Street, Chicago, Illinois, effective June 15, 1961. (It supersedes Approval No. 160.047/439/0 dated July 6, 1960, to show change of address of manufacturer.)

Approval No. 160.047/440/0, Type I, Model CKS–1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Siegmund Werner Co., 3951 South Canal Street, Chicago, Illinois, effective June 15, 1961. (It supersedes Approval No. 160.047/440/0 dated July 6, 1960, to show change of address of manufacturer.)

BUOYANT CUSHIONS, KAPOK OR FIBROUS GLASS

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.048/162/0, special approval for 15″ x 15″ x 2″ rectangular kapok buoyant cushion, 20-oz. kapok, U.S.C.G. Specification Subpart 160.048, manufactured by Siegmund Werner Co., 3951 South Canal Street, Chicago, Illinois, effective June 15, 1961. (It supersedes Approval No. 160.048/162/0 dated Dec. 17, 1959, to show change of address of manufacturer.)

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.049/40/0 group approval for rectangular and trapezoidal unicellular plastic foam buoyant cushions, U.S.C.G. Specification Subpart 160.049, sizes to be as per Table 160.049–

4(c)(1), manufactured by Howard Zink Corporation, Fremont, Ohio, effective June 15, 1961.

INFLATABLE LIFE RAFTS

Approval No. 160.051/9/0, inflatable life raft, 20-person capacity, identified by general arrangement dwg. PE–E–1048, revision C, dated May 9, 1961, and specification, revision F, dated November 30, 1960, manufactured by U.S. Rubber Company, Inflatable Products & Transportation Containers Department, 10 Eagle Street, Providence, Rhode Island, effective June 2, 1961.

Approval No. 160.051/21/0, inflatable life raft, 6-person capacity, identified by general arrangement dwg. PE–E–1060, revision B, dated May 11, 1961, and specification, revision F, dated November 30, 1960, manufactured by U.S. Rubber Company, Inflatable Products & Transportation Containers Department, 10 Eagle Street, Providence, Rhode Island, effective June 2, 1961.

TELEPHONE SYSTEMS, SOUND POWERED

Approval No. 161.005/41/0, sound powered telephone station relay control, for operation with hand generator, manual release, splashproof, dwg. No. 19, Alt. 1, dated June 1950, for connecting in parallel with hand generator bell on sound powered telephone stations to operate separately powered audible signal and indicate which of two or more stations called; for use in locations not exposed to the weather, manufactured by Hose-McCann Telephone Co., Inc., Twenty-fifth St. and Third Avenue, Brooklyn 32, New York, effective June 26, 1961. (It is an extension of Approval No. 161.005/41/0 dated June 26, 1956.)

APPLIANCES, LIQUEFIED PETROLEUM GAS CONSUMING

Approval No. 162.020/138/0, Model No. 20C23LP, 20-gallon hot water heater for liquefied petroleum gas service, approved by the American Gas Association, Inc., under Certificate No. 3–677–1.201, manufactured by Allcraft Manufacturing Co., Inc., 27 Hayward Street, Cambridge 42, Massachusetts, effective July 7, 1961.

Approval No. 162.020/139/0, Model No. 20C24LP, 20-gallon hot water heater for liquefied petroleum gas service, approved by the American Gas Association, Inc., under Certificate No. 3–(677–1.5 and 5.5) .001, manufactured by Allcraft Manufacturing Co., Inc., 27 Hayward Street, Cambridge 42, Massachusetts, effective July 7, 1961.

Approval No. 162.020/140/0, Model No. 30C26LP, 30-gallon hot water heater for liquefied petroleum gas service, approved by the American Gas Association, Inc., under Certificate No. 3–677–1.601, manufactured by Allcraft Manufacturing Co., Inc., 27 Hayward Street, Cambridge 42, Massachusetts, effective July 7, 1961.

Approval No. 162.020/141/0, Model No. 40C33LP, 40-gallon hot water heater for liquefied petroleum gas service, approved by the American Gas Association, Inc., under Certificate No. 3–677–1.301, manufactured by Allcraft Manufacturing Co., Inc., 27 Hayward Street, Cambridge 42, Massachusetts, effective July 7, 1961.

BULKHEAD PANELS

Approval No. 164.008/30/0, Jackson Snap-In Panel, hollow steel insulation board lined bulkhead panel identical to that described in A. L. Jackson dwg. No. 6, dated April 9, 1951, approved as meeting Class B–15 requirements in a 17/16-inch thickness when lined each side with 3/16-inch asbestos millboard, manufactured by A. L. Jackson, 1146 Ogden Avenue, New York 52, New York, effective June 26, 1961. (It is an extension of Approval No. 164.008/30/0 dated June 26, 1956.)

Dated: August 22, 1961.

[SEAL] A. C. RICHMOND,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 61–8226; Filed, Aug. 28, 1961; 8:50 a.m.]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

CHARLES W. WATSON

Appointee's Statement of Financial Interests

AUGUST 24, 1961.

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

Name of appointee: Charles W. Watson.

Name of employing agency: Department of the Interior, Office of Assistant Secretary for Water and Power Development.

The title of the appointee's position: Director, Defense Electric Power Area 3.

The name of the appointee's private employer or employers: Philadelphia Electric Company, Philadelphia, Pennsylvania.

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

STEWART L. UDALL,
Secretary of the Interior.

APPOINTEE'S STATEMENT OF FINANCIAL INTERESTS

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the FEDERAL REGISTER:

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on 8–4–61, as Director, Defense Electric Power Area 3, an officer or director:

Philadelphia Electric Co., Vice-President.
Philadelphia Electric Power Co., Director.
The Susquehanna Electric Co., Director.
The Susquehanna Power Co., Director.

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests:

Philadelphia Electric Co.

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding my appointment:

None.

(4) Names of any other businesses which I own, or owned within 60 days preceding my appointment:

None.

CHARLES W. WATSON.

AUGUST 10, 1961.

[F.R. Doc. 61–8221; Filed, Aug. 28, 1961; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

ARKANSAS

Designation of Area for Production Emergency Loans

For the purpose of making production emergency loans pursuant to section 2(a) of Public Law 38, 81st Congress (12 U.S.C. 1148a–2(a)), as amended, it has been determined that in Lonoke County, Arkansas, a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named county after June 30, 1962, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 23d day of August 1961.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 61–8245; Filed, Aug. 28, 1961; 8:52 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

COURTLANDT F. DENNEY

Statement of Changes in Financial Interests

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

A. Deletions: No change.
B. Additions: No change.

This statement is made as of August 15, 1961.

COURTLAND F. DENNEY.

AUGUST 16, 1961.

[F.R. Doc. 61–8234; Filed, Aug. 28, 1961; 8:50 a.m.]

DONALD B. FITZPATRICK

Statement of Changes in Financial Interests

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

A. Deletions: No change.
B. Additions: No change.

This statement is made as of August 16, 1961.

DONALD B. FITZPATRICK.

AUGUST 16, 1961.

[F.R. Doc. 61-8235; Filed, Aug. 28, 1961; 8:51 a.m.]

HOWARD C. HOLMES

Statement of Changes in Financial Interests

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

A. Deletions: None.
B. Additions: None.

This statement is made as of July 29, 1961.

HOWARD C. HOLMES.

AUGUST 14, 1961.

[F.R. Doc. 61-8236; Filed Aug. 28, 1961; 8:51 a.m.]

MARVIN S. PLANT

Statement of Changes in Financial Interests

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

A. Deletions: No change.
B. Additions: No change.

This statement is made as of August 15, 1961.

MARVIN S. PLANT.

AUGUST 15, 1961.

[F.R. Doc. 61-8237; Filed, Aug. 28, 1961; 8:51 a.m.]

ROBERT JOSEPH WILLIAMS

Statement of Changes in Financial Interests

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

A. Deletions: Bell & Howell.
B. Additions: Calumet & Hecla, Reynolds Metals.

This statement is made as of July 30, 1961.

ROBERT JOSEPH WILLIAMS.

AUGUST 15, 1961.

[F.R. Doc. 61-8238; Filed, Aug. 28, 1961; 8:51 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-13]

BABCOCK & WILCOX COMPANY

Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued Amendment No. 8, set forth below, to Facility License No. CX-1. The license authorizes The Babcock & Wilcox Company to operate the critical experiment facility located in Bay No. 1 of its Critical Experiment Laboratory located near Lynchburg, Virginia. The amendment adds conditions to the license regarding: (1) Procedures to be followed with respect to operations with the facility shut down which might involve a change in core reactivity, and (2) written reports to be submitted by the licensee should any of the operating conditions or characteristics of the facility which might affect nuclear safety vary significantly from its predicted value.

With respect to item (1) above, the Commission has requested that each utilization facility licensee submit a written description of its procedures during operations with the facility shut down which might involve a change in core reactivity. The Commission has reviewed the licensee's submission dated January 24, 1961, and believes that the procedures described therein minimize, to an acceptable degree, the potential for inadvertent criticality during operations which could involve changes in core reactivity when the facility is shut down.

The Commission has found that operation of the facility in accordance with the license as amended will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security.

The Commission has further found that prior public notice of proposed issuance of this amendment is not necessary in the public interest since operation of the facility in accordance with the license as amended would not present any substantial change in the hazards to the health and safety of the public from those previously considered and evaluated in connection with the previously approved operations.

In accordance with the Commission's rules of practice (10 CFR Part 2) the Commission will direct the holding of a formal hearing on the matter of issuance of the license amendment upon receipt of a request therefor from the licensee or an intervener within 30 days after the issuance of the license amendment. Petitions for leave to intervene and requests for a formal hearing shall be filed by mailing a copy to the Office of the Secretary, Atomic Energy Commission, Washington 25, D.C., or by delivery of a copy in person to the Office of the Secretary, Germantown, Maryland, or the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

For further details see (a) the Commission's telegram dated January 10, 1961 to The Babcock & Wilcox Company and (b) the licensee's reply dated January 24, 1961, both on file at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Germantown, Md., this 22d day of August 1961.

For the Atomic Energy Commission.

EDSON G. CASE,
Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[License No. CX-1 Amdt. 8]

License No. CX-1 which authorizes The Babcock & Wilcox Company to operate the critical experiment facility located in Bay No. 1 of its Critical Experiment Laboratory located near Lynchburg, Virginia, is hereby amended by adding the following additional conditions thereto:

1. The Babcock & Wilcox Company shall, with respect to operations which could involve changes in core reactivity when the facility is shut down, follow the procedures described in its report entitled "Survey of B&W Reactor Facilities Operated Under AEC License, January 1961".

2. The Babcock & Wilcox Company shall promptly submit a written report to the Commission whenever, during operation of the facility, any of the operating conditions or characteristics of the facility which might affect nuclear safety varies significantly from its predicted value.

This amendment is effective as of the date of issuance.

Dated at Germantown, Md., this 22d day of August 1961.

For the Atomic Energy Commission.

EDSON G. CASE,
Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 61-8197; Filed, Aug. 28, 1961; 8:45 a.m.]

[Docket No. 50-150]

OHIO STATE UNIVERSITY

Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued Amendment No. 1, set forth below, to Facility License No. R-75. The license authorizes The Ohio State University to operate its pool-type nuclear reactor located on its campus in Columbus, Ohio. The amendment adds conditions to the license regarding: (1) Procedures to be followed with respect to operations with the reactor shut down which might involve a change in core reactivity, and (2) written reports to be submitted by the licensee should any of the operating conditions or characteristics of the

reactor which might affect nuclear safety vary significantly from its predicted value.

With respect to item (1) above, the Commission has requested that each utilization facility licensee submit a written description of its procedures during operations with the reactor shut down which might involve a change in core reactivity. The Commission has reviewed the licensee's submission dated March 13, 1961, and believes that the procedures described therein minimize, to an acceptable degree, the potential for inadvertent criticality during operations which could involve changes in core reactivity when the reactor is shut down.

The Commission has found that operation of the reactor in accordance with the license as amended will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security.

The Commission has further found that prior public notice of proposed issuance of this amendment is not necessary in the public interest since operation of the reactor in accordance with the license as amended would not present any substantial change in the hazards to the health and safety of the public from those previously considered and evaluated in connection with the previously approved operations.

In accordance with the Commission's rules of practice (10 CFR Part 2) the Commission will direct the holding of a formal hearing on the matter of issuance of the license amendment upon receipt of a request therefor from the licensee or an intervener within 30 days after the issuance of the license amendment. Petitions for leave to intervene and requests for a formal hearing shall be filed by mailing a copy to the Office of the Secretary, Atomic Energy Commission, Washington 25, D.C., or by delivery of a copy in person to the Office of the Secretary, Germantown, Maryland, or the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

For further details see (a) the Commission's letter dated February 24, 1961, to The Ohio State University and (b) the University's reply dated March 13, 1961, both on file at the Commission's Public Document Room 1717 H Street NW., Washington, D.C.

Dated at Germantown, Md., this 22d day of August 1961.

For the Atomic Energy Commission.

EDSON G. CASE,
Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[License No. R–75 Amdt. 1]

License No. R–75, which authorizes The Ohio State University to operate its pool-type nuclear reactor located on the University's campus in Columbus, Ohio, is hereby amended by adding the following additional conditions thereto:

1. The Ohio State University shall, with respect to operations which could involve changes in core reactivity when the reactor is shut down, follow the procedures described in its letter to the Commission dated March 13, 1961.

2. The Ohio State University shall promptly submit a written report to the Commission whenever, during operation of the reactor, any of the operating conditions or characteristics of the reactor which might affect nuclear safety varies significantly from its predicted value.

This amendment is effective as of the date of issuance.

Dated at Germantown, Md., this 22d day of August 1961.

For the Atomic Energy Commission.

EDSON G. CASE,
Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 61–8198; Filed, Aug. 28, 1961; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 11879; Order No. E–17358]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Relating to Specific Commodity Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of August 1961.

In the matter of an agreement adopted by Traffic Conference 1 of the International Air Transport Association relating to specific commodity rates, Docket 11879, Agreement C.A.B. 14827, R–56.

There has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, an agreement between various air carriers, foreign air carriers and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 — Commodity Rates Board.

The agreement, adopted pursuant to unprotested cable notice to the carriers and promulgated in IATA Memorandum TC1/Rates 1266, names additional specific commodity rates for Chemicals, Drugs, Pharmaceuticals, and Medicines, N.E.S., from Panama City to Guayaquil. Under the terms of the basic agreement, a rate to/from Panama City may be applied to/from Balboa.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find Agreement C.A.B. 14827, R–56, as contained in the above-noted IATA Memorandum, to be adverse to the public interest or in violation of the Act, provided that approval thereof is conditioned as hereinafter ordered. *Accordingly, it is ordered:*

1. That Agreement C.A.B. 14827, R–56, is approved, provided that such approval shall not necessarily constitute approval for purposes of tariff publication.

2. That any air carrier party to the agreement, or any interested person, may, within 15 days from the date of service, submit statements in writing containing reasons deemed appropriate together with supporting data, in support of or in opposition to the Board's action herein. An original and nineteen copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 61–8239; Filed, Aug. 28, 1961; 8:51 a.m.]

FEDERAL AVIATION AGENCY

[OE Docket No. 61–FW–55]

PROPOSED RADIO ANTENNA STRUCTURES

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal to interested persons for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of airspace: The Magnolia Broadcasting Company, Inc., Magnolia, Arkansas, operator of radio station KVMA, proposes to construct an array of three radio antenna structures near Magnolia, Arkansas, equally spaced at intervals of 391 feet on a line bearing 65° true, with the center of the array at latitude 33°18'04'' north, longitude 93°13'54'' west. The overall height of each structure would be 720 feet above mean sea level (410 feet above ground). Station KVMA is presently utilizing an antenna structure at latitude 33°17'59'' north, longitude 93°13'57'' west with an overall height of 720 feet above mean sea level. The proponent agreed to dismantle the existing structure if the proposed structures are approved and constructed.

No aeronautical objections were made in response to the circularization.

The proposed antenna array would be located 4.5 miles north of the center of the Magnolia Municipal Airport, Magnolia, Arkansas, and would exceed the criteria contained in paragraph B–2 of this Agency's TSO–N18, as applied to this airport, by 87 feet. However, the Agency study disclosed that this factor would have no adverse effect upon aeronautical operations or procedures at the Magnolia Municipal Airport.

No other aeronautical operations, procedures or minimum flight altitudes would be affected by the proposed structures.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 626.33; 26 F.R. 5292), it is concluded that the proposed structures, at the location and mean sea level elevation specified herein, would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes; and it is hereby determined that this antenna array would not be a hazard to air navigation, provided that each structure be obstruction marked

and lighted in accordance with applicable Federal Communications Commission rules.

This determination is effective as of the date of issuance and will become final 30 days thereafter, provided that no appeal herefrom under § 626.34 (26 F.R. 5292) is granted. Unless otherwise revised or terminated, a final determination hereunder will expire 18 months after its effective date or upon earlier abandonment of the construction proposal (§ 626.35; 26 F.R. 5292).

Issued in Washington, D.C., on August 18, 1961.

OSCAR W. HOLMES,
Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 61-8199; Filed, Aug. 28, 1961; 8:46 a.m.]

[OE Docket No. 61-KC-50]

PROPOSED RADIO ANTENNA STRUCTURE

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal to interested persons for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of airspace: The Department of Conservation, State of Indiana, Indianapolis, Indiana, proposes to construct a radio antenna structure near Bluffton, Indiana, at latitude 40°44'05" north, longitude 85°02'51" west. The overall height of the structure would be 1,125 feet above mean sea level (315 feet above ground).

No objections were made in response to the circularization. The Agency's study revealed that the proposed structure would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 626.33; 26 F.R. 5292), it is concluded that the proposed structure, at the location and mean sea level elevation specified herein, would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes; and it is hereby determined that this structure would not be a hazard to air navigation, provided that the structure be obstruction marked and lighted in accordance with applicable Federal Communications Commission rules.

This determination is effective as of the date of issuance and will become final 30 days thereafter, provided that no appeal herefrom under § 626.34 (26 F.R. 5292) is granted. Unless otherwise revised or terminated, a final determination hereunder will expire 18 months after its effective date or upon earlier abandonment of the construction proposal (§ 626.35; 26 F.R. 5292).

Issued in Washington, D.C., on August 18, 1961.

OSCAR W. HOLMES,
Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 61-8200; Filed, Aug. 28, 1961; 8:46 a.m.]

[OE Docket No. 61-KC-56]

PROPOSED RADIO ANTENNA STRUCTURE

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal to interested persons for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of airspace: The Mississippi River Transmission Corporation, St. Louis, Missouri, proposes to construct a radio antenna structure near Shattuc, Illinois, at latitude 38°37'-48" north, longitude 89°11'42" west. The overall height of the structure would be 830 feet above mean sea level (352 feet above ground).

No objections were made in response to the circularization. The Agency study disclosed that the proposed structure would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 626.33; 26 F.R. 5292), it is concluded that the proposed structure, at the location and mean sea level elevation specified herein, would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes; and it is hereby determined that this structure would not be a hazard to air navigation, provided that the structure be obstruction marked and lighted in accordance with applicable Federal Communications Commission rules.

This determination is effective as of the date of issuance and will become final 30 days thereafter, provided that no appeal herefrom under § 626.34 (26 F.R. 5292) is granted. Unless otherwise revised or terminated, a final determination hereunder will expire 18 months after its effective date or upon earlier abandonment of the construction proposal (§ 626.35; 26 F.R. 5292).

Issued in Washington, D.C., on August 18, 1961.

OSCAR W. HOLMES,
Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 61-8201; Filed, Aug. 28, 1961; 8:46 a.m.]

[OE Docket No. 61-KC-57]

PROPOSED RADIO ANTENNA STRUCTURE

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal to interested persons for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of airspace: The Brown County Highway Commission, Green Bay, Wisconsin, proposes to construct a radio antenna structure in Duck Creek, Wisconsin, at latitude 44°33'45" north, longitude 88°04'12" west. The overall height of the structure would be 923 feet above mean sea level (323 feet above ground).

No aeronautical objections were made in response to the circularization. The aeronautical study by this Agency disclosed that the proposed structure would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 626.33; 26 F.R. 5292), it is concluded that the proposed structure, at the location and mean sea level elevation specified herein, would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes; and it is hereby determined that this structure would not be a hazard to air navigation, provided that the structure be obstruction marked and lighted in accordance with applicable Federal Communications Commission rules.

This determination is effective as of the date of issuance and will become final 30 days thereafter, provided that no appeal herefrom under § 626.34 (26 F.R. 5292) is granted. Unless otherwise revised or terminated a final determination hereunder will expire 18 months after its effective date or upon earlier abandonment of the construction proposal (§ 626.35; 26 F.R. 5292).

Issued in Washington, D.C., on August 17, 1961.

OSCAR W. HOLMES,
Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 61-8202; Filed, Aug. 28, 1961; 8:46 a.m.]

[OE Docket No. 61-NY-20]

PROPOSED RADIO ANTENNA STRUCTURE

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal to interested persons for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of airspace: Civic Broadcasters, Inc., Cleveland, Ohio, proposes to construct a radio antenna structure near Seven Hills, Ohio, at latitude 41°24'26" north, longitude 81°-40'27" west. The overall height of the structure would be 1,256 feet above mean sea level (490 feet above ground).

No objections were made in response to the circularization. The structure would be located approximately 3.6 miles southeast of the Brooklyn Airport, Cleveland, Ohio, and 7.1 miles south of the Burke Lakefront Airport, Cleveland, Ohio, and would exceed the outer conical surface criteria of the Joint Industry/Government Tall Structures Committee, as applied to these airports, by 96 feet and 80 feet respectively. The Agency study disclosed that these factors would have no adverse effect upon aeronautical operations at these airports.

No other aeronautical operations, procedures or minimum flight altitudes

would be affected by the proposed structure.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 626.33; 26 F.R. 5292), it is concluded that the proposed structure, at the location and mean sea level elevation specified herein, would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes; and it is hereby determined that this structure would not be a hazard to air navigation, provided that the structure be obstruction marked and lighted in accordance with applicable Federal Communications Commission rules.

This determination is effective as of the date of issuance and will become final 30 days thereafter, provided that no appeal herefrom under § 626.34 (26 F.R. 5292) is granted. Unless otherwise revised or terminated, a final determination hereunder will expire 18 months after its effective date or upon earlier abandonment of the construction proposal (§ 626.35; 26 F.R. 5292).

Issued in Washington, D.C., on August 18, 1961.

OSCAR W. HOLMES,
Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 61-8203; Filed, Aug. 28, 1961; 8:47 a.m.]

[OE Docket No. 61-FW-54]

PROPOSED RADIO ANTENNA STRUCTURE

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal to interested persons for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of airspace: The South Georgia Natural Gas Co., Thomasville, Georgia, proposes to construct a microwave radio antenna structure near Dawson, Georgia, at latitude 31°48'45" north, longitude 84°22'58" west. The overall height of the structure would be 638 feet above mean sea level (230 feet above ground).

No aeronautical objections were made in response to the circularization. The structure would be located approximately 22 miles northwest of Albany, Georgia, Airport, and would require an increase from 1,500 feet MSL to 1,600 feet MSL in the procedure turn altitude of the standard VOR instrument approach procedure to this airport. However, this factor would have no adverse effect upon aeronautical operations at this airport since it would not result in an excessive rate of descent during the execution of the procedure.

No other aeronautical operations, procedures or minimum flight altitudes would be affected by the proposed structure.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 626.33; 26 F.R. 5292), it is concluded that the proposed structure, at the location and mean sea level elevation specified herein, would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes; and it is hereby determined that this structure would not be a hazard to air navigation, provided that the structure be obstruction marked and lighted in accordance with applicable Federal Communications Commission rules.

This determination is effective as of the date of issuance and will become final 30 days thereafter, provided that no appeal herefrom under § 626.34 (26 F.R. 5292) is granted. Unless otherwise revised or terminated, a final determination hereunder will expire 18 months after its effective date or upon earlier abandonment of the construction proposal (§ 626.35; 26 F.R. 5292).

Issued in Washington, D.C., on August 17, 1961.

OSCAR W. HOLMES,
Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 61-8204; Filed, Aug. 28, 1961; 8:47 a.m.]

[OE Docket No. 61-FW-57]

PROPOSED RADIO ANTENNA STRUCTURE

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal to interested persons for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of airspace: The Southern Transmission Corporation, Bladensburg, Maryland, proposes to construct a radio antenna structure near Granbury, Texas, at latitude 32°22'40" north, longitude 97°48'00" west. The overall height of the structure would be 1,600 feet above mean sea level (400 feet above ground).

No objections were made in response to the circularization. The Agency study disclosed that the proposed structure would require an increase in the minimum obstruction clearance altitude from 2,300 feet MSL to 2,600 feet MSL on the segment of VOR Federal Airway No. 94 between the Mill, Texas, intersection and the Joshua, Texas, intersection. However, this increase in MOCA would have no adverse effect upon aeronautical operations along this airway. The Instrument Flight Rule minimum en route altitude on this airway segment is 3,500 feet.

No other aeronautical operations, procedures or minimum flight altitudes would be affected by the proposed structure.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 626.33; 26 F.R. 5292), it is concluded that the proposed structure, at the location and mean sea level elevation specified herein, would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes; and it is hereby determined that this structure would not be a hazard to air navigation, provided that the structure be obstruction marked and lighted in accordance with applicable Federal Communications Commission rules.

This determination is effective as of the date of issuance and will become final 30 days thereafter, provided that no appeal herefrom under § 626.34 (26 F.R. 5292) is granted. Unless otherwise revised or terminated, a final determination hereunder will expire 18 months after its effective date or upon earlier abandonment of the construction proposal (§ 626.35; 26 F.R. 5292).

Issued in Washington, D.C., on August 17, 1961.

OSCAR W. HOLMES,
Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 61-8205; Filed, Aug. 28, 1961; 8:47 a.m.]

[OE Docket No. 61-FW-58]

PROPOSED RADIO ANTENNA STRUCTURE

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal to interested persons for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of airspace: The Southern Railway System, Washington, D.C., proposes to construct a radio antenna structure near Sparks, Georgia, at latitude 31°10'20" north, longitude 83°26'13" west. The overall height of the structure would be 478 feet above mean sea level (243 feet above ground).

No objections were made in response to the circularization. The proposed structure would be located 2.6 miles north of the Cook County Airport, Adel, Georgia, and would penetrate the inner conical surface criteria of the Joint Industry/Government Tall Structures Committee, as applied to this airport, by 90 feet. However, the Agency study disclosed that this factor would have no adverse effect on aeronautical operations at this airport.

No other aeronautical operations, procedures or minimum flight altitudes would be affected by the proposed structure.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 626.33; 26 F.R. 5292), it is concluded that the proposed structure, at the location and mean sea level elevation specified herein, would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes; and it is hereby determined that this structure would not be a hazard to air navigation provided that the structure be obstruction marked and lighted in accordance with applicable Federal Communications Commission rules.

This determination is effective as of the date of issuance and will become final 30 days thereafter, provided that no appeal herefrom under § 626.34 (26 F.R. 5292) is granted. Unless otherwise revised or terminated, a final determination hereunder will expire 18 months after its effective date or upon earlier

abandonment of the construction proposal (§ 626.35; 26 F.R. 5292).

Issued in Washington, D.C., on August 18, 1961.

OSCAR W. HOLMES,
Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 61–8206; Filed, Aug. 28, 1961; 8:47 a.m.]

[OE Docket No. 61–FW–68]

PROPOSED RADIO ANTENNA STRUCTURE .

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal to interested persons for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of airspace: The Southern Railway System, Washington, D.C., proposes to construct a radio antenna structure near McDonough, Georgia, at latitude 33°25'39" north, longitude 84°08'48" west. The overall height of the structure would be 990 feet above mean sea level (113 feet above ground).

No objections were made in response to the circularization. The Agency's aeronautical study disclosed that the proposed structure would require an increase of the minimum obstruction clearance altitude from 1,900 feet to 2,000 feet on the segment of VOR Federal airway No. 18 between the McDonough, Georgia, VOR and the Jackson Lake, Georgia, intersection. However, this factor would have no adverse effect upon aeronautical operations along this airway. The instrument flight rules minimum en route altitude on this airway is 2,200 feet MSL.

No other aeronautical operations, procedures or minimum flight altitudes would be affected by the proposed structure.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 626.33; 26 F.R. 5292), it is concluded that the proposed structure, at the location and mean sea level elevation specified herein, would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes; and it is hereby determined that this structure would not be a hazard to air navigation.

This determination is effective as of the date of issuance and will become final 30 days thereafter, provided that no appeal herefrom under § 626.34 (26 F.R. 5292) is granted. Unless otherwise revised or terminated a final determination hereunder will expire 18 months after its effective date or upon earlier abandonment of the construction proposal (§ 626.35; 26 F.R. 5292).

Issued in Washington, D.C., on August 18, 1961.

OSCAR W. HOLMES,
Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 61–8207; Filed, Aug. 28, 1961; 8:47 a.m.]

[OE Docket No. 61–KC–62]

PROPOSED MOTEL BUILDING

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal to interested persons for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of airspace: A. Epstein and Sons, Inc., Chicago, Illinois, proposes to construct a twenty-story motel building in Chicago, Illinois, at latitude 41°51'05" north, longitude 87°37'00" west. The overall height of the structure would be 863 feet above mean sea level (275 feet above ground).

No aeronautical objections were made in response to the circularization. The Agency's aeronautical study disclosed that the structure would be located 3,250 feet southwest of the center of Meigs Airport, Chicago, Illinois, and would exceed the horizontal surface criteria of this Agency's TSO–N18, as applied to this airport, by 121 feet. However, the Agency study revealed that this factor would have no adverse effect upon aeronautical operations at this airport.

No other aeronautical operations, procedures or minimum flight altitudes would be affected by the proposed structure.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 626.33; 26 F.R. 5292), it is concluded that the proposed structure, at the location and mean sea level elevation specified herein, would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes; and it is hereby determined that this structure would not be a hazard to air navigation, provided that the structure be obstruction lighted in accordance with applicable Federal Aviation Agency standards.

This determination is effective as of the date of issuance and will become final 30 days thereafter, provided that no appeal herefrom under § 626.34 (26 F.R. 5292) is granted. Unless otherwise revised or terminated a final determination hereunder will expire 18 months after its effective date or upon earlier abandonment of the construction proposal (§ 626.35; 26 F.R. 5292).

Issued in Washington, D.C., on August 18, 1961.

OSCAR W. HOLMES,
Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 61–8208; Filed, Aug. 28, 1961; 8:48 a.m.]

[OE Docket No. 61–KC–54]

TELEVISION RECEIVING ANTENNA STRUCTURE

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized information concerning the following structure to interested persons for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of airspace: The Tex-Co TV Cable System, Inc., Houston, Missouri, has constructed a television receiving antenna structure near Houston, Missouri, at latitude 37°18'45" north, longitude 91°57'00" west. The overall height of the structure is 1,544 feet above mean sea level (300 feet above ground).

No objections were made in response to the circularization. The structure is located 1.9 miles southeast of the center of the Houston Airport, Houston, Missouri, and penetrates the inner conical surface criteria of the Joint Industry/Government Tall Structures Committee, as applied to this airport, by 132 feet. However, the Agency study revealed that this factor does not adversely affect aeronautical operations at this airport.

No other aeronautical operations, procedures or minimum flight altitudes are affected by the structure.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 626.33; 26 F.R. 5292), it is concluded that the structure at the location and mean sea level elevation described herein has no adverse effect upon aeronautical operations, procedures or minimum flight altitudes; and it is hereby determined that the structure is not a hazard to air navigation; provided that the structure is obstruction marked and lighted in accordance with applicable Federal Aviation Agency standards.

This determination is effective as of the date of issuance and will become final 30 days thereafter, provided that no appeal herefrom under § 626.34 (26 F.R. 5292) is granted.

Issued in Washington, D.C., on August 18, 1961.

OSCAR W. HOLMES,
Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 61–8209; Filed, Aug. 28, 1961; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 14248, 14249; FCC 61M–1399]

HIGSON-FRANK RADIO ENTERPRISES AND IRVING E. PENBERTHY

Order Scheduling Hearing

In re applications of James D. Higson and Peter Frank, d/b as Higson-Frank Radio Enterprises, Fresno, California, Docket No. 14248, File No. BP–13674; Irving E. Penberthy, Fresno, California, Docket No. 14249, File No. BP–14634; for construction permits.

It is ordered, This 23d day of August 1961, that Walther W. Guenther will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on October 30, 1961, in Washington, D.C.: *And it is further ordered,* That a prehearing conference in the proceeding will be con-

vened by the presiding officer on Friday, October 6, 1961.

Released: August 24, 1961.

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

[F.R. Doc. 61-8255; Filed, Aug. 28, 1961; 8:54 a.m.]

[Docket Nos. 14248, 14249]

HIGSON-FRANK RADIO ENTERPRISES AND IRVING E. PENBERTHY

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of James D. Higson and Peter Frank d/b as Higson-Frank Radio Enterprises, Fresno, California, requests 1510 kc, 500 w, Day, Docket No. 14248, File No. BP-13674; Irving E. Penberthy, Fresno, California, requests 1510 kc, 500 w, Day, Docket No. 14249, File No. BP-14634; for construction permits.

The Commission, by the Chief of the Broadcast Bureau under delegated authority, considered the above-captioned applications on August 18, 1961;

It appearing that except as indicated by the issues specified below, each of the instant applicants is legally, technically, financially and otherwise qualified to construct and operate the stations as proposed but that the proposed operations are mutually exclusive and that the antenna structure proposed by Irving E. Penberthy has been referred to the Federal Aviation Agency, but that agency has not yet completed its aeronautical study of said proposal; and that, therefore, the Federal Aviation Agency is being made a party to the proceeding so that it may participate if it desires to do so in the event its determination with respect to the antenna structure proposed by Penberthy is adverse; and

It further appearing that in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues set forth below:

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

1. To determine whether there is a reasonable possibility that the tower height and location proposed by Irving E. Penberthy would constitute a menace to air navigation.

2. To determine, on a comparative basis, which of the instant proposals would better serve the public interest, convenience and necessity in light of the evidence adduced pursuant to the foregoing issue and the record made with respect to the significant differences between the applicants as to:

a. The background and experience of each having a bearing on the applicant's ability to own and operate its proposed station.

b. The proposals of each of the applicants with respect to the management and operation of the proposed station.

c. The programming service proposed in each of the said applications.

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

It is further ordered, That the Federal Aviation Agency is made a party to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing, either individually or, if feasible, jointly, within the time and in the manner prescribed in such rule, and shall adivse the Commission of the publication of such notice as required by § 1.362(c) of the rules.

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

Released: August 22, 1961.

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

[F.R. Doc. 61-8256; Filed, Aug. 28, 1961; 8:54 a.m.]

[Docket No. 14150; FCC 61M-1389]

ANDREW B. LETSON (WZRO)

Order Continuing Hearing

In re application of Andrew B. Letson (WZRO), Jacksonville, Florida, Docket No. 14150, File No. BP-13353; for construction permit.

The Hearing Examiner having under consideration a motion filed August 14, 1961, by the above-entitled applicant requesting that the hearing now scheduled to begin on September 6, 1961, be postponed until 10 days after the Commission has acted on the applicant's presently pending "Petition for Reconsideration of Order Designating for Hearing and for Grant of Application Without Hearing;" and

It appearing that on August 8, 1961, the applicant filed a petition requesting the Commission to reconsider its order designating the application for hearing and grant the same without hearing; and

It further appearing to the Hearing Examiner that a petition was filed August 3, 1961, by Mel-Lin, Inc., licensee of Station WOBS, Jacksonville, Florida, seeking to intervene in the above-entitled proceeding and that an opposition thereto has been filed on behalf of the above-entitled applicant; and

It further appearing that there are no objections to granting the motion to continue the hearing and good cause for continuing the hearing having been shown;

It is ordered, This the 21st day of August 1961, that the motion to continue hearing is granted and the evidentiary hearing is continued from September 6, 1961, to a date which will be specified within 10 days after the Commission has acted on presently pending petition for reconsideration and grant without hearing.

Released: August 22, 1961.

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

[F.R. Doc. 61-8257; Filed, Aug. 28, 1961; 8:55 a.m.]

[Docket No. 14151; FCC 61M-1372]

LOUISE E. AND GERALD K. MANN (KTKR)

Order Continuing Hearing

In reapplication of Louise E. and Gerald K. Mann (KTKR), Taft, California, Docket No. 14151, File No. BP-13757; for construction permit.

In the absence of the Hearing Examiner and upon written request of counsel for Louise E. and Gerald K. Mann, and with the consent of the other parties:

It is ordered, This 16th day of August 1961, that the presently scheduled dates governing this proceedings, be, and the same are, hereby rescheduled as follows:

Exhibits presently scheduled to be exchanged on August 17, 1961, are rescheduled to and including September 11, 1961;

Reply exhibits presently scheduled to be exchanged on September 6, 1961, are rescheduled to and including October 2, 1961;

Notification of witnesses presently scheduled for September 8, 1961, is rescheduled to and including October 6, 1961; and

Formal hearing presently scheduled for September 11, 1961, is rescheduled to and including October 16, 1961.

Released: August 16, 1961.

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

[F.R. Doc. 61-8258; Filed, Aug. 28, 1961; 8:55 a.m.]

[Docket Nos. 13965–13967; FCC 61M–1353]

ROCKFORD BROADCASTERS, INC. (WROK) ET AL.

Order Continuing Hearing

In re applications of Rockford Broadcasters, Incorporated (WROK), Rockford, Illinois, Docket No. 13965, File No. BP–13422; Quincy Broadcasting Company (WGEM), Quincy, Illinois, Docket No. 13966, File No. BP–14225; Robert W. Sudbrink and Margareta S. Sudbrink, d/b as McLean County Broadcasting Co., Normal, Illinois, Docket No. 13967, File No. BP–14401; for construction permits.

On August 4, 1961, applicants Rockford and Quincy filed a request for continuance of scheduled dates, and on August 8, 1961, the Broadcast Bureau filed its comments. The other parties have no objection to the immediate consideration of the request, nor to grant of the relief requested as modified in accordance with the Broadcast Bureau's comments.

Accordingly, it is ordered, This 9th day of August 1961, that the request is granted to the extent that the scheduled dates are continued as follows:

	From—	To—
Exchange of exhibits	Aug. 7	Aug. 31, 1961.
Notification of witnesses desired for cross-examination.	Aug. 18	Sept. 8, 1961.
Hearing	Sept. 5	Sept. 13, 1961, at 10 a.m., in the offices of the Commission, Washington, D.C.

Released: August 9, 1961.

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

[F.R. Doc. 61–8259; Filed, Aug. 28, 1961; 8:55 a.m.]

[Docket Nos. 13965–13967; FCC 61M–1394]

ROCKFORD BROADCASTERS, INC. (WROK) ET AL.

Order Continuing Hearing

In re applications of Rockford Broadcasters, Incorporated (WROK), Rockford, Illinois, Docket No. 13965, File No. BP–13422; Quincy Broadcasting Company (WGEM), Quincy, Illinois, Docket No. 13966, File No. BP–14225; Robert W. Sudbrink and Margareta S. Sudbrink, d/b as McLean County Broadcasting Co., Normal, Illinois, Docket No. 13967, File No. BP–14401, for construction permits.

By letter dated August 18, 1961, addressed to the Hearing Examiner, received by Mail and Files on August 21 and by the Hearing Examiner on August 22, counsel for applicant McLean County writes:

It is respectfully requested that the time to respond to the Petition for Leave to Amend filed by Quincy Broadcasting Company on August 14, 1961, and also the Petition for Leave to Amend filed by Rockford Broadcasters, Incorporated, be extended until September 15, 1961. It is also requested that the date on which the exhibits are to be exchanged be extended until September 25. Counsel for all concerned have agreed to these extensions of time.

It is further suggested that the remaining dates be extended for comparable lengths of time.

Treating the letter as a motion: *It is ordered,* This 23d day of August 1961, that the motion is granted, and

1. The time for responding to the Quincy and Rockford petitions for leave to amend is extended to September 15, 1961.

2. The scheduled dates are rescheduled as follows:

	From—	To—
Exchange of exhibits	Aug. 31	Sept. 25, 1961.
Notification of witnesses desired for cross-examination.	Sept. 8	Oct. 3, 1961.
Hearing	Sept. 13	Oct. 9, 1961,[1] at 10 a.m., in the offices of the Commission, Washington, D.C.

[1] There is a possibility that this date may have to be changed, depending upon the holding of a hearing on October 10 in Paletka, Fla., in Docket No. 14202, in which the Hearing Examiner is scheduled to preside.

Released: August 23, 1961.

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

[F.R. Doc. 61–8260; Filed, Aug. 28, 1961; 8:55 a.m.]

FEDERAL MARITIME COMMISSION

PACIFIC/WEST COAST OF SOUTH AMERICA CONFERENCE ET AL.

Agreements Filed for Approval

Notice is hereby given that the following agreements, filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814), modify the basic agreement of the conferences listed, and as indicated, below:

(1) Agreement Numbered 4630–14, between the member lines of the Pacific/West Coast of South America Conference, modifies the basic agreement of that conference (Numbered 4630, as amended), in the trade from Pacific Coast ports of the U.S. and Canada to Pacific Coast ports of Colombia, Ecuador, Peru and Chile;

(2) Agreement Numbered 6170–10, between the member lines of the Capca Freight Conference, modifies the basic agreement of that conference (Numbered 6170, as amended), in the trade from Pacific Coast ports of the U.S. and Canada to Pacific Coast ports of Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, and to Puerto Armuelles (Panama);

(3) Agreement Numbered 6270–7, between the member lines of the West Coast South America/North Pacific Coast Conference, modifies the basic agreement of that conference (Numbered 6270, as amended), in the trade from Pacific Coast ports of Chile and Peru to Pacific Coast ports of the U.S. and Canada;

(4) Agreement Numbered 6670–7, between the member lines of Camexco Freight Conference, modifies the basic agreement of that conference (Numbered 6670, as amended), in the trade from West Coast ports of Central America and Mexico to Pacific Coast ports of the U.S. and Canada; and

(5) Agreement Numbered 7570–8, between the member lines of the Pacific Coast/Mexico Freight Conference, modifies the basic agreement of that conference (Numbered 7570, as amended), in the trade between Pacific Coast ports of the U.S. and Canada and ports on the Pacific Coast of Mexico.

These similar modifications cover the incorporation of a new paragraph in each of these conference agreements providing that no member shall represent, nor allow their agents to represent, in the United States and Canada, any vessel in the trade covered by the particular agreement, other than those operated for the account of a member, except as husbanding agents, or as agents for vessels loading full or partial cargoes of open-rated commodities, or as may be agreed by unanimous vote of the members; and

(6) Agreement Numbered 4294–18, between the member lines of the Pacific Coast/Caribbean Sea Ports Conference, modifies the basic agreement of that conference (Numbered 4294, as amended), in the trade from Pacific Coast ports of the U.S. and Canada to ports in the Central America and Caribbean area;

(7) Agreement Numbered 6070–11, between the member lines of the Canal, Central America Northbound Conference, modifies the basic agreement of that conference (Numbered 6070, as amended), in the trade from Colon, Panama City, Panama Canal Zone, and West Coast Central American ports, to Pacific Coast ports of the U.S. and Canada;

(8) Agreement Numbered 6400–11, between the member lines of the Pacific Coast River Plate Brazil Conference, modifies the basic agreement of that conference (Numbered 6400, as amended), in the trade, both southbound and northbound, between ports on the Pacific Coast of North America and ports in Argentine, Uruguay and Brazil;

(9) Agreement Numbered 7170–9, between the member lines of the Pacific Coast/Panama Canal Freight Conference, modifies the basic agreement of that Conference (Numbered 7170, as amended), in the trade from Pacific Coast ports of the U.S. and Canada to Colon, Panama City, Balboa and Cristobal;

(10) Agreement Numbered 7270–8, between the member lines of the Colpac Freight Conference, modifies the basic agreement of that Conference (Numbered 7270, as amended), in the trade from Atlantic ports of Colombia to Pacific Coast ports of the U.S. and Canada, either by direct service or by transshipment at Panama Canal ports; and

(11) Agreement Numbered 8390–2, between the member lines of the Caribbean/Pacific Northbound Freight Conference, modifies the basic agreement of that Conference (Numbered 8390, as

amended), in the trade from Caribbean ports to Pacific Coast ports of the U.S. and Canada.

These similar agreements modify the provisions of the approved conference agreements, respectively, which prohibit the member lines and/or their agents from representing non-conference vessels in the trades covered, to limit such prohibition to the United States and Canada.

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

Dated: August 23, 1961.

By order of the Federal Maritime Commission.

GEO. A. VIEHMANN,
Secretary.

[F.R. Doc. 61-8233; Filed, Aug. 28, 1961; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-9262 etc.]

HOUSTON TEXAS GAS AND OIL CORP. AND COASTAL TRANSMISSION CORP.

Order Prescribing Procedure and Fixing Date for Service of Testimony and Exhibits

AUGUST 22, 1961.

Houston Texas Gas and Oil Corporation, Docket Nos. G-9262 and RP61-3; Coastal Transmission Corporation, G-9960 and RP61-4.

On June 21, 1961, Houston Texas Gas and Oil Corporation (Houston, Texas), tendered for filing Second Revised Sheet Nos. 4 and 5 to its FPC Gas Tariff, Original Volume No. 1. By order issued July 31, 1961, the aforesaid tariff sheets were permitted to be filed and to supersede Houston Texas' First Revised Sheet Nos. 4 and 5, effective as of August 1, 1961, subject to the proceeding in Docket No. RP61-3. The said order of July 31, 1961, did not prescribe any procedure for testing the validity of the said Second Revised Sheet Nos. 4 and 5.

The proceeding in Docket No. RP61-3 has been consolidated with Docket Nos. G-9262, G-9960, and RP61-4 for the purpose of hearing. Hearings in these proceedings have progressed to the point where the Commission staff is to serve the remainder of its case on or before September 21, 1961. The hearing is scheduled to reconvene on October 9, 1961, for the purpose of cross-examination of the staff's case.

The Commission finds: It is necessary and desirable, in light of the present posture of these proceedings, that the Commission should prescribe the procedure to be followed in order to continue the orderly conduct of these proceedings.

The Commission orders:

(A) On or before September 21, 1961, Houston Texas shall serve, upon all parties of record, its direct testimony and exhibits in support of the proposed changes contained in Second Revised Sheet Nos. 4 and 5 to its FPC Gas Tariff, Original Volume No. 1.

(B) Upon resumption of the hearing in these proceedings on October 9, 1961, the presiding examiner shall designate the procedure for cross-examination of both the Commission staff's case and the evidence submitted by Houston Texas in compliance with this order. Thereafter, the presiding examiner shall exercise control of the progress of the hearing and shall grant such recesses and specify such procedures as may be authorized by the Commission's rules of practice and procedure.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-8214; Filed, Aug. 28, 1961; 8:48 a.m.]

[Project No. 16]

NIAGARA MOHAWK POWER CORP.

Notice of Application for Surrender of License

AUGUST 22, 1961.

On August 2, 1961, Niagara Mohawk Corporation of Syracuse, New York, filed application for surrender of license for its hydroelectric Project No. 16 on the Niagara River. The Commission, on January 30, 1958, issued a license to the Power Authority of the State of New York pursuant to the provisions of the Federal Power Act and the Niagara Redevelopment Act of August 21, 1957 (71 Stat. 401), for the construction and operation of a power project with capacity to utilize all of the United States share of the water of the Niagara River permitted to be used by international agreement. The project of the New York Power Authority is nearing completion. The Niagara Mohawk Power Corporation proposes to surrender its license, effective October 1, 1961, and cease to utilize water from the Niagara River for power purposes in order to permit the utilization of such water at the new Niagara project works of the New York Power Authority.

Any communication from persons interested in this matter may be submitted on or before September 25, 1961, to the Federal Power Commission, Washington 25, D.C. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-8215; Filed, Aug. 28, 1961; 8:48 a.m.]

[Docket No. E-7011]

PACIFIC POWER & LIGHT CO.

Notice of Application

AUGUST 22, 1961.

Take notice that on August 16, 1961, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by Pacific Power & Light Company ("Applicant"), a corporation organized under the laws of the State of Maine and doing business in the States of Oregon, Washington, Wyoming, California, Montana and Idaho, with its principal business office at Portland, Oregon, seeking an order authorizing the issuance of unsecured promissory notes in the aggregate principal amount of $45,000,000 at any one time outstanding. The securities proposed to be issued by Applicant are unsecured promissory notes to be executed and delivered under and pursuant to a Credit Agreement to be dated as of August 15, 1961, between Applicant and the banks listed hereafter. Under the Credit Agreement Applicant will have the right to borrow from, repay to and reborrow from the banks, and the respective banks will be obligated to lend to Applicant, from time to time prior to March 31, 1963, sums not exceeding in aggregate principal amount at any one time outstanding the amount set forth below opposite the name of the respective banks.

Morgan Guaranty Trust Company of New York	$15,750,000
The Chase Manhattan Bank	10,935,000
The First National City Bank of New York	5,850,000
Mellon National Bank and Trust Company	3,375,000
Continental Illinois National Bank and Trust Company of Chicago	2,520,000
The Hanover Bank	2,520,000
Wells Fargo Bank American Trust Company	2,520,000
Harris Trust and Savings Bank	1,530,000
Total	45,000,000

The aforesaid Credit Agreement will provide that the notes to be issued thereunder shall be dated the date of the borrowings evidenced thereby, mature eleven months after their date or on March 31, 1963, whichever shall be earlier, and bear interest at a rate per annum which shall be equivalent to the prime commercial rate of interest charged by Morgan Guaranty Trust Company of New York from time to time. The Credit Agreement will further provide for the payment to the banks of a commitment fee computed at the rate of ¼ of 1 percent per annum on unborrowed balances. The purpose of the issuance and sale of the promissory notes is to provide Applicant with funds with which to: (1) Retire $10,000,000 of notes issued by Copco and assumed by Applicant as a result of the merger into Applicant of Copco and an estimated not to exceed $18,000,000 of notes issued or to be issued by Applicant under its presently existing Credit Agreement dated as of December 17, 1959, and (2) finance temporarily Applicant's current construction program the expenditures for which are estimated at $30,334,000 for the last six months of 1961, approximately $47,870,000 for the calendar year 1962 and approximately $12,000,000 for the first three months of 1963.

Any person desiring to be heard or to make any protest with reference to said application should on or before the 11th

day of September 1961, file with the Federal Power Commission, Washington 25, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-8216; Filed, Aug. 28, 1961; 8:48 a.m.]

[Docket No. 14986 etc.]

TIDEWATER OIL CO. ET AL.

Notice of Severance

AUGUST 22, 1961.

Tidewater Oil Company, et al., Docket No. G-14986 etc.; J. R. Butler, et al., Docket No. CI61-150; W. C. Feazel, et al., Docket No. CI61-563; Monsanto Chemical Company, Docket No. CI61-604; The Atlantic Refining Company, Operator, Docket No. CI61-660; Anadarko Production Company, Operator, Docket No. CI61-683; Anadarko Production Company, Docket Nos. CI61-700, CI61-865, CI61-872, CI61-873; Barnwell, Inc., Docket No. CI61-874.

Notice is hereby given that the above-entitled matters heretofore scheduled for a hearing to be held in Washington, D.C., on September 7, 1961, at 9:30 a.m., e.d.s.t., in the consolidated proceedings entitled Tidewater Oil Company, et al., in Docket Nos. G-14986, et al., are severed therefrom, for such disposition as may be appropriate.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-8217; Filed, Aug. 28, 1961; 8:49 a.m.]

[Docket No. CP62-24]

UNITED GAS PIPE LINE CO.

Notice of Application and Date of Hearing

AUGUST 22, 1961.

Take notice that on July 27, 1961, United Gas Pipe Line Company (Applicant) filed an application in Docket No. CP62-24 pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of field facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof from time to time during the calendar year 1962, at a total cost not in excess of $3,000,000, with no single project to exceed a cost of $400,000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of gas in various producing areas generally coextensive with its system.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on September 26, 1961, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before September 15, 1961. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-8218; Filed, Aug. 28, 1961; 8:49 a.m.]

[Project No. 2246]

YUBA COUNTY WATER AGENCY

Notice of Application for License

AUGUST 22, 1961.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Yuba County Water Agency (correspondence to Eugene L. Gray, Secretary, Yuba County Water Agency, P.O. Box 28, Marysville, California) for license for proposed Project No. 2246, known as "Yuba River Development," to be located on Yuba River and its tributaries, North Yuba River, Middle Yuba River, and Oregon Creek, in Counties of Yuba, Nevada, and Sierra, California, in the vicinity of Camptonville, Dobbins, Marysville, North San Juan and Smartville, California, and affecting lands of the United States within Plumas and Tahoe National Forests, and utilizing the Englebright Dam of the California Debris Commission, an agency of the U.S. Corps of Engineers, and affecting land adjacent to such dam.

The proposed project would consist of: New Bullards Bar Dam, Reservoir and Power Plant—an impervious core, rockfill dam across North Yuba River about 2.2 miles upstream from its confluence with Middle Yuba River, about 633 feet high above streambed and 1,800 feet long at crest; a side-channel gated spillway located about 2,700 feet upstream from the dam's left abutment and discharging into Marys Ravine, a tributary of Middle Yuba River; a reservoir with gross storage capacity of 930,000 acre-feet and water surface area of 4,600 acres at normal maximum operating surface at elevation 1,955 feet, which reservoir would inundate the existing Pacific Gas and Electric Company's Bullards Bar hydroelectric development licensed by the Commission as Project No. 187; and power plant on left bank of North Yuba River near the toe of the dam, to be served by a pressure tunnel and to contain two generating units each consisting of a turbine rated at 91,500 horsepower direct-connected to a generator rated at 66,000 kilowatts; Hour House Diversion Dam and Reservoir—a concrete arch dam across Middle Yuba River about 6.5 miles upstream from the confluence of Oregon Creek and the river, about 90 feet high above streambed and 370 feet long with ungated, overflow type spillway; and a reservoir with gross capacity of 615 acre-feet and surface area of 18 acres at normal maximum operating surface at elevation 2,030 feet; Log Cabin Diversion Dam and Reservoir—a concrete arch dam across Oregon Creek about 3.5 miles upstream from confluence of the creek and Middle Yuba River, about 70 feet high above streambed and 255 feet long with ungated, overflow type spillway; and reservoir with gross capacity of 220 acre-feet and surface area of 8.5 acres at normal maximum operating surface at elevation 1,970 feet; Lohman Ridge Tunnel—a gravity-flow tunnel from Hour House diversion reservoir to Log Cabin reservoir; Camptonville Tunnel—a gravity flow tunnel from Log Cabin reservoir to New Bullards Bar reservoir; New Colgate Diversion Dam, Tunnel and Power Plant—a concrete gravity dam across North Yuba River about 2,700 feet downstream from proposed New Bullards Bar dam, about 50 feet high above streambed and 230 feet long, with central ungated ogee spillway section having crest elevation 1,350 feet, with negligible effective storage; a pressure tunnel incorporating a surge chamber and extending from intake at New Colgate diversion dam to the head of a double, steel penstock of the New Colgate power plant; and power plant on right bank of Yuba River about 600 feet downstream from the existing Colgate power plant of Pacific Gas and Electric Company to contain two generating units each consisting of a turbine rated at 85,000 horsepower direct-connected to a generator rated at 61,000 kilowatts; New Link to Existing Colgate Tunnel—a new intake structure at New Colgate diversion reservoir and a tunnel between such intake and the existing tunnel of Pacific Gas and Electric Company's Colgate hydroelectric projects; New Narrows Power Tunnel and Power Plant—a pressure tunnel incorporating a surge chamber and extending from a proposed intake structure on the right bank of Yuba River immediately upstream from existing Englebright dam of the California Debris Commission to the head of a steel penstock of the New Narrows power plant; and power plant on north bank of Yuba River about 1,200 feet downstream

from Englebright dam and facing the existing Pacific Gas and Electric Company's Narrows power plant to contain one turbine rated at 65,000 horsepower direct-connected to a generator rated at 41,000 kilowatts; and Irrigation Diversion Dam and Reservoir—an impervious core, rockfill dam across Yuba River about one mile downstream from the existing Parks Bar Bridge on State Highway #20, 70 feet high above streambed and 1,170 feet long, with side channel spillway and ogee weir on right abutment; and a reservoir with gross storage capacity of 7,800 acre-feet and surface area of 350 acres at normal operating surface at elevation 235 feet.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is October 4, 1961. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-8219; Filed, Aug. 28, 1961; 8:49 a.m.]

FEDERAL RESERVE SYSTEM

NORTHWEST BANCORPORATION

Order Granting Petition for Reconsideration

In the matter of the application of Northwest Bancorporation for prior approval of acquisition of voting shares of proposed Roseville Northwestern National Bank, Roseville, Minnesota.

Whereas, the Board of Governers on August 8, 1961, entered an order denying the application of Northwest Bancorporation ("Northwest") pursuant to the Bank Holding Company Act of 1956 for prior approval of the acquisition of stock of Roseville Northwestern National Bank, Roseville, Minnesota, a proposed new bank;

Whereas, on August 22, 1961, Northwest filed with the Board a petition for reconsideration in this matter;

Whereas, in connection with such Petition, Northwest has requested that the Board direct an oral hearing and, further, that the Board set aside the Board's Order of August 8, 1961, until final determination of the matter on reconsideration;

It is hereby ordered, (1) That the petition for reconsideration is granted; (2) that oral argument in this matter will be held before the Board of Governors at its Offices in Washington, D.C. on September 1, 1961, at 10:00 a.m., such proceeding to be open to the public; and (3) that, pursuant to Petitioner's request, the Board's Order of August 8, 1961, is set aside pending issuance of a further order of the Board finally determining this matter.

Dated at Washington, D.C., this 23d day of August 1961.

By order of the Board of Governors.

[SEAL] KENNETH A. KENYON,
Assistant Secretary.

[F.R. Doc. 61-8220; Filed, Aug. 28, 1961; 8:49 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 347]

OHIO

Declaration of Disaster Area

Whereas, it has been reported that during the month of July 1961, because of the effects of certain disasters, damage resulted to residences and business property located in Shelby County in the State of Ohio;

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

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act.

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

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act may be received and considered by the Office below indicated from persons or firms whose property, situated in the aforesaid County and areas adjacent thereto, suffered damage or destruction resulting from tornado and accompanying conditions occurring on or about July 29, 1961.

Office—
Small Business Administration Regional Office, Standard Building, Fourth Floor, 1370 Ontario Street, Cleveland 13, Ohio.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to January 31, 1962.

Dated: July 31, 1961.

JOHN E. HORNE,
Administrator.

[F.R. Doc. 61-8339; Filed, Aug. 28, 1961; 12:16 p.m.]

[Declaration of Disaster Area 349]

KENTUCKY

Declaration of Disaster Area

Whereas, it has been reported that during the month of July 1961, because of the effects of certain disasters, damage resulted to residences and business property located in Morgan, Johnson and Pike Counties in the State of Kentucky;

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

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

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

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act may be received and considered by the Offices below indicated from persons or firms whose property, situated in the aforesaid Counties and areas adjacent thereto, suffered damage or destruction resulting from flood and accompanying conditions occurring on or about July 30 and 31, 1961.

Offices—
Small Business Administration Regional Office, 1370 Ontario Street, Cleveland 13, Ohio.
Small Business Administration Branch Office, Commonwealth Building, Room 1900, Fourth and Broadway, Louisville 2, Ky.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to February 28, 1962.

Dated: August 3, 1961.

JOHN E. HORNE,
Administrator.

[F.R. Doc. 61-8340; Filed, Aug. 28, 1961; 12:16 p.m.]

[Declaration of Disaster Area 352]

NEW MEXICO

Declaration of Disaster Area

Whereas, it has been reported that during the month of August 1961, because of the effects of certain disasters, damage resulted to residences and business property located in Bernalillo County in the State of New Mexico;

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

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act.

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

1. Applications for disaster loans under the provisions of secton 7(b)(1) of the Small Business Act may be received and considered by the Offices below indicated from persons or firms whose property, situated in the aforesaid County and areas adjacent thereto, suffered damage or destruction resulting from rain and flood and accompanying conditions occurring on or about August 11, 1961.

Offices—
Small Business Administration Regional Office, Railway Exchange Building, 909 17th Street, Denver 2, Colo.
Small Business Administration Branch Office, U.S. Court House Building, Room 102, Fifth and Gold Avenues SW., Albuquerque, N. Mex.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to February 28, 1962.

Dated: August 15, 1961.

LOGAN B. HENDRICKS,
Acting Deputy Administrator.

[F.R. Doc. 61-8341; Filed, Aug. 28, 1961; 12:16 p.m.]

CUMULATIVE CODIFICATION GUIDE—AUGUST

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during August.

3 CFR

Page

PROCLAMATIONS:
- July 16, 1938 — 7974
- 3424 — 7031

EXECUTIVE ORDERS:
- July 15, 1875 — 7776
- Feb. 12, 1895 — 7776
- Mar. 21, 1924 — 7826
- Jan. 28, 1926 — 7826
- 792 — 7776
- 920 — 7548
- 945 — 7776
- 1262 — 7344
- 1510 — 7344
- 2110 — 7776
- 2735 — 7776
- 3198 — 7776
- 4342 — 7219
- 5125 — 7219
- 5364 — 6852
- 6184 — 7826
- 7373 — 7964
- 8014 — 7776
- 8397 — 7877
- 8411 — 7219
- 8864 — 7548
- 10450 — 6967
- 10530 — 7571, 7823
- 10773 — 7571
- 10841 — 7315
- 10889 — 7823
- 10902 — 7571
- 10910 — 7823
- 10952 — 7571
- 10955 — 6967
- 10956 — 7315
- 10957 — 7541
- 10958 — 7571
- 10959 — 7753
- 10960 — 7823
- 10961 — 7823
- 10962 — 8001

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:
- Reorganization Plan 6, 1949 — 7315
- Reorganization Plan 5, 1950 — 7315
- Reorganization Plan 21, 1950 — 7315
- Reorganization Plan 1, 1958 — 7571
- Reorganization Plan 6, 1961 — 7541
- Reorganization Plan 7, 1961 — 7315

5 CFR

- 6 — 7183, 7247, 7319, 7542, 7572, 7754, 7795, 7863, 8002, 8069
- 30 — 7005
- 89 — 7572
- 350 — 7005

PROPOSED RULES:
- 89 — 7144

6 CFR

- 331 — 7121
- 333 — 6915
- 421 — 7007, 7008, 7078, 7247, 7248, 7252, 7317, 7319, 7542, 7572, 7795, 7824, 7863
- 430 — 7255
- 443 — 7256
- 446 — 7863
- 474 — 7183
- 481 — 7872

7 CFR

Page

- 14 — 7754
- 28 — 8002
- 51 — 8002
- 210 — 7258
- 301 — 7754
- 319 — 6968, 6969, 7755
- 354 — 6833
- 701 — 6881
- 706 — 7319
- 711 — 7693
- 717 — 7258, 7693
- 718 — 7259
- 719 — 7259, 7324
- 722 — 6892, 7755, 7758, 8069
- 723 — 7122, 7693
- 725 — 7693
- 728 — 6892, 7261, 7694
- 750 — 7825
- 775 — 7573
- 811 — 6969
- 863 — 7795
- 900 — 7796
- 906 — 6833
- 911 — 6834
- 921 — 7573
- 922 — 7032, 7326, 7758, 8003
- 933 — 7077
- 934 — 6834
- 938 — 6834
- 939 — 7725
- 940 — 7186
- 941 — 7957
- 942 — 7959
- 943 — 6835
- 946 — 6836
- 949 — 6837
- 951 — 7573, 7872
- 953 — 6836, 7032, 7077, 7327, 7542, 7759, 7797, 8004
- 958 — 7008, 7725, 7759, 7760
- 963 — 6837
- 969 — 7694
- 986 — 7573
- 990 — 6846
- 992 — 8069
- 993 — 8070
- 1024 — 6847
- 1026 — 7797
- 1030 — 7186, 7803
- 1067 — 7695
- 1068 — 7077

PROPOSED RULES:
- 27 — 7967
- 35 — 7834
- 46 — 7282
- 51 — 6936, 7778
- 52 — 6937, 7967
- 319 — 7134
- 722 — 7967, 7968
- 813 — 7351
- 900—1070 — 7347, 7778, 7879
- 901 — 7653
- 902 — 6854
- 904 — 7587
- 909 — 7282, 7809
- 911 — 7836
- 915 — 7673
- 925 — 7836
- 927 — 7587
- 934 — 7809
- 935 — 7096, 7673, 7837
- 939 — 6937

7 CFR—Continued

Page

PROPOSED RULES—Continued
- 941 — 7134
- 943 — 7837
- 957 — 7550
- 990 — 7587
- 992 — 7017
- 993 — 7096
- 1003 — 7779, 7780
- 1008 — 6937, 7588, 7782
- 1013 — 7096, 7673, 7837
- 1015 — 8012
- 1017 — 7780
- 1019 — 7587
- 1020 — 7809
- 1026 — 6984
- 1027 — 7590
- 1029 — 7810
- 1030 — 7706, 7836
- 1035 — 8012

9 CFR

- 27 — 8053
- 74 — 7872
- 77 — 6831
- 101 — 7725
- 102 — 7725
- 103 — 7725
- 112 — 7725
- 114 — 7725
- 123 — 7725

PROPOSED RULES:
- 131 — 7781

10 CFR

- 30 — 7824
- 40 — 7824
- 140 — 7770

PROPOSED RULES:
- 20 — 7142
- 40 — 7143
- 95 — 7357
- 150 — 7884

12 CFR

- 545 — 7051, 8053

14 CFR

- 40 — 7009
- 41 — 7009
- 42 — 7009
- 43 — 7122
- 302 — 8054
- 507 — 6971, 7009, 7010, 7033, 7078, 7695, 7761, 7873, 7874, 8004
- 514 — 7261, 8004
- 571 — 7123
- 600 — 6847, 6916, 6971, 6972, 7033, 7327, 7328, 7574–7575, 7696, 7728, 7803
- 601 — 6847, 6848, 6916, 6971, 6972, 7033, 7035, 7078, 7262, 7328–7330, 7542–7544, 7574–7576, 7804, 7874, 7875, 7961
- 602 — 6916, 7079, 7575, 7576, 7961
- 608 — 7033, 7187, 7330, 7544, 7875, 7961, 7962
- 609 — 6972, 7036, 7045, 7762
- 610 — 6977, 8005

PROPOSED RULES:
- 40 — 7223
- 41 — 7223
- 42 — 7223
- 202 — 7061
- 205 — 6855

43 CFR—Continued

43 CFR—Continued

44 CFR

45 CFR

46 CFR

47 CFR

49 CFR

50 CFR