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PART I

FEDERAL REGISTER

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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.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1964, and specifies how they are affected.

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Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 731—SUITABILITY

Jurisdiction

Section 731.301(a)(1) is amended to exclude from the subject-to-investigation requirement the appointment or conversion of an employee who has been serving continuously in one agency for at least one year under certain conditions. Paragraph (a)(1) of § 731.301 is amended as set out below.

§ 731.301 **Jurisdiction.**

(a) *Appointments subject to investigation.* (1) In order to establish an appointee's qualifications and suitability for employment in the competitive service, every appointment to a position in the competitive service is subject to investigation by the Commission, except:

(i) Promotion;

(ii) Demotion;

(iii) Reassignment;

(iv) Conversion from career-conditional to career tenure; and

(v) Appointment, or conversion to an appointment, made by an agency of an employee of that agency who has been serving continuously with that agency for at least 1 year in one or more positions in the competitive service under an appointment subject to investigation.

* * * * *

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

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

[F.R. Doc. 64-4901; Filed, May 15, 1964; 8:47 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

SUBCHAPTER A—GENERAL REGULATIONS

[FHA Instructions 442.1, 442.2, 442.4, 443.1, 444.4]

PART 310—INTEREST, ANNUAL CHARGE, AND REPURCHASE AGREEMENT FOR INSURED LOANS

Change in Lender's Interest Rate and Repurchase Agreement

Section 310.3, Title 6, Code of Federal Regulations (29 F.R. 339), is revised to reflect changes in the rate of return to the lender and to establish new fixed periods effective for loans closed on and after May 11, 1964, and to read as follows:

§ 310.3 **Farm Ownership, Labor Housing, and Soil and Water loans made by lenders other than the United States to applicants other than public bodies.**

Farm Ownership, Labor Housing, and Soil and Water loans made with funds advanced by lenders other than the United States to applicants other than organizations which are public bodies will be insured at the time of loan closing. The interest rate to the borrower will be 5 percent per year on the unpaid principal balance of the loan. The interest rate to the lender will be either 4¼ percent with a 3-year repurchase agreement or, at the lender's option, 4¼ percent with a 6-year repurchase agreement.

(Sec. 514, 75 Stat. 186, secs. 307, 308, 75 Stat. 308; 42 U.S.C. 1484, 7 U.S.C. 1927, 1928)

Dated: May 8, 1964.

J. V. HIGHFILL,
Acting Administrator, Farmers Home Administration.

[F.R. Doc. 64-4895; Filed, May 15, 1964; 8:46 a.m.]

Title 7—AGRICULTURE

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

[Valencia Orange Reg. 84]

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

Limitation of Handling

§ 908.384 **Valencia Orange Regulation 84.**

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 14, 1964.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., May 17, 1964, and ending at 12:01 a.m., P.s.t., May 24, 1964, are hereby fixed as follows:

(i) District 1: 650,000 cartons;

(ii) District 2: 332,229 cartons;

(iii) District 3: Unlimited movement.

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

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

Dated: May 15, 1964.

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

[F.R. Doc. 64-4998; Filed, May 15, 1964; 11:14 a.m.]

[Lemon Reg. 111]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.411 Lemon Regulation 111.

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 12, 1964.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., May 17, 1964, and ending at 12:01 a.m., P.s.t., May 24, 1964, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 372,000 cartons;

(iii) District 3: Unlimited movement.

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

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

Dated: May 14, 1964.

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

[F.R. Doc. 64–4939; Filed, May 15, 1964; 8:51 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER E—AIRSPACE [NEW]

[Airspace Docket No. 63–CE–143]

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

Revocation of Federal Airway Segment

On February 15, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 2507) stating that the Federal Aviation Agency was considering amendments to Part 71 [New] of the Federal Aviation Regulations which would revoke a segment of VOR Federal airway No. 63 from Burlington, Iowa, to the Charlotte, Iowa, Intersection, and would alter the Moline, Ill., control area extension.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, the following actions are taken:

Section 71.123 (29 F.R. 1009) is amended as follows: In V–63 all after "Quincy, Ill.;" is deleted and "to Burlington, Iowa. From the INT of Polo, Ill., 268° and Janesville, Wis., 239° radials via Janesville; to Milwaukee, Wis." is substituted therefor.

Section 71.165 (29 F.R. 1073) is amended as follows: In the Moline, Ill., control area extension "on the SW by V–63" is deleted and "on the SW by a line 5 miles E of and parallel to the Burlington, Iowa, VOR 005° radial" is substituted therefor.

These amendments shall become effective 0001 E.S.T., July 23, 1964.

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

Issued in Washington, D.C., on May 11, 1964.

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

[F.R. Doc. 64–4907; Filed, May 15, 1964; 8:47 a.m.]

[Airspace Docket No. 63–CE–117]

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

Alteration of Federal Airways

On November 27, 1963, a notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 12626) stating that the Federal Aviation Agency was considering amendments to Part 71 [New] of the Federal Aviation Regulations which would extend VOR Federal airway No. 181 from Sioux Falls, S. Dak., to Neola, Iowa, and extend VOR Federal airway No. 219 from Wolbach, Nebr., to Sioux City, Iowa.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. Due consideration was given to all relevant matter presented.

The Air Transport Association of America, in commenting on the notice, requested that Victor 181 be extended to Omaha, Nebr., instead of to Neola. No other comments were received.

On March 7, 1964, a supplemental notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 3161) stating that the Agency was considering the extension of Victor 181 to Omaha in lieu of Neola. No comments were received on this proposal.

In consideration of the foregoing, the following actions are taken:

Section 71.123 (29 F.R. 1009) is amended as follows:

1. In V–181 "From Sioux Falls, S. Dak., via" is deleted and "From Omaha, Nebr., via Norfolk, Nebr.; Yankton, S. Dak.; Sioux Falls, S. Dak.;" is substituted therefor.

2. In V–219 "to Wolbach." is deleted and "Wolbach; Norfolk, Nebr.; to Sioux City, Iowa." is substituted therefor.

These amendments shall become effective 0001 e.s.t., July 23, 1964.

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

Issued in Washington, D.C., on May 11, 1964.

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

[F.R. Doc. 64–4908; Filed, May 15, 1964; 8:47 a.m.]

[Airspace Docket No. 63–EA–105]

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

Alteration of Federal Airway; Correction

On April 23, 1964, F.R. Doc. 64–3989 was published in the FEDERAL REGISTER (29 F.R. 5456) and extended VOR Federal airway No. 157 from La Guardia, N.Y., to the intersection of La Guardia 034° and Hartford, Conn., 246° True radials. This action is to become effective June 25, 1964. Subsequent to publication of the amendment, the Hartford 246° radial was computed as 245°. Ac-

tion is taken herein to reflect the revised radial.

Since this change is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and the effective date of the rule as originally adopted may be retained.

In consideration of the foregoing, effective immediately, F.R. Doc. 64-3989 (29 F.R. 5456) is altered by revising the amendment to § 71.123 to read as follows:

Section 71.123 (29 F.R. 1009, 1561, 2934) is amended as follows: In V-157 all after "to Kennedy." is deleted and "From La Guardia, N.Y., to INT of La Guardia 034° and Hartford, Conn., 245° radials. The airspace within R-6612 is excluded." is substituted therefor.

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

Issued in Washington, D.C., on May 11, 1964.

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

[F.R. Doc. 64-4909; Filed, May 15, 1964; 8:47 a.m.]

[Airspace Docket No. 63-SO-27]

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

Alteration of Federal Airways

On February 20, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 2607) stating that the Federal Aviation Agency was considering amendments to Part 71 [New] of the Federal Aviation Regulations which would alter the Federal airway structure between Crossville, Tenn., and Louisville, Ky., and between Nashville, Tenn., and London, Ky., by including a new navigational facility in the vicinity of Highway, Tenn. (latitude 36°35'04" N., longitude 85°10'00" W.).

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, the following actions are taken:

1. Section 71.123 (29 F.R. 1009, 1561, 1843, 2934, 2999, 3226, 4719) is amended as follows:

a. In V-16 "and also an N alternate via INT of Nashville 079° and Crossville 298° radials;" is deleted and "and also an N alternate via INT of Nashville 081° and Crossville 301° radials;" is substituted therefor.

b. In V-51 "New Hope, Ky.; Louisville, Ky., including an E alternate from INT of London, Ky., 260° and New Hope 163° radials to Louisville via INT of Lexington, Ky., 213° and Louisville 148° radials, excluding the airspace between the main and this alternate airway;" is deleted and "Highway, Ky.; Louisville, Ky., including an E alternate via INT of Highway 011° and Louisville 148° radials, and also a W alternate from Highway to Louisville via INT of Highway 333° and New Hope, Ky., 165° radials, and New Hope;" is substituted therefor.

c. In V-140 "London, Ky., including an S alternate and also an N alternate via INT of Nashville 044° and London 260° radials;" is deleted and "Highway, Tenn., including an S alternate; London, Ky., including an N alternate from Nashville to London via INT of Nashville 044° and London 258° radials;" is substituted therefor.

d. In V-819 "New Hope, Ky.;" is deleted and "Highway, Tenn.;" is substituted therefor.

e. In V-830 "London, Ky.;" is deleted and "Highway, Tenn.; London, Ky.;" is substituted therefor.

f. In V-887 "Nashville, Tenn.;" is deleted and "Highway, Tenn.; Nashville, Tenn.;" is substituted therefor.

2. Section 71.143 (29 F.R. 1049) is amended as follows:

a. In V-1540 "thence London, Ky.;" is deleted and "thence Highway, Tenn.; London, Ky.;" is substituted therefor.

b. In V-1739 "INT Crossville 343°, Bowling Green, Ky., 073° radials;" is deleted and "Highway, Tenn.;" is substituted therefor.

These amendments shall become effective 0001 e.s.t., July 23, 1964.

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

Issued in Washington, D.C., on May 11, 1964.

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

[F.R. Doc. 64-4910; Filed, May 15, 1964; 8:47 a.m.]

[Airspace Docket No. 63-SO-83]

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

Alteration of Federal Airways, Revocation of Federal Airway Segments, and Designation of Transition Area

On February 15, 1964 a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 2506) and stated that the Federal Aviation Agency was considering amendments to Part 71 [New] of the Federal Aviation Regulations which would realign VOR Federal airway Nos. 97 and 843 from Albany, Ga., to Atlanta, Ga.; revoke VOR Federal airway No. 97 east alternate from Albany to Atlanta; revoke VOR Federal airway No. 243 west alternate from Vienna, Ga., to Atlanta; and designate the Junction City, Ga., transition area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, the following actions are taken:

1. Section 71.123 (29 F.R. 1009, 2692) is amended as follows:

a. In V-97 "Albany, Ga., INT of Albany 350° and Atlanta, Ga., 179° radials; Atlanta, including an E alternate via INT of Albany 010° and Atlanta 164° radials;" is deleted and "Albany; Atlanta, Ga.;" is substituted therefor.

b. In V-243 "Atlanta, Ga., including a W alternate via INT of Vienna 286° and Atlanta 164° radials;" is deleted and "Atlanta, Ga.;" is substituted therefor.

c. In V-843 "INT of Atlanta 179° and Albany, Ga., 350° radials; Albany;" is deleted and "Albany, Ga.;" is substituted therefor.

2. Section 71.181 (29 F.R. 1160) is amended by adding the Junction City, Ga., transition area, as follows:

Junction City, Ga.

That airspace extending upward from 1,200 feet above the surface within that area bounded on the E by the arc of a 35-mile radius circle centered on the Macon, Ga., VORTAC, on the SE by V-35 W alternate, on the S by V-70, on the W by V-97 and on the N by the arc of a 50-mile radius circle centered on the Atlanta Municipal Airport (latitude 33°38'42" N., longitude 84°25'37" W.).

These amendments shall become effective 0001 e.s.t., July 23, 1964.

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

Issued in Washington, D.C., on May 11, 1964.

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

[F.R. Doc. 64-4911; Filed, May 15, 1964; 8:48 a.m.]

[Airspace Docket No. 63-SO-91]

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

Alteration and Revocation of Federal Airway Segments, Revocation and Designation of Reporting Point, and Alteration of Control Area Extension

On February 20, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 2608) stating that the Federal Aviation Agency was considering amendments to Part 71 [New] of the Federal Aviation Regulations which would realign the Federal airway structure between Cross City/Gainesville, Fla., and Albany, Ga., and between Marianna, Fla., and Taylor, Fla., via the new Greenville, Fla., VOR (latitude 30°33'04" N., longitude 83°46'27" W.), designate the Greenville VOR as a reporting point and alter the Tallahassee, Fla., control area extension.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

Subsequent to publication of the notice, the exact location of the Greenville VOR has been determined as latitude 30°33'04" N., longitude 83°47'03" W. This slight change in site will necessitate use of the Greenville VOR 295° True radial in lieu of the 294° True radial in the description of VOR Federal airway No. 22, as proposed in the notice. Although not stated in the notice, upon commissioning of the Greenville VOR, the Greenville Intersection will no longer be required as a reporting point and is revoked herein.

In consideration of the foregoing, the following actions are taken:

1. Section 71.123 (29 F.R. 1009, 2692) is amended as follows:

a. In V–7 "INT of Cross City 310° and Tallahassee, Fla., 137° radials;" is deleted and "INT of Cross City 311° and Tallahassee, Fla., 137° radials;" is substituted therefor.

b. In V–22 all after "Marianna, Fla.;" is deleted and "INT Marianna 096° and Greenville, Fla., 295° radials; Greenville, including an S alternate from Marianna to Greenville via INT of Marianna 141° and Tallahassee 272° radials, and Tallahassee; Taylor, Fla. (8 miles wide from Greenville to 18 nmi E of Greenville); to Jacksonville, Fla. The airspace within R–2915 is excluded." is substituted therefor.

c. In V–35 "INT of Cross City 310° and Tallahassee, Fla., 137° radials; Tallahassee; INT of Tallahassee 353° and Albany, Ga., 176° radials; Albany, including an E alternate via INT of Tallahassee 008° and Albany 160° radials;" is deleted and "INT of Cross City 311° and Tallahassee, Fla., 137° radials; Tallahassee; Albany, Ga.;" is substituted therefor.

d. In V–97 "INT of Cross City 310° and Tallahassee 137° radials" and "INT of Tallahassee 353° and Albany, Ga., 176° radials; Albany, Ga.," are deleted and "INT of Cross City 311° and Tallahassee 137° radials" and "Albany, Ga.;" are substituted therefor.

e. In V–159 all after "Gainesville, Fla.;" is deleted and "Greenville, Fla., including a W alternate from Ocala to Greenville via Cross City, Fla.; Albany, Ga.; Eufaula, Ala.; Tuskegee, Ala.; to Birmingham, Ala." is substituted therefor.

f. In V–843 all after "Albany;" is deleted and "Greenville, Fla.; Cross City, Fla.; Lakeland, Fla.; La Belle, Fla.; to Miami, Fla." is substituted therefor.

2. Section 71.165 (29 F.R. 1073) is amended as follows: In the Tallahassee, Fla., control area extension "That airspace bounded on the N by V–22N," is deleted and "That airspace bounded on the N by V–22," is substituted therefor.

3. Section 71.203 (29 F.R. 1211) is amended as follows: "Greenville INT: INT Tallahassee, Fla., 090°, Moultree, Ga., 177°, Valdosta, Ga., 247°." is deleted and "Greenville, Fla." is substituted therefor.

These amendments shall become effective 0001 e.s.t., July 23, 1964.

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

Issued in Washington, D.C., on May 11, 1964.

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

[F.R. Doc. 64–4912; Filed, May 15, 1964; 8:48 a.m.]

[Airspace Docket No. 63–WE–120]

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

Revocation of Federal Airway Segment

On February 11, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 2353) stating that the Federal Aviation Agency was considering an amendment to Part 71 [New] of the Federal Aviation Regulations which would revoke a segment of VOR Federal airway No. 514 from Tobe, Colo., to Garden City, Kans.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, the following action is taken: In § 71.123 (29 F.R. 1009, 29 F.R. 3356) "V–514 from Tobe, Colo., to Garden City, Kans." is revoked.

This amendment shall become effective 0001 e.s.t., July 23, 1964.

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

Issued in Washington, D.C., on May 11, 1964.

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

[F.R. Doc. 64–4913; Filed, May 15, 1964; 8:48 a.m.]

[Airspace Docket No. 63–WE–124]

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

Alteration of Federal Airway

On February 11, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 2351) stating that the Federal Aviation Agency was considering an amendment to Part 71 [New] of the Federal Aviation Regulations which would realign VOR Federal airway No. 263 from Hugo, Colo., to Kiowa, Colo.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments were favorable.

In consideration of the foregoing, the following action is taken:

Section 71.123 (29 F.R. 1009) is amended as follows: In V–263 "to Thurman, Colo." is deleted and "to Kiowa, Colo." is substituted therefor.

This amendment shall become effective 0001 e.s.t., July 23, 1964.

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

Issued in Washington, D.C., on May 11, 1964.

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

[F.R. Doc. 64–4914; Filed, May 15, 1964; 8:48 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 5062; Amdt. 730]

PART 507—AIRWORTHINESS DIRECTIVES

Hiller Model UH–12E Helicopters

Amendment 653, 28 F.R. 13743, AD 63–26–2, requires replacement of tail rotor pinion gears of three certain heat treat lots within 100 hours' time in service and replacement of all others within 400 hours' time in service on Hiller Model UH–12E helicopters. Since the issuance of Amendment 653 failures of gears from additional heat treat lots have occurred. In view of this, Amendment 653 is being superseded by a new directive requiring early replacement of all P/N's 23522 and 23634 gears regardless of heat treat lot number.

As a situation exists which demands immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

HILLER. Applies to all Model UH–12E helicopters.

Compliance required as indicated.

A number of failures of the tail rotor pinion gear have been experienced. These failures have been experienced with several different gear heat treat lots and on helicopters both with and without rotor brakes installed. To preclude any additional failures, accomplish the following:

(a) Replace tail rotor pinion gears identified as Hiller P/N 23522 or P/N 23634 with a tail rotor pinion gear P/N 23634–3 as follows:

(1) Gears with less than 50 hours total time in service on the effective date of this AD shall be replaced prior to the accumulation of 100 hours total time in service.

(2) Gears with 50 hours or more total time in service on the effective date of this AD shall be replaced within the next 50 hours' time in service.

(b) Tail rotor pinion gears identified as P/N 23634–3 are satisfactory for unlimited service life.

NOTE: An "–A" following P/N 23634 should be disregarded inasmuch as this is a gear vendor's marking and not part of the Hiller part number.

(Hiller Service Information Letter No. 3036 "C" covers this same subject.)

This supersedes Amendment 653, 28 F.R. 13743, AD 63–26–2.

This amendment shall become effective May 16, 1964.

(Secs. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on May 11, 1964.

W. LLOYD LANE,
Acting Director, Flight Standards Service.

[F.R. Doc. 64–4915; Filed, May 15, 1964; 8:49 a.m.]

Title 26—INTERNAL REVENUE

Chapter II—Tax Court of the United States

PART 701—RULES OF PRACTICE

Bond to Stay Execution of Order of Renegotiation Board

Correction

In F.R. Doc. 64–4126, appearing in the issue for Saturday, April 25, 1964, at 29 F.R. 5544, subparagraph (3) and

the sentence following subparagraph (3) should appear as shown below:

(3) The motion recites that petitioner agrees that approval of a bond in an amount fixed as provided in subparagraph (1) or (2) of this paragraph shall not preclude the entry of an order increasing the amount of bond at any time thereafter upon a showing satisfactory to the Court of the necessity for increase.

The Court will consider other applications differing from the above, but the applicant must have in mind the short time allowed by the statute for the approval of the bond.

* * * * *

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER C—PERSONNEL

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

Miscellaneous Amendments

Scope and purpose. The amendments are intended (1) to revise § 719.101 in regard to commanding officer's nonjudicial punishment in multiservice commands under article 15 of the Uniform Code of Military Justice (10 USC 815) and (2) to clarify, without substantial change, § 719.102 concerning letters of censure under said article 15. Corresponding amendments to the Manual of the Judge Advocate General will be included in Change 10 to the Manual and distributed in due course to Navy and Marine Corps commands.

1. A paragraph is added below the "Authority" note to read as follows:

NOTE: The Uniform Code of Military Justice (10 U.S.C. 801–940) is referred to in this part as the Code. The Manual for Courts-Martial, United States, 1951 (E.O. 10214, 3 CFR 1949–1953 Comp. p. 408, as amended) is referred to in this part as MCM 1951.

2. Paragraphs (a)(2) through (4) of § 719.101 are renumbered (a)(3) through (5), paragraphs (a)(1), (f)(2) and (3) of § 719.101 are revised, and paragraph (a)(2) is added, to read as follows:

§ 719.101 General provisions.

(a) *Authority to impose*—(1) *Multiservice commands.* In addition to the category of officers authorized to impose nonjudicial punishment under article 15(a) of the Code, the commander of a multiservice command, to whose staff members of the naval service are assigned, may designate each component as a unit and may for each such naval unit designate a commissioned officer of the naval service as commanding officer for the administration of discipline under article 15 of the Code. A copy of any such designation by the commander of a multiservice command shall be furnished to the Chief of Naval Personnel or Commandant of the Marine Corps, as appropriate, and the Judge Advocate General.

(2) *Members of the naval service.* Pursuant to the authority of article 15 of the Code and the provisions of chapter XXVI, MCM 1951, and except as provided in paragraph (b) of this section, nonjudicial punishment may be imposed in the naval service for minor offenses as follows:

(i) *Upon officers and warrant officers.* Any commanding officer, including a commanding officer as designated pursuant to paragraph (a)(1) of this section, may impose upon officers of his command admonition or reprimand and restriction to certain specified limits, with or without suspension from duty, for not more than 15 consecutive days. Officers of the grade of major or lieutenant commander, or above, who are authorized to impose nonjudicial punishment, may, in addition to admonition or reprimand, impose restriction for not more than 30 consecutive days. Only an officer of general or flag rank in command may impose the additional punishments authorized by article 15(b)(1)(B) of the Code. (See also paragraph (a)(4) of this section.)

(ii) *Upon other personnel.* Any commanding officer, including a commanding officer as designated pursuant to paragraph (a)(1) of this section, may impose upon enlisted men of his command, and any commissioned officer who is designated as officer in charge of a unit by Departmental Orders, Tables of Organization, orders of a flag or general officer in command (including one in command of a multiservice command to which members of the naval service are attached) or orders of the Senior Officer Present, may impose upon enlisted men assigned to his unit, admonition or reprimand and one or more of the punishments authorized by article 15(b)(2)(A) through (G) of the Code. Only commanding officers of the grade of major or lieutenant commander or above may impose the increased punishments authorized by article 15(b)(2)(H) of the Code.

* * * * *

(f) *Appeals* * * *

(2) *To whom made.* Any appeal from nonjudicial punishment in accordance with paragraph 135, MCM 1951, shall be made to the authority next superior to the officer who imposed the punishment, whether or not the superior authority is at the time of appeal in the chain of command of the person punished. An appeal from nonjudicial punishment imposed by a commanding officer designated pursuant to paragraph (a)(1) of this section shall be made to the Chief of Naval Operations or Commandant of the Marine Corps as appropriate. An officer who has delegated his nonjudicial punishment powers to a principal assistant under paragraph (a)(4) of this section may not, however, act on an appeal from punishment imposed by his delegate.

(3) *Delegation of authority to act on appeals.* Such authority may be delegated in accordance with the provisions of paragraph (a)(4) of this section.

* * * * *

3. Paragraphs (d)(1) and (h)(2) of § 719.102 are revised to read as follows:

§ 719.102 Letters of censure.

* * * * *

(d) *Procedure*—(1) *Issuing authority.* Where an officer has committed an offense which warrants a punitive letter of admonition or reprimand, the immediate commanding officer may, at his discretion, but subject to paragraph 132, MCM 1951, issue the letter or refer the matter through the chain of military command normally to the superior who exercises general court-martial jurisdiction and who has military command over the prospective addressee. (See § 719.101(a)(3).) Consideration must be given to the fact that the degree of severity and effect of punitive admonition or reprimand increases proportionately with the degree of superiority of the officer in command who issues the letter.

* * * * *

(h) *Cancellation* * * *

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

* * * * *

(R.S. 161, secs. 801–940, 5031, 70A Stat. 36–78, 278, as amended, 76 Stat. 448; 5 U.S.C. 22, 10 U.S.C. 801–940, 5031; E.O. 10214 (3 CFR 1949–53 Comp.) as amended; E.O. 11081 (28 F.R. 945))

Dated: May 13, 1964.

By direction of the Secretary of the Navy.

[SEAL] WILFRED HEARN,
Rear Admiral, U.S. Navy,
Judge Advocate General of the Navy.

[F.R. Doc. 64-4905; Filed, May 15, 1964; 8:51 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

SUBCHAPTER D—RANGE MANAGEMENT (4000)

[Circular 2141]

PART 4110—GRAZING ADMINISTRATION (INSIDE GRAZING DISTRICTS) (THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS)

Subpart 4114—Advisory Boards and Local Associations

MISCELLANEOUS AMENDMENTS

On page 2427 of the FEDERAL REGISTER of February 13, 1964, there was published proposed amendment of § 161.13(a) (b) and (c), title 43, Code of Federal Regulations. The purpose of these amendments is to provide for greater continuity and flexibility of district advisory board membership, and to remove the fiscal year requirement for the term of appointment of Advisors and Consultants which is no longer required by Presidential Directive.

Interested persons, including district advisory board members, were given 30 days within which to submit written comments, suggestions, or objections with regard to the proposed amendments. After consideration of all comments and suggestions received during that period the proposed amendments are hereby adopted as set forth below to become effective at the beginning of the 30th calendar day following date of this publication in the FEDERAL REGISTER.

This amendment has been converted to the new 43 CFR format as set forth in 29 F.R. 4301, March 31, 1964.

1. Section 4114.1–1 is amended to read as follows:

§ 4114.1–1 Authorization for establishment; number of members; qualifications.

The State Director shall fix the number of members to be recommended by election for appointment to the advisory board in each district, such number to be not less than five nor more than twelve, exclusive of a wildlife representative who will not be recommended by election, but shall be selected directly by the State Director. The State Director may fix the number of district advisers to be recommended by election as representatives of each class of stockman, according to the kind of livestock owned, or may fix the number to be recommended by election from each voting precinct, or both, provided that the free-use licensees in each district shall be entitled to recommend one representative who shall be a free-use licensee. All district advisers, except the wildlife representative, shall be electors qualified to vote in the particular election. If a district is divided into precincts, an adviser representing a precinct shall qualify in the precinct in the same manner as in the district.

2. Section 4114.1–2 is amended to read as follows:

§ 4114.1–2 Election, time and place; the general procedures.

All district advisers, except wildlife representatives, shall be recommended by election in the manner provided in this section, and in the General Procedures for Grazing District Advisory Board Elections as approved by the Director, Bureau of Land Management, and published in the FEDERAL REGISTER. An election to recommend district advisers for appointments for each grazing district will be held within 90 days after the publication in the FEDERAL REGISTER of the order establishing the grazing district. Persons recommended by election for appointment at the first election after establishment of a grazing district, or at the first election during the 1964 calendar year, may be recommended for appointment and annual reappointment for a maximum period of three consecutive years; or the District Manager may divide the group, by lot, as evenly as possible into three groups to be considered as being recommended for appointment or reappointment for one year, two consecutive years, or three consecutive years respectively. Thereafter, elections will be held annually, for each group whose term of recommendation for appointment has expired, in accordance with the options set forth in the General Procedures for Grazing District Advisory Board Elections.

3. Section 4114.1–3 is amended to read as follows:

§ 4114.1–3 Appointment; term of office; removal; vacancies.

A person recommended by election for appointment as district adviser shall assume office only after he has been appointed by the State Director and has taken the oath of office. The State Director may, in his discretion, appoint those in group 1 for a period not to exceed 365 days; those in group 2 for an initial period of 365 days and thereafter a subsequent like period; and those in group three for an initial period of 365 days and thereafter two successive like periods. The State Director may remove any district adviser from office because of failure to discharge his duties, loss of any of his qualifications to hold the office, or in the public interest. Upon a vacancy occurring in the office of the district adviser other than a wildlife representative by reason of resignation, removal, disqualification, or otherwise, the board shall recommend the name of a person to fill the vacancy and such recommendation, together with that of the District Manager, shall be transmitted to the State Director for consideration. A person selected to fill a vacancy shall be appointed for the remainder of the unexpired 365-day period, after which a person shall be recommended by election for the balance of the period of recommendation at the next regular election. The wildlife representative will be appointed by the State Director for a term of office that does not exceed 365 days.

JOHN A. CARVER, JR.,
Acting Secretary of the Interior.

MAY 14, 1964.

[F.R. Doc. 64–4949; Filed, May 15, 1964; 8:52 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER D—TANK VESSELS

[CGFR 64–28]

PART 35—OPERATIONS

Subchapter 35.01—Special Operating Requirements

ALUMINUM OR MAGNESIUM SACRIFICIAL ANODE INSTALLATIONS PROHIBITED IN CARGO TANKS

The present Tank Vessel Regulations are silent concerning corrosion control and the use of sacrificial anode installations in cargo tanks utilized for the carriage of inflammable or combustible liquids in bulk. The acceptance of such installations has been under consideration for some time because of the possible potential hazards created if such installations break loose withn the cargo tanks. When the potential hazards were first recognized the Coast Guard on February 4, 1963, issued a Navigation and Vessel Inspection Circular No. 3–63, which described some of the suspected potential hazards involving aluminum and/or magnesium sacrificial anode installations and certain inspections and recommended precautions were outlined to prevent the anode from becoming a source of ignition through accidental incendive sparking.

Recent inspections of tank vessels equipped with aluminum and/or magnesium sacrificial anode installations and preliminary investigations of certain casualties involving tank vessels, together with results of discussions with representatives of the tank vessel industry, have convinced the Coast Guard that these anode installations can be a very serious and potential source of danger on board tank vessels. The recommended installation, maintenance, and inspection requirements in Navigation and Vessel Inspection Circular No. 3–63 have apparently not accomplished the desired degree of safety wanted, and it has been difficult to properly control and supervise the installation and maintenance of such sacrificial anodes. The present conditions existing in most tank vessels justify immediate actions seeking the removal of aluminum and/or magnesium sacrificial anode installations in cargo tanks in order to remove and eliminate possible causes of spark generation through such installations breaking loose and falling or sliding around inside the cargo oil tanks.

In view of the seriousness of casualties which may occur if incendive sparks are introduced into the cargo tanks utilized for the carriage of inflammable

or combustible liquids in bulk, when such tanks contain an explosive atmosphere, it is hereby found necessary in the interest of safety to prohibit the future installation of aluminum and/or magnesium sacrificial anodes in cargo tanks and to require the removal of such anode installations from all tank vessels, and such removal shall be accomplished at the first available opportunity but not later than October 1, 1964. This removal of anode installations should be performed only when such tanks are gas freed.

Because of the conditions described generally above, it is also hereby found necessary to invoke the special emergency provisions concerning rule making in section 391a in Title 46, U.S. Code, and section 1003 in Title 5, U.S. Code, and declare that compliance (with those provisions respecting notice of proposed rule making, public hearings, public rule making procedures thereon, and effective date requirements) is impracticable and contrary to the public interest.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by section 632 of Title 14, U.S. Code, and Treasury Department Order 120, dated July 31, 1950 (15 F.R. 6521), to promulgate regulations implementing section 391a in Title 46, U.S. Code, the following § 35.01–25 is prescribed and inserted in Subpart 35.01 after § 35.01–20, which shall become effective upon publication of this document in the FEDERAL REGISTER:

§ 35.01–25 **Aluminum and/or magnesium sacrificial anode installations—TB/ALL.**

(a) The installation of aluminum and/or magnesium sacrificial anodes in cargo tanks utilized for the carriage of inflammable or combustible liquids in bulk is prohibited.

(b) All existing installations of aluminum and/or magnesium sacrificial anodes in cargo tanks utilized for the carriage of inflammable or combustible liquids in bulk shall be removed at the first available opportunity but not later than October 1, 1964.

(R.S. 4405, as amended, 4417a, as amended, 4462, as amended; 46 U.S.C. 375, 391a, 416. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521)

Dated: May 13, 1964.

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

[F.R. Doc. 64–4906; Filed, May 15, 1964; 8:47 a.m.]

Title 47—TELECOMMUNICATION

[FCC 64–399]

Chapter I—Federal Communications Commission

PART 0—COMMISSION ORGANIZATION

PART 1—PRACTICE AND PROCEDURE

Miscellaneous Amendments

In the matter of revision of delegations of authority in hearing proceedings and amendment of the rules of practice and procedure, report and order.

1. The delegations of authority in hearing proceedings were revised substantially by the Commission in June of 1962, following enactment of Public Law 87–192. FCC 62–612, 27 F.R. 5671, June 14, 1962. The office of Motions Commissioner was abolished and the Review Board created. Substantial authority to review initial decisions was delegated to the Board, along with many interlocutory functions in hearing proceedings previously performed by the Commission or the Chief Hearing Examiner. In a companion document, substantial related changes were also made in the rules of practice and procedure. FCC 62–613, 27 F.R. 5660, June 14, 1962.

2. The functioning of the Review Board has been a source of satisfaction to the Commission. By virtue of delegations of authority made to the Board in hearing proceedings, the Commision has been enabled to devote a larger portion of its time and energies to major matters of policy and planning and to cases of adjudication involving issues of general communications importance. The members of the Board, on the other hand, have been able to devote greater personal attention to the more routine cases of adjudication, and to dispose of those cases more expeditiously, than would have been possible for the Commission with its many other responsibilities. The Board began operating on August 1, 1962, and, through December 31, 1963, had issued 37 final decisions, remanded seven proceedings to examiners for further hearing and acted upon 827 interlocutory petitions.

3. Upon establishment of the Review Board in 1962, the Commission recognized the need for periodic review and revision of the newly adopted delegations and procedures:

> We recognize that the rules may not be perfect. Indeed, we think it most likely that as experience is gained some revisions will be required. But it is our view that this scheme constitutes the one most likely to achieve the statutory purpose and that with procedural changes of this nature, experience is by far the best guide to future revisions. For that reason, we intend to review the entire subject at periodic intervals. And, in connection with this review, we would especially welcome the suggestions of the Bar and other interested parties, based on their experience in working with the rules. (FCC 62–612, par. 9; 27 F.R. 5673)

Our experience under the delegations and procedures adopted in 1962 has been under examination over the last several months. During this period, the views of those most directly concerned with the Commission's hearing processes were elicited and appraised. Possible changes were discussed, in particular, with a specially constituted committee of the Federal Communications Bar Association, and the Commission wishes to express its appreciation to the members of that committee for their assistance.

4. On the basis of this appraisal, and of the Review Board's performance during this period, the Commission has determined that the categories of cases normally reviewed by the Board should be enlarged. It should be emphasized, however, that these categories are not binding. The objective is that all cases involving novel or important issues of law or policy be reviewed by the Commission, and that all other cases be reviewed by the Board. Flexible case by case procedures are provided under which cases normally reviewed by the Board can be reviewed by the Commission and those normally reviewed by the Commission can be reviewed by the Board. Experience under these procedures has demonstrated that they are particularly effective in ensuring review of important cases by the Commission rather than the Board. Cases which normally would be reviewed by the Board have been certified to the Commission because of their importance. Our experience indicates that it is not difficult to determine whether a case involves an important issue of law or policy and that, if it does, the parties and the Review Board can be relied upon to raise the question of Commission review, since they would naturally be reluctant to litigate or to hear a case, knowing that there would have to be full review of the Board's decision. Finally, in the unlikely event that these procedural safeguards fail, the parties may obtain full Commission review by calling the major issues involved to the Commission's attention in an application for review of the Board's decision.

5. In view of these facts, the Commission is delegating to the Review Board authority to review initial decisions in all adjudicative proceedings, except for those involving the renewal or revocation of a station license in the Broadcast Radio Services or the Common Carrier Radio Services. The Board is also herein authorized to review initial decisions in mixed proceedings involving both adjudicative and rule making matters. The record in proceedings which involve rule making matters exclusively will be reviewed by the Commission. In our judgment, nearly all Broadcast and Common Carrier renewal and revocation proceedings will require full consideration by the Commission. Rule making proceedings will also require Commission consideration and are conducted under procedures different from those followed by the Board.

6. Our review of the hearing delegations also indicates that most of the interlocutory matters now acted upon by the Review Board, and some of those now acted upon by the Chief Hearing Examiner, could more effectively be acted upon by presiding examiners. Action by the Board and the Chief Examiner on these matters in the past has provided a uniform body of precedent upon which examiners may base their rulings; and continued review of examiners' rulings by the Board affords a satisfactory degree of assurance as to the consistency of future rulings. Although the record of the Board and the Chief Examiner on these matters has been good, the presiding officer is more familiar with the proceeding and should be able to dispose more expeditiously of those matters which arise. In addition, it is believed that the Board will be able to function even more effectively if its duties are limited to the appellate functions which its name implies. The two exceptions in this area involve petitions to amend the issues upon which the hearing was

ordered and joint requests for approval of agreements filed by applicants pursuant to the requirements of § 1.525 of the rules and regulations. It is believed that these matters should (as in the past) be acted upon by the Review Board. In these areas in particular, the uniform rulings which can be fully obtained only through action by a single body are important. The Commission believes, moreover, that direct Commission review of such rulings (which Board action entails) should be preserved. Petitions to amend the issues in proceedings which involve rule making matters exclusively will be acted upon by the Commission. In connection with its action on joint requests, the Review Board is authorized, in its discretion, to hold informal conferences with counsel for parties to the proceeding. The new hearing delegations are set forth below as §§ 0.341, 0.351, and 0.365. The changes in delegations and procedures which appear to warrant specific comment are discussed in the following paragraphs.

7. New § 0.341(b) provides that any question which would be acted upon by the hearing examiner if it were raised by a party to the proceeding may be raised and acted upon by the examiner on his own motion. Section 0.341(c) provides that any question which would be acted on by persons other than the hearing examiner may be certified by the examiner, on his own motion, to that person. The examiner should not be compelled to rely on the initiative of parties to the proceeding. See Laramie Community TV Co., FCC 63R–40, 24 R.R. 941.

8. Under existing procedures, the Chief Hearing Examiner is authorized to act on petitions of applicants to file late written appearances (§ 0.351 (e) and (f)), and on petitions of applicants requesting that their application or the proceedings thereon be dismissed (§ 0.351 (g)). These delegations of authority are being deleted, and these matters will hereafter be acted on by the presiding examiner. Section 1.568(c) has been amended to specify a more precise standard for the guidance of examiners in matters involving dismissal without prejudice in broadcast hearing proceedings.

9. Under new § 0.351(f), the Chief Hearing Examiner is authorized to act on those matters ordinarily acted on by the presiding examiner which arise during the period between designation of a proceeding for hearing and designation of a presiding examiner. In the ordinary hearing case, this period is quite brief, and few (if any) matters requiring action by the Chief Examiner are likely to arise. In cease and desist and/or revocation proceedings, however, the proceeding is designated for hearing upon issuance of the order to show cause, and an extended period may pass before a presiding examiner is designated. The Chief Examiner is responsible for interlocutory matters which arise during this period, including those now acted upon by the Review Board under § 0.365 (b) (8) through (10). After the designation of a presiding examiner, these functions will be performed by the examiner. See new § 1.92(c).

10. Under § 0.365(b) (6) and (7) of the existing rules, the Review Board is authorized to act on petitions for waiver of rule requirements pertaining to the time, place, and manner in which broadcast applicants give local notice of hearing. This delegation has been deleted, and these matters will hereafter be acted upon by the presiding examiner in accordance with the provisions of new § 1.594(h) of the rules of practice and procedure.

11. In addition to the changes in hearing delegations, the new rules change the pleading procedures in several relatively important respects:

(a) Under the new rules, all requests for action on interlocutory matters in hearing proceedings are governed by §§ 1.291–1.298 of the rules of practice and procedure. Section 1.45, which previously governed interlocutory petitions acted upon by the Commission, will have no application to such proceedings.

(b) Under existing procedures, interlocutory pleadings requiring action by the Commission or the Review Board are governed by the 10 and 5 rule, under which 10 days are allowed for the filing of oppositions and 5 days are allowed for the filing of replies. Pleadings to be acted upon by the Chief Hearing Examiner or the presiding officer are governed by the 4 day rule, under which oppositions may be filed within 4 days and replies are precluded. Under the new rules, however, the presiding officer will be responsible for acting upon many of the more difficult and important interlocutory pleadings, as well as the numerous matters of lesser consequence for which he is now responsible. This being the case, the nature of the pleading, rather than the forum to which it is presented, is the decisive factor in determining whether the 5 and 10 rule or the 4 day rule should apply. New § 1.294(c) provides that the 10 and 5 rule shall apply to the following categories of pleadings: (1) Petitions to amend the issues; (2) petitions to intervene; (3) petitions by adverse parties requesting dismissal of an application; and (4) joint requests for approval of agreements filed pursuant to § 1.525 of the rules and regulations. Section 1.294(b) provides that all other categories of pleadings shall be governed by the 4 day rule. The pleadings to which the 10 and 5 rule is applied are those in which difficult questions are normally raised. Pleadings to which the 4 day rule is applied do not frequently involve difficult questions and, if such questions are involved, the parties are at liberty to request that additional time or additional pleadings be allowed. Difficult questions are not raised with sufficient frequency in such pleadings, however, to warrant the longer filing period (or replies) as a regular practice.

(c) Section 1.291 of the new rules requires that each interlocutory pleading indicate in its caption whether the pleading is to be acted upon by the Commission, the Review Board, the Chief Hearing Examiner, or the presiding officer. In the case of the presiding officer, he is to be identified by name. The new rules greatly simplify the delegations in hearing proceedings and, under these simplified delegations, we feel that such a requirement will not be burdensome to those filing pleadings in such proceedings. Compliance with the requirement, on the other hand, will materially facilitate and expedite the distribution of pleadings to those who are responsible for acting on them.

(d) Section 1.291(d) of the new rules disposes of a possible ambiguity by providing that no hearing proceeding shall be terminated until all pending interlocutory matters have been disposed of.

12. New § 1.301(a) provides for Commission action on appeals from examiners' rulings in proceedings which involve rule making matters exclusively. The remaining changes, as set forth below, are discussed generally in paragraph 6, supra, or are editorial in nature and follow from the changes in delegations and procedures discussed above.

13. Authority for the procedural and organizational changes set forth below is set forth in sections 4 (i) and (j), 5 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j), 155 and 303. Because of the procedural and organizational nature of these changes, the prior notice and effective date provisions of section 4 of the Administrative Procedure Act do not apply. To furnish those who practice before the Commission with an opportunity to familiarize themselves with the new delegations and procedural requirements, however, the new rules are being made effective June 15, 1964, and will be applicable to any initial decision issued and any interlocutory request filed on or after that date. Initial decisions issued and interlocutory requests filed at an earlier date will be considered under existing delegations and procedures.

14. In view of the foregoing: *It is ordered*, Effective June 15, 1964, that Parts 0 and 1 of the rules and regulations are amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; sec. 5, 66 Stat. 713; 47 U.S.C. 303, 155)

Adopted: May 6, 1964.

Released: May 13, 1964.

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

1. Section 0.341 is amended to read as follows:

§ 0.341 Authority of hearing examiner.

(a) After a hearing examiner has been designated to preside at a hearing and until he has issued an initial decision or certified the record to the Commission for decision, or the proceeding has been transferred to another hearing examiner, all motions, petitions and other pleadings shall be acted upon by such hearing examiner, except the following:

(1) Those which are to be acted upon by the Commission. See § 1.291(a) (1) of this chapter.

[1] Statement of partial dissent of Commissioner Lee filed as part of original document.

(2) Those which are to be acted upon by the Review Board under § 0.365 (b) and (d) of this chapter.

(3) Those which are to be acted upon by the Chief Hearing Examiner under § 0.351 of this chapter.

(b) Any question which would be acted upon by the hearing examiner if it were raised by the parties to the proceeding may be raised and acted upon by the hearing examiner on his own motion.

(c) Any question which would be acted upon by the Chief Hearing Examiner, the Review Board or the Commission, if it were raised by the parties, may be certified by the hearing examiner, on his own motion, to the Chief Hearing Examiner, the Review Board or the Commission, as the case may be.

2. Section 0.351 is amended to read as follows:

§ 0.351 Authority delegated.

The Chief Hearing Examiner shall act on the following matters in proceedings conducted by hearing examiners:

(a) Initial specifications of the time and place of hearings where not otherwise specified by the Commission and excepting actions under authority delegated by § 0.296 of this chapter.

(b) Designation of the hearing examiner to preside at hearings.

(c) Orders directing the parties or their attorneys to appear at a specified time and place before the hearing examiner for an initial prehearing conference in accordance with § 1.251(a) of this chapter. (The hearing examiner named to preside at the hearing may order an initial prehearing conference although the Chief Hearing Examiner may not have seen fit to do so and may order supplementary prehearing conferences in accordance with § 1.251(b) of this chapter.)

(d) Petitions requesting a change in the place of hearing where the hearing is scheduled to begin in the District of Columbia or where the hearing is scheduled to begin at a field location and all appropriate proceedings at that location have not been completed. (See § 1.253 of this chapter.)

(e) In the absence of the hearing examiner who has been designated to preside in a proceeding, to discharge the hearing examiner's functions.

(f) All pleadings filed, or matters which arise, after a proceeding has been designated for hearing, but before an examiner has been designated, which would otherwise be acted upon by the examiner, including all pleadings filed, or matters which arise, in cease and desist and/or revocation proceedings prior to the designation of a presiding officer.

(g) All pleadings (such as motions for extension of time) which are related to matters to be acted upon by the Chief Hearing Examiner.

3. Section 0.361(b) is amended to read as follows:

§ 0.361 General authority.

* * * * *

(b) Any matter referred to the Board on a regular basis or otherwise may, on its own motion or upon its consideration of the motion of any party, be certified by the Board to the Commission, with a request that the matter be acted upon by the Commission, if in the Board's judgment the matters at issue are of such a nature as to warrant commission review of any decision which the Board might otherwise have made. If a majority of the members of the Commission then holding office vote to grant the Board's request, the matter shall be acted upon by the Commission.

* * * * *

4. Section 0.365 is amended to read as follows:

§ 0.365 Authority delegated to the Review Board on a regular basis.

(a) *Review of initial decisions.* Unless the commission specifies to the contrary at the time of designation for hearing or otherwise, the Review Board shall review initial decisions of hearing examiners in all adjudicative proceedings (including mixed adjudicative and rule making proceedings), except for proceedings involving the renewal or revocation of a station license in the Broadcast Radio Services or the Common Carrier Radio Services.

(b) *Original action on interlocutory matters.* In adjudicative proceedings conducted by hearing examiners (including mixed adjudicative and rule making proceedings), the Review Board shall take original action on the following interlocutory matters and upon any question with respect to such matters which is certified to it by the presiding examiner (see § 1.291 of this chapter):

(1) Petitions to amend, modify, enlarge, or delete issues upon which the hearing was ordered.

(2) Joint requests for approval of agreements filed pursuant to § 1.525 of this chapter and, if further hearing is not required on issues other than those arising out of the agreement, to terminate the proceeding and make appropriate disposition of all applications. (In considering such requests, the Review Board may in its discretion, hold informal conferences with counsel for parties to the proceeding.)

(c) *Action on interlocutory appeals from rulings of hearing examiners.* The Review Board shall act on interlocutory appeals from rulings of hearing examiners in adjudicative proceedings (including mixed adjudicative and rule making proceedings). See § 1.301 of this chapter.

(d) *Action on pleadings filed in cases or matters which are before the Board.* The Review Board shall act on all pleadings filed in cases or matters which are before the Board.

5. Section 1.92(c) is amended to read as follows:

§ 1.92 Revocation and/or cease and desist proceedings; after waiver of hearing.

* * * * *

(c) Whenever a hearing is waived by the occurence of any of the events or circumstances listed in paragraph (a) of this section, the Chief Hearing Examiner (or the presiding officer if one has been designated) shall, at the earliest practicable date, issue an order reciting the events or circumstances constituting a waiver of hearing, terminating the hearing proceeding, and certifying the case to the Commission. Such order shall be served upon the respondent.

* * * * *

6. Section 1.207(a) is amended to read as follows:

§ 1.207 Interlocutory matters, reconsideration and review; cross references.

(a) Rules governing interlocutory pleadings in hearing proceedings are set forth in §§ 1.291–1.298 of this chapter.

7. Paragraphs (b) and (d) of § 1.223 are amended to read as follows:

§ 1.223 Petitions to intervene.

* * * * *

(b) Any other person desiring to participate as a party in any hearing may file a petition for leave to intervene not later than 10 days prior to the date of hearing. The petition must set forth the interest of petitioner in the proceedings, must show how such petitioner's participation will assist the Commission in the determination of the issues in question, and must be accompanied by the affidavit of a person with knowledge as to the facts set forth in the petition. The presiding officer, in his discretion, may grant or deny such petition or may permit intervention by such persons limited to particular issues or to a particular stage of the proceeding.

* * * * *

(d) Any person desiring to file a petition for leave to intervene later than 10 days prior to the date of hearing shall set forth the interest of petitioner in the proceedings, show how such petitioner's participation will assist the Commission in the determination of the issues in question, and set forth reasons why it was not possible to file a petition within the time prescribed by paragraphs (a) and (b) of this section. Such petition shall be accompanied by the affidavit of a person with knowledge of the facts set forth in the petition, and where petitioner claims that a grant of the application would cause objectionable interference under applicable provisions of this chapter, the petition for leave to intervene must be accompanied by the affidavit of a qualified radio engineer showing the extent of such alleged interference according to the methods prescribed in paragraph (a) of this section. If in the opinion of the presiding officer good cause is shown for the delay in filing, he may in his discretion grant such petition or may permit intervention limited to particular issues or to a particular stage of the proceeding.

8. Section 1.291 is amended to read as follows:

§ 1.291 General provisions.

(a)(1) The Commission acts on petitions to amend, modify, enlarge or delete the issues in hearing proceedings which involve rule making matters exclusively. It also acts on interlocutory

pleadings filed in matters or proceedings which are before the Commission.

(2) The Review Board acts on petitions to amend, modify, enlarge, or delete the issues in cases of adjudication (including mixed adjudicative and rule making proceedings) and upon joint requests for approval of agreements filed pursuant to § 1.525 of this chapter. It also acts on interlocutory pleadings filed in matters on proceedings which are before the Board.

(3) The Chief Hearing Examiner acts on those interlocutory matters listed in § 0.351 of this chapter.

(4) All other interlocutory matters in hearing proceedings are acted on by the presiding officer. See §§ 0.218 and 0.341 of this chapter.

(5) Each interlocutory pleading shall indicate in its caption whether the pleading is to be acted upon by the Commission, the Review Board, the Chief Hearing Examiner, or the presiding officer. If the pleading is to be acted upon by the presiding officer, he shall be identified by name.

(b) All interlocutory pleadings shall be submitted in accordance with the provisions of §§ 1.4, 1.44, 1.47, 1.48, 1.49, and 1.52 of this chapter.

(c) (1) Procedural rules governing interlocutory pleadings are set forth in §§ 1.292–1.298 of this chapter.

(2) Rules governing appeal from, and reconsideration of, interlocutory rulings made by the presiding officer are set forth in §§ 1.301 and 1.303 of this chapter.

(3) Rules governing the review of interlocutory rulings made by the Review Board or the Chief Hearing Examiner are set forth in §§ 1.101, 1.102(b), 1.115, and 1.117 of this chapter. Petitions requesting reconsideration of an interlocutory ruling made by the Commission, the Review Board, or the Chief Hearing Examiner will not be entertained. See, however, § 1.113 of this chapter.

(d) No hearing proceeding shall be terminated until all pending interlocutory matters have been disposed of.

9. Section 1.292 is amended to read as follows:

§ 1.292 Number of copies.

(a) An original and 14 copies of each interlocutory pleading to be acted upon by the Review Board, the Chief Hearing Examiner, or the presiding officer shall be filed.

(b) An original and 19 copies of each interlocutory pleading to be acted upon by the Commission shall be filed.

10. Section 1.294 is amended to read as follows:

§ 1.294 Oppositions and replies.

(a) Any party to a hearing may file an opposition to an interlocutory request filed in that proceeding.

(b) Except as provided in paragraph (c) of this section, oppositions shall be filed within 4 days after the original pleading is filed, and replies to oppositions will not be entertained. See, however, § 1.732 of this chapter.

(c) Oppositions to pleadings in the following categories shall be filed within 10 days after the pleading is filed. Replies to such oppositions shall be filed within 5 days after the opposition is filed, and shall be limited to matters raised in the opposition.

(1) Petitions to amend, modify, enlarge, or delete the issues upon which the hearing was ordered.

(2) Petitions to intervene.

(3) Petitions by adverse parties requesting dismissal of an application.

(4) Joint requests for approval of agreements filed pursuant to § 1.525 of this chapter.

(d) Additional pleadings may be filed only if specifically requested or authorized by the person(s) who is to make the ruling.

11. Section 1.297 is amended to read as follows:

§ 1.297 Oral argument.

Oral argument with respect to any contested interlocutory matter will be held when, in the opinion of the person(s) who is to make the ruling, the ends of justice will be best served thereby. Timely notice will be given of the date, time, and place of any such oral argument.

12. Paragraphs (a) and (b) of § 1.298 are amended to read as follows:

§ 1.298 Rulings; time for action.

(a) Unless it is found that irreparable injury would thereby be caused one of the parties, or that the public interest requires otherwise, or unless all parties have consented to the contrary, consideration of interlocutory requests will be withheld until the time for filing oppositions (and replies, if replies are allowed) has expired. As a matter of discretion, however, requests for continuances and extensions of time, requests for permission to file pleadings in excess of the length prescribed in this chapter, and requests for temporary relief may be ruled upon ex parte without waiting for the filing of responsive pleadings.

(b) Interlocutory matters will be disposed of by written order, which will be released promptly. The order upon contested matters shall contain a statement of the reasons for the ruling therein, unless such order is self-explanatory or is merely an affirmance of a prior denial in which reasons have been given.

* * * * *

13. Section 1.301(a) is amended to read as follows:

§ 1.301 Appeal from the presiding officer's adverse ruling: effective date.

(a) Any party to a hearing proceeding may file an appeal from an adverse ruling of the presiding officer. If a commissioner or panel of commissioners is presiding, the appeal will be acted upon by the Commission. The Commission also acts on appeals from the rulings of a hearing examiner in proceedings which involve rule making matters exclusively. In all other proceedings in which a hearing examiner is presiding, appeals from his rulings will be acted upon by the Review Board.

* * * * *

14. Section 1.568(c) is amended to read as follows:

§ 1.568 Dismissal of applications.

* * * * *

(c) Requests to dismiss an application without prejudice after it has been designated for hearing will be considered only upon written petition properly served upon all parties of record and, where applicable, compliance with the the provisions of § 1.525 of this chapter. Such requests shall be granted only upon a showing that the request is based on circumstances wholly beyond the applicant's control which preclude further prosecution of his application.

15. Section 1.594(h) is added to read as follows:

§ 1.594 Local notice of designation for hearing.

* * * * *

(h) The failure to comply with the provisions of this section is cause for dismissal of an application with prejudice. However, upon a finding that applicant has complied (or proposes to comply) with the provisions of section 311(a)(2) of the Communications Act of 1934, as amended, and that the public interest, convenience and necessity will be served thereby, the presiding officer may authorize an applicant, upon a showing of special circumstances, to publish notice in a manner other than that prescribed by this section; may accept publication of notice which does not conform strictly in all respects with the provisions of this section; or may extend the time for publishing notice.

16. Paragraphs (b) and (c) of § 1.744 are amended to read as follows:

§ 1.744 Amendments.

* * * * *

(b) After any application is designated for hearing, requests to amend such application may be granted by the presiding officer upon good cause shown by petition, which petition shall be properly served upon all other parties to the proceeding.

(c) The applicant may at any time be ordered to amend his application so as to make it more definite and certain. Such order may be issued upon motion of the Commission (or the presiding officer, if the application has been designated for hearing) or upon petition of any interested person, which petition shall be properly served upon the applicant and, if the application has been designated for hearing, upon all parties to the hearing.

17. Section 1.745 is amended to read as follows:

§ 1.745 Additional statements.

The applicant may be required to submit such additional documents and written statements of fact, signed and verified (or affirmed), as in the judgment of the Commission (or the presiding officer, if the application has been designated for hearing) may be necessary. Any additional documents and written statements of fact required in connection with applications under Title II of the Communications Act need not be verified (or affirmed).

18. That portion of § 1.748(b) preceding subparagraph (1) is amended to read as follows:

§ 1.748 Dismissal of applications.

* * * * *

(b) *After designation for hearing.* A request to dismiss an application without prejudice after it has been designated for hearing shall be made by petition properly served upon all parties to the hearing and will be granted only for good cause shown. An application may be dismissed with prejudice after it has been designated for hearing when the applicant:

* * * * *

19. Section 1.918(c) is amended to read as follows:

§ 1.918 Amendment of applications.

* * * * *

(c) The Commission (or the presiding officer, if the application has been designated for hearing) may, upon its own motion or upon motion of any party to a proceeding, order the applicant to amend his application so as to make the same more definite and certain, and may require an applicant to submit such documents and written statements of fact as in its judgment may be necessary.

[F.R. Doc. 64-4918; Filed, May 15, 1964; 8:49 a.m.]

Proposed Rule Making

FEDERAL AVIATION AGENCY

[14 CFR Parts 1, 507, 39 [New]]

[Reg. Docket No. 5061; Notice 64–26]

AIRWORTHINESS DIRECTIVES

Notice of Proposed Rule Making

The Federal Aviation Agency is considering adding Part 39—Airworthiness Directives [New] to Chapter I of Title 14 of the Code of Federal Regulations. The purpose of this amendment is to revise the provisions of § 1.24 of Part 1 of the Civil Air Regulations relating to airworthiness directives, and to incorporate such provisions and the provisions of Part 507 of the regulations of the Administrator into a new Part 39 of the Federal Aviation Regulations.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel: Attention Docket Section, 800 Independence Avenue SW., Washington, D.C., 20553. All communications received on or before July 20, 1964, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Docket Section for examination by interested persons.

Present § 1.24(a) provides for the issuance of notice to operators of products (defined in § 1.1 as an aircraft, aircraft engine, propeller or an appliance) when, as a result of service experience, an unsafe condition is found with respect to a design feature, part, or characteristic of a product that is likely to exist or develop in other products of the same type design. It further provides that such products shall not then be operated until the unsafe condition is corrected, unless otherwise authorized by the Administrator. These provisions are the bases on which airworthiness directives are issued under Part 507.

Since unsafe conditions develop that require correction but are not attributable to design or manufacture, under proposed Part 39 [New] an airworthiness directive will be issued whenever any unsafe condition is found, regardless of whether or not it relates to a design feature, part, or characteristic. Thus, under this proposal it will be clear that an unsafe condition that results from maintenance, as well as one due to a design defect, will be subject to the issuance of an airworthiness directive. Also, since there has been some question in the past whether the discovery of unsafe conditions during manufacture or in the course of maintenance can be attributed to "service experience", an airworthiness directive will be issued under Part 39 [New] regardless of how an unsafe condition is discovered. Therefore, the phrase "as a result of service experience" has not been incorporated in the new Part 39.

Existing airworthiness directives will be transferred to Part 39 [New] without change. The notice provision in § 1.24 (a) and the prohibition against operating an aircraft, aircraft engine, propeller or appliance in which an unsafe condition has been found, will be transferred to Part 39 [New]. The remainder of § 1.24 will be revised to reflect the deletion of these provisions. In order to avoid its issuance, and then immediate reissuance in a recodified form, this revision is issued as a part of the program of the Federal Aviation Agency to recodify its material. The definitions, abbreviations, and rules of construction contained in Part 1 [New], published in the FEDERAL REGISTER on May 15, 1962, (27 F.R. 4587) will apply to Part 39 [New].

In consideration of the foregoing, it is proposed to amend Chapter III of Title 14 of the Code of Federal Regulations by deleting Part 507 and to amend Chapter I of that title as hereinafter set forth.

1. By amending § 1.24 to read as follows:

§ 1.24 Required design changes.

(a) Where the Administrator finds that an unsafe condition exists in a product and that such a condition is likely to exist or develop in other products of the same type design, and that design changes are necessary to correct the unsafe condition of the product, the holder of the type certificate, upon request of the Administrator, shall submit appropriate design changes for the approval of the Administrator. Upon approval, the descriptive data covering the changes shall be made available by the holder of the type certificate to all operators of products previously certificated under such type certificate.

(b) Where no current unsafe condition exists but the Administrator or the holder of the type certificate finds that changes in type design will contribute to the safety of the product, the holder of the type certificate may submit appropriate design changes for the approval of the Administrator. Upon approval of such changes the manufacturer shall make available to all operators of the same type of product, information on the design changes.

2. By adding Part 39 [New] to read as follows:

PART 39—AIRWORTHINESS DIRECTIVES [NEW]

Subpart A—General

Subpart A—General

§ 39.1 Applicability.

This part prescribes airworthiness directives (ADs) and rules therefore, applicable to U.S. registered civil aircraft, and to aircraft engines, propellers, and appliances used or intended to be used on those aircraft.

§ 39.3 Issue.

An AD is issued when it is found that an unsafe condition exists in a type certificated aircraft, engine, or propeller, or in an appliance, and that condition is likely to exist or develop in other aircraft, aircraft engines, or propellers of the same type design or in a similar appliance.

§ 39.5 Prohibited operation.

No person may operate an aircraft unless each airworthiness directive applicable to that aircraft or to an engine, propeller, or appliance thereof has been complied with.

Subpart B—Airworthiness Directives

§ 39.11 Listing of airworthiness directives.

Each of the ADs prescribed in this subpart identifies an aircraft, aircraft engine, propeller, or appliance in which an unsafe condition has been found and, as appropriate, prescribes inspection and the conditions and limitations, if any, under which they may continue to be operated:

NOTE: The airworthiness directives have not been reprinted for the purpose of this circulation. All current airworthiness directives will be transferred to this Part without change.

This amendment is proposed under the authority of sections 313(a), 601, 603, 605, and 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, 1423, 1425, and 1429).

Issued in Washington, D.C., on May 11, 1964.

W. LLOYD LANE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 64–4916; Filed, May 15, 1964; 8:49 a.m.]

[14 CFR Parts 71 [New]; 75 [New]]

[Airspace Docket No. 64–EA–6]

FEDERAL AIRWAYS, JET ROUTES, CONTROL AREA EXTENSION; AND REPORTING POINTS

Proposed Alteration, Revocation and Designation

Notice is hereby given that the Federal Aviation Agency (FAA) is consider-

ing amendments to Part 71 [New] and Part 75 [New] of the Federal Aviation Regulations, the substance of which is stated below.

VOR Federal airway No. 26 is designated in part from Cleveland, Ohio, via the intersection of the Cleveland 214° and the Tiverton, Ohio, 343° True radials to Tiverton. VOR Federal airway No. 37 is designated in part from Pittsburgh, Pa., to Ellwood City, Pa. VOR Federal airway No. 40 is designated in part from Imperial, Pa., to Pittsburgh. VOR Federal airway No. 41 is designated from Pittsburgh via Imperial; intersection of Imperial 326° and Youngstown, Ohio, 180° True radials to Youngstown. VOR Federal airway No. 42 is designated in part from Akron, Ohio, via Imperial; intersection of Imperial 074° and Johnstown, Pa., 296° True radials to Johnstown. VOR Federal airway No. 58 is designated in part from Imperial via the intersection of Imperial 074° and Carrolltown, Pa., 276° True radials; to Carrolltown. VOR Federal airway No. 72 is designated in part from Findlay, Ohio, via Attica, Ohio; to Akron. VOR Federal airway No. 75 is designated from Morgantown, W. Va., via Wheeling, W. Va.; Briggs, Ohio; to Cleveland. VOR Federal airway No. 103 is designated in part from Clarksburg, W. Va., via Wheeling; to Briggs; and from Akron to Windsor, Ontario, Canada, excluding the portion which lies within Canada. VOR Federal airway No. 162 is designated in part from Clarksburg via Grantsville, Md.; St. Thomas, Pa.; to Harrisburg, Pa. VOR Federal airway No. 210 is designated in part from Carrolltown via the intersection of Carrolltown 112° and Harrisburg 273° True radials; to Harrisburg. VOR Federal airway No. 250 is designated from the intersection of Pittsburgh 223° and Imperial 193° True radials via Imperial; Ellwood City; to Clarion, Pa. VOR Federal airway No. 297 is designated in part from Ellwood City via the intersection of the Ellwood City 282° and Akron 130° True radials; to Akron. VOR Federal airway No. 468 is designated from Newcomerstown, Ohio, via the intersection of Newcomerstown 058° and Wheeling 306° True radials; to Ellwood City. Jet Route No. 49 is designated in part from Pittsburgh to Philipsburg, Pa. Jet Route No. 59 is designated in part as a common route segment with Jet Route No. 78 from Charleston, W. Va., to Philipsburg. The Pittsburgh control area extension is described in part with reference to VOR Federal airway No. 162.

The Federal Aviation Agency has under consideration the following airspace actions:

1. Revoke V–26 segment from Cleveland to Tiverton.

2. Realign V–37 segment from Pittsburgh via the intersection of Pittsburgh 325° and Ellwood City 183° True radials; to Ellwood City.

3. Revoke V–40 segment from Imperial to Pittsburgh.

4. Revoke V–41 segment from Pittsburgh to Imperial. Realign V–41 segment from Imperial via the intersection of Imperial 326° and Youngstown 177° True radials; to Youngstown.

5. Revoke V–42 segment from Akron via Imperial to Johnstown.

6. Revoke V–58 segment from Imperial to Carrolltown.

7. Revoke V–72 segment from Findlay via Attica to Akron.

8. Realign V–75 from Morgantown via the intersection of Morgantown 319° and Wheeling 149° True radials; Wheeling; Briggs; to Cleveland.

9. Realign V–103 segment from Clarksburg via the intersection of Clarksburg 354° and Imperial 193° True radials; Imperial; Akron; to Windsor, Ontario, Canada, excluding the portion within Canada.

10. Revoke V–162 segment from Clarksburg via Grantsville; St. Thomas; to Harrisburg.

11. Realign V–210 segment from Carrolltown via the intersection of Carrolltown 114° and Harrisburg 273° True radials; to Harrisburg.

12. Revoke V–250 airway.

13. Realign V–297 segment from Ellwood City direct to Akron.

14. Revoke V–468 airway.

15. Extend Jet Route No. 49 from Pittsburgh to Charleston.

16. Revoke Jet Route No. 59 segment from Charleston to Philipsburg.

17. Redescribe the Pittburgh control area extension by substituting in its description for the southeast boundary of the airspace northeast of Grantsville, a line 5 miles south and parallel to the St. Thomas 251° True radial, in lieu of V–162 airway segment, and substitute for the northwest boundary of the airspace east of Grantsville the 75-mile radius area boundary centered on the Pittsburgh VORTAC in lieu of V–162 airway segment.

18. Revoke the Altoona Intersection, low altitude reporting point.

19. Designate the Coalfax Intersection: intersection of Johnstown, Pa., 092°, St. Thomas, Pa., 358° radials, as a low altitude reporting point.

These proposed actions are designed to improve the airway/route structure in the Cleveland air route traffic control flight advisory area by eliminating some multiple airway crossing points, multiple airway and jet route numbers, and where feasible to provide common intersection points so that air traffic control separation standards may be more readily applied to crossing air traffic at the airway junctions. The latest FAA IFR peak day airway traffic survey shows no aircraft movements for the segment of V–26 from Cleveland to Tiverton; a maximum of six aircraft on any one segment of V–162 from Clarksburg to Harrisburg; and a maximum of four aircraft movements for any one segment of V–468. Therefore, it appears that these airway segments are no longer justified as an assignment of controlled airspace. The segments of V–40/41 from Pittsburgh to Imperial would be replaced by realigned V–37. The segment of V–42 between Akron and Imperial would be replaced by realigned V–103; the segment from Imperial to Johnstown is presently a common segment with V–210 and V–297. The segment of V–58 from Imperial to Carrolltown is presently a common segment with V–210. The segment of V–72 from Findlay via Attica to Akron is presently a common segment with segments of V–14/30. V–250 airway would be replaced by realigned V–103. The proposed extension of Jet Route No. 49 would provide a direct route for jet air traffic between Charleston and Pittsburgh. The segment of Jet Route No. 59 is presently a common segment with Jet Route No. 78 between Charleston and Philipsburg. The alteration of the Pittsburgh control area extension by amending its description in part would not increase its size or total amount of controlled airspace.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica, N.Y., 11430. 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 Regulations and Procedures Division, Federal Aviation Agency, Washington, 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 Federal Aviation Agency, Office of the General Counsel: Attention Rules Docket, 800 Independence Avenue SW., Washington, 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 May 8, 1964.

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

[F.R. Doc. 64–4917; Filed, May 15, 1964; 8:51 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Docket No. 12571; FCC 64–400]

PRACTICE AND PROCEDURE

Appeals From Interlocutory Rulings; Termination of Proposed Rule Making Proceedings

In the matter of amendment of § 1.47 (now §§ 1.115 and 1.301), rules of practice and procedure.

1. The Commission has before it for consideration a notice of proposed rule making in the above-captioned proceeding released by the Commission on August 4, 1958 (FCC 58–788) and published in the FEDERAL REGISTER on August 9, 1958 (23 F.R. 6144).

2. The proposed rule would have required the hearing examiners, the Chief Hearing Examiner, or the Motions Commissioner to disallow immediate appeals from their interlocutory rulings, unless "the allowance thereof is necessary to prevent substantial detriment to the public interest or undue prejudice to any interested party." Comments supporting the proposal insofar as it applied to hearing examiners, but opposing its application to the rulings of the Chief Hearing Examiner or the Motions Commissioner, were submitted by the Federal Communications Bar Association. No other comments were filed.

3. Since this proposal was released, the Commission's hearing procedures and delegations have been extensively revised. The office of Motions Commissioner has been abolished and the Review Board created. Interlocutory matters once acted upon by the Commission or the Chief Hearing Examiner were, in large part, delegated to the Review Board in 1962. FCC 62–612, 27 F.R. 5671, June 14, 1962. Most of those same functions will hereafter be performed by the presiding examiner. FCC 64–399, adopted May 6, 1964. The presiding examiner's rulings, moreover, are now subject to appeal to the Review Board rather than to the Commission—as was the case when the notice in this proceeding was issued.

4. The record since the Review Board was established indicates that interlocutory appeals have been neither numerous nor frivolous, and that parties have in general respected the Commission's wishes that questions regarding interlocutory rulings be raised as exceptions, unless the ruling complained of is fundamental and affects the conduct of the entire case. See §§ 1.115(e) and 1.301 of the rules of practice and procedure. In view of this fact, and in view of the numerous changes in the hearing procedures and delegations which have been made since issuance of the notice of proposed rule making in this proceeding, the Commission is not now inclined to limit appeals from interlocutory rulings. Nor is it considered appropriate to consider that possibility on the basis of the record in this proceeding, which was compiled in the context of hearing procedures which were different in major respects from those now in effect. The question of limiting appeals from interlocutory rulings may be considered in the future, however, on the basis of our experience under the new hearing delegations.

5. In view of the foregoing: *It is ordered*, That the notice of proposed rule making in this proceeding is withdrawn and that the proceeding is terminated.

Adopted: May 6, 1964.

Released: May 13, 1964.

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

[F.R. Doc. 64–4919; Filed, May 15, 1964; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

[46 CFR Part 510]

[Docket No. 1183]

OCEANGOING COMMON CARRIERS AND PERSONS SHIPPING FOR OWN ACCOUNT

Notice of Proposed Rule Making

Notice is hereby given that the Federal Maritime Commission is considering revising paragraph (c) of § 510.22, 46 CFR, pursuant to the provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 1003) and sections 43 and 44 of the Shipping Act, 1916, (46 U.S.C. 841(a); 46 U.S.C. 841(b)). The purpose of this revision is to permit non-vessel operating common carriers by water to be licensed as independent ocean freight forwarders with respect to certain classes of export shipments on which dispatching functions are performed by such persons. As revised, paragraph (c) of § 510.22 would read as follows:

§ 510.22 Oceangoing common carriers and persons shipping for own account.

* * * * *

(c) A non-vessel operating common carrier by water, for the purposes of this part, is deemed a shipper of cargo via the underlying oceangoing common carrier. Such non-vessel operating common carrier may perform forwarding services with respect to shipments moving on its own through export bills of lading. A non-vessel operating common carrier by water or person related thereto, otherwise qualified, may be licensed as an independent ocean freight forwarder to dispatch export shipments moving on other than its through export bill of lading when, and only when, the following certification is made on the "line copy" of the ocean carrier's bill of lading, in addition to all other certifications required by section 44 of the Shipping Act, 1916, and these regulations: "The undersigned certifies that neither it, nor any related person, has issued a bill of lading covering ocean transportation or otherwise undertaken common carrier responsibility for the ocean transportation of the shipment covered by this bill of lading."

Interested persons may submit such written comments, views, data or arguments relative to the proposed revised rule as they desire. Communications must be submitted in original and fifteen copies to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, and all communications received within twenty (20) days of the publication of this notice in the FEDERAL REGISTER will be considered. No public hearing is contemplated at this time.

By order of the Commission, May 7, 1964.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 64–4896; Filed, May 15, 1964; 8:46 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Order 551, Amdt. 87]

AREA DIRECTORS

Redelegation of Authority With Respect of Commercial Fishing on Red Lake Indian Reservation

MAY 8, 1964.

Order 551 (an order by which the Commissioner of Indian Affairs delegates authority to Bureau Area Directors), as amended, is further amended by the addition of a new section under the heading "Functions Relating to General Matters" to read as follows:

FUNCTIONS RELATING TO GENERAL MATTERS

SEC. 356. *Commercial Fishing on Red Lake Indian Reservation, Minnesota.* The exercise of all the authorities contained in 25 CFR Part 89.

JOHN O. CROW,
Deputy Commissioner.

[F.R. Doc. 64-4889; Filed, May 15, 1964; 8:45 a.m.]

Office of the Solicitor

[Solicitor's Reg. 19]

ASSOCIATE SOLICITOR, DIVISION OF INDIAN AFFAIRS

Delegation of Authority Regarding Indian Proceedings

MAY 12, 1964.

The Associate Solicitor, or Acting Associate Solicitor, Division of Indian Affairs, may exercise all the authority vested in the Solicitor of the Department of the Interior by 210 DM 2.2A(3), relating to Indian probate proceedings, and 210 DM 2.2A(4)(b), with respect to the disposition of appeals to the Secretary in matters pertaining to the enrollment of Indians.

(210 DM 2.2A(3), 24 F.R. 1348; 210 DM 2.2A(4)(b), 24 F.R. 1348; 210 DM 2.3, 24 F.R. 1349)

FRANK J. BARRY,
Solicitor.

[F.R. Doc. 64-4888; Filed, May 15, 1964; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-163]

GENERAL DYNAMICS CORP.

Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued, effective as of the date of issuance, Amendment No. 8, set forth below, to Facility License No. R-67, as amended. The license authorizes General Dynamics Corporation to operate its TRIGA Mark F nuclear reactor located at Torrey Pines Mesa, California. The amendment authorizes General Dynamics Corporation to operate the TRIGA Mark F reactor (1) with a shutdown margin of $1.00 with the highest worth control rod out of the core, as described in the licensee's application for license amendment dated April 17, 1964, and, (2) with a shutdown margin of 10 cents with the highest worth control rod out of the core during authorized thermionic experiments provided the 10 cent safety margin is determined after each manipulation of fuel or an experiment, by bringing the reactor to criticality with the highest worth control rod fully removed.

The Commission has found that:

(1) The application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

(2) 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;

(3) Prior public notice of proposed issuance of this amendment is not required since the amendment does not involve significant hazard considerations different from those previously evaluated.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's Regulation (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) a related hazards analysis prepared by the Test & Power Reactor Safety Branch of the Division of Reactor Licensing and (2) the Licensee's application for license amendment dated April 17, 1964 both of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (1) above may be obtained at the Commission's Public Document Room, or upon request, addressed to the Atomic Energy Commission, Washington, D.C., 20545 Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 5th day of May, 1964.

For the Atomic Energy Commission.

SAUL LEVINE,
Chief, Test and Power Reactor Safety Branch, Division of Reactor Licensing.

[License R-67, Amdt. 8]

AMENDMENT TO FACILITY LICENSE

License No. R-67, as amended, issued to General Dynamics Corporation, is hereby amended in the following respects:

In addition to the activities previously authorized by the Commission in License No. R-67, as amended, General Dynamics Corporation is authorized to operate the TRIGA Mark F reactor located at Torrey Pines Mesa, California, (1) with a shutdown margin of $1.00 with the highest worth control rod out of the core, as described in its application for license amendment dated April 17, 1964, and, (2) with a shutdown margin of 10 cents with the highest worth control rod out of the core during authorized thermionic experiments provided that this 10 cent safety margin is determined after each manipulation of fuel or an experiment, by bringing the reactor to criticality with the highest worth control rod fully removed.

This amendment is effective as of the date of issuance.

For the Atomic Energy Commission.

SAUL LEVINE,
Chief, Test and Power Reactor Safety Branch, Division of Reactor Licensing.

[F.R. Doc. 64-4883; Filed, May 15, 1964; 8:45 a.m.]

[Docket Nos. 50-60, 50-216]

U.S. NAVAL HOSPITAL; NEW YORK UNIVERSITY

Notice of Issuance of Facility License Amendment

The United States Naval Hospital has possessed and operated an AGN-201M reactor at its location in Bethesda, Maryland, pursuant to License No. R-27, heretofore issued by the Atomic Energy Commission. This reactor has not been operated since April 1962 and the Navy has declared it excess to its needs. The application states that the Navy has designated the reactor for transfer to New York University and has initiated administrative action to transfer the reactor to the University.

As an initial step the University has applied, by an application dated December 19, 1963, and amendments thereto dated March 31, 1964 and May 5, 1964, all hereinafter referred to as the ("application"), for licensing authority from the Commission to receive legal title to the reactor. The University will subsequently apply for specific authority to remove the reactor from its present location, to reconstruct it at a proposed location in New York City, and, ultimately, to operate the reactor.

Please take notice that the Atomic Energy Commission has issued Amendment No. 5, set forth below, to Facility License No. R-27, authorizing the University to acquire legal title to, but not to physically possess or operate, the reactor.

The Commission has found that:

1. The application for amendment complies with the requirements of the

Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

2. Prior public notice of proposed issuance of this amendment is not required since the transfer of legal title to the reactor does not involve significant hazards considerations different from those previously evaluated;

3. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public.

The amendment will not become effective until the Navy has finally approved the transfer of title and the Division of Reactor Licensing has been so notified by the University. A copy of such notification will be available for public inspection in the Commission's Public Document Room. Upon submission by the University of the technical information required for the transfer and reconstruction of this reactor at its New York City site, further proceedings will be included in Docket No. 50–216.

Within fifteen days from the date of publication of this notice in the FEDERAL REGISTER, either the U.S. Naval Hospital or the University may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's "rules of practice," 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment see the referenced application for license which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 7th day of May 1964.

For the Atomic Energy Commission.

ROGER S. BOYD,
Chief, Research and Power Reactor Safety Branch, Division of Reactor Licensing.

[License R–27, Amdt. 5]

AMENDMENT TO FACILITY LICENSE

License No. R–27, as amended, which authorizes the United States Naval Hospital to possess and operate its AGN–201M reactor at its site in Bethesda, Maryland, is hereby amended by adding the following additional condition:

"The Commission hereby licenses New York University ("the University") to acquire legal title to, but not to possess, use or operate, the reactor in accordance with the conditions and limitations set forth in the application for license dated December 19, 1963, and the amendments thereto dated March 31, 1964 and May 5, 1964. This provision shall become effective at such time as

(a) The University is notified that the transfer of title has been approved by the Department of the Navy, and

(b) the University has notified the Director, Division of Reactor Licensing of such transfer."

Date of issuance: May 7, 1964.

For the Atomic Energy Commission.

ROGER S. BOYD,
Chief, Research and Power Reactor Safety Branch, Division of Reactor Licensing.

[F.R. Doc. 64–4884; Filed, May 15, 1964; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Dockets 15245, 15256; Order No. E–20801]

CONTINENTAL AIR LINES, INC.

New and Revised Economy Fares in Houston-Los Angeles and Chicago-Los Angeles Markets; Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of May 1964.

Continental Air Lines, Inc. (Continental) filed tariff revisions [1] with a posting date of March 26, 1964, marked to become effective May 24, 1964, without an expiry date, proposing to (1) increase its jet economy one-way fares between points on its Chicago-Los Angeles route by amounts ranging from 25 cents to $5.00; (2) extend jet economy service to its Houston-Los Angeles route (including 15 city pairs); and (3) cancel all of its jet night coach fares. In addition, consistent with an effective tariff provision, Continental plans to extend 5-abreast seating at existing coach fares to the Houston-Los Angeles route.

Both the revised and the new economy fares that are proposed would be at a level 14.7 percent below present jet coach fares, and would apply in triple-configuration jet aircraft providing first-class, coach, and economy classes of service. Economy service accommodations will be in the rear of the aircraft in 6-abreast seating at a 34-inch pitch, and coach service in 5-abreast seating at a 36-inch pitch will be located in the center of the aircraft.[2] The forward cabin will have 4-abreast first-class seats at a pitch of 38-40 inches.

The economic characteristics of the Chicago-Los Angeles route of Continental differ from those of the Houston-Los Angeles route. The former embraces four cities (Chicago, Kansas City, Denver, and Los Angeles) and involves six city pairs. The latter comprises six cities (Houston, San Antonio, El Paso, Tucson, Phoenix, and Los Angeles) and involves 15 city pairs. Continental competes with four carriers (American, Braniff, TWA, and United) in the Chicago-Los Angeles markets, and five carriers (American, Eastern, National, TWA, and Western) in the Houston-Los Angeles markets. However, only one market on the Houston-Los Angeles route (Phoenix-Los Angeles) is served by three carriers in addition to Continental; in the other markets Continental competes with either one or two carriers. Based on the O&D traffic surveys for the year ended September 30, 1963, Continental accounts for about one-third of the total passenger-miles in the Chicago-Los Angeles markets, but practically half of the total traffic in the Houston-Los Angeles markets. However, since the combined traffic volume for all carriers in the Chicago-Los Angeles markets is almost four times as large as that in the Houston-Los Angeles markets, Continental's traffic in the Chicago-Los Angeles markets is almost 2.5 times as large as its traffic in the Houston-Los Angeles markets. Furthermore, on the Houston-Los Angeles route, nine city pairs each represents 3 percent or less of the route traffic, while on the Chicago-Los Angeles route only Denver-Kansas City shows less than 3 percent of the route traffic.

American, TWA, and United have filed tariff revisions proposing to increase their economy fares in the Chicago-Los Angeles markets to the same level proposed by Continental.

Complaints against Continental's proposal have been filed by American, Braniff, National, TWA, United, and Western. All the complaints request suspension and investigation of the new economy fares proposed in the Houston-Los Angeles and intermediate markets.[3] American also requests investigation of the 5-abreast coach seating on the grounds that the aircraft can accommodate 6-abreast seating. In addition, Braniff and United request investigation of the proposed increase in economy fares in the Chicago-Los Angeles markets. Basically, the complainants feel that the extension of economy fares to new markets should await the Board's final decision in the current investigation of economy fares (Docket 13939). It is contended that, in the present experiment, traffic was diverted to take advantage of the lower fares offered, and that in the Houston-Los Angeles markets this practice would have a seriously adverse effect upon competing carriers. These carriers, the complaints allege, would be unable to reconfigure aircraft to provide similar service on small portions of their systems. Furthermore, American questions Continental's cost comparisons of economy and coach services, and contends that the proposed service will reduce revenue potentials and increase break-even load factors.

In support of its proposal and in answer to the complaints, Continental claims that the economy fares, which it inaugurated on the Chicago-Los Angeles route on August 24, 1962, have been highly successful; that the success of the

[1] Revisions to Agent C. C. Squire's C.A.B. No. 44 and C.A.B. No. 65, filed March 26, 1964.

[2] Continental has also filed tariff revisions proposing to cancel the present dual seating configuration for B–707 and B–720 aircraft, and proposing a new triple-configuration seating for these aircraft. The configuration for coach service would be 6-abreast with a 36-inch pitch. Continental has informed the Board that, in addition to the 5-abreast coach seating, this 6-abreast coach configuration will be used on certain flights on the Houstin-Los Angeles route until June 15, 1964, after which Continental expects to operate only 5-abreast coach service on that route. We will expect Continental to effect appropriate tariff revisions at that time.

[3] Western requests suspension of only the Phoenix-Los Angeles fare.

economy fare can be equally applicable to its Houston-Los Angeles route; that even if one-half of its present coach traffic were diverted to the economy service, the dilution in revenue would be only about 2 percent; and that this diversion would be offset by an estimated traffic generation of approximately 10 percent. In answer to the complaints, Continental further asserts that of the six complainants, Braniff and United have no direct interest in the Houston-Los Angeles route, Trans World and Western have a minor interest by virtue of their Los Angeles-Phoenix market, and American and National have a limited interest due to their operations in only a few markets; that the complaints against its 5-abreast seating are unjustified; and that none of the complaints have set forth any factual data that would warrant suspension and investigation of its proposal.[4]

We will first consider the increased economy fares proposed for the Chicago-Los Angeles markets. As detailed in Order E-19313, adopted February 21, 1963, economy fares in these markets are currently approximately 20 percent below coach fares. Continental alleges that the present price spread of 20 percent between economy and coach service "has been too great for a properly balanced fare structure." The carrier states that this has become apparent after the first-class fare reduction of January 15, 1964, and that the proposed economy fare, at a level 14.7 percent below coach, would be, in terms of value of service, in a better relationship to the other fares. However, the proposed increase in economy fares would result in significant additional charges to the traveling public. We are not satisfied that an adequate showing has been made to justify such an increase, and believe that this is an issue which should be resolved in the pending Business and Economy Fares Case. We will, therefore, suspend the effectiveness of Continental's increased jet economy fares between points on its Chicago-Los Angeles route and consolidate the instant investigation with the pending investigation of the present economy fares in Docket 13939. The increased economy fares of competing carriers will also be suspended, investigated, and consolidated.[5] We expect that the pending investigation in Docket 13939 will be processed with sufficient expedition to permit a decision within the statutory suspension period.

On the basis of the data before us, it appears that the proposed Houston-Los Angeles economy fares are reasonably related to cost and value of service. The seating is clearly high density: 6-abreast at a 34-inch pitch. Furthermore, Continental's proposal to use 5-abreast seating in coach service (at a 36-inch pitch) would enhance the difference between economy and coach service. Continental claims that the first-class passenger receives a full-course meal with linen service (as well as pre-departure snack service), and free alcoholic beverages; the coach passenger will receive a lower-cost meal, but alcoholic beverages will be available only on a sale basis. Economy-class passengers will not be served meals, and alcoholic beverages will not be available either free or on a sale basis. These differentiating features are in addition to the 4-, 5-, and 6-abreast seatings, respectively, of the three classes of service. In terms of relative value of service, the economy fare, set 14.7 percent below coach, appears to be within the zone of reasonableness.

It also seems clear that the seating density and other physical characteristics of these services, which affect their value, also affect their costs. On the basis of Continental's Form 41 data for the year 1963, it is estimated that, for the different markets on the Houston-Los Angeles route, the passenger load factor necessary to provide a 10-percent return on investment would range from about 36 to 49 percent for its economy service, and from about 40 to 60 percent for 5-abreast coach, with the lower load factors applying to the longer segments. These load factors, which are for different markets having flight distances varying from approximately 1,400 miles to less than 400 miles, do not appear unreasonable on the basis of the coach load factors actually experienced in these markets. Although it is obvious that the higher-density economy service requires a larger on-board passenger load than coach to achieve economic load factors, there is no evidence to indicate that the markets in which these fares would be offered are not of sufficient traffic density to support such load factors under conditions of prudent scheduling practices.

The differences between Continental and the complainants center primarily on the "success" or "failure" of the economy-fare experiment, heretofore limited to the Chicago-Los Angeles markets, in terms of its effect on carrier revenues and profits. Continental contends that the economy fare has reversed earlier traffic declines and has produced considerable traffic and revenue gains over the preceding year. The complainants, on the other hand, argue that the traffic gains experienced by Continental are in fact attributable to other factors, that the new traffic generated has fallen short of the amount required to offset the revenues lost by diversion of existing traffic to the lower-fare service, that the net revenue of the operations would have been greater without the economy fare, and that in weighing the results of the fare experiment, the Board should not permit the extension of the economy service to the Houston-Los Angeles route before the conclusion of the investigation in Docket 13939.

Although the Board is fully aware that the need of each air carrier for adequate revenues is a rate-making factor under the statute, the proper test of the lawfulness of the fares on file is not simply and solely whether they will benefit a majority of the carriers. Continental has determined to offer a new class of passenger service which is separate and distinct from the existing types of service, and to improve its coach service so as to offer the public a better service in terms of seat density for the same price. The carrier's action in this regard is not different in principle from United's decision to offer Custom Coach service several years ago, or United's one-class service which has been gradually introduced to more and more markets. As this carrier did, Continental proposes to experiment with new services; particularly, it proposes to offer a lower-class service at a lower price. Such determinations of air-carrier service are properly within the area of managerial discretion. Our responsibility here is to determine whether the proposed fares are lawful, not whether the proposed services appear lawful, and not to protect one or more carriers from the effects of legitimate and healthful competition. The traveling public, through its expressed demand, will ultimately decide which service it prefers, and thus it will be left to the economic forces in the market to evaluate the various services offered by the carriers.

We note that certain complaints allege that substantial revenue losses have been experienced by the carriers offering economy service in the Chicago-Los Angeles markets. These allegations appear to be based upon questionable assumptions. In addition, these allegations and the assumptions upon which they are based are part of the issues in Docket 13939. Consequently, a final evaluation of these issues must await the conclusion of the pending fare investigation in that proceeding.

The simple revenue or profit-impact test, upon which the complaints appear to rely heavily, is not a necessary indicator of the justness and reasonableness of the economy fares. Since the proposed economy fares seem potentially as self-supporting as the first-class and coach services, even a substantial diversion of existing traffic to this new service with no new generation of traffic (which is altogether unlikely) might still permit profitable operations. Conversely, under conditions of normal diversion and traffic generation, it is reasonable to anticipate, profitable operations under reasonably attainable load factors. Thus, the economy service proposed by Continental should make economically feasible a lower-priced service available to a larger cross section of the traveling public. Such a result is in itself in the public interest and consistent with the over-all objectives of the Act. Accordingly, in view of the foregoing we will not suspend the proposed new economy fares for the Houston-Los Angeles markets.

However, upon consideration of the complaints and other matters of record, and consistent with our investigation of the Chicago-Los Angeles economy fares in Docket 13939, the Board finds it appropriate to order an investigation of

[4] National Airlines, Inc., has filed a motion to strike a portion of Continental's answer to complaints. The Board will grant the motion for leave to file this unauthorized document. We have considered each of the allegations in the motion to strike, in reaching our decision in this matter. However, we have concluded that the motion to strike should be denied, and will allow the record in this matter to speak for itself.

[5] To the extent that any party may consider it necessary to reopen the evidentiary record in Docket 13939, in view of our action herein, such request may be made by appropriate motion to the Examiner.

the proposed fares for the Houston-Los Angeles markets. Furthermore, the Board has instructed its staff to contact the carriers in the Houston-Los Angeles markets, including those serving intermediate points only, for the purpose of arranging appropriate reporting procedures, so that adequate, meaningful financial and traffic data will be available, on a reasonably current basis, to evaluate the effect of this new service.

Finally, as to the proposed 5-abreast seating in coach service in the Houston-Los Angeles markets, American contends that there is no economic justification for offering this service. Continental's proposal in this regard is similar to the coach service and fares it now offers on the Chicago-Los Angeles route. In passing upon that proposal,[6] the Board concluded that the offering of a 5-abreast service at coach fares did not appear uneconomic nor unreasonable, when such service is not the lowest-fare service in the market. Such would also be the case with respect to Continental's proposed services in the Houston-Los Angeles markets. Moreover, we note that National has been offering 5-abreast coach seating (in DC-8's) on this route for some time. We are more concerned with the economics of 5-abreast coach seating in those areas where coach is the low-fare service than in the instant markets where it is the middle-class service. Under these circumstances, the Board concludes that American's request for investigation of this seating configuration should be denied.

The Board finds that its action herein is necessary and appropriate in order to carry out the provisions and objectives of the Federal Aviation Act of 1958, as amended, particularly sections 204(a), 403, 404, and 1002 thereof.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered That:

1. An investigation be instituted to determine whether the fares and provisions described in Appendixes A[7] and B[7] are or will be, unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and if found to be unlawful to determine and prescribe the lawful fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix B, are suspended and their use deferred to and including August 21, 1964, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The investigation of the fares and provisions described in Appendix A be assigned Docket 15245;

4. The investigation of the fares and provisions described in Appendix B be assigned Docket 15256, and be consolidated in Docket 13939;

5. The complaints in Dockets 15155, 15157, 15158, 15159, 15161, and 15162 be dismissed, except to the extent granted herein;

6. The motion of National Airlines, Inc., to strike part of the answer of Continental Air Lines, Inc. is denied;

7. The investigation designated in 3, above, be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

8. A copy of this order be served upon American Airlines, Inc., Braniff Airways, Inc., Eastern Air Lines, Inc., National Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc., which are made parties to the investigations ordered herein.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[8]

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 64-4924; Filed, May 15, 1964; 8:50 a.m.]

[Docket 15224]

AERONAVES DE MEXICO, S. A.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on May 14, 1964, at 10:30 a.m. e.d.s.t., in Room 725, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the undersigned Hearing Examiner.

Dated at Washington, D.C., May 12, 1964.

[SEAL] LESLIE G. DONAHUE,
Hearing Examiner.

[F.R. Doc. 64-4925; Filed, May 15, 1964; 8:50 a.m.]

[Docket 15073]

DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT (LUFTHANSA GERMAN AIRLINES)

Notice of Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on June 17, 1964, at 10:00 a.m., e.d.s.t. in Room 725, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Ross I. Newmann.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Prehearing Conference Report served on April 21, 1964, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., May 12, 1964.

[SEAL] ROSS I. NEWMANN,
Hearing Examiner.

[F.R. Doc. 64-4926; Filed, May 15, 1964; 8:51 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14832, FCC 64M-394]

BIGBEE BROADCASTING CO.

Order Continuing Prehearing Conference

In re application of Paul D. Nichols, William C. Reid, and Houston L. Pearce d/b as Bigbee Broadcasting Co., Demopolis, Alabama, Docket No. 14832, File No. BP-13976; for construction permit.

As a result of agreements reached on the record at a prehearing conference held on May 6, 1964: *It is ordered*, This 7th day of May 1964 that a further prehearing conference in the above-entitled matter, be, and the same is, hereby continued without date pending Commission action upon a "Petition to Shift Burden of Proof or, in the Alternative, to Direct Production of Information".

Released: May 8, 1964.

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

[F.R. Doc. 64-4920; Filed, May 15, 1964; 8:49 a.m.]

[Docket No. 15362; FCC 64M-400]

GRAYSON ENTERPRISES, INC.

Order Continuing Prehearing Conference

In re application of Grayson Enterprises, Incorporated, Big Spring, Texas, Docket No. 15362, File No. BPCT-3029; for construction permit to increase power, change transmitter site, and make other changes in facilities of station KWAB-TV (former KEDY-TV), Big Spring, Texas.

The Hearing Examiner having under consideration a motion filed on May 8, 1964, by Grayson Enterprises, Incorporated, requesting that the further prehearing conference presently scheduled for May 15, 1964, be continued for one month; and

It appearing, that other counsel have agreed to a waiver of the four-day requirement of § 1.294 of the Commission's rules and have no objection to a grant of the instant motion;

It is ordered, This 11th day of May 1964, that the further prehearing conference in the above-entitled proceeding be and it is hereby continued to June 15, 1964, at 10:00 a.m.

Released: May 12, 1964.

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

[F.R. Doc. 64-4921; Filed, May 15, 1964; 8:50 a.m.]

[6] Order E-20381, adopted January 21, 1964.
[7] Filed as part of the original document.
[8] Members Gurney and Gillilland's dissenting statements filed as part of the original document.

[Docket Nos. 15444—15448; FCC 64-420]

OAK KNOLL BROADCASTING CORP. ET AL.

Order Continuing Hearing

In re applications of Oak Knoll Broadcasting Corporation, Pasadena, California, Docket No. 15444, File No. BPI-1; Goodson-Todman Broadcasting, Inc., Pasadena, California, Docket No. 15445, File No. BPI-2; California Regional Broadcasting Corporation, Pasadena, California, Docket No. 15446, File No. BPI-3; Marshall S. Neal, Robert S. Morton, Arthur Hanish, Macdonald Carey, Ben F. Smith, Donald C. McBain, Robert Breckner, Louis R. Vincenti, Robert C. Mardian, James B. Boyle, Robert M. Vaillancourt and Edwin Earl d/b as Crown City Broadcasting Co., Pasadena, California, Docket No. 15447, File No. BPI-4; Radio Eleven Ten, Inc., Pasadena, California, Docket No. 15448, File No. BPI-5; requests for interim authority to operate a standard broadcast station utilizing facilities of station KRLA, Pasadena, California 1110kc, 10kw, 50 kw-LS, DA-2, U.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 12th day of May 1964;

The Commission having under consideration its Order of April 22, 1964 (FCC 64-362)[1] accepting the above-entitled applications for filing, and its Order of April 29, 1964 (FCC 64-386) whereby an oral hearing was scheduled for May 14, 1964;

It appearing, that, on the Commission's own motion, it would be more conducive to the orderly and efficient dispatch of the Commission's business to postpone the scheduled oral hearing for approximately thirty days;

It is ordered, That the oral hearing be postponed until 10:00 a.m., Monday, June 15, 1964.

Released: May 12, 1964.

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

[F.R. Doc. 64-4922; Filed, May 15, 1964; 8:50 a.m.]

[Docket Nos. 15460, 15461; FCC 64M-405]

SYMPHONY NETWORK ASSOCIATION, INC., ET AL.

Order Scheduling Hearing

In re applications of Symphony Network Association, Inc., Fairfield, Alabama, Docket No. 15460, File No. BPCT-3238; William A. Chapman and George K. Chapman, d/b as Chapman Radio and Television Company, Homewood, Alabama, Docket No. 15461, File No. BPCT-3282; for construction permits for a new television broadcast station.

It is ordered, This 11th day of May 1964, that Chester F. Naumowicz, Jr., will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on July 15, 1964, in Washington, D.C.: *And, it is further ordered*, That a prehearing conference in the proceeding will be convened by the presiding officer at 10:00 a.m., June 11, 1964.

Released: May 13, 1964.

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

[F.R. Doc. 64-4923; Filed, May 15, 1964; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

MARYLAND PORT AUTHORITY ET AL.

Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements between the Maryland Port Authority (Port), and various lessees have been filed with the Commission pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 75 Stat. 763; 46 U.S.C. 814):

Agreement No. T-176 with the Baltimore Stevedoring Company, Inc., Agreement No. T-177 with Consolidated Stevedoring Corporation and Agreement No. T-265 with the Hinkins Stevedoring Agency, Inc., provide for the sub-lease of certain terminal property at Locust Point (Baltimore), Maryland, to be operated as marine terminals. The leases are made subject to all of the terms, provisions and conditions of approved Agreement No. T-32 between Port and the Baltimore and Ohio Railroad.

Agreement No. T-176-A with the Baltimore Stevedoring Company, Inc., Agreement No. T-177-A with the Consolidated Stevedoring Corporation, and Agreement No. T-265-A with the Hinkins Stevedoring Agency are operating agreements covering rates and service for carloading and unloading at the leased premises.

Interested parties may inspect the agreements and obtain copies thereof at the Bureau of Domestic Regulation, Federal Maritime Commission, Washington, D.C., 20573, or may inspect a copy at the offices of the District Managers of the Commission in New York, N.Y., New Orleans, La., and San Francisco, Calif., and may submit to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 10 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreements and their position as to approval, disapproval, or modification, together with a request for hearing, should a hearing be desired.

Dated: May 13, 1964.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 64-4898; Filed, May 15, 1964; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP61-257 (Phase II)[1]]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Application

MAY 11, 1964.

Take notice that on March 30, 1961, as amended on May 19 and October 30, 1961, and September 10, 1963, Panhandle Eastern Pipeline Company (Applicant) 3444 Broadway, Kansas City, Missouri, filed in Docket No. CP61-257 (Phase II) an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon by sale to Illinois Power Company (Illinois Power) certain facilities in the State of Illinois, all as more fully set forth in the application, as amended, on file with the Commission and open to public inspection.

Specifically, Applicant proposes in Phase II to abandon 121,422 feet of the 8-inch Galesburg lateral together with its Galesburg meter station. Illinois Power will pay Applicant the depreciated original cost of the subject facilities adjusted to the approximate date of transfer.

Applicant states that the subject proposals are essentially a request to alter the delivery point between Applicant and Illinois Power in order to serve the convenience of both companies.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that preliminary staff analysis has indicated that there are no problems which would warrant a recommendation that the Commission designate Phase II of this application for formal hearing before an examiner and that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing may be held without further notice before the Commission on Phase II of this application provided no protest or petition to intervene is filed within the time required herein. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and pro-

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[1] By Public Notice 50430 of April 22, 1964, the Commission gave notice of the acceptance for filing of the above-entitled applications. 47 U.S.C. 309(d)(1), 47 C.F.R. 1.580(b).

[2] Commissioners Bartley and Lee absent.

[1] This application is divided into two phases. The subject notice pertains exclusively to Phase II. By the Commission's order issued January 3, 1964 (Phase I), in this proceeding, Applicant was authorized to abandon certain other lateral pipelines, and metering facilities, all located in the State of Illinois, and, further, to construct and operate new measuring and regulating stations made necessary by the authorized abandonment.

cedure (18 CFR 1.8 or 1.10) on or before June 1, 1964.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64-4886; Filed, May 15, 1964; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

BANCORPORATION OF MINNESOTA, INC.

Notice of Application for Approval of Acquisition of Shares of Banks

Notice is hereby given that the Board of Governors of the Federal Reserve System has received an application by Bancorporation of Minnesota, Inc., Rochester, Minnesota, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), for the Board's prior approval of action to become a bank holding company through acquisition by Bancorporation of Minnesota, Inc. of 60 percent of the voting shares of Olmsted County Bank and Trust Co., Rochester, Minnesota; 85.2 percent of the voting shares of Lake City State Bank, Lake City, Minnesota; and 96 percent of the voting shares of Bank of Minneapolis and Trust Co., Minneapolis, Minnesota, a proposed new bank.

In determining whether to approve this application, the Board is required by said Act to take into consideration the following factors: (1) The financial history and condition of the company and the banks concerned; (2) their prospects; (3) the character of their management; (4) the convenience, needs, and welfare of the communities and the area concerned; and (5) whether or not the effect of such acquisition would be to expand the size or extent of the bank holding company system involved beyond limits consistent with adequate and sound banking, the public interest, and the preservation of competition in the field of banking.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., 20551.

Dated at Washington, D.C., this 11th day of May, 1964.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 64-4887; Filed, May 15, 1964; 8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30-X, Amdt. 2]

DALLAS REGIONAL AREA

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30 (Revision 8), as amended, 28 F.R. 3228 and 7204, Delegation of Authority No. 30-X, as amended 28 F.R. 4934, and 8179 is hereby amended by:

a. Adding to the text of Item I.K.: "Dallas, Texas." This text now reads as follows:

K. The following authority is hereby redelegated to the Branch Managers at Little Rock, Ark.; New Orleans, La.; Oklahoma City, Okla.; Houston, Lubbock, San Antonio, Marshall, and Dallas, Texas:

b. By deleting that portion of Item I.K.3. which reads—"except—Marshall Branch may disburse only unsecured disaster loans." This text now reads as follows:

3. To disburse approved loans.

Effective date: March 9, 1964.

ROBERT E. WEST,
Regional Director, Dallas.

[F.R. Doc. 64-4892; Filed, May 15, 1964; 8:46 a.m.]

[Delegation of Authority 30-X, Amdt. 3]

DALLAS REGIONAL AREA

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30 (Revision 8), as amended, 28 F.R. 3228, 7204, 8179, and 29 F.R. 4842, Delegation of Authority No. 30-X, as amended, 28 F.R. 4934 and 8179 and Amendment 2 dated March 9, 1964, is hereby amended by:

A. Deleting subitem I.C.3.a. and substituting the following in lieu thereof:

3. To approve the following:
a. Business Loans:
1. Direct not exceeding $100,000,
2. Participation not exceeding $250,000.

B. Deleting subitem I.K.1.a. through d. and substituting the following in lieu thereof:

1. To approve the following loans:
a. Direct not exceeding $50,000,
b. Participation not exceeding $150,000,
c. Simplified Bank Participation not exceeding $250,000,
d. Simplified Early Maturities not exceeding $250,000.

Effective date: March 11, 1964.

ROBERT E. WEST,
Regional Director,
Dallas Regional Office.

[F.R. Doc. 64-4893; Filed, May 15, 1964; 8:46 a.m.]

[Delegation of Authority 30-X, Amdt. 4]

DALLAS REGIONAL AREA

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Regional Director by the Delegation of Authority No. 30 (Revision 8), as amended, 28 F.R. 3228, 7204, 8179, and 29 F.R. 4842 and 5489, Delegation of Authority No. 30-X as amended, 28 F.R. 4934, 8179 and Amendment 2, dated March 9, 1964, and Amendment 3, dated March 11, 1964, is hereby amended by:

1. Deleting the words "to the Deputy Regional Director and", in line three, Paragraph I.

2. Deleting Items I.J.1. and 2. and substituting the following in lieu thereof:

1. To (a) purchase all office supplies and expendable equipment, including all desk-top items, and rent regular office equipment; (b) contract for repair and maintenance of equipment and furnishings in an amount not to exceed $50. in any one instance; (c) contract for services required in setting up and dismantling, and moving SBA exhibits.

2. In connection with the establishment of Disaster Loan Offices, to (a) obligate Small Business Administration to reimburse General Services Administration for rental of office space; (b) rent office equipment; (c) rent motor vehicles commercially when not available from General Services Administration; (d) procure (without dollar limitation) emergency supplies and materials.

3. Adding the following Subitem (d) to Item I.K.7.:

(d) Purchase printing from the General Services Administration where centralized reproduction facilities have been established by GSA.

Effective date: April 13, 1964.

ROBERT E. WEST,
Regional Director,
Dallas Regional Office.

[F.R. Doc. 64-4894; Filed, May 15, 1964; 8:46 a.m.]

[Declaration of Disaster Area 465]

LOUISIANA

Declaration of Disaster Area

Whereas, it has been reported that during the month of April, 1964, because of the effects of certain disasters, damage resulted to residences and business property located in Caddo Parish in the State of Louisiana;

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, as amended.

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

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the Offices below indicated from persons or firms whose property, situated in the aforesaid Parish and areas adjacent thereto, suffered damage or destruction resulting from tornado and accompanying conditions occurring on or about April 24, 1964.

OFFICES

Small Business Administration Regional Office, 1025 Elm Street, Dallas 2, Tex.
Small Business Administration Branch Office, 610 South Street, New Orleans 12, La.

2. Temporary office will be established in Shreveport, Louisiana, address to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to October 31, 1964.

Dated: April 25, 1964.

EUGENE P. FOLEY,
Administrator.

[F.R. Doc. 64-4904; Filed, May 15, 1964; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-4213]

EAST OHIO GAS CO. ET AL.

Notice of Proposed Issuance of Short-Term Notes to Banks by Holding Company and Related Open Account Advances to Subsidiaries

MAY 12, 1964.

In the matter of the East Ohio Gas Company, Hope Natural Gas Company, New York State Natural Gas Corporation, the Peoples Natural Gas Company, the River Gas Company; Consolidated Natural Gas Company, 30 Rockefeller Plaza, New York 20, New York, File No. 70-4213.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and its wholly-owned subsidiary companies, The East Ohio Gas Company ("East Ohio"), Hope Natural Gas Company ("Hope"), New York State Natural Gas Corporation ("New York State"), The Peoples Natural Gas Company ("Peoples"), and The River Gas Company ("River"), have filed a joint declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, 9(a), 10, 12(b), and 12(f) of the Act and Rules 43 and 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the joint declaration, on file at the office of the Commission, for a statement of the transactions therein proposed which are summarized below.

To provide funds for the system's 1964 construction program which is estimated at $70,600,000, Consolidated proposes to issue to a group of banks, on one or more dates in 1964, an aggregate of up to $20,000,000 of unsecured promissory notes, without a commitment fee. These short-term notes will be repaid through permanent financing at a later date. Consolidated also proposes to obtain funds for financing the seasonal increase in gas storage inventories of its subsidiary companies by issuing, on one or more dates in 1964, an aggregate of up to $35,000,000 of unsecured promissory notes to a group of banks, without a commitment fee. The notes will be repaid as gas is withdrawn from storage and sold during the 1964-65 heating season.

All of the above-mentioned notes will have a maturity of not more than 12 months from the date of the first borrowing and will bear interest at the prime rate of The Chase Manhattan Bank (presently 4½ percent per annum) in effect on the date of the first borrowing. They will be prepayable, in whole or in part at any time, upon ten days' prior written notice, without premium. The names of the banks and the participation of each are as follows:

Banks	$35,000,000 gas storage	$20,000,000 construction
New York City		
The Chase Manhattan Bank	$12,000,000	$6,700,000
The First National City Bank	3,000,000	2,000,000
Morgan Guaranty Trust Co.	2,750,000	1,500,000
Manufacturers Hanover Trust Co.	2,000,000	1,000,000
Bankers Trust Co.	1,500,000	1,000,000
Chemical Bank New York Trust Co.	1,500,000	1,000,000
Irving Trust Co.	1,500,000	1,000,000
OHIO		
Cleveland		
The National City Bank	2,400,000	1,800,000
Union Commerce Bank	1,100,000	800,000
Central National Bank	350,000	400,000
Society National Bank	300,000	600,000
Akron		
First National Bank of Akron	225,000	----------
The Akron Dime Bank	150,000	----------
The Firestone Bank	150,000	----------
Ashtabula		
The Farmers National Bank & Trust Co.	50,000	----------
Canton		
The Harter Bank & Trust Co.	175,000	----------
First National Bank of Canton	150,000	----------
The Canton National Bank	75,000	----------
The Peoples-Merchants Trust Co.	75,000	----------
Painesville		
The Lake County National Bank	50,000	----------
Warren		
The Second National Bank of Warren	50,000	----------
The Union Savings & Trust Co.	50,000	----------
Youngstown		
The Mahoning National Bank	350,000	----------
The Union National Bank	150,000	----------
PENNSYLVANIA		
Pittsburgh		
Pittsburgh National Bank	1,400,000	1,200,000
Mellon National Bank & Trust Co.	1,300,000	1,000,000
The Union National Bank of Pittsburgh	500,000	----------
Altoona		
Altoona Central Bank and Trust Co.	100,000	----------
Johnstown		
Johnstown Bank and Trust Co.	50,000	----------
United States National Bank in Johnstown	50,000	----------
NEW YORK		
Elmira		
Marine Midland Trust Co., of Southern N.Y.	500,000	----------
Syracuse		
Marine Midland Trust Co., of Central N.Y.	500,000	----------
WEST VIRGINIA		
Clarksburg		
The Empire National Bank of Clarksburg	100,000	----------
The Union National Bank of Clarksburg	100,000	----------
Morgantown		
The First National Bank of Morgantown	100,000	----------
Parkersburg		
The Parkersburg National Bank	100,000	----------
Commercial Banking & Trust Co.	50,000	----------
Union Trust & Deposit Co.	50,000	----------
Totals	35,000,000	20,000,000

Consolidated also proposes to make open account advances to the following subsidiary companies in amounts aggregating $23,300,000 for the purpose of financing plant construction expenditures and $35,000,000 for financing gas storage inventories:

	Construction	Gas storage
East Ohio	$13,500,000	$10,000,000
Hope	5,500,000	5,500,000
New York State	----------	18,500,000
Peoples	4,000,000	1,000,000
River	300,000	----------
Totals	23,300,000	35,000,000

The open account advances will be made from time to time in 1964 as the funds are needed by the subsidiary companies. Said advances will be payable on a date not more than twelve months from the date of the first advance to each subsidiary company and also on or before the maturity of the related short-term bank borrowings by Consolidated to finance such advances to the subsidiary companies. The advances will bear the same rate of interest as the related borrowings by Consolidated.

The joint declaration states that the proposed short-term borrowings by Hope are subject to the jurisdiction of the Public Service Commission of West Virginia and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over any of the proposed transactions.

The fees and expenses to be incurred in connection with the proposed transactions, all of which are to be paid by Consolidated, are estimated not to exceed $2,500, consisting of $2,000 payable to Con-Gas Service Corporation for services on a cost basis and miscellaneous out-of-pocket expenses estimated at $500.

Notice is further given that any interested person may, not later than June 10, 1964, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said joint declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the joint declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 64-4890; Filed, May 15, 1964; 8:45 a.m.]

[File No. 812-1678]

NAMOCO MORTGAGE CO., INC.

Notice of Filing of Application for Order Approving Depositary Agreement of Face-Amount Certificate Company

MAY 12, 1964.

Notice is hereby given that Namoco Mortgage Company, Inc. ("Namoco"), 113 South Hydraulic, Wichita, Kansas 67211, formerly National Mortgage Company, Inc., a registered face-amount certificate company, and a Kansas corporation, has filed an application pursuant to section 28(c) of the Investment Company Act of 1940 ("Act") seeking the approval of a depositary agreement ("Agreement") between Namoco and the Union National Bank of Wichita, Kansas ("Bank") whereby Namoco undertakes to deposit and maintain with Bank qualified investments and reserves as required by section 28 of the Act with respect to its installment type certificates. All interested persons are referred to the application filed with the Commission for a complete statement of the representations therein which are summarized below.

The Agreement provides, among other things, that Namoco shall at all times maintain on deposit with the Bank qualified assets having an aggregate value at least equal to its required minimum certificate reserves. Assets representing minimum reserves for certificates sold within any States which States require that such reserves be held by officials or governmental bodies of these States may, for the above minimum reserve requirements, be deducted in computing assets of Namoco to be held by the Bank.

Said Agreement also provides that, except for the assets on deposit with a state official or agency as hereinbefore mentioned, all payments to the reserve which are required under the Certificates, and all capital appreciation and earnings from the investment thereof shall be kept and held by the Bank separate and distinct from all other property of Namoco or belonging to or in the possession or custody of the Bank.

Section 28(c) provides, among other things, that the Commission shall by rule, regulation, or order, in the public interest or for the protection of investors, require a registered face-amount certificate company to deposit and maintain, upon such terms and conditions as the Commission shall prescribe and as are appropriate for the protection of investors, with one or more institutions having the qualifications required by section 26(a)(1) of the Act for a trustee of a unit investment trust, all or any part of the investments maintained by such company as certificate reserve requirements under the provisions of section 28(b) of the Act.

Notice is further given that any interested person may, not later than May 28, 1964, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 64-4891; Filed, May 15, 1964; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice No. 304]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 8, 1964.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 1124 (Deviation No. 12), HERRIN TRANSPORTATION COMPANY, 2301 McKinney Avenue, Houston, Tex., 77003, filed April 27, 1964. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Jacksonville, Fla., and junction Interstate Highways 10 and 75 near Lake City, Fla., over Interstate Highway 10, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: Between Jacksonville and Tallahassee, Fla., over U.S. Highway 90.

No. MC 52743 (Deviation No. 2), MIAMI TRANSPORTATION COMPANY, INC. OF INDIANA, 1220 Harrison Avenue, Cincinnati, Ohio, 45214, filed April 30, 1964. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (A) Between Cincinnati and Cleveland, Ohio, over Interstate Highway 71; and (B) between Charleston and Kenova, W. Va., for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: Between Cincinnati and Cleveland, over U.S. Highway 42, and between Charleston and Kenova, W. Va., over U.S. Highway 60.

No. MC 109095 (Deviation No. 9), ANDERSON MOTOR SERVICE, INC., 1516 East 14th Street, St. Louis 6, Mo., filed April 24, 1964. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Indianapolis, Ind., over U.S. Highway 40 to junction Interstate Highway 71, thence over Interstate Highway 71 to junction U.S. Highway 224, thence over U.S. Highway 224 to junction Ohio 5, thence over Ohio Highway 5 to Akron, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Indianapolis, Ind., over U.S. Highway 36 to junction U.S. Highway 42, thence over U.S. Highway 42 to junction U.S. Highway 224, thence over U.S. Highway 224 to junction Ohio Highway 5, thence over Ohio Highway 5 to Akron, and return over the same routes.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 170) (Canceling Deviation No. 135), GREYHOUND LINES, INC., 1740 Main Street, Kansas City, Mo., filed April 27, 1964. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, over a deviation route as follows: (A) From Milwaukee, Wis., over Interstate Highway 94 to the Wisconsin-Minnesota State line south of Hudson, Wis.; (B) from the Illinois-Wisconsin State line near Beloit, Wis., over Interstate Highway 90 to the Wisconsin-Minnesota State line north of La Crosse, Wis., and (C) from junction Interstate Highway 94 and Wisconsin Highway 19, over Wisconsin Highway 19 to Sun Prairie, Wis., and return over the same routes, for operating conven-

ience only. The notice indicates that the carrier is presently authorized to transport passengers over pertinent service routes as follows: From Chicago, Ill., over city streets to Evanston, Ill., thence over U.S. Highway 41 to Milwaukee; from Wisconsin Dells, Wis., over U.S. Highway 16 to Milwaukee; from Watertown, Wis., over Wisconsin Highway 19 to Sun Prairie, Wis.; from McHenry, Ill., over Illinois Highway 31 to junction U.S. Highway 12, thence over U.S. Highway 12 to Sauk City, Wis., thence over Wisconsin Highway 78 to junction Sauk County Highway Z, thence over Sauk County Highway Z to junction U.S. Highway 12, thence over U.S. Highway 12 to junction Sauk County Highway W at Baraboo, Wis., thence over Sauk County Highway W to junction Wisconsin Highway 33, thence over Wisconsin Highway 33 to junction U.S. Highway 12, thence over U.S. Highway 12 to junction Wisconsin Highway 172, thence over Wisconsin Highway 172 through Eau Claire, Wis., to junction U.S. Highway 12, thence over U.S. Highway 12 to junction unnumbered highway, thence over unnumbered highway to Woodville, Wis., thence return over unnumbered highway to junction U.S. Highway 12, thence over U.S. Highway 12 to St. Paul, Minn. (also from Tomah, Wis., over U.S. Highway 16 via West Salem, Wis., to La Crosse, Wis.); from the Illinois-Wisconsin State line at the outskirts of Beloit over U.S. Highway 51 to Janesville, Wis.; from Janesville over U.S. Highway 51 to Edgerton, Wis.; from Edgerton over U.S. Highway 51 to junction Wisconsin Highway 106; from junction U.S. Highway 51 and Wisconsin Highway 106 over U.S. Highway 51 to junction U.S. Highway 12, and return over the same routes.

No. MC 1515 (Deviation No. 171), GREYHOUND LINES, INC. (Western Greyhound Lines Division), Market and Fremont Streets, San Francisco 5, Calif., Carriers attorney: W. T. Meinhold, 371 Market Street, San Francisco, Calif., filed April 27, 1964. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, over deviation routes as follows: (A) From Grants Pass, Oreg., over access highways to Interstate Highway 5, thence over Interstate Highway 5 to Medford, Oreg.; (B) from Medford over Interstate Highway 5 and access highways to Ashland, Oreg.; (C) from North Grants Pass Interchange, Oreg. over Interstate Highway 5 to Medford; and (D) from Medford over Interstate Highway 5 to South Ashland Interchange, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers over a pertinent service route as follows: From Portland, Oreg., over Interstate Highway 5 to junction U.S. Highway 99 (North Tigard, Oreg.), thence over U.S. Highway 99 to Albany, Oreg., thence over U.S. Highway 99E to Junction City, Oreg., thence over U.S. Highway 99W to Eugene, Oreg., thence over U.S. Highway 99 to the Oregon-California State line, and return over the same route.

MC 1515 (Deviation No. 172), GREYHOUND LINES, INC. (Eastern Greyhound Lines), 1400 West Third Street, Cleveland, Ohio, 4413, filed April 29, 1964. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, over a deviation route as follows: From junction Interstate Highway 65 and U.S. Highway 52, approximately 3 miles west of Indianapolis, Ind. over Interstate Highway 65 to junction U.S. Highway 52, approximately 1 mile west of Lebanon, Ind., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers over a pertinent service route as follows: From Cincinnati, Ohio over U.S. Highway 52 to Brooksville, Ind., thence over Indiana Highway 1 to Connersville, Ind., thence over Indiana Highway 44 to Rushville, Ind., thence over U.S. Highway 52 via Lebanon, Ind., to LaFayette, Ind. (also from Lebanon over Indiana Highway 39 via Frankfort, Ind., to junction Indiana Highway 38, thence over Indiana Highway 38 to junction U.S. Highway 52 at a point approximately 5 miles southeast of LaFayette: also from junction U.S. Highway 52 at a point approximately 2 miles east of Thorntown, Ind., over Indiana Highway 47 to Thorntown, thence over unnumbered highway to junction U.S. Highway 52, approximately 2 miles north of Thorntown), thence over U.S. Highway 52 via Templeton, Ind., to Atkinson, Ind. (also from Templeton over Indiana Highway 352 to Oxford, Ind., thence over unnumbered highway to Atkinson), thence over U.S. Highway 52 to Kentland, Ind., and thence over U.S. Highway 41 via Cook and Hammond, Ind., to Chicago, Ill., and return over the same route.

By the Commission.

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

[F.R. Doc. 64-4962; Filed, May 15, 1964; 8:52 a.m.]

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PART II

THE NATIONAL ARCHIVES
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OF THE UNITED STATES
1934

FEDERAL REGISTER

VOLUME 29 NUMBER 97

Washington, Saturday, May 16, 1964

Federal Maritime Commission

[46 CFR Part 502]

Rules of Practice and Procedure

Notice of Proposed Rule Making

Proposed Rule Making

FEDERAL MARITIME COMMISSION

[46 CFR Part 502]

[General Order 8, Part II]

RULES OF PRACTICE AND PROCEDURE

Notice of Proposed Rule Making

By General Order 1 (26 F.R. 7788, August 19, 1961) the Federal Maritime Commission continued in effect the rules of practice and procedure which had been issued by the Federal Maritime Board and Maritime Administration. Thereafter, said rules, with minor amendments made to conform the terminology of the rules to present usage, were published in the FEDERAL REGISTER of November 16, 1963 (28 F.R. 12205).

Notice is hereby given that the Federal Maritime Commission has under consideration proposed changes in their present rules (28 F.R. 12205–12217) as set forth below.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in the proposed rules may submit written comments with reference to any or all of said rules to the Federal Maritime Commission, Washington, D.C., 20573, within 60 days after publication of this notice in the FEDERAL REGISTER. (These rules, when republished in booklet form, will be renumbered as shown in bracket after title.)

By order of the Federal Maritime Commission, March 5, 1964.

THOMAS LISI,
Secretary.

Subpart A—General Information

§ 502.1 Scope of rules in this part.

The rules in this part govern procedure before the Federal Maritime Commission, hereinafter referred to as the "Commission," under the Shipping Act, 1916, Merchant Marine Act, 1920, Intercoastal Shipping Act, 1933, Merchant Marine Act, 1936, Administrative Procedure Act, and related acts, except that Subpart R of this part does not apply to proceedings subject to sections 7 and 8 of the Administrative Procedure Act, which are to be governed only by Subparts A to Q, inclusive, of this part. They shall be construed to secure the just, speedy, and inexpensive determination of every proceeding. [Rule 1(a)]

§ 502.2 Mailing address; hours.

Documents required to be filed in, and correspondence relating to, proceedings governed by the rules in this part should be addressed to "Federal Maritime Commission, Washington, D.C., 20573." The hours of the Commission are from 8:30 a.m. to 5:00 p.m., Monday to Friday, inclusive, unless otherwise provided by statute or executive order. [Rule 1(b)]

§ 502.3 Compliance with rules or orders of Commission.

Persons named in a rule or order shall notify the Commission during business hours on or before the day on which such rule or order becomes effective whether they have complied therewith, and if so, the manner in which compliance has been made. If a change in rates is required, the notification shall specify the tariffs which effect the changes. [Rule 1(c)]

§ 502.4 Authentication of rules or orders of the Commission.

All rules or orders issued in any proceeding covered by the rules in this part shall, unless otherwise specifically provided by the Commission be signed and authenticated by seal by the Secretary of the Commission in the name of the Commission. [Rule 1(d)]

§ 502.5 Inspection of records.

(a) The files and records of the Commission, except those held by the Commission for good cause to be confidential, shall be open for inspection and copying as follows:

(1) Tariffs and agreements filed with the Commission pursuant to statute or rule or order of the Commission may be inspected and copied during business hours in the Commission's offices at Washington.

(2) All pleadings, depositions, exhibits, transcripts of testimony, exceptions, and briefs in any proceeding before the Commission may be inspected and copied at the Washington office of the Commission. Available volumes of Federal Maritime Commission reports may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402. Copies of individual decisions may be secured from the Commission upon request, or may be examined in the regional offices of the Commission.

(3) Other files and records may be inspected and copied in the discretion of the Commission upon written request to the Secretary describing in detail the documents of which inspection is desired, and setting forth the reasons therefor.

(b) Orders, rules, rulings, opinions, and decisions (initial, recommended, tentative, and final) may be inspected at the Washington office of the Commission, except those held by the Commission for good cause to be confidential and not cited as precedents. [Rule 1(e)]

§ 502.6 Searching, copying, and certification of records; fees therefor.

(a) Upon written request directed to and within the discretion of the Federal Maritime Commission, Washington, D.C., 20573, there are available, with respect to documents subject to inspection as provided in § 502.5 services as follows:

(1) Searching files and records;

(2) Copying records and documents; and

(3) Certifying of copies of documents.

(b) Fees for services set forth in paragraph (a) of this section are as follows:

(1) Certifications and validations of documents with Federal Maritime Commission seal, 50 cents; without seal, 25 cents.

(2) Searching files and records, except as provided in subparagraph (5) of this paragraph, $1.00 per half hour or fraction thereof.

(3) Copying records and documents, except as provided in subparagraph (5) of this paragraph:

	First copy of each page (one side)	Additional copies of same page
Typewritten	$2.00	(1)
Photocopy, 18" x 24" or smaller	.50	$0.30
Photographic negatives:		
14" x 17" or smaller	2.50	----
Larger sizes, 30" x 40" maximum	6.50	----
Contact prints (single weight paper)		
8" x 10" or smaller	.50	.50
Ozalid (per square foot or fraction thereof)	.08	.08

[1] No charge for carbon copies.

(4) General:

(i) If copy is to be transmitted by registered, air, or special delivery mail, postal fees therefor will be added to fees provided in subparagraph (3) of this paragraph (or the order must include postage stamps or stamped return envelopes).

(ii) If special handling or packaging is required, the cost thereof will be added to the fees provided in subparagraph (3) of this paragraph.

(iii) Minimum charge, 50 cents. [Rule 1(f)]

§ 502.7 Documents in foreign languages.

Every document, exhibit, or other paper written in a language other than English and filed with the Commission or offered in evidence in any proceeding before the Commission under the rules in this part or in response to any rule or order of the Commission pursuant to the rules in this part, shall be filed or offered in the language in which it is written and shall be accompanied by an English translation thereof duly verified under oath to be a true translation. [Rule 1(g)]

§ 502.8 Denial of applications and notice thereof.

Except in affirming a prior denial or where the denial is self-explanatory, prompt written notice will be given of the denial in whole or in part of any written application, petition, or other request made in connection with any proceeding under the rules in this part, such notice to be accompanied by a simple statement of procedural or other grounds for the denial, and of any other or further administrative remedies or recourse appli-

cant may have where the denial is based on procedural grounds. [Rule 1(h)]

§ 502.9 Suspension, amendment, etc., of rules in this part.

The rules in this part may, from time to time, be suspended, amended, or revoked, in whole or in part. Notice of any such action will be published in the FEDERAL REGISTER. [Rule 1(i)]

§ 502.10 Waiver of rules in this part.

Except to the extent that such waiver would be inconsistent with any statute, any of the rules in this part may be waived by the Commission or the presiding officer in any particular case to prevent undue hardship, manifest injustice, or if the expeditious conduct of business so requires. [Rule 1(j)]

Subpart B—Appearances and Practice Before the Commission

§ 502.21 Appearance.

(1) *Parties.* A party may appear in person or by an officer, partner, or regular employee of the party, or by or with counsel or other duly qualified representative, in any proceeding under the rules in this part. Any party may testify, produce and examine witnesses, and be heard upon brief and at oral argument if oral argument is granted.

(2) *Persons not parties.* One who appears in person before the Commission or a representative thereof, either by compulsion from, or request or permission of the Commission, shall be accorded the right to be accompanied, represented, and advised by counsel. [Rule 2(a)]

§ 502.22 Authority for representation.

Any individual acting in a representative capacity in any proceeding before the Commission may be required to show his authority to act in such capacity. [Rule 2(b)]

§ 502.23 Notice of appearance; written appearances; substitutions.

Within twenty (20) days after service of an Order of Investigation, respondents shall notify the Commission of the name and address of the person or persons who will represent them in the pending investigation. Persons who appear at any hearing shall deliver a written notation of appearance to the reporter, stating for whom the appearance is made. All appearances shall be noted in the record. Petitions to Intervene shall indicate the name and address of the person or persons who will represent the intervener in the pending investigation if the Petition to Intervene is granted. If an attorney of other representative of record is superseded, a stipulation of substitution signed by both attorneys or representatives and by the party shall be filed. [Rule 2(c)]

§ 502.24 Practice before the Commission defined.

Practice before the Commission shall be deemed to comprehend all matters connected with the presentation of any matter to the Commission, including the preparation and filing of necessary documents, and correspondence with and communications to the Commission. The term "Commission" as used herein includes any division, office, branch, section, unit, or field office of the Federal Maritime Commission and any officer or employee of such division, office, branch, section, unit, or field office. [Rule 2(d)]

§ 502.25 Presiding officer defined.

"Presiding officer" means and shall include (a) any one or more of the members of the Commission (not including the Commission when sitting as such), (b) one or more hearing examiners, or (c) one or more other officers authorized by statute and § 502.145 to conduct nonadjudicatory proceedings when duly designated to preside at such proceedings. [Rule 2(e)]

§ 502.26 Attorneys at law.

Attorneys at law who are admitted to practice before the Federal courts or before the courts of any State or Territory of the United States may practice before the Commission. An attorney's own representation that he is such in good standing before any of the courts herein referred to will be sufficient proof thereof, if made in writing and filed with the Secretary. [Rule 2(f)]

§ 502.27 Persons not attorneys at law.

Any person who is not an attorney at law may be admitted to practice before the Commission if he is a citizen of the United States and files proof to the satisfaction of the Commission that he possesses the necessary legal, technical, or other qualifications to enable him to render valuable service before the Commission and is otherwise competent to advise and assist in the presentation of matters before the Commission. Applications by persons not attorneys at law for admission to practice before the Commission shall be made on the forms prescribed therefor, which may be obtained from the Secretary of the Commission, and shall be addressed to the Federal Maritime Commission, Washington, D.C., 20573. No person who is not an attorney at law and whose application has not been approved shall be permitted to practice before the Commission. This provision and the provisions of §§ 502.28, 502.29, and 502.30 shall not apply, however, to any person who appears before the Commission on his own behalf or on behalf of any corporation, partnership, or association of which he is a partner, officer, or regular employee. [Rule 2(g)]

§ 502.28 Firms and corporations.

Practice before the Commission by firms or corporations on behalf of others shall not be permitted. [Rule 2(h)]

§ 502.29 Hearings.

The Commission in its discretion may call upon the applicant for a full statement of the nature and extent of his qualifications. If the Commission is not satisfied as to the sufficiency of the applicant's qualifications, it will so notify him by registered mail, whereupon he may request a hearing for the purpose of showing his qualifications. If he presents to the Commission no request for such hearing within twenty (20) days after receiving the notification above referred to, his application shall be acted upon without further notice. [Rule 2(i)]

§ 502.30 Suspension or disbarment.

The Commission may, in its discretion, deny admission to, suspend, or disbar any person from practice before the Commission who it finds does not possess the requisite qualifications to represent others or is lacking in character, integrity, or proper professional conduct. Any person who has been admitted to practice before the Commission may be disbarred from such practice only after he is afforded an opportunity to be heard. [Rule 2(j)]

§ 502.31 Statement of interest.

The Commission in its discretion may call upon any practitioner for a full statement of the nature and extent of his interest in the subject matter presented by him before the Commission. Attorneys retained on a contingent fee basis shall file with the Commission a copy of the contract of employment. [Rule 2(k)]

§ 502.32 Former employees.

(a) *Practice prohibited.* No person shall practice, appear, or represent anyone before the Commission in any matter to which he, as member, officer, or employee of the Commission, or as officer or employee of the United States, gave personal consideration or as to the facts of which he gained knowledge during and by reason of his Government service.

(b) *Further prohibitions with exceptions.* No former member of the Federal Maritime Commission shall practice, appear, or represent anyone before the Commission, or act as the employee of an attorney or agent, in any matter which was pending before the Commission during the period of his membership on the Commission. No former officer or employee of the Commission shall practice, appear, or represent anyone before the Commission, or act as the employee of an attorney or agent, within two (2) years after the termination of his service with the Commission, in any matter which was pending before the Commission during the period of his employment by the Commission, unless he shall first obtain the written consent of the Commission. This consent will not be granted unless it appears that the applicant did not, as officer or employee of the United States, give personal consideration to the matter, to handle which consent is sought, or gain knowledge of the facts of said matter during and by reason of his Government service.

(c) *Former employees; affidavit.* Such applicant shall be required to file an affidavit to the effect that he gave no personal consideration to such matter; that he gained no knowledge of the facts involved in such matter during and by reason of his Government service; that he is not associated with, and will not in such matter be associated with, any former member, officer, or employee of the Commission who has gained knowledge of the matter during and by reason of his Government service; and that his

employment is not prohibited by any law of the United States or by the regulations of the Commission. The statements contained in such affidavit shall not be sufficient if disproved by an examination of the files and records of the case.

(d) *Former employees; applications for consent.* Applications for consent should be directed to the Commission; should state the former connection with the Commission of the applicant, and should identify the matter in which the applicant desires to appear. The applicant shall be promptly advised as to his privilege to appear in the particular matter, and the application, affidavit, and consent, or refusal to consent, shall be filed by the Commission in its records relative thereto. Separate consents to appear must be obtained to appear in separate cases.

(e) *Assistance to or by former employees.* No one entitled to practice before the Commission shall knowingly (1) assist a person employed by a client to represent him before the Commission in connection with any matter to which such person as a member, officer or employee of the Commission or as an officer or employee of the United States, gave personal consideration or as to the facts of which such person gained personal knowledge during and by reason of his Government service, or (2) accept assistance from any such person in connection with any such matter, or (3) share fees with any such person in connection with such matter. [Rule 2(l)]

Subpart C—Parties

§ 502.41 Parties; how designated.

The term "party," whenever used in the rules, in this part, shall include any natural person, corporation, association, firm, partnership, trustee, receiver, agency, public or private organization, or governmental agency. A party who seeks relief or other affirmative action under § 502.62 and/or § 502.67 shall be designated as "complainant." A party against whom relief or other affirmative action is sought in any proceeding commenced under §§ 502.62, 502.66, or 502.67, or a party named in an order of investigation issued by the Commission, shall be designated as "respondent." A party who petitions to intervene under § 502.72 shall be designated as "intervener." A party who files a petition under §§ 502.51, 502.68, or 502.69, or a petition seeking relief not otherwise designated herein shall be designated as "petitioner." No person other than a party as designated in this section may introduce evidence or examine witnesses at hearings. [Rule 3(a)]

§ 502.42 Hearing Counsel.

The Director, Bureau of Hearing Counsel shall be a party to all proceedings governed by the rules in this part, except that in complaint proceedings under § 502.62 he may become a party only upon leave to intervene granted pursuant to § 502.72. The Director or his representative shall be designated as "Hearing Counsel" and shall be served with copies of all papers, pleadings, and documents in every proceeding governed by the rules in this part, whether a party of record or not. Hearing Counsel shall actively participate in any proceeding to which he is a party, to the extent required in the public interest, subject to the separation of functions required by section 5(c) of the Administrative Procedure Act. (See § 502.224.) [Rule 3(b)]

§ 502.43 Substitution of parties.

In a proper case the Commission or presiding officer may order an appropriate substitution of parties. [Rule 3(c)]

§ 502.44 Necessary and proper parties in certain complaint proceedings.

If a complaint relates to through transportation by continuous carriage or transshipment, all carriers participating in such through transportation shall be joined as respondents. If the complaint relates to more than one carrier or other person subject to the shipping acts, all carriers or other persons against whom a rule or order is sought shall be made respondents. If complaint is made with respect to an agreement filed with the Commission under section 15 of the Shipping Act, 1916, or against a conference organized under said section, the carriers who are parties to such agreement or members of such conference as well as the conference shall be made respondents. [Rule 3(d)]

Subpart D—Rule Making

§ 502.51 Petition for issuance, amendment, or repeal of rule.

Any interested party may file with the Commission a petition for the issuance, amendment, or repeal of a rule designed to implement, interpret, or prescribe law, policy, organization, procedure, or practice requirements of the Commission. The petition shall set forth the interest of petitioner and the nature of the relief desired, shall include any facts, views, arguments, and data deemed relevant by petitioner, and shall be verified. If such petition is for the amendment or repeal of a rule, it shall be accompanied by proof of service on all persons, if any, specifically named in such rule, and shall conform in other aspects to Subpart H of this part. Replies to such petition shall conform to the requirements of § 502.74. [Rule 4(a)]

§ 502.52 Notice of proposed rule making.

General notice of proposed rule making, including the information specified in § 502.143, shall be published in the FEDERAL REGISTER, unless all persons subject thereto are named and either are personally served or otherwise have actual notice thereof in accordance with law. Except where notice of hearing is required by statute, this section shall not apply to interpretative rules, general statements of policy, organization rules, procedure, or practice of the Commission, or any situation in which the Commission for good cause finds (and incorporates such finding in such rule) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. [Rule 4(b)]

§ 502.53 Participation in rule making.

Interested persons will be afforded an opportunity to participate in rule making through submission of written data, views, or arguments, with or without opportunity to present the same orally in any manner: *Provided*, That, where the proposed rules are such as are required by statute to be made on the record after opportunity for a hearing, such hearing shall be conducted pursuant to section 7 of the Administrative Procedure Act, and the procedure shall be the same as stated in Subpart J of this part. In those proceedings in which respondents are named, interested persons who wish to participate therein shall file a petition to intervene in accordance with the provisions of § 502.72. [Rule 4(c)]

§ 502.54 Contents of rules.

The Commission will incorporate in any rules adopted a concise general statement of their basis and purpose. [Rule 4(d)]

§ 502.55 Effective date of rules.

The publication or service of any substantive rule shall be made not less than thirty (30) days prior to its effective date except (a) as otherwise provided by the Commission for good cause found and published in the FEDERAL REGISTER or (b) in the case of rules granting or recognizing exemption or relieving restriction, interpretative rules, and statement of policy. [Rule 4(e)]

Subpart E—Proceedings, Pleadings; Motions; Replies

§ 502.61 Proceedings.

Proceedings are commenced by the filing of a complaint or by order of the Commission upon petition or upon its own motion. [Rule 5(a)]

§ 502.62 Complaints.

The complaint shall contain the name and address of each complainant, the name and address of complainant's attorney or agent, the name and address of each carrier or person against whom complaint is made, a concise statement of the cause of action, and a request for the relief or other affirmative action sought. Where reparation is sought and the nature of the proceeding so requires, the complaint shall set forth the ports of origin and destination of the shipments, consignees, or real parties in interest where shipments are on "order" bill of lading, consignors, date of receipt by carrier or tender of delivery to carrier, names of vessels, bill of lading number (other identifying reference), description of commodities, weights, measurement, rates, charges made or collected, when, where, by whom and to whom rates and charges were paid, by whom the rates and charges were borne, the amount of damage, and the relief sought. Except under unusual circumstances and for good cause shown, reparation will not be awarded upon a complaint in which it is not specifically asked for, nor upon a new complaint by or for the same complainant which is based upon a finding in the original

proceeding. Wherever a rate, fare, charge, rule, regulation, classification, or practice is involved, appropriate reference to the tariff should be made, if possible. If complaint fails to indicate the sections of the acts alleged to have been violated or clearly to state facts which support the allegations, the Commission may, on its own initiative, require the complaint to be amended to supply such further particulars as it deems necessary. The complaint should designate the place at which hearing is desired. A form of complaint is set forth in Appendix II (1).[1] [Rule 5(b)]

§ 502.63 Reparation, statute of limitations.

Complaints seeking reparation shall be filed within two (2) years after the cause of action accrues (sec. 22, Shipping Act, 1916). The Commission will consider as in substantial compliance with the statute of limitations a complaint in which complainant alleges that the matters complained of, if continued in the future, will constitute violations of the shipping acts in the particulars and to the extent indicated and prays for reparation accordingly on all shipments affected thereby which may move during the pendency of the proceeding and on which the transportation charges shall be paid and borne by complainant. Notification to the Commission that a complaint may or will be filed for the recovery of reparation will not constitute a filing within the two (2) year period. [Rule 5(c)]

§ 502.64 Answer to complaint.

Respondent shall file with the Commission an answer to the complaint and shall serve it on complainant within twenty (20) days after the date of service of the complaint by the Commission or within thirty (30) days if such respondent resides in Alaska or beyond Continental United States, unless such periods have been extended under § 502.102 or reduced under § 502.103, or unless motion is filed to withdraw or dismiss the complaint, in which latter case answer, shall be made within twenty (20) days after service of an order denying such motion. Such answer shall give notice of issues controverted in fact or law. Recitals of material and relevant facts in a complaint, amended complaint, or bill of particulars, unless specifically denied in the answer thereto, shall constitute evidence, but if request is seasonably made, a competent witness shall be made available for cross-examination on such evidence. In the event that respondent should fail to file and serve the answer within the time provided, the Commission may enter such rule or order as may be just, or may in any case require such proof as to the matters alleged in the complaint as it may deem proper: *Provided*, That the Commission or Chief Examiner may permit the filing of a delayed answer after the time for filing the answer has expired, for good cause shown. [Rule 5(d)]

[1] Not filed with the Office of the Federal Register.

§ 502.65 Replies to answers not permitted.

Replies to answers will not be permitted. New matters set forth in respondent's answer will be deemed to be controverted. [Rule 5(e)]

§ 502.66 Order to show cause.

The Commission may institute a proceeding by order to show cause. The order shall be served upon all persons named therein, shall include the information specified in § 502.143, may require the person named therein to answer, and shall require such person to appear at a specified time and place and present evidence upon the matters specified. [Rule 5(f)]

§ 502.67 Proceedings under section 3 of the Intercoastal Act.

Protests against proposed changes in tariffs, invoking the provisions of section 3 of the Intercoastal Shipping Act, 1933, may be made by letter, telegram, or radiogram, and shall be filed with the Director, Bureau of Domestic Regulation, not later than fifteen (15) days prior to the proposed effective date of the change unless the Commission permits the filing of the change in less than fifteen (15) days prior to the proposed effective date thereof, pursuant to the provisions of section 2 of the Intercoastal Act. Every protest shall clearly identify the tariff in question, give specific reference to the items opposed, set forth the grounds for opposition to the change, including a reference to the section or sections of the shipping acts alleged to be violated, shall be subscribed and verified, and shall be served upon each carrier whose tariff is protested or the issuing agent. Protests sent by telegraph or radio shall be confirmed promptly by letter signed by the person making the protest or by someone in his behalf. Replies thereto shall conform to the requirements of § 502.74. [Rule 5(g)]

§ 502.68 Declaratory orders.

The Commission may issue a declaratory order to terminate a controversy or to remove uncertainty. Petitions for the issuance thereof shall state clearly and concisely the controversy or uncertainty, shall cite the statutory authority involved, shall include a complete statement of the facts and grounds prompting the petition, together with full disclosure of petitioner's interest, and shall conform to the requirements of Subpart H of this part. Replies thereto shall conform to the requirements of § 502.74 [Rule 5(h)]

§ 502.69 Petitions—general.

All claims for relief or other affirmative action by the Commission, except as otherwise provided herein, shall be by written petition, which shall state clearly and concisely the petitioner's grounds of interests in the subject matter, the facts relied upon and the relief sought, shall cite by appropriate reference the statutory provisions or other authority relied upon for relief, shall be served upon all parties named therein, and shall conform otherwise to the requirements of Subpart H of this part. Replies thereto shall conform to the requirements of § 502.74. [Rule 5(i)]

§ 502.70 Amendments or supplements to pleadings.

Amendments or supplements to any pleading will be permitted or rejected in the discretion of the Commission if the case has not been assigned to a presiding officer for hearing, otherwise in the discretion of the officer designated to conduct the hearing: *Provided*, That after a case is assigned for hearing no amendment shall be allowed which would broaden the issues, without opportunity to reply to such amended pleading and to prepare for the broadened issues. The presiding officer may direct a party to state his case more fully and in more detail by way of amendment. A response to an amended pleading must be filed and served in conformity with the requirements of § 502.74 unless the Commission or the presiding officer directs otherwise. Amendments or supplements allowed prior to hearing will be served in the same manner as the original pleading. Whenever by the rules in this part a pleading is required to be verified, the amendment or supplement shall also be verified. [Rule 5(j)]

§ 502.71 Bill of particulars.

Within ten (10) days after date of service of the complaint, respondent may file with the Commission and serve upon complainant a motion for a bill of particulars. Within ten (10) days after date of service of such motion, complainant shall file with the Commission and serve upon respondent either (a) the bill of particulars or (b) a reply to such motion, made in conformity with the requirements of § 502.74 setting forth the particular matters contained in the motion which are objected to and the reasons for the objections. The time for filing answer to the complaint shall be extended to a date twenty (20) days after the date of service of the bill of particulars or of notice of disallowance of the motion therefor. [Rule 5(k)]

§ 502.72 Petition for intervention.

A petition for leave to intervene may be filed in any proceeding, and shall be served pursuant to § 502.114. The petition will be granted if the proposed intervener shows in his petition a substantial interest in the proceeding and the grounds for intervention are pertinent to the issues already presented and do not unduly broaden them; but if filed after hearings have been closed it will not ordinarily be granted. When tendered at the hearing, sufficient copies shall be provided for distribution as motion papers to the parties represented at the hearing, together with additional copies for the use of the Commission. The petition shall set forth the grounds for the proposed intervention and the interest and position of the petitioner in the proceeding, and shall comply with the other applicable provisions of Subpart H of this part, and if affirmative relief is sought, the applicable provisions of § 502.62. A person granted permission to intervene becomes a party, pursuant to Subpart C of this part, and may introduce evidence or examine witnesses

at any hearing which may be held in the proceeding. [Rule 5(l)]

§ 502.73 Motions.

An application or request for an order or ruling not otherwise specifically provided for in the rules in this part shall be by motion. After the assignment of a presiding officer to a proceeding and before the issuance of his recommended or initial decision, all motions shall be addressed to and passed upon by the presiding officer. At all other times motions shall be addressed to and passed upon by the Commission. All motions shall be made at an appropriate time depending upon the nature thereof and the relief sought. Motions shall be in writing, except that a motion made at a hearing shall be sufficient if stated orally upon the record unless the presiding officer directs that it be reduced to writing. All written motions shall state clearly and concisely the purpose of and the relief sought by the motion, the statutory or principal authority relied upon, and the facts claimed to constitute the grounds requiring the relief requested; and shall conform with the requirements of Subpart H of this part. Oral argument upon a written motion may be permitted at the discretion of the presiding officer or the Commission, as the case may be. A repetitious motion will not be entertained. [Rule 5(m)]

§ 502.74 Replies to pleadings, motions, applications, etc.

(a) A reply to a reply is not permitted. Except as otherwise provided respecting answers (§ 502.64), shortened procedure (Subpart K of this part), briefs (§ 502.221), exceptions (§ 502.230), and the documents specified in the next paragraph (b), any party may file a reply to any written motion, pleading, petition, application, etc., permitted under the rules in this part within fifteen (15) days after date of service thereof, unless a shorter period is fixed under § 502.103.

(b) When time permits, replies also may be filed to protests seeking suspension of tariffs (§ 502.67), applications for enlargement of time and postponement of hearing (Subpart G of this part), and motions to take depositions (§ 502.201).

(c) Replies shall be in writing, shall be verified if verification of original pleading is required, shall be so drawn as fully and completely to advise the parties and the Commission as to the nature of the defense, shall admit or deny specifically and in detail each material allegation of the pleading answered, shall state clearly and concisely the facts and matters of law relied upon, and shall conform to the requirements of Subpart H of this part. [Rule 5(n)]

Subpart F—Settlement; Prehearing Procedure

§ 502.91 Opportunity for informal settlement.

Where time, the nature of the proceeding, and the public interest permit, all interested parties shall have the opportunity for the submission and consideration of facts, argument, offers of settlement, or proposal of adjustment, without prejudice to the rights of the parties; no stipulation, offer, or proposal shall be admissible in evidence over the objection of any party in any hearing on the matter. When any settlement does not dispose of the whole proceeding, the remaining issues shall be determined in accordance with sections 7 and 8 of the Administrative Procedure Act. [Rule 6(a)]

§ 502.92 Voluntary payment of reparation.

Carriers or other persons subject to the shipping acts may file applications for the voluntary payment of reparation or for permission to waive collection of undercharges, even though no complaint has been filed pursuant to § 502.62. All such applications shall be made in accordance with the form prescribed in Appendix II (5) [1] of the rules in this part, shall describe in detail the transaction out of which the claim for reparation arose, and shall be filed within the two (2) year statutory period referred to in § 502.63. Such applications will be considered the equivalent of a complaint and answer thereto admitting the facts complained of. If allowed, an order for payment will be issued by the Commission. [Rule 6(b)]

§ 502.93 Satisfaction of complaint.

If a respondent satisfies a complaint either before its answer thereto is due or after answering, a statement to that effect, setting forth when and how the complaint has been satisfied and signed and verified by the opposing parties shall be filed with the Commission and served upon all parties of record. Such a statement may be by letter. Satisfied complaints will be dismissed in the discretion of the Commission. [Rule 6(c)]

§ 502.94 Prehearing conference.

(a) (1) Prior to any hearing the Commission or presiding officer may direct all interested parties, by written notice, to attend one or more prehearing conferences for the purpose of considering any settlement under § 502.91, formulating the issues in the proceeding and determining other matters to aid in its disposition. In addition to any offers of settlement or proposals of adjustment, there may be considered the following:

(i) Simplification of the issues;

(ii) The necessity or desirability of amendments to the pleadings;

(iii) The possibility of obtaining admission of fact and of documents which will avoid unnecessary proof;

(iv) Limitation on the number of witnesses;

(v) The procedure at the hearing;

(vi) The distribution to the parties prior to the hearing of written testimony and exhibits;

(vii) Consolidation of the examination of witnesses by counsel;

(viii) Such other matters as may aid in the disposition of the proceeding.

(2) The presiding officer may require, prior to the hearing, exchange of exhibits and any other material which may expedite the hearing. He shall assume the responsibility of accomplishing the purposes of the notice of prehearing conference so far as this may be possible without prejudice to the rights of any party.

(3) The presiding officer shall rule upon all matters presented for his decision, orally upon the record when feasible, or by subsequent ruling in writing. If after examination of the transcript of such conference, a party determines that a ruling made orally does not cover fully the issue presented, or is unclear, he may petition for a further ruling thereon within ten (10) days after receipt of the transcript.

(b) In any proceeding under the rules in this part, the presiding officer may, in his discretion, call the parties together for an informal conference prior to the taking of testimony, or may recess the hearing for such a conference, with a view to carrying out the purpose of this section. [Rule 6(d)]

Subpart G—Time

§ 502.101 Computation.

In computing any period of time under the rules in this part, except § 502.63, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or national legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and holidays shall be excluded from the computation. [Rule 7(a)]

§ 502.102 Enlargement of time to file documents.

Motions for enlargement of time for the filing of any pleading or other document shall set forth the reasons for the motion. Such motions may be granted upon a showing of diligence and good cause on the part of the moving party, except where the time for compliance has been fixed by statute. Such motions shall conform to the requirements of Subpart H of this part, except as to service if they show that the parties have received actual notice of the motion; and in relation to briefs, exceptions, and replies to exceptions—such motions shall conform to the further provisions of §§ 502.222 and 502.230. Upon motion made after the expiration of the specified period, the filing may be permitted where reasonable grounds are found for the failure to file. Replies to such motions shall conform to the requirements of § 502.74. [Rule 7(b)]

§ 502.103 Reduction of time to file documents.

Except as otherwise provided by law and for good cause, the Commission, with respect to matters pending before it, and the presiding officer, with respect to matters pending before him, may reduce any time limit prescribed in the rules in this part. [Rule 7(c)]

§ 502.104 Postponement of hearing.

Motions for postponement of any hearing date shall set forth the reasons

[1] Not filed with the Office of the Federal Register.

for the motion, and shall conform to the requirements of Subpart H of this part, except as to service if they show that parties have received such actual notice of motion. Such motions may be granted upon a showing of diligence and good cause on the part of the moving party. Replies to such motions shall conform to the requirements of § 502.74. [Rule 7(d)]

§ 502.105 Waiver of rules governing enlargements of time and postponements of hearings.

The Commission, the presiding officer, or the Chief Examiner may as a matter of discretion waive the requirements of §§ 502.74, 502.102 and 502.104 as replies to pleadings, etc., to motions for enlargement of time or to postpone a hearing and may rule on such requests. [Rule 7(e)]

Subpart H—Form, Execution, and Service of Documents

§ 502.111 Form and appearance of documents filed with Commission.

All papers to be filed under the rules in this part may be reproduced by printing or by any other process, provided the copies are clear and legible; shall be dated, the original signed in ink, show the docket description and title of the proceeding, and show the title, if any, and address of the signer. If typewritten, the impression shall be on only one side of the paper and shall be double spaced except that quotations shall be single spaced and indented. Documents not printed, except correspondence and exhibits, should be on strong, durable paper and shall be not more than 8½ inches wide and 12 inches long, with a left hand margin 1½ inches wide. Printed documents shall be printed in clear type (never smaller than small pica or 11-point type) adequately leaded, and the paper shall be opaque and unglazed. Documents of more than twenty (20) type-written pages, except exhibits, shall be printed unless permission is secured to reproduce them by other methods. Briefs, if printed, shall be printed on paper 6⅛ inches wide and 9¼ inches long, with inside margin not less than 1 inch wide, and shall contain a subject index with page references and a list of authorities cited. [Rule 8(a)]

§ 502.112 Subscription and verification of documents.

(a) If a party is represented by an attorney qualified to practice before the Commission under the rules in this part, each pleading, document or other paper of such party filed with the Commission shall be signed by at least one attorney of record in his individual name, whose address shall be stated. Except when otherwise specifically provide by rule or statute, such pleading, document or paper need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him that he has read the pleading, document or paper; that he is authorized to file it; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. For a wilful violation of this section an attorney may be subjected to appropriate disciplinary action.

(b) If a party is not represented by a qualified attorney, each pleading document, or other paper of such party filed with the Commission shall be signed and verified under oath by the party or by a duly authorized officer or agent of the party, whose address and title shall be stated. The form of verification shall be substantially as set forth in Appendix II(1).[1] Where the signature is that of an officer or agent (unless, in the case of a corporate party, it is signed by the president or a vice president and attested by the secretary or an assistant secretary under the seal of the corporation) there shall be filed with the Commission an original or certified copy of the power of attorney or other document authorizing the person to sign. [Rule 8(b)]

§ 502.113 Service by the Commission.

Complaints filed pursuant to § 502.62, amendments to complaints, and complainant's memoranda filed in shortened procedure cases will be served by the Commission. In addition to and accompanying the original of every document filed with the Commission for service by the Commission, there shall be a sufficient number of copies for use of the Commission (see § 502.118) and for service on each party to the proceeding. [Rule 8(c)]

§ 502.114 Service by parties.

Except as otherwise specifically provided by the rules in this part, all pleadings, documents, and papers of every kind (except requests for subpenas) in proceedings before the Commission under the rules in this part (other than documents served by the Commission under § 502.113 and documents submitted at a hearing or prehearing conference) shall, when tendered to the Commission or the presiding officer for filing, show that service has been made upon all parties to the proceeding and upon any other persons required by the rules in this part to be served. Such service shall be made by delivering one copy to each party in person or by mailing by first-class mail properly addressed with postage prepaid. All documents served by mail shall be mailed in sufficient time to reach the parties on the date on which the original is due to be filed with the Commission. [Rule 8(d)]

§ 502.115 Service on attorney or other representative.

When a party has appeared by attorney or other representative, service upon each attorney or other representative of record will be deemed service upon the party: *Provided, however,* That if two or more attorneys of record are partners or associates of the same firm, only one of them need be served. [Rule 8(e)]

§ 502.116 Date of service.

The date of service of documents served by the Commission shall be the date shown in the service stamp thereon. The date of service of documents served by parties shall be the day when the matter served is deposited in the United States mail, or is delivered in person, as the case may be. In computing the time from such dates, the provisions of § 502.101 shall apply. [Rule 8(f)]

§ 502.117 Certificate of service.

The original of every document filed with the Commission and required to be served upon all parties to a proceeding and the Director, Bureau of Hearing Counsel shall be accompanied by a certificate of service signed by the party making service, stating that such service has been made upon each party to the proceeding and said Director. Certificates of service may be in substantially the following form:

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding and the Director, Bureau of Hearing Counsel by mailing via first-class mail, postage prepaid (or for delivering in person), a copy to each such person in sufficient time to reach such person on the date document is due to be filed with the Commission.

Dated at _____ this _____ day of _____ 19__.

(Signature) _____

For _____

[Rule 8(g)]

§ 502.118 Copies of documents for use of the Commission.

Except as otherwise provided in the rules in this part, the original and fifteen (15) copies of every document filed and served in proceedings before the Commission, except exhibits made a part of the record, shall be furnished for the Commission's use. If a certificate of service accompanied the original document, a copy of such certificate shall be attached to each such copy of the document. [Rule 8(h)]

Subpart I—Subpenas

§ 502.131 Requests; issuance.

Subpenas for the attendance of witnesses or the production of evidence shall be issued upon request of any party, without notice to any other party. Requests for subpenas for the attendance of witnesses may be made orally or in writing; requests for subpenas for the production of evidence shall be in writing. The party requesting the subpena shall tender to the presiding officer an original and at least two copies of such subpena. Where it appears to the presiding officer that the subpena sought may be unreasonable, oppressive, excessive in scope, or unduly burdensome, he may in his discretion, as a condition precedent to the issuance of the subpena, require the person seeking the subpena to show the general relevance and reasonable scope of the testimony or other evidence sought. [Rule 9(a)]

§ 502.132 Motions to quash or modify.

(a) Except when issued at a hearing, within ten days after service of a subpena for attendance of a witness or a subpena for production of evidence, but in any event at or before the time specified in the subpena for compliance therewith, the person to whom the subpena is directed may, by motion with notice to the party requesting the subpena, petition

[1] Not filed with the Office of the Federal Register.

the presiding officer to quash or modify the subpena.

(b) If served at the hearing, the person to whom the subpena is directed may, by oral application at the hearing, within a reasonable time fixed by the presiding officer, petition the presiding officer to revoke or modify the subpena. [Rule 9(b)]

§ 502.133 Attendance and mileage fees.

Witnesses summoned by subpena to a hearing are entitled to the same fees and mileage that are paid to witnesses in courts of the United States. Fees and mileage shall be paid, upon request, by the party at whose instance the witness appears. [Rule 9(c)]

§ 502.134 Service of subpenas.

If service of subpena is made by a United States marshal, or his deputy, or an employee of the Commission, such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereto, describing the manner in which service is made, and return such affidavit on or with the original subpena. In case of failure to make service, the reasons for the failure shall be stated on the original subpena. In making service the original subpena shall be exhibited to the person served, shall be read to him if he is unable to read, and a copy thereof shall be left with him. The original subpena, bearing or accompanied by required return, affidavit, or statement, shall be returned without delay to the Commission, or if so directed on the subpena, to the presiding officer before whom the person named in the subpena is required to appear. [Rule 9(d)]

§ 502.135 Subpena of Commission employees, documents or things.

No subpena for the attendance of a Commission employee, or for the production of Commission documents or things shall be complied with except upon written authorization of the General Counsel upon written application by the party requesting the subpena. [Rule 9(e)]

Subpart J—Hearings, Presiding Officers; Evidence

§ 502.141 Hearings not required by statute.

The Commission may call informal public hearings, not required by statute, to be conducted under the rules in this part where applicable, for the purpose of rule making or to obtain information necessary or helpful in the determination of its policies or the carrying out of its duties, and may require the attendance of witnesses and the production of evidence. [Rule 10(a)]

§ 502.142 Hearings required by statute.

In complaint and answer cases, investigations on the Commission's own motion, and in other rule making and adjudication proceedings in which a hearing is required by statute, formal hearings shall be conducted pursuant to section 7 of the Administrative Procedure Act. [Rule 10(b)]

§ 502.143 Notice of nature of hearing, jurisdiction, and issues.

Persons entitled to notice of hearings, except those notified by complaint served under § 502.113, will be duly and timely informed of (a) the nature of the proceeding, (b) the legal authority and jurisdiction under which the proceeding is conducted, and (c) the terms, substance, and issues involved, or the matters of fact and law asserted, as the case may be. Such notice shall be published in the FEDERAL REGISTER unless all persons subject thereto are named and either are personally served or otherwise have actual notice thereof in accordance with law. [Rule 10(c)]

§ 502.144 Notice of time and place of hearing.

Notice of hearing will designate the time and place thereof and the person or persons who will preside. The date or place of a hearing for which notice has been issued may be changed when warranted. Reasonable notice will be given to the parties or their representatives of the time and place of the change thereof, due regard being had for the public interest and the convenience and necessity of the parties or their representatives. Notice may be served by mail or telegraph. [Rule 10(d)]

§ 502.145 Presiding officer.

The examiners of the Commission's Office of Hearing Examiners will be designated by the Chief Examiner to preside at hearings required by statute, in rotation so far as practicable, unless the Commission or one or more members thereof shall preside; and also at hearings not required by statute when designated to do so by the Commission. If the presiding officer assigned to a proceeding becomes unavailable to the Commission, the Commission or (if such presiding officer was a hearing examiner) the Chief Examiner shall designate a qualified officer to take his place. Any motion predicated upon the substitution of a new presiding officer for one originally designated shall be made within ten (10) days after notice of such substitution. [Rule 10(e)]

§ 502.146 Commencement of functions of Office of Hearing Examiners.

In proceedings handled by the Office of Hearing Examiners, its functions shall attach (a) upon the service by the Commission of a complaint filed pursuant to § 502.62, or (b) upon the initiation of a proceeding and ordering of hearing before a hearing examiner. [Rule 10(f)]

§ 502.147 Functions and powers.

(a) Of presiding officer. The officer designated to hear a case shall have authority to arrange and give notice of hearings; sign and issue subpenas authorized by law; take or cause depositions to be taken; rule upon proposed amendments or supplements to pleadings; hold conferences for the settlement or simplification of issues by consent of the parties; regulate the course of the hearing; prescribe the order in which evidence shall be presented; dispose of procedural requests or similar matters; hear and rule upon motions, administer oaths and affirmations; examine witnesses; direct witnesses to testify or produce evidence available to them which will aid in the determination of any question of fact in issue; rule upon offers of proof and receive relevant, material, reliable and probative evidence; act upon petitions to intervene; permit submission of facts, arguments, offers of settlement, and proposals of adjustment; hear oral argument at the close of testimony; fix the time for filing briefs, motions, and other documents to be filed in connection with hearings and the examiner's decision thereon, except as otherwise provided by the rules in this part; act upon petitions for enlargement of time to file such documents including answers to formal complaints; and dispose of any other matter that normally and properly arises in the course of proceedings. Disrespectful, disorderly, or contumacious language or conduct at any hearing shall be grounds for exclusion of the person guilty thereof from such hearing and for summary suspension for the duration of the hearing by the Commission or the presiding officer.

(b) Of Chief Examiner when presiding officer is unavailable. When the presiding officer is unavailable for any reason, and the exercise of any of his powers and functions, as described in the rules in this part, is due, timely, and necessary, the Chief Examiner may exercise such powers and functions until said presiding officer becomes available or until his successor is designated.

(c) All of the functions delegated in Subparts A to Q of this part, inclusive, to the Chief Examiner, presiding officer, or hearing examiner include the functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter, pursuant to the provisions of section 105 of Reorganization Plan No. 7 of 1961. [Rule 10(g)]

§ 502.148 Consolidation of proceedings.

The Commission or the Chief Examiner may order two or more proceedings which involve substantially the same issues consolidated and heard together. [Rule 10(h)]

§ 502.149 Disqualification of presiding or participating officer.

Any presiding or participating officer may at any time withdraw if he deems himself disqualified, in which case there will be designated another presiding officer. If a party to a proceeding, or his representative, files in good faith a timely and sufficient affidavit of personal bias or disqualification of a presiding or participating officer, the Commission will determine the matter as a part of the record and decision in the case. [Rule 10(i)]

§ 502.150 Further evidence required by presiding officer during hearing.

At any time during the hearing the presiding officer may call for further evidence upon any issue, and require such evidence where available to be presented by the party or parties concerned, either at the hearing or adjournment thereof.

If a witness refuses to testify or produce the evidence as requested, the presiding officer shall report such refusal to the Commission for appropriate action. [Rule 10(j)]

§ 502.151 Exceptions to rulings of presiding officer unnecessary.

Formal exceptions to rulings of the presiding officer are unnecessary. It is sufficient that a party, at the time the ruling of the presiding officer is made or sought, makes known the action which he desires the presiding officer to take or his objection to an action taken, and his grounds therefor. [Rule 10(k)]

§ 502.152 Offer of proof.

An offer of proof made in connection with an objection taken to any ruling of the presiding officer rejecting or excluding proffered 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. [Rule 10(l)]

§ 502.153 Appeal from ruling of presiding officer.

Rulings of the presiding officer may not be appealed prior to, or during the course of the hearing except where the presiding officer shall grant or deny a motion for dismissal of the proceeding in whole or in part, or shall find it necessary to allow an appeal to the Commission to prevent substantial delay, expense, or detriment to the public interest, or undue prejudice to a party. An appeal under this section shall be made within ten (10) days of the service of the presiding officer's ruling. The provisions of §§ 502.9 and 502.10 shall not apply to this section. [Rule 10(m)]

§ 502.154 Rights of parties as to presentation of evidence.

Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The presiding officer shall, however, have the right and duty to limit the introduction of evidence and the examination and cross-examination of witnesses when in his judgment such evidence or examination is cumulative or is productive of undue delay in the conduct of the hearing. [Rule 10(n)]

§ 502.155 Burden of proof.

At any hearing in a suspension proceeding under section 3 of the Intercoastal Shipping Act, 1933 (§ 502.67), the burden of proof to show that the suspended rate, fare, charge, classification, regulation, or practice is just and reasonable shall be upon the respondent carrier or carriers. In all other cases, the burden shall be on the proponent of the rule or order. [Rule 10(o)]

§ 502.156 Evidence admissible.

In any proceeding under the rules in this part, all evidence which is relevant, material, reliable and probative, and not unduly repetitious or cumulative shall be admissible. Irrelevant and immaterial or unduly repetitious or cumulative evidence shall be excluded. [Rule 10(p)]

§ 502.157 Written evidence.

(a) The use of written statements in lieu of oral testimony shall be resorted to where the presiding officer in his discretion rules that such procedure is appropriate. The statements shall be numbered in paragraphs, and each party in his rebuttal shall be required to list the paragraphs to which he does not object, apart from argumentative or procedural matter, and those to which he objects, giving an indication of his reasons for objecting. Statistical exhibits shall contain a short commentary explaining the conclusions which the offeror draws from the data. Any portion of such testimony which is argumentative shall be excluded. Where written statements are used, copies of the statement and any rebuttal statement shall be furnished to all parties, as shall copies of exhibits. The Examiner shall fix respective dates for the exchange of such written rebuttal statements and exhibits in advance of the hearing to enable study by the parties of such testimony. Thereafter the parties shall endeavor to stipulate as many of the facts set forth in the written testimony as they may be able to agree upon. Oral examination of witnesses shall thereafter be confined to facts which remain in controversy, and a reading of the written statements at the hearing will be dispensed with unless the presiding officer otherwise directs.

(b) Where a formal hearing is held in a rulemaking proceeding, interested persons will be afforded an opportunity to participate through submission of relevant, material, reliable and probative written evidence properly verified: *Provided,* That such evidence submitted by persons not present at the hearing will not be made a part of the record if objected to by any party on the ground that the person who submits the evidence is not present for cross-examination. [Rule 10(q)]

§ 502.158 Documents containing matter not material.

Where written matter offered in evidence is embraced in a document containing other matter which is not intended to be offered in evidence, the party offering shall present the original document to all parties at the hearing for their inspection, and shall offer a true copy of the matter which is to be introduced unless the presiding officer determines that the matter is short enough to be read into the record. Opposing parties shall be afforded an opportunity to introduce in evidence, in like manner, other portions of the original document which are material and relevant. [Rule 10(r)]

§ 502.159 Copies of exhibits.

One copy of each exhibit shall be furnished to the official reporter, to each of the parties present at the hearing and to the presiding officer unless he directs otherwise. [Rule 10(s)]

§ 502.160 Records in other proceedings.

When any portion of the record before the Commission in any proceeding other than the one being heard is offered in evidence, a true copy of such portion shall be presented for the record in the form of an exhibit unless the parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference. [Rule 10(t)]

§ 502.161 Commission's files.

Where any matter contained in a tariff, report, or other document on file with the Commission is offered in evidence, such document need not be produced or marked for identification, but the matter so offered shall be specified in its particularity, giving tariff number and page number of tariff, report, or document in such manner as to be readily identified, and may be received in evidence by reference, subject to comparison with the original document on file. [Rule 10(u)]

§ 502.162 Stipulations.

The parties may, by stipulation in writing filed at the prehearing conference or by written or oral stipulation presented at the hearing or by written stipulation subsequent to the hearing, agree upon any facts involved in the proceeding and include them in the record with the consent of the presiding officer. It is desirable that facts be thus agreed upon whenever practicable. Written stipulations shall be subscribed and served upon all parties of record. [Rule 10(v)]

§ 502.163 Receipt of documents after hearing.

Documents or other writings to be submitted for the record after the close of the hearing will not be received in evidence except upon agreement of all parties and with the permission of the presiding officer. Such documents or other writings when submitted shall be accompanied by proof that copies have been served upon all parties, and shall be received not later than ten (10) days after the close of the hearing except for good cause shown, and not less than ten (10) days prior to the date set for filing briefs. Exhibit numbers will not be assigned until such documents are actually received and incorporated in the record. [Rule 10(w)]

§ 502.164 Oral argument at hearings.

Oral argument at the close of testimony may be ordered by the presiding officer in his discretion. [Rule 10(x)]

§ 502.165 Official transcript.

The Commission will designate the official reporter for all hearings. The official transcript of testimony taken, together with any exhibits and any briefs or memoranda of law filed therewith, shall be filed with the Commission. Transcripts of testimony will be available in any proceeding under the rules in this part, and will be supplied by the official reporter to the parties and to the public, except when required for good cause to be held confidential, at rates not to exceed the maximum rates fixed

by contract between the Commission and the reporter. [Rule 10(y)]

§ 502.166 Corrections of transcript.

Motions made at the hearing to correct the record will be acted upon by the presiding officer. Motions made after the hearing to correct the record shall be filed with the presiding officer within ten (10) days after receipt of the transcript, unless otherwise directed by the presiding officer, and shall be served on all parties. Such motions may be in the form of a letter and shall certify the date when the transcript was received. If no objections are received within ten (10) days after date of service, the transcript will, upon approval of the presiding officer, be changed to reflect such corrections. If objections are received, the motion will be acted upon with due consideration of the stenographic record of the hearing. [Rule 10(z)]

§ 502.167 Objection to public disclosure of information.

Upon objection to public disclosure of any information sought to be elicited during a hearing, the presiding officer may in his discretion order that the witness shall disclose such information only in the presence of those designated and sworn to secrecy by the presiding officer. The transcript of testimony shall be held confidential. Within five (5) days after such testimony is given, the objecting party shall file with the presiding officer a verified written motion to withhold such information from public disclosure, setting forth sufficient identification of same and the basis upon which public disclosure should not be made. Copies of said transcript and motion need be served only upon the parties to whose representatives the information has been disclosed and upon such other parties as the presiding officer may designate. [Rule 10(aa)]

§ 502.168 Copies of data or evidence.

Every person compelled to submit data or evidence shall be entitled to retain or, on payment of proper costs, procure a copy or transcript thereof. [Rule 10(bb)]

§ 502.169 Record for decision.

The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision. [Rule 10(cc)]

§ 502.170 Disposition of documents extraneous to record.

(a) Documents not conforming to rules: Any pleading, document, writing or other paper submitted for filing which is rejected because it does not conform to the rules in this part shall be returned to the sender;

(b) Ex parte communications:

(1) No person who is a party to, or an agent of a party to, or who intercedes in any proceeding before the Commission, as defined in § 502.61 shall make any ex parte communication regarding the merits of the proceeding to any Commission member, hearing examiner, or Commission employee participating in the decision in the proceeding;

(2) Ex parte communications include:

(i) Any written communication of any kind about a proceeding, if copies thereof are not served by the communicator upon all parties to the proceeding in accordance with § 502.114;

(ii) Any oral communication of any kind about a proceeding unless the communicator gives advance notice to all parties to the proceeding and unless contents of the communication are disclosed by the communicator to all parties at the time of the communication or promptly thereafter in writing;

(3) Any member of the Commission, presiding officer, employee of the Commission, or member of a board, participating in the decision who personally receives a written or oral communication which he believes is prohibited at the time received, shall transmit the written communication promptly to the Secretary of the Commission together with a written statement of the circumstances under which the communication was made, if not apparent from the communication itself. If the Secretary concludes that the communication is prohibited, or that the dictates of fairness require that it be made public, he shall place the written communication or summary of the oral communication in the correspondence part of the public docket of the proceeding or take such other or further action as may be appropriate under all of the circumstances. Such communication shall not constitute a part of the record for decision. [Rule 10(dd)]

Subpart K—Shortened Procedure

§ 502.181 Selection of cases for shortened procedure; consent required.

By consent of the parties and with approval of the Commission or presiding officer, a complaint proceeding may be conducted under shortened procedure without oral hearing: *Provided*, That a hearing may be ordered by the presiding officer at the request of any party prior to initial or recommended decision or upon the Commission's motion at any stage of the proceeding. [Rule 11(a)]

§ 502.182 Complainant's memorandum of facts and argument.

Each complainant shall submit to the Commission within twenty-five (25) days after date of service of notice by the Commission, unless a shorter period is fixed, a memorandum of the facts, subscribed and verified according to § 502.112, and of arguments separately stated, upon which it relies. The original of each memorandum shall be accompanied by sufficient copies for service upon each party and for the Commission's use. [Rule 11(b)]

§ 502.183 Respondent's answering memorandum.

Within twenty-five (25) days after date of service of complainant's memorandum, unless a shorter period is fixed, each respondent shall serve upon the complainant an answering memorandum of the facts, subscribed and verified according to § 502.112, and of argument, separately stated, upon which it relies. The original of the answering memorandum shall be accompanied by a certificate of service as provided in Subpart H of this part and shall be accompanied by copies for the Commission's use. [Rule 11(c)]

§ 502.184 Complainant's memorandum in reply.

Within fifteen (15) days after the date of service of the answering memorandum, unless a shorter period is fixed, each complainant may serve a memorandum in reply upon each respondent, subscribed, verified, and served as provided in Subpart H of this part, and shall be accompanied by copies for the Commission's use. This will conclude presentations of the evidence unless otherwise determined by the Commission. [Rule 11(d)]

§ 502.185 Service of memoranda upon and by interveners.

Service of all memoranda shall be made upon any interveners. Interveners shall file and serve memoranda in conformity with the provisions relating to the parties on whose behalf they intervene. [Rule 11(e)]

§ 502.186 Contents of memoranda.

The memorandum should contain concise arguments and fact, the same as would be offered if a formal hearing were held and briefs filed. If reparation is sought, paid freight bills should accompany complainant's original memorandum. [Rule 11(f)]

§ 502.187 Procedure after filing of memoranda.

An initial, recommended, or tentative decision will be served upon the parties in the same manner as is provided under § 502.225. Thereafter, the procedure will be the same as that in respect to proceedings after formal hearing. [Rule 11(g)]

Subpart L—Depositions and Written Interrogatories

§ 502.201 When permissible.

Any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for the purpose of discovery or for use as evidence in the proceeding or for both purposes, at any time before the hearing is closed. [Rule 12(a)]

§ 502.202 Scope of examination.

Unless otherwise ordered by the presiding officer, the deponent may be examined regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding, whether it relates to the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts. It is not ground for objection that the testimony will be inadmissible at the trial if the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence. [Rule 12(b)]

§ 502.203 Examination and cross-examination.

Examination and cross-examination of deponents may proceed as directed by the order of the presiding officer. [Rule 12(c)]

§ 502.204 Time of filing.

A notice of intent to take a deposition shall be filed with the Commission and all parties not less than fifteen (15) days before the proposed date for taking the deposition, unless a shorter period is fixed under § 502.103. [Rule 12(d)]

§ 502.205 Contents of notice.

The notice of intent to take a deposition shall set forth the name and address of the witness, the place where, the time when, the name and office of the officer before whom the deposition will be taken. [Rule 12(e)]

§ 502.206 Order.

Upon receipt of notice of intent to take a deposition, the presiding officer will serve upon the parties an order which will name the deponent whose deposition is to be taken, and specify the time when, the place where, and the officer before whom the witness is to testify; but such time and place, and the officer before whom the deposition is to be taken, so specified in the presiding officer's order, may or may not be the same as set out in the notice. [Rule 12(f)]

§ 502.207 Interrogatories.

In lieu of participating in the oral examination parties served with the order for the taking of a deposition may promptly transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim. [Rule 12(g)]

§ 502.208 Objections.

After notice is served for taking a deposition, upon motion seasonably made, by the person to be examined and upon notice and for good cause shown, the presiding officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objection. [Rule 12(h)]

§ 502.209 Waiver of objections and admissibility.

Objections to the form of question and answer shall be made before the officer taking the depositions by parties or representatives present, and if not so made, shall be deemed waived. Depositions shall, when offered at the hearing be subject to proper legal objection. [Rule 12(i)]

§ 502.210 Record of examination.

The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically, shall be translated to English pursuant to § 502.7 where necessary, and shall be transcribed unless the parties agree otherwise. [Rule 12(j)]

§ 502.211 Submission to witness; changes; signing.

When the testimony is fully transcribed the deposition of each witness shall be submitted to him for examination and shall be read to or by him. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign, together with the reason, if any, given therefor; and deposition may then be used as fully as though signed, unless upon objection the presiding officer holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part. [Rule 12(k)]

§ 502.212 Certification and filing by officer; copies.

The officer taking the deposition shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness, and that said officer is not of counsel to either of the parties, nor interested in the event of the proceeding or investigation. He shall then securely seal the deposition in an envelope endorsed with the title of the proceeding and shall promptly send the original and two copies thereof, together with the original and two copies of all exhibits, by registered mail to the Commission. Interested parties shall make their own arrangements with the officer taking the deposition for copies of the testimony and the exhibits. [Rule 12(l)]

§ 502.213 Deposition in foreign country.

An application to take a deposition in a foreign country will be entertained when necessary or convenient, and authority to take such deposition will be granted upon such notice and other terms and directions as are lawful and appropriate. [Rule 12(m)]

§ 502.214 Inclusion in record.

No deposition or part thereof shall constitute a part of the record in any proceeding until received in evidence. [Rule 12(n)]

§ 502.215 Witness fees.

A witness who is summoned and responds thereto is entitled to the same fee as is paid for like service in the courts of the United States, such fee to be paid by the party at whose instance the testimony is taken. [Rule 12(o)]

§ 502.216 Discovery and production of documents.

Upon motion of any party showing good cause therefor and upon notice to all other parties, the Commission or, except as hereinafter provided, the presiding officer may direct any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged, which constitute or contain evidence relating to any matter, not privileged, which is relevant to the subject matter involved in the pending proceeding, and which are in his possession, custody or control. The order shall specify the time, place and manner of making the inspection and taking the copies and photographs and may prescribe such terms and conditions as are just. If a party shows that anything in his possession, custody, or control which is demanded by such motion is physically located within the territory of a foreign sovereign and objects to the granting of the motion upon such ground, the presiding officer shall (unless he denies the motion with respect to such matter upon other grounds) refer the motion to the Commission for disposition as to such matter only: *Provided, however,* That no such referral shall be made in instances where such party seeks any Commission approval, order, or other action or relief in a proceeding under the Shipping Act, 1916, or related acts. [Rule 12(p)]

Subpart M—Briefs; Requests for Findings; Decisions; Exceptions

§ 502.221 Briefs; request for findings.

The presiding officer shall fix the time for filing briefs and any enlargement thereof. The period of time allowed shall be the same for all parties unless the presiding officer, for good cause shown, directs otherwise. The parties may not file more than one brief except in unusual cases. Briefs shall be served upon all parties pursuant to Subpart H of this part. In investigations instituted on the Commission's own motions, the presiding officer may require Hearing Counsel to file a request for findings of fact and conclusions within a reasonable time prior to the filing of briefs. Service of the request shall be in accordance with the provisions of Subpart H of this part. In addition to the ordinary summary of evidence, with reference to exhibit numbers and pages of the transcript, and statement of law with appropriate citations of the authorities relied upon, the brief shall contain proposed findings of fact and conclusions in serially numbered paragraphs. Briefs including briefs in support of exceptions and replies thereto (§§ 502.229 and 502.230) shall be limited to a maximum of fifty (50) printed pages, exclusive of the table of contents, table of citations of authorities, appendix, and certificate of service. For good cause shown in writing, filed

with the presiding officer prior to the close of hearing, the Commission or the presiding officer may prescribe a maximum length of briefs in excess of fifty (50) pages. [Rule 13(a)]

§ 502.222 Requests for enlargement of time for filing briefs.

Requests for enlargement of time within which to file briefs shall conform to the requirements of § 502.102. Except for good cause shown, such requests shall be filed and served not later than eight (8) days before the expiration of the time fixed for the filing of the briefs. [Rule 13(b)]

§ 502.223 Decisions—authority to make and kinds.

To the examiners of the Office of Hearing Examiners is delegated the authority to make and serve initial or recommended decisions. [Rule 13(c)]

§ 502.224 Separation of functions.

The separation of functions as required by section 5(c) of the Administrative Procedure Act shall be observed in proceedings under Subpart A to R, inclusive, of this part. [Rule 13(d)]

§ 502.225 Decisions—contents and service.

All initial, recommended, tentative, and final decisions will include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and the appropriate rule, order, sanction, relief, or denial thereof. A copy of each decision when issued shall be served on the parties to the proceeding, and furnished to interested persons upon request. [Rule 13(e)]

§ 502.226 Decision based on official notice.

Official notice may be taken of such matters as might be judicially noticed by the courts, or of technical or scientific facts within the general knowledge of the Commission as an expert body: *Provided*, That where a decision or part thereof rests on the official notice of a material fact not appearing in the evidence in the record, the fact of official notice shall be so stated in the decision, and any party, upon timely request, shall be afforded an opportunity to show the contrary. [Rule 13(f)]

§ 502.227 Initial decisions—when effective as decision of Commission.

An initial decision shall be deemed to be for all purposes the decision of the Commission thirty (30) days after the date of service thereof upon the parties, unless (a) a petition for review is filed by a party in accordance with § 502.228, or (b) the Commission determines on its own initiative to review the initial decision and notice of such intention to review is served upon the parties within such thirty (30) day period. If such a petition for review is duly filed or the time within which to file such petition is enlarged by the Commission, or such notice of the Commission's intention to review is served, the effectiveness of the initial decision shall be stayed pending a further order of the Commission. When an initial decision becomes the decision of the Commission as hereinabove provided, the Secretary shall issue and serve upon the parties notice of the date such decision becomes so effective: *Provided, however*, That failure of the Secretary to issue and serve such notice shall not prevent or delay the decision from becoming effective. [Rule 13(g)]

§ 502.228 Discretionary review of initial decisions; review proceedings.

(a) The Commission retains a discretionary right to review an initial decision in any proceeding upon its own initiative or upon petition of any party thereto, within the time and in the manner prescribed by the rules in this part. The vote of two members of the Commission, less one member thereof shall be sufficient to bring any such decision before the Commission for review.

(b) Any party may file and serve a petion for review by the Commission of an initial decision within twenty-five (25) days after service thereof. Petitions for review shall be accompanied by proof of service, shall concisely and plainly state the issues presented for review, and shall be filed only upon one or more of the following grounds:

(1) That a finding of a material fact is erroneous;

(2) That a necessary legal conclusion is without governing precedent or is a departure from or contrary to law, Commission rules, or precedent;

(3) That a substantial and important question of law, policy or discretion is involved; or

(4) That a prejudicial procedural error has occurred.

(c) Each allegation of error in findings of fact or in procedure shall be accompanied by citations of the portions of the record relied upon in support of such allegation of error. Each issue presented for review shall be separately stated and numbered.

(d) Within fifteen (15) days after service upon an adverse party of a petition for review, such party may file a memorandum in opposition thereto.

(e) If the petition for review is denied, the initial decision shall thereupon become the decision of the Commission, effective upon the date when the Commission's order denying the petition for review is served upon the parties, or upon such other date as may be specified in the said order of the Commission. If the Commission grants the petition for review in whole or in part, its order providing for review may (1) specify the issue or issues to which review will be limited, which may be one or more of the issues urged in the petition for review or which the Commission has determined to review on its own initiative, and (2) specify any portions of the initial decision which are not to be stayed pending review by the Commission. [Rule 13(h)]

§ 502.229 Briefs before the Commission upon review of initial decisions.

Within thirty (30) days after the date of service of a Commission order granting review of an initial decision, any party may file a brief on the issues specified in such order. In cases where the filing of opening, answering, and reply briefs will not unduly delay the proceeding and will assist in its proper disposition, the Commission in its order granting a petition for review may direct that the parties file briefs at different times. [Rule 13(i)]

§ 502.230 Exceptions to recommended or tentative decisions and replies to exceptions.

Within twenty (20) days after the date of service of a recommended or tentative decision, any party may file exceptions to such decision and a brief in support thereof. Such exceptions and brief shall constitute one document, shall indicate with particularity alleged errors, shall indicate page of transcript and exhibit number when referring to the record, and shall be served on all parties pursuant to § 502.114. Any adverse party may file and serve a reply to such exceptions within twenty (20) days after the date of service thereof, which shall contain appropriate transcript and exhibit references as in the case of exceptions filed. [Rule 13(j)]

§ 502.231 Request for enlargement of time for filing petition for review and briefs, memorandum in opposition, and exceptions and replies thereto.

Requests for enlargement of time within which to file petition for review and memorandum in opposition thereto, briefs in connection with review, and to file exceptions and briefs in support thereof, or replies to exceptions shall conform to the applicable provisions of § 502.102. Except for good cause shown, such requests shall be filed and served not later than eight (8) days before the expiration of the time fixed for the filing of such documents. Any enlargement of time granted will automatically extend by the same period the date for the filing of notice of review by the Commission. [Rule 13(k)]

§ 502.232 Certification of record by presiding or other officer.

The presiding or other officer shall certify and transmit the entire record to the Commission when (a) exceptions are filed or the time therefor has expired, (b) notice is given by the Commission that the initial decision will be reviewed on its own initiative, or (c) the Commission requires the case to be certified to it for initial decision. [Rule 13(l)]

Subpart N—Oral Argument; Submittal for Final Decision

§ 502.241 Oral argument.

If oral argument before the Commission is desired on exceptions to a recommended, or tentative decision, or on a motion, petition, or application, a request therefor shall be made in writing. Any party may make such request irrespective of his filing exceptions under § 502.230. If a brief on exceptions is filed, the request for oral argument shall be incorporated in such brief. Requests for oral argument on any motion, petition, or application shall be made in the motion, petition, or application, or in the reply thereto. Applications for oral ar-

gument will be granted or denied in the discretion of the Commission, and, if granted, the notice of oral argument will set forth the order of presentation. Upon request, the Commission will notify any party of the amount of time which will be allowed him. Those who appear before the Commission for oral argument should confine their argument to points of controlling importance. Where the facts of a case are adequately and accurately dealt with in the initial, recommended, or tentative decision, parties should, as far as possible, address themselves in argument to the conclusions. Effort should be made by parties taking the same position to agree in advance of the argument upon those who are to present their side of the case, and the names of such persons and the amount of time requested should be received by the Commission not later than ten (10) days before the date set for the argument. The fewer the number of persons making the argument the more effectively can the parties' interests be presented in the time allotted. [Rule 14(a)]

§ 502.242 Submittal to Commission for final decision.

A proceeding will be deemed submitted to the Commission for final decision as follows: (a) If oral argument is had, the date of completion thereof, or if memoranda on points of law are permitted to be filed after argument, the last date of such filing; (b) if oral argument is not had, the last date when exceptions or replies thereto are filed, or if exceptions are not filed, the expiration date for such exceptions; (c) in the case of an initial decision, the date of notice of the Commission to review the decision, if such notice is given. [Rule 14(b)]

Subpart O—Reparation

§ 502.251 Proof on award of reparation.

If many shipments or points of origin or destination are involved in a proceeding in which reparation is sought, the Commission will determine in its decision the issues as to violations, injury to complainant, and right to reparation. If complainant is found entitled to reparation, the parties thereafter will be given an opportunity to agree or make proof respecting the shipments and pecuniary amount of reparation due before the order of the Commission awarding reparation is entered. In such cases, freight bills and other exhibits bearing on the details of all shipments, and the amount of reparation on each, need not be produced at the original hearing unless called for or needed to develop other pertinent facts. [Rule 15(a)]

§ 502.252 Reparation statements.

When the Commission finds that reparation is due, but that the amount cannot be ascertained upon the record before it, the complainant shall immediately prepare a statement in accordance with the approved reparation statement in Appendix II (4),[1] showing details of the shipments on which reparation is claimed. This statement shall not include any shipments not covered by the findings of the Commission. Complainant shall forward the statement, together with the paid freight bills on the shipments, or true copies thereof, to the carrier or other person who collected the charges for checking and certification as to accuracy. Statements so prepared and certified shall be filed with the Commission for consideration in determining the amount of reparation due. Disputes concerning the accuracy of amounts may be assigned for conference by the Commission, or in its discretion referred for further hearing. [Rule 15(b)]

[1] Not filed with the Office of the Federal Register.

Subpart P—Reopening of Proceedings

§ 502.261 Reopening by Commission and modification or setting aside of report or order; reopening by presiding officer.

Upon petition or its own motion, the Commission may at any time after reasonable notice, reopen any proceeding under the rules in this part for rehearing, reargument or reconsideration and, after opportunity for hearing, may alter, modify, or set aside in whole or in part its report of findings or order therein if it finds such action is required by changed conditions or material mistake or fact or law or by the public interest. At any time prior to the filing of his decision, the presiding officer, either upon petition or upon his own initiative, may, for good cause and upon reasonable notice, reopen the case for the reception of further evidence. [Rule 16(a)]

§ 502.262 Petition for reopening.

A petition for reopening of the proceeding for any purpose shall be made in writing, shall state the grounds relied upon, and shall conform to the requirement of Subpart H of this part. If the petition be to take further evidence, the nature and purpose of the new evidence to be adduced shall be briefly stated, and it shall appear that such evidence was not available at the time of the prior hearing. If the petition be for reargument or reconsideration, the matter claimed to have been erroneously decided shall be specified and the alleged errors briefly stated. In case of unforeseen emergency, satisfactorily shown by the petitioner, request for modification of rules or orders may be made by telegram or otherwise upon notice to all parties or attorneys of record, but such request shall be followed by a petition filed and served in accordance with Subpart H of this part. [Rule 16(b)]

§ 502.263 Stay of rule or order.

No petition for reopening or allowance thereof, except by special order of the Commission, shall operate as a stay of any rule or order entered by the Commission, except that pending judicial review, and where it finds that justice so requires, the Commission may postpone the effective date of any action taken by it. [Rule 16(c)]

§ 502.264 Time for filing petition to reopen.

Except for good cause shown, and upon leave granted, petition to reopen under § 502.262 shall be filed with the Commission within thirty (30) days after the date of service of the Commission's final decision or order in the proceeding, unless a shorter period is fixed under § 502.103. [Rule 16(d)]

§ 502.265 Reply to petition to reopen.

Replies to petitions filed pursuant to § 502.262 shall conform to the requirements of § 502.74. [Rule 16(e)]

Subpart Q—Schedules and Forms

§ 502.271 Schedule of information for presentation in regulatory cases; approved forms.

A schedule of information for presentation in regulatory cases, and approved forms, which were adopted by the Federal Maritime Board and Maritime Administration, were published in the FEDERAL REGISTER of June 11, 1953 (18 F.R. 3347–3349) and were incorporated in the edition of the rules available from the Government Printing Office as Appendices I and II. The schedule and forms are continued in effect by the Commission until such time as they are superseded or revoked. [Rule 17(a)]

Subpart R—Nonadjudicatory Investigations

§ 502.281 Investigational policy.

The Federal Maritime Commission has extensive regulatory duties under the various acts it is charged with administering. The conduct of investigations is essential to the proper exercise of the Commission's regulatory duties. It is the purpose of this subpart to establish procedures for the conduct of such investigations which will insure protection of the public interest in the proper and effective administration of the law. The Commission encourages voluntary cooperation in its investigations where such can be effected without delay or without prejudice to the public interest. The Commission may, in any matter under investigation, invoke any or all of the compulsory processes authorized by law. [Rule 18(a)]

§ 502.282 Initiation of investigations.

Commission inquiries and nonadjudicatory investigations are originated by the Commission upon its own motion when in its discretion the Commission determines that information is required for the purposes of rule making or is necessary or helpful in the determination of its policies or the carrying out of its duties, including whether to institute formal proceedings directed toward determining whether any of the laws which the Commission administers have been violated. [Rule 18(b)]

§ 502.283 Order of investigation.

When the Commission has determined that an investigation is necessary, an Order of Investigation shall be issued. [Rule 18(c)]

§ 502.284 By whom conducted.

Investigations are conducted by commission representatives designated and duly authorized for the purpose. Such representatives are authorized to exercise the duties of their office in accordance with the laws of the United States and the regulations of the Commission, in-

cluding the resort to all compulsory processes authorized by law, and the administration of oaths and affirmances in any matters under investigation by the Commission. [Rule 18(d)]

§ 502.285 Investigational hearings.

(a) Investigational hearings as distinguished from hearings in adjudicative proceedings, may be conducted in the course of any investigation undertaken by the Commission, including inquiries initiated for the purpose of determining whether or not a person is complying with an order of the Commission.

(b) Investigational hearings may be held before the Commission, one or more of its members, or a duly designated representative, for the purpose of hearing the testimony of witnesses and receiving documents and other data relating to any subject under investigation. Such hearings shall be stenographically reported and a transcript thereof shall be made a part of the record of investigation. [Rule 18(e)]

§ 502.286 Compulsory processes.

The Commission, or its designated representative may issue orders or subpenas directing the person named therein to appear before a designated representative at a designated time and place to testify or to produce documentary evidence relating to any matter under investigation, or both. Such orders and subpenas shall be served in the manner provided in § 502.134. [Rule 18(f)]

§ 502.287 Depositions.

The Commission, or its duly authorized representative, may order testimony to be taken by deposition in any investigation at any stage of such investigation. Such depositions may be taken before any person designated by the Commission having the power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence as provided in § 502.131. [Rule 18(g)]

§ 502.288 Reports.

The Commission may issue an order requiring a person to file a report or answers in writing to specific questions relating to any matter under investigation. [Rule 18(h)]

§ 502.289 Noncompliance with investigational processes.

In case of failure to comply with Commission investigational processes appropriate action may be initiated by the Commission, including actions for enforcement by the Commission or the Attorney General and forfeiture of penalties or criminal actions by the Attorney General. [Rule 18(i)]

§ 502.290 Rights of witness.

Any person required to testify or to submit documentary evidence shall be entitled to retain or, on payment of lawfully prescribed cost, procure a copy of any document produced by such person and of his own testimony as stenographically reported or, in the depositions, as reduced to writing by or under the direction of the person taking the deposition, except that in a nonpublic proceeding a witness may for good cause be limited to an inspection of his testimony. Any party compelled to testify or to produce documentary evidence may be accompanied and advised by counsel, but counsel may not, as a matter of right, otherwise participate in the investigation. [Rule 18(j)]

§ 502.291 Nonpublic proceedings.

Unless otherwise ordered by the Commission, all investigatory proceedings shall be nonpublic. [Rule 18(k)]

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