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PART I

FEDERAL REGISTER

VOLUME 24 NUMBER 219

Washington, Saturday, November 7, 1959

Title 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

SUBCHAPTER E—ACCOUNT SERVICING

[FHA Instruction 451.5]

PART 361—ROUTINE

Subpart B—Payment in Full and Refinancing of Insured Farm Ownership Loans

PART 366—PAYMENT IN FULL

Subpart C—Insured Farm Ownership Loans

Subpart B, Part 361, Title 6, Code of Federal Regulations (21 F.R. 5555, 22 F.R. 1, 10885, 23 F.R. 3371) is revoked and the regulations contained therein are redesignated as Part 366, Subpart C, Insured Farm Ownership Loans, and are revised to read as follows:

Sec.

366.41 General.

366.42 Payment in full from borrower's funds, refinancing by a new lender on a noninsured basis, and sale of farm outside program except when holder finances purchaser.

366.43 Payment in full by refinancing with holder on a noninsured basis, or by sale of farm outside the program to person obtaining a noninsured loan from holder.

AUTHORITY: §§ 366.41 to 366.43 issued under sec. 41, 50 Stat. 528, as amended, sec. 12, 60 Stat. 1076, as amended, sec. 18, 72 Stat. 840; 7 U.S.C. 1015, 1005b, 1006e; Order of Acting Sec. of Agric., 19 F.R. 74, 22 F.R. 8188. Additional authority is cited in parentheses following the sections affected.

§ 366.41 General.

Sections 366.41 to 366.43 prescribe the authorities, policies, and procedures for processing final payment of insured Farm Ownership loans except those loans which are paid in full by making a subsequent insured Farm Ownership loan and insured loans held by the insurance fund. Payment in full of an insured Farm Ownership loan by refinancing with a subsequent Farm Ownership loan will be accomplished in accordance with Part 333 of this chapter. Payment in full of an insured Farm Ownership loan held by the insurance fund other than with a subsequent Farm Ownership loan will be accomplished in accordance with §§ 366.1 to 366.5. For the purposes of this subpart, the terms "lender" and "holder" mean the current holder of the insured note and, when applicable, also the insured mortgage and related instruments.

This issue includes two parts bound together. Part II contains Parts 101 and 102 of Title 29, issued by the National Labor Relations Board.

(a) *Escrow arrangements.* Escrow arrangements may be used provided the escrow agent is properly bonded. No escrow arrangement will be initiated by the Farmers Home Administration and no part of the expense for an escrow arrangement will be paid by the Government.

(b) *Special restrictions.* The Bankhead-Jones Farm Tenant Act, as amended, and the security instrument or note taken in connection with each insured Farm Ownership loan provide that, without the consent of the Government, no final payment of an insured Farm Ownership loan will be accepted, nor release of mortgagee's interest made, in less than five years from the date of the mortgage relating to the loan. It is further provided that the farm or any interest therein may not be sold without consent of the Government and, when applicable, the consent of the holder. Subject to the policies and procedures prescribed in this Subpart, the County Supervisor is authorized, on behalf of the Government, to execute instruments of satisfaction, release, or consent in connection with the payment in full of an insured Farm Ownership loan or sale of the farm of an insured Farm Ownership borrower.

(c) *Loan insurance charge for loans evidenced by Form FHA–240, "Promissory Note," or Form FHA–360, "Promis-*

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FEDERAL REGISTER

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CODIFICATION GUIDE

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

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

sory Note." In all cases of final payment of an insured loan evidenced by Form FHA–240 or Form FHA–360, when the borrower has had use of all or any part of the loan funds, he will be required to pay the entire annual loan insurance charge computed for the year then current, if not already paid. This charge will be 1 percent of the unpaid principal amount due on the promissory note as of the installment due date preceding the date final payment is made on the note account. For the purpose of computing this charge, the date final payment is made on the note account will be the date the funds for final payment of the note account are received by the County Supervisor for transmittal to the Finance Office. In transactions where final payment of the note account is accomplished by the exchange of promissory notes without funds being paid to the Farmers Home Administration, the date final payment is made on the note account will be considered to be the date the insured loan is refinanced.

This will be the date entered in the space entitled "Final Payment Received" on Form FHA–993, "Notice of Receipt of Final Payment on Insured Loan."

(d) *Loan funds refunded in full after loan closing.* If a borrower decides to refund in full his loan, he will be required to pay interest on the note account from the date of loan closing to the date the U.S. Treasury check is remitted to the lender. However, for a loan held by the insurance fund or under a 2(f) agreement, the borrower will be required to pay interest on the note account from the date of loan closing to the date of the receipt for the refund. In case the loan is evidenced by Form FHA–240 or Form FHA–360, the borrower also will be required to pay a loan insurance charge from the date of loan closing to the date the U.S. Treasury check is remitted to the lender.

(e) *Actions to effect final payment—*(1) *Return of funds in supervised bank account.* Any Farm Ownership funds remaining in the borrower's supervised bank account will be withdrawn and remitted to the Finance Office for application on the borrower's note account as a refund prior to the request for a statement of account.

(2) *Determining balance to be collected.* The County Supervisor will request the Finance Office to send him Form FHA–835, "Certified Statement of Account," to show all amounts owed on the borrower's Farm Ownership account.

(f) *Actions subsequent to final payment—*(1) *Satisfaction of mortgage—*(i) *By lender.* The holder of an insured mortgage (which is not held by the Government under a trust assignment or declaration of trust), upon receiving full payment of the note account, will execute the customary form of satisfaction or release of the real estate mortgage, unless otherwise provided by instructions from the State Director in certain states using deeds of trust. Upon request of any holder of an insured mortgage, the County Supervisor will furnish an appropriate form of satisfaction or release previously approved for this purpose by the Farmers Home Administration.

(ii) *By Government.* In case of payment in full of an insured loan for which the lender holds only the note, or an insured loan for which the Government holds the mortgage under a trust assignment or declaration of trust, the County Supervisor will execute a satisfaction or release of the real estate mortgage on a form previously approved for this purpose by the Farmers Home Administration, unless otherwise provided by the Farmers Home Administration in certain States using deeds of trust. Whenever the Government holds the mortgage under a trust assignment or declaration of trust, the satisfaction will show that the Government is satisfying the mortgage for itself and as trustee.

(2) *Form FHA–366, "Consent and Release of Interest of United States (Insured Farm Ownership Loans)."* In case of payment in full of an insured loan for which the lender holds the mortgage, the County Supervisor will execute Form FHA–366. The original will be delivered only after the note account and all amounts due the loan insurance account have been paid and a satisfaction or release of the real estate mortgage is ready to be delivered.

(3) *Recordation of satisfaction and Form FHA–366.* The satisfaction or release of the real estate mortgage will be recorded, and the cost of such recording will be borne by the borrower, except when State law requires the mortgagee to record or file satisfactions or releases and to pay the cost of recording. When used, Form FHA–366 will be recorded normally along with the satisfaction or release. The cost of recording Form FHA–366 will not be borne by the Government, except when State law requires the mortgagee to pay such cost. Any recording costs required to be paid by the Government will be paid by voucher.

(4) *Special instructions.* If State law or custom provides for any special method or requirement for processing or executing the satisfaction or release or Form FHA–366, or if any problems arise as to satisfactions or releases to be executed by out-of-state lenders, the State Director will issue instructions covering such special method or requirement.

(Sec. 3, 50 Stat. 523, as amended; 7 U.S.C. 1003)

§ 366.42 Payment in full from borrower's funds, refinancing by a new lender on a noninsured basis, and sale of farm outside program except when holder finances purchaser.

This section applies to all cases where final payment of the insured loan indebtedness is to be derived from the borrower's funds, the proceeds from refinancing with a new lender on a noninsured basis, and the proceeds from the sale of a farm outside the program when a new lender furnishes the funds. The funds for final payment in such cases will be processed through the Finance Office.

(a) *Determining balance of indebtedness and collection.* When the borrower is ready to make his final payment, the County Supervisor will, upon receipt of Form FHA–835 from the Finance Office, compute the amount necessary to repay in full the amount owed the holder on the note account, any amount owed the loan insurance account, and the annual charge for notes on Form FHA–251.

(1) The County Supervisor will collect from the borrower any amount owed the loan insurance account, the annual charge, if any, and the balance of the principal and interest owed the holder on the note account. He will remit the collection to the Finance Office with Form FHA–37, "Receipt for Payment."

(2) Since the Farmers Home Administration is the collection agent for the holder, the County Supervisor will advise the borrower, purchaser, or new lender, as the case may be, that the remittance for final payment should be made payable to, or endorsed to, the order of the Farmers Home Administration.

(b) *Finance Office action—*(1) *Adjustment of records.* Upon receipt of the collection in the Fanance Office, if the collection pays the account in full, the Director, Finance Office, will take the appropriate action to close the account.

(2) *Notice to holder.* The Finance Office will send an original and one copy of Form FHA–993A, "Notice and Acknowledgment of Final Payment," to the holder for execution and return of the original, together with the canceled promissory note and any other papers indicated on Form FHA–993A, to the County Supervisor.

(c) *County Office action.* Upon receipt from the holder of the canceled promissory note and the original of the completed Form FHA–993A, and in the case of an insured loan for which the lender holds the mortgage, also receipt of the real estate mortgage and an instrument of satisfaction or release, the County Supervisor will proceed as follows:

(1) In the case of an insured loan for which the lender holds the mortgage, the instrument of satisfaction or release (furnished by the lender in accordance with § 366.41(f)) and Form FHA–366 will be delivered to the borrower, mortgagee, purchaser, or the recorder of deeds and mortgages, as the case may require. The canceled promissory note and the satisfied real estate mortgage will be delivered to the borrower. Any abstracts of title held by the Farmers Home Administration which are the property of the borrower also will be delivered to the borrower. The County Supervisor will make proper disposition of any property insurance as prescribed in Part 306 of this chapter. The executed original of Form FHA–993A will be retained in the borrower's case folder. The County Office records will be adjusted to show a paid-in-full account.

(2) In the case of an insured loan for which the Government is named as mortgagee in the mortgage or an insured loan for which the Government holds the mortgage under a trust assignment or a declaration of trust, an instrument of satisfaction or release (furnished by the County Supervisor in accordance with § 366.41(f)) will be delivered to the borrower, mortgagee, purchaser, or the recorder of deeds and mortgages, as the case may require. The canceled promissory note, the satisfied real estate mortgage, and any abstracts of title held by the Farmers Home Administration which are the property of the borrower will be delivered to the borrower. The County Supervisor will make proper disposition of any property insurance as prescribed in Part 306 of this chapter. The executed original of Form FHA–993A will be retained in the borrower's case folder. The County Office records will be adjusted to show a paid-in-full account.

§ 366.43 Payment in full by refinancing with holder on a noninsured basis, or by sale of farm outside the program to person obtaining a noninsured loan from holder.

This section applies when final payment of the insured loan indebtedness is to be made by refinancing by the holder on a noninsured basis, or by sale of the farm outside the program to a person obtaining a noninsured loan from the holder in an amount not less than the outstanding balance owed on the insured note account. In either case, final payment of the note account may be

accomplished by exchanging a noninsured note for the insured promissory note and, when applicable, by exchanging a noninsured mortgage for the insured mortgage. Since no funds are involved in making the final payment to the holder, only any amount owed the loan insurance account and the annual charge, if any, will be transmitted to the Finance Office.

(a) *Collection of loan insurance account and annual charge.* When final payment of the account of the insured borrower is to be accomplished by either of the above methods, the County Supervisor, upon receipt of Form FHA–835 from the Finance Office, will collect from the borrower any amount owed the loan insurance account and the annual charge, if any. If Form FHA–835 shows an unpaid balance of any amount advanced from the insurance fund, the County Supervisor will compute the interest on such amount to the date he receives payment. Also, if the loan is evidenced by Form FHA–251, the County Supervisor will compute the annual charge to the date he receives payment. He will remit the funds collected to the Finance Office with Form FHA–37.

(b) *Preparation of Form FHA–993.* The County Supervisor will complete the information in Section I of Form FHA–993 with respect to the borrower, the amount of loan, and the date of note or bond. The original and two copies of the partially completed Form FHA–993 will be delivered to the holder. The County Supervisor will inform the holder of the outstanding balance of principal and interest due him on the insured note account as of the date of Form FHA–835 and the daily rate of accrual of such interest. The County Supervisor will request that, if such amount is in agreement with the holder's records, the holder should insert the date the final payment is received (date insured loan is refinanced), execute the original and one copy of Form FHA–993, and return to the County Supervisor the executed original and copy of Form FHA–993, together with the canceled promissory note. If the lender holds the mortgage, the County Supervisor also will request the holder to return the satisfied mortgage. If requested by the holder, the County Supervisor will file for recordation any instrument of satisfaction or release of the mortgage furnished by the holder.

(c) *Finance Office action.* Upon receipt of Form FHA–993 from the County Supervisor, the Finance Office will determine if the full amount owed the loan insurance account and the annual charge for notes on Form FHA–251 have been paid. If paid, the Director, Finance Office, will sign Section II of Form FHA–993. The original of Form FHA–993 will be retained in the Finance Office. Finance Office records will be satisfied as a paid-in-full account.

(d) *County Office action*—(1) *Insured mortgage held by the lender.* For an insured loan for which the lender holds the mortgage, the County Supervisor will, upon receipt of the completed copy of Form FHA–993 from the Finance Office, sign and acknowledge Form FHA–366. Form FHA–366 will be delivered to the lender or to the recorder of deeds and mortgages, as the case may require. The canceled promissory note, the satisfied real estate mortgage, and any abstracts of title held by the FHA which are the property of the borrower will be delivered to the borrower. The completed copy of Form FHA–993 will be placed in the borrower's case folder. Property insurance will be canceled in accordance with Part 306 of this chapter. The County Office records will be adjusted to show a paid-in-full account.

(2) *Insured note or insured mortgage held by the Government under a trust assignment or declaration of trust.* For an insured Farm Ownership loan for which the Government is named as mortgagee in the mortgage or holds the mortgage under a trust assignment or declaration of trust, the instrument of satisfaction or release (furnished by the County Supervisor in accordance with § 366.41(f)) will, upon receipt of the completed copy of Form FHA–993 from the Finance Office, be delivered to the lender or the recorder of deeds and mortgages, as the case may require. The canceled promissory note, the satisfied real estate mortgage, and any abstracts of title held by the Farmers Home Administration which are the property of the borrower will be delivered to the borrower. The completed copy of Form FHA–993 will be placed in the borrower's case folder. Property insurance will be canceled in accordance with Part 306 of this chapter. The County Office records will be adjusted to show a paid-in-full account.

Dated: November 2, 1959.

K. H. HANSEN,
Administrator,
Farmers Home Administration.

[F.R. Doc. 59-9448; Filed, Nov. 6, 1959; 8:47 a.m.]

[FHA Instruction 451.4]

PART 366—PAYMENT IN FULL

Subpart A—Direct Farm Ownership, Other Real Estate and Farm Housing Accounts; and Insured Farm Ownership Accounts Held by the Insurance Fund

The title of Subpart A, Part 366, Title 6, Code of Federal Regulations (20 F.R. 4175, 21 F.R. 170, 21 F.R. 7142) is revised to read as set forth above and Subpart A is revised to read as follows:

Sec.
366.1 General.
366.2 Authorization.
366.3 Determining balance to be collected.
366.4 Delivery of satisfactions, notes and other documents.
366.5 Property insurance.

AUTHORITY: §§ 366.1 to 366.5 issued under secs. 3, 41, 50 Stat. 523, as amended, 528, as amended, sec. 12, 60 Stat. 1076, as amended, sec. 510, 63 Stat. 437, sec. 18, 72 Stat. 840; 7 U.S.C. 1003, 1015, 1005b, 42 U.S.C. 1480, 7 U.S.C. 1006e; Order of Acting Sec. of Agri., 19 F.R. 74, 22 F.R. 8188.

§ 366.1 General.

Sections 366.1 to 366.5 set forth the authorizations, policies, and procedures for processing final payments on direct Farm Ownership accounts, Other Real Estate accounts, and Farm Housing accounts which are paid in full at any time after loan closing. Final payment on an insured Farm Ownership account which is held by the insurance fund will be processed generally in the same manner as a direct Farm Ownership account, except that the borrower will be required to pay any loan insurance charges, any other amounts owed the loan insurance account, and any annual charge, as shown on the statement of account prepared in accordance with the applicable provisions of Subpart C of this part. In every case where a loan has been closed, including those where the entire principal of the loan is refunded before any of it has been previously disbursed from the supervised bank account, the borrower will be required to pay interest from the date of the note to the date final payment is received by the County Supervisor.

§ 366.2 Authorization.

(a) The County Supervisor is authorized to accept final payment on a direct Farm Ownership account, insured Farm Ownership account held by the insurance fund, Other Real Estate account, or Farm Housing account (except a Farm Ownership account repaid in less than five years by sale of the farm when profit making seems to be the only significant motive for the sale) and to execute the necessary releases and satisfactions in connection with the indebtedness. When a borrower who has not had his loan five years proposes to sell his farm and pay the Farm Ownership loan in full, and profit making seems to be the only significant motive for the sale, the County Supervisor will advise the State Director of the circumstances. The State Director is authorized to approve or disapprove the transaction and will inform the County Supervisor of the action to be taken.

(b) The State Director will issue a State Instruction which will instruct County Supervisors regarding the release or satisfaction of Farm Ownership, Other Real Estate, and Farm Housing mortgages when the loan is paid in full. A form of release or satisfaction prepared or approved by the Attorney in Charge will be used.

(c) Escrow arrangements may be used provided the escrow agent is properly bonded. No escrow arrangements will be initiated by the Farmers Home Administration and no part of the expense for an escrow arrangement will be paid by the Government.

§ 366.3 Determining balance to be collected.

(a) When a borrower has indicated his desire to pay his account in full, the County Supervisor will prepare and forward to the Finance Office Form FHA–995, "Request for Certified Statement of Account," in order to obtain the unpaid balance of principal and interest on the

borrower's account and the daily rate of accrual of interest.

(b) Upon receipt of Form FHA–835, "Certified Statement of Account," from the Finance Office, the County Supervisor will notify the borrower that he is prepared to accept final payment.

§ 366.4 Delivery of satisfactions, notes, and other documents.

Usually, the County Supervisor will transmit the final payment to the Finance Office with a request for the return of the promissory note for delivery to the borrower; however, if circumstances require delivery of the note at the time final payment is received by the County Supervisor, he will request the Finance Office to forward the note along with the statement of account on Form FHA–835.

(a) *Delivery of documents after notes stamped "paid-in-full" are received from the Finance Office.* The Finance Office, upon receipt of Form FHA–144, "Summary of Remittances," covering the remittance which paid the account in full, will forward to the County Office the note stamped with a paid-in-full legend, provided the final payment as received from the borrower was in the form of currency and coin, U.S. Treasury check, cashier's or certified check, bank draft, postal or bank money order or a check issued by a responsible lending institution or a responsible title insurance or title and trust company. If the final payment was in the form of an uncertified check drawn on a personal account, the note will be held in the Finance Office for 10 days after the remittance has been deposited in the Deposit Fund Account, before being forwarded to the County Office. Upon receipt of the note, the County Supervisor will deliver the stamped note, any property insurance policies, and the original mortgage to the borrower. The original satisfaction will be executed and delivered in accordance with the State Instruction. Any water stock certificates held by the Farmers Home Administration that are the property of the borrower will be transferred to the borrower. Also, any assignment to the Farmers Home Administration of income from the property being released will be terminated as provided in the assignment form.

(b) *Delivery of documents at the time final payment is made.* If the circumstances require the delivery of the promissory note and the satisfaction of the mortgage at the time final payment is made, the County Supervisor will prepare the satisfaction, mark the original note with a paid-in-full legend, and will deliver the original note, the original satisfaction, any property insurance policies, and the original mortgage to the borrower only upon receipt of full payment of the unpaid balance of principal and interest, computed as of the date final payment is received, and in case of an insured loan held by the fund upon full payment of all other unpaid amounts shown on the statement of account, and only when such payment is made in the form of currency and coin, U.S. Treasury check, cashier's or certified check, bank draft, postal or bank money order or a check issued by a responsible lending institution or a responsible title insurance or title and trust company. Any water stock certificates held by the Farmers Home Administration that are the property of the borrower will be transferred to him. Also, any assignment to the Farmers Home Administration of income from the property being released will be terminated as provided in the assignment form.

(c) *Cost of recording or filing of satisfaction.* If State law requires recording or filing of the satisfaction by the mortgagee, any recording cost required to be paid by the Government will be paid by voucher.

§ 366.5 Property insurance.

The County Supervisor will advise the borrower regarding the manner in which property insurance will be canceled or release of mortgage interest executed.

Dated: November 2, 1959.

K. H. HANSEN,
Administrator,
Farmers Home Administration.

[F.R. Doc. 59–9449; Filed, Nov. 6, 1959; 8:47 a.m.]

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER D—REGULATIONS UNDER SOIL BANK ACT

[Amdt. 38]

PART 485—SOIL BANK

Subpart—Conservation Reserve Program for 1956 Through 1959

Miscellaneous Amendments

The regulations governing the Conservation Reserve Program for 1956 through 1959, 21 F.R. 6289, as amended, are hereby further amended as follows:

§ 485.156 [Amendment]

1. Section 485.156(b) is amended by inserting after the fourth sentence the following new sentence: "For land for which the first year of the contract period is 1957, the State committee may, in order to prevent undue hardship, authorize the county committee to accept a contract after the closing dates specified above if because of misinformation or misunderstanding, the producer was under the impression that he had filed such contract, or did not realize that he had to file such contract by the date specified."

§ 485.157 [Amendment]

2. Section 485.157(b)(1) is amended by amending the last sentence thereof to read as follows: "Failure to maintain for the contract period the protective vegetative cover or other conservation practices for which cost-sharing was received under this program shall be considered a violation of the contract, except that (i) destruction of the vegetative cover during the contract period for the purpose of planting during the last six months of the period orchard trees, nut trees or nursery stock, or a crop normally seeded during such period for harvest in a later year, or (ii) destruction of the vegetative cover during the last year of the contract period for the purpose of carrying out summer fallow operations under specifications available at the office of the county committee, or (iii) destruction of the vegetative cover with the approval of the county committee for the purpose of establishing a fire lane or fire break, or changing to another approved conservation practice authorized by the county committee shall not be considered a violation of the contract."

3. The following new section is added immediately after 485.185:

§ 485.185a Awarding of additional conservation reserve contracts in 1959.

(a) Contracts in addition to the contracts awarded under § 485.185 may be approved at rates determined in accordance with paragraph (b) of this section for producers falling into the following three categories:

(1) Producers who indicated their desire to participate but were not furnished with the maximum payment rates established for their farms prior to the final date for filing applications for contracts and therefore were unable to make applications for contracts.

(2) Producers who were furnished within correct maximum payment rates and were not furnished with the correct payment rates established for their farms prior to the final date for filing applications for contracts and therefore were mistaken as to the basis upon which they should offer their land, and did not receive contracts or entered into contracts at rates lower than those determined in accordance with paragraph (b) of this section as the result of being furnished incorrect rates.

(3) Producers who were erroneously informed that their applications fell into priority group 1 and that funds would be available for contracts with them at the maximum payment rates established for their farms but whose applications fell into a priority group for which funds were not available to award contracts within the allocation made to the counties for awarding contracts under the procedure set out in § 485.185.

(b) The rate at which a contract will be offered under this section shall be determined as follows: Divide the total sum of the rates for 1959 contracts awarded under § 485.185 in the county by the total sum of the applicable maximum payment rates established for the farms covered by such contracts. The figure derived times the applicable maximum payment rate established for the farm will be the payment rate at which a contract may be offered for the farm under this section.

(c) The county committee shall notify in writing each producer determined to be eligible for a conservation reserve contract under this section that he will be given an opportunity to enter into a contract at the annual payment rate determined in accordance with paragraph (b) of this section, provided he files an application for such contract on Form CSS–853 (Soil Bank) with the county office within 15 days from the date of written notice. The final date for filing applications hereunder shall be May 15, 1959. The contract must be signed by all necessary producers and filed with the county office on or before June 15, 1959.

(d) All provisions of § 485.185, not inconsistent with the provisions set out above, shall be applicable in the awarding of 1959 contracts under this section.

(Sec. 124, 70 Stat. 198; 7 U.S.C. 1812)

Issued at Washington, D.C., this 4th day of November 1959.

WALTER C. BERGER,
Administrator,
Commodity Stabilization Service.

[F.R. Doc. 59–9459; Filed, Nov. 6, 1959; 8:48 a.m.]

[Amdt. 39]

PART 485—SOIL BANK

Subpart—Conservation Reserve Program for 1956 Through 1959

PROVISION FOR HANDLING EXCEPTIONAL CASES

The regulations governing the Conservation Reserve Program for 1956 through 1959, 21 F.R. 6289, as amended, are hereby further amended by adding the following new § 485.188 at the end thereof:

§ 485.188 Provision for handling exceptional cases.

Where a producer, in reasonable reliance upon any instruction or commitment of any member, employee, or representative of a county or State committee, in good faith, substantially performs under a contract, the Administrator may, upon the recommendation of the county and State committees concerned, review the requirements of any provision of the regulations in this subpart and if, in his judgment, relief from the requirements of such provision is justified under all the circumstances of the case to permit a proper disposition thereof, allow payment for such substantial performance in an amount not to exceed the amount which would have been due for the required performance, provided such action is not prohibited by statute.

(Sec. 124, 70 Stat. 198; 7 U.S.C. 1812)

Issued at Washington, D.C., this 4th day of November 1959.

WALTER C. BERGER,
Administrator,
Commodity Stabilization Service.

[F.R. Doc. 59–9460; Filed, Nov. 6, 1959; 8:48 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 24—FORMAL EDUCATIONAL REQUIREMENTS FOR APPOINTMENT TO CERTAIN SCIENTIFIC, TECHNICAL, AND PROFESSIONAL POSITIONS

Geophysicist

Paragraph (a) of § 24.127 is amended as set out below.

§ 24.127 Geophysicist (Earth Physics, Geomagnetics, Seismology), GS–1313–5–15.

(a) *Educational requirement.* Applicants must have completed one of the following:

(1) A full 4-year course in an accredited college or university leading to a bachelor's degree including courses in mathematics and physical sciences (geophysics, physics, mathematics, engineering, geology, astronomy, meteorology, electronics, etc.) totaling 30 semester hours. The 30 semester hours must include 24 semester hours in a combination of geophysics, physics, and mathematics courses; or

(2) (i) Courses in geophysics, physics, and mathematics, in an accredited college or university totaling 24 semester hours; plus additional appropriate experience or education in a scientific field which when combined with the 24 semester hours in geophysics, physics, and mathematics, will total 4 years of education and experience and give the applicant a technical and professional knowledge comparable to that which would have been acquired through the successful completion of a 4-year college course as described in subparagraph (1) of this paragraph.

(ii) In either subparagraph (1) or (2) of this paragraph, the 24 semester hours must have included differential and integral calculus and a minimum of 8 semester hours in geophysics and/or physics.

(Sec. 11, 58 Stat. 390; 5 U.S.C. 860)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59–9461; Filed, Nov. 6, 1959; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

[Reg. Docket No. 106; Amdt. 52]

PART 507—AIRWORTHINESS DIRECTIVES

Piaggio P.136–L2 and Vickers 810 Aircraft

A proposal to amend Part 507 of the regulations of the Administrator to include airworthiness directives requiring corrective action involving Piaggio P.136–L2, and Vickers Viscount 810 aircraft was published in 24 F.R. 7165.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing § 507.10(a) is amended by adding the following new airworthiness directives.

59–22–1 PIAGGIO. Applies to all Model P.136–L2 aircraft.

Compliance required by November 30, 1959.

In order to preclude the possibility of condensed water vapor from freezing and obstructing the oil tank breather lines, these lines for both the right and left engines should be rerouted to provide an increased slope in accordance with Piaggio & Co. Change Order No. 36–52 which covers this same subject.

59–22–2 VICKERS. Applies to all Viscount 810 Series aircraft which do not embody modification FG.1447.

Compliance required as indicated.

Service experience has shown that a gap of less than 0.25-inch between the end of No. 3 flap and the aileron may, under certain flight conditions, produce a condition where the flap could foul or contact the inboard end of the aileron (port and starboard wings). Within the next 500 flight hours but not later than December 15, 1959, inspect for adequate clearance between the outboard end of the No. 3 flap at the No. 4 flap beam unit and the inboard end of the aileron on both the right and left sides. This inspection must also be carried out wherever a flap or an aileron is installed. Where the gap is found to be less than 0.25-inch the outboard end of the No. 3 flap must be modified to provide proper clearance.

(Vickers-Armstrong ITL No. 80 (800/810 series) and modification FG.1447 cover the same subject.)

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

Issued in Washington, D.C., on October 30, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59–9426; Filed, Nov. 6, 1959; 8:45 a.m.]

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Reg. Docket No. 175; Amdt. 143]

PART 609—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Alterations

The new and revised standard instrument approach procedures appearing hereinafter are adopted to become effective and/or canceled when indicated in order to promote safety. The revised procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the revised procedures specify the complete procedure and indicate the changes to the existing procedures. Pursuant to authority delegated to me by the Administrator (24 F.R. 5662), I find that a situation exists requiring immediate action in the interest of safety, that notice and public procedure hereon are impracticable, and that good cause exists for making this amendment effective on less than thirty days' notice.

Part 609 (14 CFR Part 609) is amended as follows:

1. The low or medium frequency range procedures prescribed in § 609.100(a) are amended to read in part:

LFR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
				T-dn	400–1	400–1	400–1
				C-dn	500–1	500–1	600–1½
				A-dn	800–2	800–2	800–2

Procedure turn South side of East crs, 079° Outbnd, 259° Inbnd, 1100′ within 10 miles. (Nonstandard procedure turn is operationally desirable.)
Minimum altitude over facility on final approach crs, 600′.
Crs and distance, facility to airport, 236°—1.2 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.2 miles after passing LFR, execute right turn, climbing to 3000′ on North crs Hilo LFR to Kuku Point Int.
CAUTION: Gradually rising terrain all westerly quadrants. Confine maneuvering to East side of North and South courses.

City, Hilo; State, Hawaii; Airport Name, General Lyman; Elev., 31′; Fac. Class., SBRAZ; Ident., ITO; Procedure No. 1, Amdt. 11; Eff. Date, 5 Dec. 59; Sup. Amdt. No. 10; Dated, 19 July 58

2. The automatic direction finding procedures prescribed in § 609.100(b) are amended to read in part:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Louisville VOR	LOM	Direct	2100	T-dn	300–1	300–1	200–½
Bourbon Int	LOM	Direct	2100	C-dn	500–1	500–1	500–½
Elizabeth Int	LOM	Direct	2100	S-dn	500–1	500–1	500–1
				A-dn	800–2	800–2	800–2

Procedure turn NA due to Restricted Area. Radar vector to final approach required. If radar contact not established during transition, proceed to the LOM, hold North, one minute pattern, right turns. If radar contact not established or radar inoperative, execution of this procedure not authorized.
Minimum altitude over facility on final approach crs, 1600′.
Crs and distance, facility to airport, 010°—4.9 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.9 miles after passing LOM, climb to 2100′ on 010° crs from LOM within 10 miles.

City, Louisville; State, Ky.; Airport Name, Standiford; Elev., 497′; Fac. Class., LOM; Ident., SD; Procedure No. 1, Amdt. 18; Eff. Date, 5 Dec. 59; Sup. Amdt. No. 17 (ADF portion of Comb. ADF-ILS); Dated, 26 Oct. 57

3. The very high frequency omnirange (VOR) procedures prescribed in § 609.100(c) are amended to read in part:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
BAM LFR	BAM-VOR	Direct	9000	T-dn	300–1	300–1	300–1
				C-dn	1000–1	1000–1	1000–1¼
				A-dn	1000–2	1000–2	1000–2

Procedure turn W side of crs, 200° Outbnd, 020° Inbnd, 9000′ within 15 mi.
Minimum altitude over facility on final approach crs, 6000′.
Crs and distance, facility to airport, 031—2.1.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.1 mi, turn left immediately and climb to 10,000′ on R-330 within 20 mi. Reverse course to the left and return to the VOR at 10,000′ on R-330.

City, Battle Mountain; State, Nev.; Airport Name, Battle Mountain; Elev., 4533′; Fac. Class., BVOR; Ident., BAM; Procedure No. 1, Amdt. 2; Eff. Date, 5 Dec. 59; Sup. Amdt. No. 1; Dated, 19 Oct. 57

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 56 knots
					65 knots or less	More than 65 knots	
				T-dn	400-1	400-1	400-1
				C-dn	500-1	500-1	600-1½
				S-dn-26	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn South side of crs, 080° Outbnd, 260° Inbnd, 1100′ within 10 miles. (Nonstandard procedures turn is operationally desirable.)
Minimum altitude over facility on final approach crs, 600′.
Crs and distance, facility to airport, 260—1.8.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.8 miles after passing VOR, execute right turn, climbing to 3000′ on R-353 within 20 miles.
CAUTION: Gradual rising terrain all westerly quadrants. Confine maneuvering to the easterly quadrants.

City, Hilo; State, Hawaii; Airport Name, General Lyman; Elev., 31′; Fac. Class., BVOR; Ident., ITO; Procedure No. 1, Amdt. 6; Eff. Date, 5 Dec. 59; Sup. Amdt. No. 5; Dated, 19 July 58

				T-d	1000-2	1000-2	NA
				T-n*	2000-2	2000-2	NA
				C-d	1500-2	1500-2	NA
				C-n	2000-2	2000-2	NA
				A-dn	2500-2	2500-2	NA

Procedure turn S side of final approach crs, 066° Outbnd, 246° Inbnd. 4500′ within 10 miles. Beyond 10 miles NA.
Minimum altitude over facility on final approach course 3300′.
Course and distance, facility to airport—246°, 4.7 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.7 miles, climb to 3000′ on 246° radial. Make a climbing right turn within 10 miles and return to LEB VOR at 4500′.
NOTE: Sliding scale NA. No reduction in takeoff or landing visibility minimums authorized for local conditions.
*Runway 25 authorized for takeoff only. Night takeoffs and landings on Runway 7 NA.

City, Lebanon; State, N.H.; Airport Name, Lebanon Airport; Elev., 580′; Fac. Class., BVOR; Ident., LEB; Procedure No. 1, Amdt. 2; Eff. Date, 5 Dec. 59; Sup. Amdt. No. 1; Dated, 18 July 59

PUB LFR	PUB-VOR	Direct	6600	T-dn*	300-1	300-1	200-½
COS LOM	PUB-VOR	Direct	7500	C-d	600-1	600-1	600-1½
ELL RBn	PUB-VOR	Direct	7500	C-n	600-1	600-2	600-2
HNR RBn	PUB-VOR	Direct	7000	S-dn-26	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

*Takeoff below 300-1 not authorized on Runways 26 and 35.
Procedure turn S side of crs, 067° Outbnd, 247° Inbnd, 6000′ within 10 miles.
Minimum Altitude over facility on final approach crs, 5400′.
Crs and distance, facility to airport, 247—2.4.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.4 miles, make left climbing turn to 135° heading, intercept R-160 PUB VOR climbing to 7000′ Outbound on R-160 within 10 miles or, when directed by ATC, make left climbing turn, return to PUB VOR, continue climb to 6500′ on R-349 PUB within 15 miles.

City, Pueblo; State, Colo.; Airport Name, Pueblo Memorial; Elev., 4725′; Fac. Class., BVOR; Ident., PUB; Procedure No. 1, Amdt. 6; Eff. Date, 5 Dec. 59; Sup. Amdt. No. 5; Dated, 22 Nov. 58

4. The terminal very high frequency omnirange (TerVOR) procedures prescribed in § 609.200 are amended to read in part:

TERMINAL VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
BTL-LFR	BTL-VOR	Direct	2200	T-dn	300-1	300-1	200-½
AZO-VOR	BTL-VOR	Direct	2200	C-dn	600-1	600-1	600-1½
LFD-VOR	BTL-VOR	Direct	2200	S-dn-13	600-1	600-1	600-1
LeRoy Int	BTL-VOR	Direct	2200	A-dn	800-2	800-2	800-2
AZO-VOR	Wintergreen Int*	Direct	3000				
Wintergreen Int*	Augusta Int** (Final)	Direct	1600				

Procedure turn North side of crs, 318° Outbnd, 138° Inbnd, 3000′ within 10 mi. NA beyond 10 mi.
Minimum altitude over Augusta Int* on final approach crs, 1600′.
Crs and distance, Augusta Int** to BTL-VOR, 138°—5.0 mi.
Crs and distance, breakoff point to Rnwy 13, 127°—0.58 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished over BTL VOR, climb on R-138 to 2200′, then reverse course, proceed to BTL VOR.
CAUTION: 1954′ tower, 294°—13 mi. from airport.
NOTE: Aircraft must be dual omni equipped; otherwise 700-1 ceiling minimums apply.
*Wintergreen Int: Int AZO-VOR R-030 and BTL-VOR R-318.
**Augusta Int: Int AZO-VOR R-051 and BTL-VOR R-318.

City, Battle Creek; State, Mich.; Airport Name, Kellogg Field; Elev., 941′; Fac. Class., BVORTAC; Ident., BTL; Procedure No. TerVOR-13, Amdt. 2; Eff. Date, 5 Dec. 59; Sup. Amdt. No. 1; Dated, 10 Oct. 59

TERMINAL VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Flint LOM	Flint VOR	Direct	2200	T-dn	300-1	300-1	200-½
				C-dn	700-1	700-1	700-1½
				S-dn-36	700-1	700-1	700-1
				A-dn	800-2	800-2	800-2

Procedure turn East side of crs, 189° Outbnd, 009° Inbnd, 2200' within 10 mi.
Minimum altitude over FNT VOR on final approach crs, 1600'.
Crs and distance, breakoff point to Rny 36, 002°—0.40 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished over FNT VOR, climb to 2200' on R-009, then reverse course, proceed to FNT VOR.
CAUTION: Tower 21 mi NW 1599', tower 4.3 mi SE 1220'.

City, Flint; State, Mich.; Airport Name, Bishop Field; Elev., 781'; Fac. Class., BVOR; Ident., FNT; Procedure No. TerVOR-36, Amdt. 2; Eff. Date, 28 Nov. 59; Sup. Amdt. No. 1; Dated, 28 Nov. 59

5. The instrument landing system procedures prescribed in § 609.400 are amended to read in part:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Louisville VOR	LOM	Direct	2100	T-dn	300-1	300-1	200-½
Bourbon Int	LOM	Direct	2100	C-dn	500-1	500-1	500-1½
Elizabeth Int	LOM	Direct	2100	S-dn-1*	200-½	200-½	200-¼
				A-dn	600-2	600-2	600-2

Procedure turn NA due to Restricted Area. Radar vector to final approach required. If radar contact not established during transition, proceed to the LOM, hold North, one minute pattern, right turns. If radar contact not established or radar inoperative, execution of this procedure not authorized.
Minimum altitude at Glide Slope int inbnd, 2100'.
Altitude of glide slope and distance to approach end of rny at OM 1870—4.9; at MM 665—0.5.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 2600' on R-309 LOU within 20 miles or, when directed by ATC, make a right turn as soon as practical, climbing to 2200' and proceed to LOU VOR at 2200'.
CAUTION: Obstruction 1060' 4 mi N of Standiford Field.
*400-¾ required with glide slope inoperative.

City, Louisville; State, Ky.; Airport Name, Standiford; Elev., 497'; Fac. Class., ILS; Ident., ISDF; Procedure No. ILS-1, Amdt. 18; Eff. Date, 5 Dec. 59; Sup. Amdt. No. 17 (ILS portion of Comb. ILS-ADF); Dated, 26 Oct. 57

These procedures shall become effective on the dates indicated on the procedures.

(Secs. 313(a), 307(c), 72 Stat. 752, 749; 49 U.S.C. 1354(a), 1348(c))

Issued in Washington, D.C., on October 30, 1959.

B. PUTNAM,
Acting Director, Bureau of Flight Standards.

[F.R. Doc. 59-9427; Filed, Nov. 6, 1959; 8:45 a.m.]

Title 7—AGRICULTURE

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

[Navel Orange Reg. 169]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 914.469 Navel Orange Regulation 169.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel 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 recommendation and information submitted by the Navel 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 navel 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 navel 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 navel 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 November 5, 1959.

(b) *Order.* (1) The respective quantities of navel 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., November 8, 1959, and ending at 12:01 a.m., P.s.t., November 15, 1959, are hereby fixed as follows:

(i) District 1: 400,000 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: Unlimited movement;

(iv) District 4: 75,000 cartons.

(2) All navel oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

(3) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," 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: November 6, 1959.

S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-9576; Filed, Nov. 6, 1959; 11:30 a.m.]

PART 938—IRISH POTATOES GROWN IN THE RED RIVER VALLEY OF NORTH DAKOTA AND MINNESOTA

Approval of Expenses and Rate of Assessment

Notice of rule making regarding the proposed expenses and rate of assessment to be made effective under Marketing Agreement No. 135 and Order No. 38 (7 CFR Part 938), regulating the handling of Irish potatoes grown in certain designated counties of North Dakota and Minnesota (the counties of Pembina, Walsh, Cavalier, Towner, Grand Forks, Nelson, Steele, Traill, Cass, Richland, and Ramsey of the State of North Dakota and Kittson, Marshall, Red Lake, Pennington, Polk, Norman, Mahnomen, Wilken, Otter Tail, Becker and Clay of the State of Minnesota), was published in the FEDERAL REGISTER October 14, 1959 (24 F.R. 8332). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The notice afforded interested persons an opportunity to file data, views, or arguments pertaining thereto not later than 15 days after publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, which proposals were adopted and submitted for approval by the Red River Valley Potato Committee, established pursuant to said marketing agreement and order, it is hereby found and determined that:

§ 938.203 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the Red River Valley Potato Committee, established pursuant to Marketing Agreement No. 135 and Order No. 38, to enable such committee to perform its functions pursuant to the aforesaid marketing agreement and order, during the fiscal period ending May 31, 1960, will amount to $18,228.25.

(b) The rate of assessment to be paid by each handler pursuant to Marketing Agreement No. 135 and Order No. 38, shall be $0.00183 per 100 pounds handled by him as the first handler thereof during said fiscal period.

(c) The terms used in this section shall have the same meaning as when used in Marketing Agreement No. 135 and Order No. 38.

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

Dated: November 4, 1959.

S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-9455; Filed, Nov. 6, 1959; 8:48 a.m.]

[Lemon Reg. 818]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 953.925 Lemon Regulation 818.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 23 F.R. 9053), 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 et seq.; 68 Stat. 906, 1047), 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 (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based become 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 November 4, 1959.

(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., November 8, 1959, and ending at 12:01 a.m., P.s.t., November 15, 1959, are hereby fixed as follows:

(i) District 1: 23,250 cartons;

(ii) District 2: 116,250 cartons;

(iii) District 3: 46,500 cartons.

(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: November 5, 1959.

S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-9521; Filed, Nov. 6, 1959; 8:50 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 78—BRUCELLOSIS IN DOMESTIC ANIMALS

Subpart D—Designation of Modified Certified Brucellosis-Free Areas, Public Stockyards, and Slaughtering Establishments

MISCELLANEOUS AMENDMENTS

Pursuant to § 78.16 of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restric-

tions on the interstate movement of animals because of brucellosis, under sections 4, 5, and 13 of the Act of May 29, 1884, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 120, 121, 125), § 78.13 of said regulations designating modified certified brucellosis-free areas is amended in the following respects:

1. The paragraph headed "Arkansas" is amended to read:

Arkansas: Baxter, Benton, Boone, Carroll, Calhoun, Clark, Cleburne, Columbia, Dallas, Faulkner, Fulton, Garland, Grant, Hempstead, Hot Spring, Independence, Izard, Johnson, Lafayette, Logan, Madison, Marion, Montgomery, Nevada, Newton, Ouachita, Perry, Pike, Polk, Pope, Saline, Sebastian, Scott, Searcy, Sharp, Stone, Union, Van Buren, Washington, and Yell Counties;

2. The paragraph headed "California" is amended to read:

California: Amador, Alpine, Butte, Colusa, Del Norte, El Dorado, Humboldt, Inyo, Lassen, Marin, Modoc, Mono, Nevada, Sacramento, Shasta, Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity, and Yolo Counties;

3. The paragraph headed "Colorado" is amended to read:

Colorado: Alamosa, Archuleta, Chaffee, Conejos, Costilla, Custer, Delta, Denver, Dolores, Eagle, Garfield, Gunnison, Hinsdale, La Plata, Logan, Mesa, Moffat, Montesuma, Montrose, Ouray, Phillips, Pitkin, Pueblo, Rio Grande, Saguache, San Juan, San Miguel, and Sedgwick Counties; Southern Ute Indian Reservation and Ute Mountain Ute Reservation;

4. The paragraph headed "Florida" is amended to read:

Florida: Baker, Bay, Calhoun, Columbia, Dixie, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayete, Leon, Levy, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton, and Washington Counties;

5. The paragraph headed "Georgia" is amended to read:

Georgia: Appling, Atkinson, Bacon, Baldwin, Baker, Banks, Bartow, Barrow, Ben Hill, Berrien, Bleckley, Brantley, Brooks, Bryan, Bullock, Burke, Butts, Candler, Carroll, Chatham, Chattahoochee, Chattooga, Cherokee, Clarke, Clay, Clayton, Cobb, Coffee, Colquitt, Columbia, Cook, Crawford, Dade, Dawson, Decatur, DeKalb, Dodge, Douglas, Early, Echols, Effingham, Elbert, Evans, Fannin, Floyd, Forsyth, Franklin, Gilmer, Glascock, Glynn, Gordon, Grady, Greene, Gwinnett, Habersham, Hall, Hancock, Haralson, Hart, Heard, Irwin, Jackson, Jasper, Jefferson, Jeff Davis, Jenkins, Johnson, Jones, Lamar, Lanier, Laurens, Liberty, Lincoln, Lowndes, Long, Lumpkin, Madison, Marion, McDuffie, Meriwether, Miller, Monroe, Montgomery, Murray, Muscogee, Oconee, Oglethorpe, Paulding, Peach, Pickens, Pierce, Pike, Polk, Quitman, Rabun, Randolph, Richmond, Rockdale, Schley, Screven, Spalding, Stephens, Talbot, Tattnall, Taylor, Telfair, Tift, Toombs, Towns, Truetlen, Troup, Turner, Twiggs, Union, Upson, Walker, Walton, Ware, Warren, Washington, Wayne, Webster, Wheeler, White, Whitefield, Wilcox, Wilkes, Wilkinson, and Worth Counties;

6. The paragraph headed "Illinois" is amended to read:

Illinois: Boone, Bond, Bureau, Champaign, Clay, Clinton, Coles, Cook, Cumberland, De Kalb, Du Page, Edgar, Effingham, Ford, Greene, Grundy, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Lake, La Salle, Lawrence, Lee, Livingston, McHenry, McLean, Macon, Monroe, Moultrie, Ogle, Perry, Stephenson, Vermilion, Wabash, Washington, Will, Woodford, and Winnebago Counties;

7. The paragraph headed "Indiana" is amended to read:

Indiana: Adams, Allen, Benton, Blackford, Brown, Cass, Clark, Clay, Clinton, Crawford, Daviess, Dearborn, Decatur, De Kalb, Delaware, Dubois, Elkhart, Floyd, Fulton, Grant, Hancock, Harrison, Hendricks, Howard, Huntington, Jackson, Jennings, Jasper, Jay, Johnson, Lagrange, Lake, La Porte, Madison, Marion, Marshall, Martin, Noble, Orange, Parke, Perry, Pike, Porter, Posey, Pulaski, Randolph, Rush, Shelby, St. Joseph, Spencer, Starke, Steuben, Sullivan, Switzerland, Union, Vanderburgh, Vermillion, Vigo, Wabash, Warrick, Wayne, Wells, and Whitley Counties;

8. The paragraph headed "Kentucky" is amended to read:

Kentucky: Anderson, Bracken, Calloway, Campbell, Elliott, Fulton, Graves, Greenup, Hickman, Hopkins, Jackson, Johnson, Lawrence, Metcalf, Morgan, Rockcastle, Rowan, Simpson, Todd, Trigg, Trimble, Warren, and Wolfe Counties;

9. The paragraph headed "Missouri" is amended to read:

Missouri: Andrew, Bates, Barry, Bollinger, Boone, Butler, Cape Girardeau, Carroll, Charlton, Christian, Dade, Dallas, Daviess, Dent, Douglas, Franklin, Greene, Iron, Jackson, Jasper, Jefferson, Lawrence, Lincoln, Monroe, Montgomery, Newton, Oregon, Osage, Perry, Pettis, Phelps, Polk, Putnam, Ralls, Ray, Reynolds, Ripley, St. Charles, St. Francois, Ste. Genevieve, Shelby, Texas, Warren, Webster, Worth, and Wright Counties;

10. The paragraph headed "Nebraska" is amended to read:

Nebraska: Adams, Butler, Cass, Cedar, Clay, Colfax, Dakota, Dixon, Dodge, Douglas, Fillmore, Franklin, Hall, Hamilton, Howard, Johnson, Lancaster, Madison, Merrick, Nance, Nemaha, Nuckolls, Otoe, Pierce, Platte, Polk, Richardson, Saline, Saunders, Seward, Stanton, Thayer, Thurston, Washington, Wayne, and York Counties;

11. The paragraph headed "New York" is amended to read:

New York: Albany, Allegany, Bronx, Broome, Cattaraugus, Cayuga, Chautauqua, Chenango, Chemung, Clinton, Columbia, Cortland, Delaware, Dutchess, Essex, Franklin, Fulton, Greene, Hamilton, Herkimer, Jefferson, Kings, Lewis, Nassau, New York, Niagara, Madison, Montgomery, Onondaga, Orange, Oswego, Otsego, Putnam, Rensselaer, Richmond, Rockland, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, and Westchester Counties;

12. The paragraph headed "North Dakota" is amended to read:

North Dakota: Barnes, Benson, Bottineau, Bowman, Burke, Cass, Cavalier, Divide, Dunn, Emmons, Grand Forks, Foster, Grant, Griggs, Hettinger, McHenry, McKenzie, McLean, Mercer, Morton, Mountrail, Nelson, Oliver, Pembina, Pierce, Ramsey, Renville, Rolette, Sheridan, Sioux, Slope, Stark, Steele, Towner, Traill, Walsh, Ward, Wells, and Williams Counties;

13. The paragraph headed "Ohio" is amended to read:

Ohio: Athens, Belmont, Carroll, Columbiana, Cuyahoga, Fulton, Guernsey, Hancock, Henry, Hardin, Hocking, Jackson, Knox, Logan, Lucas, Mahoning, Meigs, Monroe, Morrow, Morgan, Muskingum, Noble, Ottawa, Paulding, Putnam, Scioto, Seneca, Shelby, Tuscarawas, Van Wert, Vinton, Washington, Wood and Wyandot Counties;

14. The paragraph headed "South Dakota" is amended to read:

South Dakota: Butte, Custer, Grant, Harding, Lawrence, Lincoln, and Union Counties;

15. The paragraph headed "Tennessee" is amended to read:

Tennessee: The entire State.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, sec. 3, 33 Stat. 1265, as amended, sec. 13, 65 Stat. 693; 21 U.S.C. 111–113, 114a–1, 120, 121, 125; 19 F.R. 74, as amended; 9 CFR 78.16)

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

The amendment deletes Burt, Cuming, and Sarpy Counties in Nebraska from the list of areas designated as modified certified brucellosis-free areas, because it has been determined that such counties no longer come within the definition of § 78.1(i), and adds certain additional areas which have been determined to come within such definition.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 4th day of November 1959.

R. J. ANDERSON,
Director, Animal Disease Eradication Division, Agricultural Research Service.

[F.R. Doc. 59-9458; Filed, Nov. 6, 1959; 8:48 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7415 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

DoAll Co.

Subpart—*Advertising falsely or misleadingly:* § 13.15 *Business status, advantages, or connections:* Exclusive distributor or producer; [1] unique or special status or advantages: § 13.20 *Comparative data or merits;* § 13.85 *Government approval, action, connection or standards:* National Bureau of Standards;

[1] Amended to read as set forth.

tests and investigations; § 13.205 *Scientific or other relevant facts;* § 13.265 *Tests and investigations;* § 13.280 *Unique nature or advantages.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, The DoAll Company, Des Plaines, Ill., Docket 7415, September 17, 1959]

In the Matter of the DoAll Company, a Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a manufacturer of granite surface plates and gage blocks in Des Plaines, Ill., with making such false representations in trade journals, brochures, price lists, etc., as that Bureau of Standards tests revealed that its granite was superior to all others, and in a search for better granite found its black granite to be superior to all; that the Bureau made tests of granite taken from a particular quarry and that it was the owner and exclusive user of the granite quarried therefrom; that its granite was taken from the same quarry as the sample the Bureau tested; and that it was the sole producer of Class 1 Black granite as set out in Federal Specifications.

After acceptance of an agreement for a consent order, the hearing examiner made his initial decision and order to cease and desist which became on September 17 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent The DoAll Company, a corporation, its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of granite products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. The U.S. Bureau of Standards ascertained by tests, or in any other manner, that the granite used by respondent is superior over all other granites in density, hardness, compression strength and other properties.

2. The respondent is the exclusive producer of Class 1 Black granite as set out in Federal Specifications GGG–P–463; or any other specifications issued or published by a department, division, bureau or branch of the United States Government, unless such be the fact.

3. The U.S. Bureau of Standards made a search for better granites or that the said Bureau ascertained that the granite used by respondent was superior to all other granites.

4. The U.S. Bureau of Standards made tests of granite taken from a quarry named Quarry 115 or that respondent is the owner of the quarry from which the granite tested under Serial No. 115, as shown in Research Paper RP1320, was taken, or that respondent is the exclusive user of said granite.

5. The granite used by the respondent is from the same quarry as the sample tested by the U.S. Bureau of Standards as Serial No. 115 in its Research Paper RP1320.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: September 17, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-9436; Filed, Nov. 6, 1959; 8:46 a.m.]

[Docket 7479 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Martin Stuart Woolen Co. and Abraham Baker

Subpart—*Invoicing products falsely:* § 13.1108 *Invoicing products falsely:* Wool Products Labeling Act. Subpart—*Misbranding or mislabeling:* § 13.1190 *Composition:* Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* Wool Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1852 *Formal regulatory and statutory requirements:* Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2–5, 54 Stat. 1128–1130; 15 U.S.C. 45, 68–68(c)) [Cease and desist order, Martin Stuart Woolen Company et al., New York, N.Y., Docket 7479, Sept. 17, 1959]

In the Matter of Martin Stuart Woolen Company, a Corporation, and Abraham Baker, Individually and as an Officer of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging New York City manufacturers with violating the Wool Products Labeling Act by labeling and identifying on invoices and shipping memoranda as "100% Cashmere", fabrics which contained a substantial quantity of fibers other than cashmere, and by failing to label wool products as required.

After acceptance of an agreement for a consent order, the hearing examiner made his initial decision and order to cease and desist which became on September 17 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That the respondents Martin Stuart Woolen Company, a corporation, and its officers, and Abraham Baker, individually, and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction, into commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of wool products, as such products are defined in and subject to the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or amount of the constituent fibers included therein.

2. Failing to securely affix or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool products, exclusive of ornamentation not exceeding five percentum of said total fiber weight, of (1) wool, (2) reused wool, (3) reprocessed wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of such wool products of any nonfibrous loading, filling or adulterating matter;

(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool products into commerce, or in the offering for sale, sale, transportation, distribution, or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

It is further ordered, That the respondents Martin Stuart Woolen Company, a corporation, and its officers, and Abraham Baker, individually, and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of fabrics in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, directly or indirectly: Misrepresenting the character or amount of the constituent fibers contained in such products in invoices or shipping memoranda applicable thereto, or in any other manner.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: September 17, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-9437; Filed, Nov. 6, 1959; 8:46 a.m.]

[Docket 7441 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Woolart Mills, Inc., et al.

Subpart—*Invoicing products falsely:* § 13.1108 *Invoicing products falsely:* Wool Products Labeling Act. Subpart—*Misbranding or mislabeling:* § 13.1212 *Formal regulatory and statutory requirements:* Wool Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1845 *Composition:* Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2–5, 54 Stat. 1128–1130; 15 U.S.C. 45, 68–68(c)) [Cease and desist order, Woolart Mills, Inc., et al., New York, N.Y., Docket 7441, September 15, 1959]

In the Matter of Woolart Mills, Inc., a Corporation, and Fred Kloeckener, and Sam A. Spina, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging New York City distributors with misrepresenting the fiber content of certain wool products on invoices, and with violating the Wool Products Labeling Act by failing to label wool products as required.

After acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on September 15 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents Woolart Mills, Inc., a corporation, and its officers, and Fred Kloeckener and Sam A. Spina, individually and as officers of the corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of "wool products" as such products are defined in and subject to the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Failing to securely affix to or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of such wool products, of any non-fibrous loading, filling or adulterating matter;

(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

It is further ordered, That respondents, Woolart Mills, Inc., a corporation, and its officers, and Fred Kloeckener and Sam A. Spina, individually and as officers of the corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of textile fabrics in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, on invoices, in advertising, or through any other media, in any manner, directly or by implication, that said fabrics are composed of certain percentages of a particular fiber, or fibers, or are substantially composed of a particular fiber, or fibers, unless such is the fact.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents Woolart Mills, Inc., a corporation, and Fred Kloeckener and Sam a Spina, individually and as officers of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: September 15, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-9438; Filed, Nov. 6, 1959; 8:46 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board

PART 201—DEFINITIONS

PART 220—DEFINITION AND CREDITABILITY OF SERVICE

PART 299—PRIOR SERVICE RECORDS

1. Pursuant to the general authority contained in section 10 of the act of June 24, 1937 (50 Stat. 314, 45 U.S.C. 228 (j)), § 201.1 of Part 201 (20 CFR 201.1), § 220.4 of Part 220 (20 CFR 220.4), and Part 299 (20 CFR 299.1–299.74) are amended by Board Order 59–190, dated October 21, 1959, to read as follows:

§ 201.1 Words and phrases.

* * * * *

(h) *United States.* The term "United States" where used in a geographical sense means the States and the District of Columbia.

§ 220.4 Verification of service claimed.

* * * * *

(f) For the purpose of verifying service prior to 1937, employers shall preserve in accessible form original records of such service (and compensation therefor) for a number of years which when added to the years elapsed after 1936 total at least 50.

2. Part 299 is repealed.

Dated: November 2, 1959.

By authority of the Board.

MARY B. LINKINS, *Secretary of the Board.*

[F.R. Doc. 59-9441; Filed, Nov. 6, 1959; 8:46 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

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

Miscellaneous Amendments

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended, 72 Stat. 948, 21 U.S.C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F.R. 1045; 23 F.R. 9500) the regulations for the certification of antibiotic and antibiotic-containing drugs (21 CFR 146a.44; 21 CFR, 1958 Supp., 146a.53, 146c.208) are amended as indicated below:

1. In § 146a.44 *Procaine penicillin* * * * paragraph (c)(3) is amended by changing the words "48 months" to read "48 months or 60 months".

2. In § 146a.53 *Capsules penicillin and novobiocin* paragraph (b)(1) is amended by changing the words "24 months or 36 months" to read "24 months, 36 months, or 48 months".

3. In § 146c.208 *Chlortetracycline otic* * * * paragraph (c)(1)(iii) is amended by changing the words "24 months" to read "36 months", and changing the colon after the word "certified" to a semicolon and deleting the remainder of the subdivision.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry, and since it would be against public interest to delay providing for the amendments covered by this order.

Effective date. This order shall become effective upon publication in the

FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

(Secs. 507, 701, 59 Stat. 463, 52 Stat. 1055, as amended; 21 U.S.C. 357, 371)

Dated: November 2, 1959.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 59-9439; Filed, Nov. 6, 1959; 8:46 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

SUBCHAPTER A—ALASKA

[Circular No. 2029]

PART 76—STATE GRANTS

Lands Subject to Selection; Patents; Minerals

In order to incorporate in the regulations the provisions of the act of August 18, 1959 (73 Stat. 395), paragraph (a) of § 76.12 is revised to read as set forth below.

This amendment relates to matters which are exempt from the rule making requirements of the Administrative Procedure Act (5 U.S.C. 1003), and although the Department of the Interior customarily observes the rule making requirements voluntarily, that procedure was not followed in this case since this change in the regulations is merely a reflection of the amendment to the law. The provisions of this change in the regulations became effective on the effective date of the act, August 18, 1959.

ROGER ERNST,
Acting Secretary of the Interior.

NOVEMBER 3, 1959.

§ 76.12 Lands subject to selection; patents; minerals.

(a) The act as amended August 18, 1959 (73 Stat. 395), provides that any lease, permit, license, or contract issued under the Mineral Leasing Act of 1920 (41 Stat. 437; 30 U.S.C. 181 et seq.), as amended, or under the Alaska Coal Leasing Act of 1914 (38 Stat. 741; 30 U.S.C. 432 et seq.), as amended, referred to in this section as "the mineral leasing acts," shall have the effect of withdrawing the lands subject thereto from selection by the State, unless the State files an application to select such lands within a period of five years after January 3, 1959. Selections of such areas must include the entire area that is subject to each lease, permit, license, or contract.

(Sec. 76.12 issued under sec. 6, 72 Stat. 342, as amended, 73 Stat. 395)

[F.R. Doc. 59-9440; Filed, Nov. 6, 1959; 8:46 a.m.]

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2015]

[Montana 034133]

MONTANA

Partly Revoking Reclamation Withdrawal (Milk River Project)

By virtue of the authority contained in section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), it is ordered as follows:

The departmental orders of August 18, 1902 and February 9, 1903, so far as they withdrew the following-described lands for reclamation purposes, are hereby revoked:

MONTANA PRINCIPAL MERIDIAN

T. 31 N., R. 26 E.,
Sec. 25, lot 1.
T. 31 N., R. 32 E.,
Sec. 15, E½SE¼;
Sec. 22, E½NE¼.

Containing 199.57 acres.

2. The lands in sections 15 and 22 are included in allowed reclamation homestead entry, Glasgow 03849.

3. Subject to any valid existing rights and the requirements of applicable law, the lands in section 25 are hereby opened to filing of applications, selections and locations as follows:

a. Until 10:00 a.m. on May 2, 1960, the State of Montana shall have a preferred right of application to select the lands in accordance with and subject to the provisions of subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851–2), and the regulations in 43 CFR.

(1) All applications under the public land laws, other than from the State, filed on or before 10:00 a.m. on May 2, 1960, shall be considered as simultaneously filed at that time. Applications received thereafter shall be considered in the order of filing.

(2) All applications under (1) above, shall be subject to these from persons having prior existing valid settlement rights, preference rights conferred by existing law, and equitable claims subject to allowance and confirmation.

b. The land has been open to applications and offers under the mineral leasing laws, and to location under the mining laws.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Billings, Montana.

ROGER ERNST,
Assistant Secretary of the Interior.

NOVEMBER 3, 1959.

[F.R. Doc. 59-9450; Filed, Nov. 6, 1959; 8:47 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Part 131]

ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

Manner of Classifying Wholesalers

Notice is hereby given that the Control Agency is considering the issuance, as hereinafter proposed, of an amendment to the rules and regulations of the Control Agency, issued pursuant to the authority contained in Public Law 320, 74th Congress, approved August 24, 1935 (49 Stat. 781; 7 U.S.C. 851 et seq.), and the order regulating the handling of anti-hog-cholera serum and hog-cholera virus (9 CFR Part 131).

All persons who desire to submit data, views or arguments in connection with the proposed amendment should file the same in quadruplicate with the Executive Secretary of the Control Agency, 512 Veterans of Foreign Wars Building, Kansas City 11, Missouri, not later than 30 days after the publication of this notice in the FEDERAL REGISTER.

The proposed amendment is as follows:

Amend § 131.242 by inserting the words "No application for classification as a wholesaler shall be considered by the Control Agency until it has been on file in the Office of the Executive Secretardy for sixty (60) days", immediately following the first sentence, so that the first paragraph of § 131.242 will read as follows:

§ 131.242 Manner of classifying wholesalers.

Any person not presently so classified who desires to be classified as a wholesaler must apply for such classification on a form prescribed by the control agency and must prove to the satisfaction of the control agency that he performs the functions required by § 131.8, or that he meets the requirements of § 131.8 as further defined by §§ 131.222 and 131.223. No application for Classification as a wholesaler shall be considered by the Control Agency until it has been on file in the Office of the Executive Secretary for sixty (60) days. The form of such application is as follows:

Dated this 24th day of September 1959.

CONTROL AGENCY,
E. A. CAHILL, Jr.,
Chairman.

[F.R. Doc. 59-9457; Filed, Nov. 6, 1959; 8:48 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 507]

[Reg. Docket No. 174]

AIRWORTHINESS DIRECTIVES

Douglas DC–6 Aircraft

Pursuant to the authority delegated to me by the Administration (§ 405.27, 24 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive for certain Douglas DC–6 aircraft.

Several instances of cracks in the wing spar caps have been reported. All cases have occurred in aircraft having in excess of 16,000 hours service time. In order to detect cracks and prevent possible catastrophic fatigue failures, an airworthiness directive requiring inspection of the lower front and center spar caps is considered necessary in the interest of safety.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination by interested persons in the Docket Section when the prescribed time for return of comments has expired. This proposal will not be given further distribution as a draft release.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) by adding the following airworthiness directive:

DOUGLAS. Applies to the following aircraft: DC–6 Serial Numbers 42878, 43030–43033 inclusive, 43136, 43148–43151 inclusive, 43212–43214 inclusive, and 43216–43218 inclusive.

Compliance required as indicated.

To detect cracking of the lower front and center spar cap tangs at intersection with lower fuselage attach angle the following must be accomplished on affected DC–6 aircraft having in excess of 16,000 hours service time.

(a) Inspect lower front spar cap at the nearest maintenance inspection period to 200 hours service time unless similar inspection has been conducted within the last 1,250 hours service time.

(b) Inspect lower front and center spar caps at maintenance inspection period nearest to each succeeding 1,250 hours service time.

(1) At the first 1,250-hour inspection period, the holes located in aft tang of front spar lower cap and fuselage attach angle should be enlarged and new attachments installed. (Kit "A" of Douglas SB A–845 or equivalent.)

(2) At next regularly scheduled overhaul period, the holes located in forward tang of front spar lower cap should be enlarged and new attachments installed. (Kit "A" of Douglas SB A–845 or equivalent.)

(c) If spar cap cracks are found, temporary rework per Drawing No. 3645935 (Kit "B"), or permanent rework per Drawing No. 5765079 (Kit "C") or equivalent must be accomplished. If temporary rework is installed, inspection must be repeated at 1,250-hour intervals for a maximum of 3,200 hours service time at which time permanent rework per Drawing No. 5765079 (Kit "C"), or equivalent, must be accomplished.

(d) All aircraft must have permanent rework per Drawing No. 5765079 (Kit "C"), or equivalent, accomplished within next 6,400 hours service time.

(e) After installation of permanent rework per Kit "C", or equivalent, operators may revert to normal repetitive inspection periods not to exceed 3,200 hours service time.

(Douglas Service Bulletin DC–6 No. A–845 dated July 31, 1959, covers this same subject.)

Issued in Washington, D.C., on October 30, 1959.

B. PUTNAM,
Acting Director, Bureau of Flight Standards.

[F.R. Doc. 59–9425; Filed, Nov. 6, 1959; 8:45 a.m.]

NOTICES

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12310, 12914; FCC 59M–1455]

ENTERTAINMENT AND AMUSEMENTS OF OHIO, INC., AND WMBO, INC. (WMBO)

Order Scheduling Hearing

In re applications of Entertainment and Amusements of Ohio, Inc., Solvay, New York, Docket No. 12310, File No. BP–10988; WMBO, Incorporated (WMBO), Auburn, New York, Docket No. 12914, File No. BP–12271; for construction permits.

The Hearing Examiner having under consideration a petition filed October 30, 1959, on behalf of Entertainment and Amusements of Ohio, Inc., requesting that the date for hearing in this proceeding be set at 2:00 p.m. on November 17, 1959; and

It appearing that counsel for the interested parties have informally consented to the immediate consideration and grant of the petition, and that a grant thereof will conduce to the orderly dispatch of the Commission's business; now therefore:

It is ordered, This 3d day of November 1959, that the above petition is granted, and that the hearing in this proceeding shall be commenced at 2:00 p.m. on Tuesday, November 17, 1959.

Released: November 3, 1959.

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

[F.R. Doc. 59–9452; Filed, Nov. 6, 1959; 8:48 a.m.]

[Docket No. 13186; FCC 59M–1458]

M & M BROADCASTING CO. (WLUK–TV)

Order Following Prehearing Conference

In re application of: M & M Broadcasting Company (WLUK–TV), Marinette, Wisconsin, Docket No. 13186, File No. BMPCT–5325; for modification of construction permit.

A prehearing conference in the above-entitled matter having been held on October 29, 1959, and it appearing that certain agreements were reached therein which properly should be formalized in an order:

It is ordered, This 3d day of November 1959; that:

1. The parties shall exchange their proposed technical exhibits (with copies to be supplied to the Hearing Examiner and the Broadcast Bureau) by December 8, 1959; and

2. The parties shall exchange the lists of their proposed witnesses (with copies to be supplied to the Hearing Examiner and the Broadcast Bureau) by December 8, 1959; and

It is further ordered, That the hearing in this proceeding heretofore scheduled to commence on December 3, 1959, is hereby continued to Tuesday, December 15, 1959, at 10:00 o'clock a.m., in the offices of the Commission, Washington, D.C.

Released: November 4, 1959.

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

[F.R. Doc. 59–9453; Filed, Nov. 6, 1959; 8:48 a.m.]

[Docket No. 13056; FCC 59M–1457]

NATIONAL BROADCASTING CO., INC. (WRCA)

Order Continuing Hearing Conference

In re application of National Broadcasting Company, Inc., (WRCA), New York, N.Y., Docket No. 13056, File No. BP–11796; for construction permit.

The Hearing Examiner having under consideration a motion filed on November 2, 1959, by National Broadcasting Company, Inc., requesting that the prehearing conference in the above-entitled

proceeding presently scheduled for November 5, 1959, be continued to December 4, 1959;

It appearing, that counsel for the Broadcast Bureau, the only other party to this proceeding, has informally agreed to a waiver of the four-day requirement of § 1.43 of the Commission's rules and consented to a grant of the instant motion;

It is ordered, This 3d day of November 1959, that the motion be and it is hereby granted; and the prehearing conference in the above-entitled proceeding be and it is hereby continued to December 4, 1959, at 10:00 a.m., in Washington, D.C.

Released: November 4, 1959.

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

[F.R. Doc. 59-9454; Filed, Nov. 6, 1959; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P. & S. Docket No. 1598]

CHATTANOOGA UNION STOCK YARDS

Notice of Petition for Modification of Rate Order

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), an order was issued on July 24, 1959 (18 A.D. 803), authorizing the respondent, Chattanooga Union Stock Yards, Chattanooga, Tennessee, to assess the current temporary schedule of rates and charges to and including July 31, 1961, unless modified or extended before that date.

By a petition filed on October 8, 1959, the respondent requested authority to modify the current schedule of rates and charges as indicated below:

	Proposed		Present	
	Commission	Yardage	Commission	Yardage
Section No. 1—Cattle:				
Cattle (300 lbs. and over), per head	$1.00	$1.00	$1.25	$0.75
Bulls, per head	2.50	1.25	1.50	1.00
Bulls (if sell under $75.00 each), per head	1.50	1.00	----------	----------
Springing cows, per head	1.75	1.25	1.50	1.00
Springing cows (if sell under $75.00 each), per head	1.50	1.00	----------	----------
Cow and calf	2.50	1.00	----------	----------
Cows by head (when accompanied by owners statement), per head	2.00	1.00	----------	----------
Cattle, special sales (4H and FFA club sales, pure bred and registered shows and sales), per head	3.00	----------	3.00	----------
Section No.2—Calves: Calves (under 300 lbs.), per head	1.00	.25	.75	.25
Section No. 3—Hogs:				
Hogs—all weights, per head	.75	.35	.60	.25
Sows, per head	.70	.30	----------	----------
Boars and stags, per head	1.00	.30	----------	----------
Sows and pigs	1.00	.30	----------	----------
Hogs, special sales (4H and FFA club sales, pure bred and registered shows and sales), per head	1.25	----------	1.00	----------
Section No. 4—Sheep and goats: Lambs, sheep, ewes, bucks, and goats, per head	.50	.25	.40	.25
Section No. 5. [This is a new provision.] The total charge shall not exceed 50% of the gross value of the consignment	----------	----------	----------	----------
Section No. 6—No sales: When a consignor rejects the bid for his livestock which has been offered for auction, the following charges will apply in place of the regular charges:				
Cattle (300 lbs. and over), per head	1.00	----------	.88	----------
Calves (under 300 lbs.), per head	.50	----------	.45	----------
Hogs, per head	.50	----------	.35	----------
Sheep, lambs, goats, per head	.30	----------	.20	----------

Section No. 7. [This is a new provision.] We reserve the right to purchase livestock direct from the farmers in the country in the capacity of a dealer, without assessing the charges in Sections 1, 2, 3, and 4.

Section No. 8—Buying charges. [This is a new provision.]

Item 1—Cattle: $1.00 per head. The maximum charge for buying a carload of cattle shall not exceed $30.00.

Item 2—Stockers and feeders: $2.00 per head. The maximum charge for buying a carload of stockers and feeders shall not exceed $50.00.

Item 3—Calves: $0.50 per head. The maximum charge for buying a single deck car of calves shall not exceed $25.00 nor more than $35.00 for a double deck car.

Item 4—Hogs: $0.50 per head. The maximum charge for buying a single deck car of hogs shall not exceed $25.00 nor more than $35.00 for a double deck car.

Item 5—Sheep, lambs, goats: $0.50 per head. The maximum charge for buying a single deck car of sheep, lambs, or goats shall not exceed $25.00 nor more than $35.00 for a double deck car.

The modifications, if authorized, will produce additional revenue for the respondent and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in the matter shall notify the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., within 15 days after the publication of this notice.

Done at Washington, D.C., this 4th day of November 1959.

DAVID M. PETTUS,
Director, Livestock Division, Agricultural Marketing Service.

[F.R. Doc. 59-9456; Filed, Nov. 6, 1959; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-13283 etc.]

W. E. BAKKE ET AL.

Notice of Severance

OCTOBER 30, 1959.

In the matters of W. E. Bakke (Operator) et al., Docket No. G-13283, et al.; Joseph S. Morris (Operator) et al., Docket No. G-13399.

Notice is hereby given that the application in Docket No. G-13399 filed by Joseph S. Morris (Operator) et al. is severed from the above entitled consolidated proceedings now scheduled for hearing on November 17, 1959, for such disposition as may hereinafter be determined appropriate by the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-9428; Filed, Nov. 6, 1959; 8:45 a.m.]

[Docket Nos. G-20010, G-19987]

H. L. BROWN ET AL.

Order for Hearings and Suspending Proposed Changes in Rates [1]

OCTOBER 30, 1959.

In the matters of H. L. Brown et al., Docket No. G-20010; Shell Oil Company, Docket No. G-19987.

H. L. Brown et al. (Brown) and Shell Oil Company (Shell) on October 2, 1959 and October 22, 1959, respectively, tendered for filing proposed changes in their presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Brown

Description: Notice of Change, dated October 2, 1959.

Purchaser: Tennessee Gas Transmission Co.

Rate schedule designation: Supplement No. 1 to Brown's FPC Gas Rate Schedule No. 12.

Effective date: November 2, 1959.[2]

Shell

Description: Notice of Change, dated October 20, 1959.

Purchaser: Texas Gas Pipe Line Corp.

Rate schedule designation: Supplement No. 8 to Shell's FPC Gas Rate Schedule No. 29.

Effective date: November 22, 1959.[2]

Brown's proposed rate increase is from 12.12268 cents per Mcf to 17.24347 cents per Mcf. Shell's increase is from 13.-

[1] This order does not provide for the consolidation for hearing for disposition of the several matters covered therein, nor should it be so construed.

[2] The stated effective date is the first day after expiration of the required thirty days' notice.

91328 cents[3] per Mcf to 17.25 cents per Mcf. In both instances pressure base is 14.65 psia.

In support of its proposed redetermined rate increase, Brown states that the contract resulted from arm's-length negotiations and that the pricing arrangement is economically desirable, in the public interest, and common in many long-term contracts in order to permit initial delivery at a price lower than the average life price of the contract.

Shell's proposed redetermined rate increase is based upon a letter of agreement dated August 25, 1959, wherein Texas Gas Pipe Line Corporation states that the redetermined price is to be 18.0 cents per Mcf, provided, however, the price shall be 17.25 cents per Mcf if Trunkline Gas Company does not begin the taking of gas in Railroad Commission of Texas, District No. 3 under contracts providing a price of 20.0 cents per Mcf or more.

In support of its proposed increased rate, Shell states that the contract resulted from arm's-length negotiations, enables it to obtain a reasonable price for its gas, and protects itself against increasing costs. Shell also cites higher rates for new services authorized by the Commission.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the said proposed changes, and that Supplement No. 1 to Brown's FPC Gas Rate Schedule No. 12 and Supplement No. 8 to Shell's FPC Gas Rate Schedule No. 29 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 1 to Brown's FPC Gas Rate Schedule No. 12 and Supplement No. 8 to Shell's FPC Gas Rate Schedule No. 29.

(B) Pending such hearings and decisions thereon, said supplements be and they are each hereby suspended and the use thereof deferred in Brown's said supplement until April 2, 1960, and in Shell's said supplement until April 1, 1960, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until these proceedings have been disposed of or until the periods of suspensions have expired, unless otherwise ordered by the Commission.

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

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-9429; Filed, Nov. 6, 1959; 8:45 a.m.]

[3] Rate in effect subject to refund in Docket No. G-16595

LANDS WITHDRAWN IN PROJECTS NOS. 128 AND 930

Vacation of Withdrawals Under Section 24 of the Federal Water Power Act

OCTOBER 29, 1959.

In the matter of lands withdrawn in Projects Nos. 128 and 930 (24 F.R. 7429), issued September 8, 1959, the following changes are hereby made:

1. Change "N½SW¼"—described as being in sec. 18, T. 20 S., R. 36 E., Mount Diablo meridian, California—to "E½SW¼"; and

2. Change "SW¼NE¼"—described as being in sec. 9, T. 20 S., R. 35 E., Mount Diablo meridian, California—to "SE¼NE¼".

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-9430; Filed, Nov. 6, 1959; 8:45 a.m.]

[Docket No. G-19495]

MISSISSIPPI RIVER FUEL CORP.

Notice of Application and Date of Hearing

OCTOBER 30, 1959.

Take notice that Mississippi River Fuel Corporation (Applicant), a Delaware corporation with its principal place of business in St. Louis, Missouri, filed an application on September 17, 1959, and an amendment thereto on September 24, 1959, pursuant to section 7 of the Natural Gas Act, for an order disclaiming jurisdiction or, alternatively, for a certificate of public convenience and necessity authorizing (1) the continued operation of compression facilities previously installed (without certificate authorization) on Applicant's system in the Woodlawn Field, Texas, (2) construction and operation of additional compression facilities on the same system, and (3) permission for and approval of the abandonment or removal of facilities, all as more fully described in the application and amendment on file with the Commission, and open to public inspection.

Applicant states that the facilities for which certificate authorization is alternatively sought are gathering facilities for which no certificate of public convenience and necessity is required.

Applicant further states: (1) it agreed to construct and operate the Woodlawn Field gathering system and to install compression equipment as necessary to permit deliveries of gas from the producers' wells into the gathering system but that the natural flowing pressure of the wells has declined and now requires the installation of field compressors, which now number seven with an aggregate of 1,650 horsepower, (2) it estimates that 3,350 horsepower of additional compressor facilities will be needed during the productive life of the field, of which two compressor units totaling 850 horsepower are needed now, and (3) it will be necessary to move compression from one part of its gathering system to another part as operations require.

The estimated total cost of the compressor facilities already installed (1,650 horsepower) and the additional facilities proposed to be installed through 1962 (3,350 horsepower), or a total of 5,000 horsepower, is $1,374,350.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 15, 1959, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., respecting the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 4, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-9431; Filed, Nov. 6, 1959; 8:45 a.m.]

[Docket No. G-17844]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Application and Date of Hearing

OCTOBER 30, 1959.

Take notice that Natural Gas Pipeline Company of America (Applicant), filed in Docket No. G-17844 on February 16, 1959, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to construct and operate a tap connection on its main transmission line in La Salle County, Illinois, and a sales meter at that point, approximately 55 miles west of Joliet.

The purpose of the proposed construction is to deliver natural gas to Northern

Illinois Gas Company, an existing customer, for use by Northern Illinois in its Troy Grove Storage Field. The Illinois Commerce Commission on June 25, 1958, authorized Northern Illinois to develop the Troy Grove Storage Site as a storage reservoir and to construct and operate the facilities necessary therefor.

The total estimated cost of Applicant's proposed facilities is $21,100 which will be paid from funds on hand and later reimbursed in full by Northern Illinois, pursuant to letter agreement dated November 25, 1958, between Applicant and Northern Illinois.

The delivery and sale of the gas at the proposed new delivery point will be made as part of the existing authorized contract quantity of Northern Illinois. The sale will be made in accordance with Applicant's effective FPC Gas Tariff. The proposed facilities would enable Natural to deliver 25,000 to 30,000 Mcf per day to Northern Illinois at the new delivery point.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 9, 1959, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 27, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-9432; Filed, Nov. 6, 1959; 8:45 a.m.]

[Docket No. G-19986]

SLADE, INC. (OPERATOR)

Order for Hearing and Suspending Proposed Change in Rates

OCTOBER 30, 1959.

Slade, Inc. (Operator) (Slade) on October 1, 1959, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, October 1, 1959.

Purchaser: Tennessee Gas Transmission Company.

Rate schedule designation: Supplement No. 4 to Slade's FPC Gas Rate Schedule No. 5.

Effective date: November 1, 1959.[1]

Slade proposes an increased rate of 15.0952 cents per Mcf in lieu of its presently effective rate of 12.12268 cents per Mcf.

In support of its proposed redetermined rate increase, Slade states that the contract was negotiated at arm's length, that the price redetermination provisions in the contract are customary in long term contracts and protect sellers from the adverse effects of inflation, that its 1958 revenues even without consideration of a reasonable return on investment were insufficient to cover expenses, and that it has experienced losses in all accounting periods since its formation in 1956. Also, Slade cites various initial rates for sales in the area, several of which sales exceed the increase proposed herein.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 4 to Slade's FPC Gas Rate Schedule No. 5 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 4 to Slade's FPC Gas Rate Schedule No. 5.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until April 1, 1960, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

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

By the Commission. Commissioner Kline dissenting.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-9433; Filed, Nov. 6, 1959; 8:46 a.m.]

[1] The stated effective date is the first day after expiration of the required thirty days' notice.

[Docket Nos. G-19988—G-2008]

SUNRAY MID-CONTINENT OIL CO. ET AL.

Order for Hearing and Suspending Proposed Changes in Rates [1]

OCTOBER 30, 1959.

In the matters of Sunray Mid-Continent Oil Company (Operator), et al., Docket No. G-19988; W. H. Foster, et al., Docket No. G-19989; Greenbrier Oil Company, Docket No. G-19990; Greenbrier Oil Company (Operator), et al., Docket No. G-19991; Inland Natural Gasoline, Docket No. G-19992; Odessa Natural Gasoline Company, Docket No. G-19993; E. G. Rodman (Operator), et al., Docket No. G-19994; E. G. Rodman and W. D. Noel, Docket No. G-19995; Rodman-Noel Oil Corporation, Docket No. G-19996; Southwestern Oil & Refining Company, et al., Docket No. G-19997; Pan American Petroleum Corporation, Docket No. G-19998; M. J. Mitchell, Docket No. G-19999; Sunray Mid-Continent Oil Company, Docket No. G-20000; Christie, Mitchell & Mitchell Company, Docket No. G-20001; Olsen Oils, Inc. (Operator), et al., Docket No. G-20002; Olsen Oils, Inc., Docket No. G-20003; Woodley Petroleum Company, Docket No. G-20004; Woodley Petroleum Company (Operator), et al., Docket No. G-20005; Pan American Petroleum Corporation (Operator), Docket No. G-20006; Pan American Petroleum Corporation, et al., Docket No. G-20007; Pan American Petroleum Corporation (Operator), et al., Docket No. G-20008.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes are designated as follows:

[1] This order does not provide for the consolidation for hearing or disposition of the separately docketed matters covered herein, nor should it be so construed.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Notice of change dated—	Date tendered	Effective date [2] unless suspended	Rate suspended until—	Cents per Mcf: Rate in effect [3]	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in Docket Nos.
G-19988..	Sunray Mid-Continent Oil Co. (Operator), et al.	75	3	Tennessee Gas (El Panal Field, Starr County, Tex.).	9-28-59	10-5-59	11-5-59	4-5-60	12.12268	1.50952	----------
		3	6	Tennessee Gas (Premont Field, Panola County, Tex.).	9-29-59	10-5-59	11-5-59	4-5-60	12.12268	15.0952	----------
G-19989..	H. H. Foster et al.	1	5	Tennessee Gas (Bethany Field, Panola County, Tex.).	10- 5-59	10-5-59	11-5-59	4-5-60	12.62	14.4248	----------
G-19990..	Greenbrier Oil Co.	10	3	El Paso (Drinkard Field, Lea County, N. Mex.).	10- 1-59	10-5-59	11-5-59	4-5-60	10.5	13.34802	----------
		4	8	El Paso (Jack Herbert Field, Upton County, Tex.).	10- 1-59	10-5-59	11-5-59	4-5-60	[4] 10.6008	13.47616	G-14111
		4	9		10- 1-59	10-5-59	11-5-59	4-5-60	[5] 8.1080	11.06311	G-14111
G-19991..	Greenbrier Oil Co. (Operator), et al.	5	2	El Paso (Drinkard Field, Lea County, N. Mex.).	10- 1-59	10-5-59	11-5-59	4-5-60	10.5	13.34802	----------
G-19992..	Inland Natural Gasoline.	1	2	El Paso (S. Cowden Gasoline Plant, Ector County, Tex.).	9-30-59	10-5-59	11-5-59	4-5-60	11.0	13.984	G-14342
G-19993..	Odessa Natural Gasoline Co.	1	3	El Paso (Spraberry Trend Field, Midland and Regan Counties, Tex.).	9-29-59	10-1-59	11-1-59	4-1-60	11.0	13.984	G-14623
G-19994..	E. G. Rodman (Operator), et al.	1	7	El Paso (Jal Mat and Drinkard Fields, Lea County, N. Mex.).	10- 1-59	10-5-59	11-5-59	4-5-60	10.5	13.34802	----------
G-19995..	E. G. Rodman and W. D. Noel.	1	3	El Paso (Sprayberry Field, Midland County, Tex.).	9-30-59	10-2-59	11-2-59	4-2-60	11.0	13.984	G-14622
G-19996..	Rodman-Noel Oil Corp.	1	7	El Paso (Sweetie Peck Field, Midland County, Tex.).	9-30-59	10-2-59	11-2-59	4-2-60	11.0	13.984	----------
G-19997..	Southwestern Oil Refining Co., et al.	3	2	Tennessee Gas (Bailey Field, Jim Wells County, Tex.).	Undated	10-6-59	11-6-59	4-6-60	11.90337	14.87589	----------
G-19998..	Pan American Petroleum Corp.	191	3	El Paso (NE. Noelke Field, Crockett County, Tex.).	10- 9-59	10-12-59	1-1-60	[8]	12.0767	13.6335	G-16532
		218	1	El Paso (S. Andrews Devonian Field, Andrews County, Tex.).	10- 9-59	10-12-59	1-1-60	[8]	8.108	11.6359	----------
		17	8	El Paso (Yarbrough-Allen Field, Ector County, Tex.).	10- 9-59	10-12-59	1-1-60	[8]	8.3423	9.4178	----------
		20	10	El Paso (Payton Field, Pecos and Ward Counties, Tex.).	10- 9-59	10-12-59	1-1-60	[8]	14.1177	15.9377	G-16532
		21	9	El Paso (Levelland Field, Hockley County, Tex.).	10- 9-59	10-12-59	1-1-60	[8]	14.0632	15.878	G-16481
		101	5	El Paso (Langlie-Mattix Field, Lea County, N. Mex.).	10- 9-59	10-12-59	1-1-60	[8]	13.3479	15.0686	G-16532
		110	14	El Paso (Eunice and Monument, et al. Fields, Lea County, N. Mex.).	10- 9-59	10-12-59	1-1-60	[8]	[9] 13.3995	15.1268	G-16532
									[6] 12.9510	14.6783	G-16532
									[7] 10.8472	12.2456	G-16532
		129	13	El Paso (Spraberry Field, Reagan County, Tex.).	10- 9-59	10-12-59	1-1-60	[8]	14.1177	15.9377	G-16480
		133	4	El Paso (Cogdell Field, Scurry and and Kent Counties, Tex.).	10- 9-59	10-12-59	1-1-60	[8]	12.7123	14.3511	G-16532
G-19999..	M. J. Mitchell	2	4	Tennessee Gas (Aqua-Pulce Field, Nueces County, Tex.).	9-30-59	10- 2-59	11-2-59	4-2-60	12.12268	17.24347	----------
G-20000..	Sunray Mid-Continent Oil Co.	72	4	Tennessee Gas (Beaurline Field, Hidalgo County, Tex.).	9-28-59	10- 5-59	11-5-59	4-5-60	12.12268	15.0952	----------
		74	4	Tennessee Gas (Ricon and Flores Fields, Starr and Hidalgo Counties, Tex.).	9-28-59	10- 5-59	11-5-59	4-5-60	12.12268	15.0952	----------
		1	5	Tennessee Gas (Edinburg Field, Hidalgo County, Tex.).	9-28-59	10- 5-59	11-5-59	4-5-60	12.12268	15.0952	----------
		81	9	El Paso (Spraberry Field, Midland County, Tex.).	Undated	10-12-59	1-1-60	[8]	14.118	15.938	G-16884
		92	4	El Paso (Fullerton Field, Andrews County, Tex.).	...do....	10-12-59	1-1-60	[8]	14.173	15.876	G-16884
G-20000..	Sunray Mid-Continent Oil Co.	93	4	El Paso (Levelland Field, Hockley County, Tex.).	...do....	10-12-59	1-1-60	[8]	14.173	15.876	G-16884
		94	5	El Paso (Slaughter Field, Hockley County, Tex.).	...do....	10-12-59	1-1-60	[8]	14.173	15.876	G-16884
G-20001..	Christie, Mitchell & Mitchell Co.	7	5	Tennessee Gas (La Sal Vieja Field, Willacy County, Tex.).	10- 1-59	10- 5-59	11-5-59	4-5-60	12.12268	15.0952	----------
G20002..	Olsen Oils, Inc. (Operator), et al.	16	5	El Paso (Jalmat Field, Lea County, N. Mex.).	9-30-59	10- 5-59	11-5-59	4-5-60	10.5406	13.3495	G-14088
		15	18	El Paso (Jalmat, Blinebry, Tubbs and Justis Fields, Lea County, N. Mex.).	9-30-59	10- 5-59	11-5-59	4-5-60	10.5406	13.3495	G-14076
G-20003..	Olsen Oils, Inc.	14	4	El Paso (Jalmat Field, Lea County, N. Mex.).	9-30-59	10- 5-59	11-5-59	4-5-60	10.5406	13.3495	G-14075
		13	5	...do....	9-30-59	10- 5-59	11-5-59	4-5-60	10.5406	13.3495	G-14075
G-20004..	Woodley Petroleum Co.	7	2	El Paso (Lea County, N. Mex.).	9-25-59	10- 5-59	11-5-59	4-5-60	10.5	13.34802	G-14186
G-20005..	Woodley Petroleum Co. (Operator), et al.	10	1	El Paso (Andrews Field, Andrews County, Tex.).	9-25-59	10- 5-59	11-5-59	4-5-60	8.108	10.2779	----------
G-20006..	Pan American Petroleum Corp. (Operator)	18	8	El Paso (Slaughter Field, Hockley County, Tex.).	10- 9-59	10-12-59	1-1-60	[8]	14.061	15.876	G-16480
		23	11	El Paso (S. Fullerton Field, Andrews County, Tex.).	10- 9-59	10-12-59	1-1-60	[8]	14.0609	15.8757	G-16481
G-20007..	Pan American Petroleum Corp., et al.	68	6	El Paso (Kelly Snyder Field, Scurry County, Tex.).	10- 9-59	10-12-59	1-1-60	[8]	12.7709	14.4176	G-16532
G-20008..	Pan American Petroleum Corp. (Operator) et al.	136	14	El Paso (Langlie-Mattix Field, Lea County, N. Mex.).	10- 9-59	10-12-59	1-1-60	[8]	[10] 10.5	15.1268	G-14103
									[11] 10.0533	14.6784	G-14103

[2] The stated effective dates are those requested by Respondents or the first day after the expiration of statutory notice, whichever is later.
[3] Pressure Base 14.65 psia.
[4] High Pressure Gas.
[5] Low Pressure Gas.
[6] Gas Under 600 Psig Delivery Pressure.
[7] Spent Gas Lift Gas.
[8] The rates are suspended until June 1, 1960, or for five months from the date Phillips Petroleum Company's increased rates are made effective in Docket Nos. G-18417 and G-18418, whichever is later.
[9] Gas Well Gas.
[10] High Pressure Gas (Over 600 Psig).
[11] Low Pressure Gas (Under 600 Psig).

Abbreviations:
Tennessee Gas—Tennessee Gas Transmission Company.
El Paso—El Paso Natural Gas Company.

In support of their proposed redetermined rate increases Sunray Mid-Continent Oil Company and Sunray Mid-Continent Oil Company (Operator), et al. (Sunray), W. H. Foster, et al. (Foster), Southwestern Oil & Refining Company, et al. (Southwestern), M. J. Mitchell and Christie, Mitchell & Mitchell Company cite their contract provisions and submit copies of price redetermination letters from Tennessee Gas Transmission Company (Tennessee Gas). All the producers state that the increased rates are reasonable and below other current prices in the areas. Sunray, in addition, submits a comparison of oil and gas values based on Btu content. Foster states that the price increase is in the public interest in that it is needed to replace depleted reserves of natural gas. Foster also states the amount of money

involved in the increase will not require or justify any increase by Tennessee Gas in its resale rates. Southwestern contends that the lawfulness of the increased rate has been established by virtue of the Commission's previous acceptance of the lawfulness of higher prices in the area and that to require Southwestern to justify the increase by professional testimony and an extensive cost analysis would result in undue hardship. M. J. Mitchell states that the rate increase is needed to pay for immediate corrective measures to his property resulting from his bankrupt predecessor not following normal and prudent operating and maintenance procedures.

In support of the favored-nation increases Greenbrier Oil Company, Greenbrier Oil Company (Operator), et al., Inland Natural Gasoline, Odessa Natural Gasoline Company, E. G. Rodman (Operator), et al., E. G. Rodman and W. D. Noel, Rodman-Noel Oil Corporation, Olsen Oils, Inc. (Operator), et al., Olsen Oils, Inc., Woodley Petroleum Company, and Woodley Petroleum Company (Operator), et al. cite the contract provisions and submit copies of El Paso's favored-nation letters.

Pan American Petroleum Corporation, Pan American Petroleum Corporation (Operator), Pan American Petroleum Corporation, et al. and Pan American Petroleum Corporation (Operator), et al. (Pan American) and Sunray, in support of their increases based on "spiral esclation", state that the subject increases are a matter of contractual obligation arising from a contract entered into as a result of arm's length bargaining; the proposed rates are an integral part of the initial rate schedules; considering intrinsic value, the price of gas is below the price of competing fuels. Sunray, in addition, submits a comparison of oil and gas values based on Btu content. In addition, Pan American states that the use of gas continues to increase at the expense of competing fuels thus, the price must be just and reasonable.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearing and decision thereon, each of the aforementioned supplements is suspended and the use thereof deferred until the date specified in the above-designated "Rate Suspended Until" column and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

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

By the Commission. Commissioner Kline dissenting on the suspension of the rates in Docket No. G-20005, Woodley Petroleum Company (Operator), et al.

[SEAL] J. H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-9434; Filed, Nov. 6, 1959; 8:46 a.m.]

[Docket Nos. G-20011—G-20014]

TIDEWATER OIL CO. ET AL.

Order for Hearings and Suspending Proposed Changes in Rates [1]

OCTOBER 30, 1959.

In the matters of Tidewater Oil Company, Docket No. G-20011; Texaco, Inc. (Operator), et al., Docket No. G-20012; Phillips Petroleum Co., Docket No. G-20013; Humble Oil & Refining Company, Docket No. G-20014.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for their sales of natural gas, subject to the jurisdiction of the Commission. The proposed changes are designated as follows:

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Notice of change dated—	Date tendered	Effective date [2] unless suspended	Rate suspended until—	Cents per Mcf	
									Rate in effect	Proposed increased rate
G-20011	Tidewater Oil Co	26	12	United Fuel Gas Co. (Erath, N. Erath and Erath Shallow Fields, Vermilion Parish, La.)	9-15-59	9-21-59	11-1-59	4-1-60	22.55	[6] 22.881
G-20012	Texaco, Inc., (Operator) et al.	6	9	United Fuel Gas Co. (Erath Unit, Vermilion Parish, La.)	Undated	10- 2-59	11-2-59	4-2-60	[3] 22.3	[6] 23.675
G-20013	Phillips Petroleum Co	273	10	United Fuel Gas Co. (N. Erath Field, Vermilion Parish, La.)	10- 1-59	10- 5-59	11-5-59	4-5-60	[4] 22.3	[6] 22.881
G-20014	Humble Oil & Refining Co	23	10	United Fuel Gas Co. (Erath Field, Vermilion Parish, La.)	10- 1-59	10- 5-59	11-5-59	4-5-60	[5] 22.3	[6] 22.881

[2] The stated effective dates are those requested by Respondents, or the first day after the expiration of statutory notice, whichever is later.
[3] Rate effective subject to refund in Docket No. G-16597.
[4] Rate effective subject to refund in Docket No. G-16712.
[5] Rate effective subject to refund in Docket No. G-16687.
[6] Pressure base is 15.025 psia.

The Respondents, in support of the proposed redetermined rate increases, state the pricing provision is an integral part of the contract executed after arm's length bargaining and that the contractual obligation should be honored. They claim that the rates are just and reasonable and higher rates (for initial services) have been accepted for filing in the area.

Additionally, Humble Oil & Refining Company cites recent purchase contracts of Hope Natural Gas Company, Southern Natural Gas Company and United Gas Pipe Line Company.

Texaco, Inc., further cites the rise in wholesale prices and increased exploratory costs in drilling in deeper and in more inaccessible places.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

[1] This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

(B) Pending hearing and decision thereon, each of the aforementioned supplements is suspended and the use thereof deferred until the date specified in the above-designated "Rate Suspended Until" column and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

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

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-9435; Filed, Nov. 6, 1959; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-2040]

BRUNSWICK-BALKE-COLLENDER CO.

Notice of Application for Unlisted Trading Privileges, and of Opportunity for Hearing

NOVEMBER 3, 1959.

In the matter of application by the Boston Stock Exchange for unlisted trading privileges in Brunswick-Balke-Collender Company, common stock; File No. 7-2040.

The above named stock exchange, pursuant to section 12(f)(2) of the Securities Exchange Act of 1934 and Rule 12f-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before November 18, 1959, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59-9442; Filed, Nov. 6, 1959; 8:46 a.m.]

[File No. 7-2041]

GLEN ALDEN CORP.

Notice of Application for Unlisted Trading Privileges, and of Opportunity for Hearing

NOVEMBER 3, 1959.

In the matter of application by the Boston Stock Exchange for unlisted trading privileges in Glen Alden Corporation, common stock; File No. 7-2041.

The above named stock exchange, pursuant to section 12(f)(2) of the Securities Exchange Act of 1934 and Rule 12f-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before November 18, 1959, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59-9443; Filed, Nov. 6, 1959; 8:46 a.m.]

[File No. 7-2042]

BRISTOL-MYERS CO.

Notice of Application for Unlisted Trading Privileges, and of Opportunity for Hearing

NOVEMBER 3, 1959.

In the matter of application by the Boston Stock Exchange for unlisted trading privileges in Bristol-Myers Company, common stock; File No. 7-2042.

The above named stock exchange, pursuant to section 12(f)(2) of the Securities Exchange Act of 1934 and Rule 12f-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before November 18, 1959, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59-9444; Filed, Nov. 6, 1959; 8:47 a.m.]

[File No. 70-3829]

FALL RIVER ELECTRIC LIGHT CO.

Notice of Proposed Authorization of Shares of Preferred Stock and Issuance and Sale Thereof at Competitive Bidding

NOVEMBER 2, 1959.

Notice is hereby given that Fall River Electric Light Company ("Fall River"), an exempt holding company and subsidiary of Eastern Utilities Associates, a registered holding company, has filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), and has designated sections 6(a), 6(b), 7, and 12 of the Act and rules 42(b)(2) and 50 thereunder as applicable to the proposed transactions, which are summarized as follows:

Fall River proposes to increase its capital stock in the amount of $3,000,000 and authorize 30,000 shares of __ percent Preferred Stock, par value $100 per share, and to issue and sell such shares at competitive bidding pursuant to rule 50 promulgated under the Act. The dividend rate (which shall be a multiple of 0.04 percent of the par value), and the price to be paid to Fall River (not less than $100 nor more than $102.75 per share) are to be determined by the competitive bidding.

The net proceeds from the proposed sale are to be applied to the prepayment, without premium, of Fall River's outstanding short-term bank loans amounting to $2,800,000, at October 19, 1959, and the balance is to be used for construction purposes.

The estimated fees and expenses to be incurred and paid in connection with the proposals aggregate $28,000 and include $13,000 for printing, $4,900 of fees and expenses to company counsel (Gaston, Snow, Motley & Holt), $1,200 of fees and expenses for accountants (Patterson, Teele & Dermis), and $3,150 for U.S. documentary taxes. The fees and expenses of counsel for the underwriters, Ropes, Gray, Best, Coolidge & Rugg, estimated at $3,250, are to be paid by the successful bidders.

Fall River has petitioned the Department of Public Utilities of the Commonwealth of Massachusetts for authority to increase its capital stock and to issue and sell the shares of Preferred Stock. A copy of the order entered

therein is to be supplied by amendment. It is represented that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 23, 1959, at 5:30 p.m., request the Commission in writing that a hearing be held on such matters stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application-declaration which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and 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 its rules as provided in rules 20(a) and 100 or take such other action as it may deem appropriate.

By the Commission.

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

[F.R. Doc. 59-9445; Filed, Nov. 6, 1959; 8:47 a.m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

REGIONAL ADMINISTRATORS

Delegation of Authority With Respect to Housing for Educational Institutions

A. Each Regional Administrator of the Housing and Home Finance Agency, in carrying out the program of loans for housing for educational institutions on behalf of the Housing and Home Finance Administrator through the Community Facilities Administration, is hereby authorized, under Title IV of the Housing Act of 1950, as amended (64 Stat. 77, as amended, 12 U.S.C. 1749–1749c):

(1) To approve applications, authorize loans, and execute loan agreements, involving loans for student and/or faculty housing and/or dining facilities;

(2) To amend or modify any such loan agreement;

(3) To execute any loan agreement under the program in the amount approved by the Community Facilities Commissioner, and to amend or modify any such loan agreement;

(4) To redelegate to the Regional Director of Communities Facilities Activities, or other Regional Office employee, the authority to execute loan agreements and amendments or modifications thereof delegated under subparagraphs (1), (2), and (3) above; and

(5) In the case of the Regional Administrator, Region VI (San Francisco), to redelegate to the Director for Northwest Operations, Region VI, at Seattle, Washington, any of the authority delegated herein.

B. This delegation of authority supersedes the delegation effective June 4, 1958 (23 F.R. 3910).

(Reorg. Plan No. 3 of 1947, 61 Stat. 954; 62 Stat. 1283 (1948), as amended, 12 U.S.C. 1701c)

Effective as of the 7th day of November 1959.

[SEAL] NORMAN P. MASON, *Housing and Home Finance Administrator.*

[F.R. Doc. 59-9451; Filed, Nov. 6, 1959; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 4, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 35802: *Cement—Superior, Ohio, to Kentucky and West Virginia.* Filed by Traffic Executive Association-Eastern Railroads, Agent (CTR No. 2418), for interested rail carriers. Rates on cement and related articles, in carloads, from Superior, Ohio, to points in Kentucky and West Virginia on The Chesapeake and Ohio Railway Company.

Grounds for relief: Short-line distance formula and grouping.

Tariff: Supplement 19 to Traffic Executive Association—Eastern Railroads tariff I.C.C. C–56 (Hinsch series).

FSA No. 35803: *Cement—Central territory to Illinois territory.* Filed by Traffic Executive Association-Eastern Railroads, Agent (CTR No. 2419), for interested rail carriers. Rates on cement and related articles, in carloads, from specified points in Michigan, New York, Ohio, and Pennsylvania, to destinations in Illinois territory.

Grounds for relief: Short-line distance formula and grouping.

Tariff: Supplement 19 to Traffic Executive Association—Eastern Railroads tariff I.C.C. C–56 (Hinsch series).

By the Commission.

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

[F.R. Doc. 59-9446; Filed, Nov. 6, 1959; 8:47 a.m.]

[Notice No. 218]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 4, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC 62538. By order of October 28, 1959, the Transfer Board approved the transfer to Peter Lichina, doing business as Lichina Truck Service, Allison Park, Pennsylvania, of a Certificate in No. MC 116411 issued July 15, 1957 to Dave Kasmoch, Oakmont, Pennsylvania, authorizing the transportation of lime, in bulk, in dump vehicles, over irregular routes, from Strasburg and Oranda, Shenandoah County, Va., to Pittsburgh, Pa. Arthur J. Diskin, 302 Frick Building, Pittsburgh, 19, Pa.

No. MC-FC 62546. By order of October 28, 1959, the Transfer Board approved the transfer to Charles T. Jones and Walter D. Jones, a partnership, doing business as New Canaan Express Company, New Canaan, Connecticut, of a Certificate in No. MC 107429 issued February 2, 1955, to John DiPanni and Michael DiPanni, a partnership, doing business as The New Canaan Express Company, New Canaan, Conecticut, authorizing the transportation of general commodities, excluding household goods, as defined by the Commission, commodities in bulk, and other specified commodities, between New Canaan, Conn., on the one hand, and, on the other, points in Poundridge, Lewisboro, and Bedford Townships, in Westchester County, N.Y. John J. Dolan, Groher and Dolan, 39 South Avenue, New Canaan, Conn.

No. MC–FC 62570. By order of October 28, 1959, the Transfer Board approved the transfer to S. & V. Trucking Company, A Corporation, Albuquerque, New Mexico, of a Certificate in No. MC 110452 issued March 19, 1958, to Harold O. Volden and Alfred L. Schwartzman, a partnership, doing business as S. & V. Trucking Company, Albuquerque, New Mexico, authorizing the transportation of specified commodities, from, to, and between, specified points in New Mexico, Arizona, Colorado, and Texas. Joseph E. Roehl, Modrall, Seymour, Sperling, Roel & Harris, Simms Building, P.O. Box 466, Albuquerque, New Mexico.

No. MC–FC 62642. By order of October 28, 1959, the Transfer Board approved the transfer to Lucius Merrill, doing business as Merrill Trucking, Maysville, Kentucky, of a Permit in No. MC 102603, issued August 1, 1956, to Charles Flora, Germantown, Kentucky, authorizing the transportation of such commodities as are dealt in by chain, retail and mail-order department stores, and equipment, materials and supplies

used in the conduct of such business, over irregular routes, between Maysville, Ky., on the one hand, and, on the other, points in that part of Kentucky and Ohio within 35 miles of Maysville, Ky. Rudy Yessin, Smith, Reed and Leary, Sixth Floor, McClure Building, Frankfort, Kentucky.

No. MC–FC 62662. By order of October 28, 1959, the Transfer Board approved the transfer to Transwestern Express, Inc., Blanding, Utah, of Certificates in Nos. MC 1334, and MC 1334 Sub 1, issued December 8, 1953, and May 17, 1941, respectively, to M. F. Lyman, Blanding, Utah, authorizing the transportation of general commodities, including household goods, as defined by the Commission, and excluding commodities in bulk and other specified commodities, between Blanding, Utah, and Grand Junction, Colo. Harry D. Pugsley, 721 Continental Bank Building, Salt Lake City 1, Utah.

No. MC–FC 62669. By order of October 30, 1959, the Transfer Board approved the transfer to Wayne A. Umscheid, doing business as Umscheid Truck Line, 1020 Pierre, Manhattan, Kansas, of a Certificate in No. MC 64084, issued October 27, 1949, to Lloyd L. Dobson, Manhattan, Kans. (Mailing address—Route 1, Box 135, St. George, Kansas), authorizing the transportation over regular routes, of general commodities, excluding household goods, as defined by the Commission, commodities in bulk, and other specified commodities, between Manhattan, Kans., and Kansas City, Mo., serving certain intermediate and off-route points, and livestock, from Manhattan, Kans., and points within 20 miles thereto, with certain exceptions, to St. Joseph and North Kansas, Mo., and feed, from St. Joseph, Mo., to Manhattan, Kans.

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

[F.R. Doc. 59-9447; Filed, Nov. 6, 1959; 8:47 a.m.]

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PART II

FEDERAL REGISTER

VOLUME 24 NUMBER 219

Washington, Saturday, November 7, 1959

Title 29—LABOR

Chapter I—National Labor Relations Board

[Series 8]

REVISION OF CHAPTER

Pursuant to the authority vested in it by the National Labor Relations Act, as amended, the National Labor Relations Board hereby issues its Rules and Regulations, Series 8, and Statements of Procedure, Series 8, to become effective November 13, 1959, when certain amendments to the Act become effective.

The Rules and Regulations, Series 8, and Statements of Procedure, Series 8, shall supersede the Rules and Regulations, Series 7, as amended, and Statements of Procedure, Series 7, as amended, and shall be in force and effect until amended or rescinded by the Board.

Dated: Washington, D.C., November 4, 1959.

By direction of the Board.

FRANK M. KLEILER,
Executive Secretary.

PART 101—STATEMENTS OF PROCEDURE, SERIES 8

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AUTHORITY: §§ 101.1 to 101.43 issued under 49 Stat. 449; 29 U.S.C. 151–168; and Act of September 14, 1959 (Pub. Law 86-257; 73 Stat. 519).

Subpart A—General Statement

§ 101.1 General statement.

By virtue of the authority vested in it by section 6 of the National Labor Relations Act, 49 Stat. 449, as amended, the National Labor Relations Board has issued and published simultaneously herewith its Rules and Regulations, Series 8. The following statements of the general course and method by which the Board's functions are channeled and determined are issued and published pursuant to section 3(a)(2) of the Administrative Procedure Act.

Subpart B—Unfair Labor Practice Cases Under Section 10 (a) to (i) of the Act and Telegraph Merger Act Cases

§ 101.2 Initiation of unfair labor practice cases.

The investigation of an alleged violation of the National Labor Relations Act is initiated by the filing of a charge, which must be in writing and signed, and must either be notarized or must contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. The charge is filed with the regional director for the region in which the alleged violations have occurred or are occurring. A blank form for filing such charge is supplied by the regional office upon request. The charge contains the name and address of the person against whom the charge is made and

a statement of the facts constituting the alleged unfair labor practices.

§ 101.3 Note.

This section, which in Series 7 of the Statements of Procedure related to the filing requirements of section 9 (f), (g), and (h) of the Labor Management Relations Act, was eliminated by amendments effective September 14, 1959. To avoid the renumbering of §§ 101.4 to 101.21 the Board has left this section number blank.

§ 101.4 Investigation of charges.

When the charge is received in the regional office it is filed, docketed, and assigned a case number. The regional director may cause a copy of the charge to be served upon the person against whom the charge is made, but timely service of a copy of the charge within the meaning of the proviso to section 10(b) of the act is the exclusive responsibility of the charging party and not of the general counsel or his agents. The regional director requests the person filing the charge to submit promptly evidence in its support. As part of the investigation hereinafter mentioned, the person against whom the charge is filed, hereinafter called the respondent, is asked to submit a statement of his position in respect to the allegations. The case is assigned to a member of the field staff for investigation, who interviews representatives of the parties and other persons who have knowledge as to the charges, as is deemed necessary. In the investigation and in all other stages of the proceedings, charges alleging violation of section 8(b)(4)(A), (B), and (C), charges alleging violation of section 8(b)(4)(D) in which it is deemed appropriate to seek injunctive relief under section (10)(l) of the act, and charges alleging violations of section 8(b)(7) or 8(e) are given priority over all other cases in the office in which they are pending except cases of like character; and charges alleging violation of section 8(a)(3) or 8(b)(2) are given priority over all other cases except cases of like character and cases under section 10(l) of the act. The regional director may in his discretion dispense with any portion of the investigation described in this section as appears necessary to him in consideration of such factors as the amount of time necessary to complete a full investigation, the nature of the proceeding, and the public interest. After investigation, the case may be disposed of through informal methods such as withdrawal, dismissal, and settlement; or, the case may necessitate formal methods of disposition. Some of the informal methods of handling unfair labor practice cases will be stated first.

§ 101.5 Withdrawal of charges.

If investigation reveals that there has been no violation of the National Labor Relations Act or the evidence is insufficient to substantiate the charge, the regional director recommends withdrawal of the charge by the person who filed. The complainant may also, on its own initiative, request withdrawal. If the complainant accepts the recommendation of the director or requests withdrawal on its own initiative, the respondent is immediately notified of the withdrawal of the charge.

§ 101.6 Dismissal of charges and appeals to general counsel.

If the complainant refuses to withdraw the charge as recommended, the regional director dismisses the charge. The regional director thereupon informs the parties of his action, together with a simple statement of the grounds therefor, and the complainant of his right of appeal to the general counsel in Washington, D.C., within 10 days. If the complainant appeals to the general counsel, the entire file in the case is sent to Washington, D.C., where the case is fully reviewed by the general counsel with the assistance of his staff. Following such review, the general counsel may sustain the regional director's dismissal, stating the grounds of his affirmance, or may direct the regional director to take further action.

§ 101.7 Settlements.

Before any complaint is issued or other formal action taken, the regional director affords an opportunity to all parties for the submission and consideration of facts, argument, offers of settlement, or proposals of adjustment, except where time, the nature of the proceeding, and the public interest do not permit. Normally prehearing conferences are held, the principal purpose of which is to discuss and explore such submissions and proposals of adjustment. The regional office provides Board-prepared forms for such settlement agreements, as well as printed notices for posting by the respondent. These agreements, which are subject to the approval of the regional director, provide for an appeal to the general counsel, as described in § 101.6, by a complainant who will not join in a settlement or adjustment deemed adequate by the regional director. Proof of compliance is obtained by the regional director before the case is closed. If the respondent fails to perform his obligations under the informal agreement, the regional director may determine to institute formal proceedings.

§ 101.8 Complaints.

If the charge appears to have merit and efforts to dispose of it by informal adjustment are unsuccessful, the regional director institutes formal action by issuance of a complaint and notice of hearing. In certain types of cases, involving novel and complex issues, the regional director, at the discretion of the general counsel, must submit the case for advice from the general counsel before issuing complaint. The complaint, which is served on all parties, sets forth the facts upon which the Board bases its jurisdiction and the facts relating to the alleged violations of law by the respondent. The respondent must file an answer to the complaint within 10 days of its receipt, setting forth a statement of its defense.

§ 101.9 Settlement after issuance of complaint.

(a) Even though formal proceedings have begun, the parties again have full opportunity at every stage to dispose of the case by amicable adjustment and in compliance with the law. Thus, after the complaint has been issued and a hearing scheduled or even begun, the attorney in charge of the case and the regional director afford all parties every opportunity for the submission and consideration of facts, argument, offers of settlement, or proposals of adjustment, except where time, the nature of the proceeding, and the public interest do not permit.

(b) All settlement stipulations which provide for the entry of an order by the Board are subject to the approval of the Board in Washington, D.C. If the settlement provides for the entry of an order by the Board, the parties agree to wave their right to hearing and agree further that the Board may issue an order requiring the respondent to take action appropriate to the terms of the adjustment. Usually the settlement stipulation also contains the respondent's consent to the Board's application for the entry of a decree by the appropriate circuit court of appeals enforcing the Board's order.

(c) In the event the respondent fails to comply with the terms of a settlement stipulation, upon which a Board order and court decree are based, the Board may petition that court to adjudge the respondent in contempt. If the respondent refuses to comply with the terms of a stipulation settlement providing solely for the entry of a Board order, the Board may petition the court for enforcement of its order, pursuant to section 10 of the National Labor Relations Act.

§ 101.10 Hearings.

(a) Except in extraordinary situations the hearing is open to the public and usually conducted in the region where the charge originated. A duly designated trial examiner presides over the hearing. The Government's case is conducted by an attorney attached to the Board's regional office, who has the responsibility of presenting the evidence in support of the complaint. The rules of evidence applicable in the district courts of the United States under the Rules of Civil Procedure adopted by the Supreme Court are, so far as practicable, controlling. Counsel for the general counsel, all parties to the proceeding, and the trial examiner have the power to call, examine, and cross-examine witnesses and to introduce evidence into the record. They may also submit briefs, engage in oral argument, and submit proposed findings and conclusions to the trial examiner. The attendance and testimony of witnesses and the production of evidence material to any matter under investigation may be compelled by subpena.

(b) The functions of all trial examiners and other Board agents or employees participating in decisions in conformity with section 8 of the Administrative Procedure Act are conducted in an impartial manner and any such trial examiner, agent, or employee may at any time withdraw if he deems himself disqualified because of bias or prejudice. The Board's attorney has the burden of proof of violations of section 8 of the National Labor Relations Act and section 222(f) of the Telegraph Merger Act.

In connection with hearings subject to the provisions of section 7 of the Administrative Procedure Act:

(1) No sanction is imposed or rule or order issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the preponderance of the reliable probative, and substantial evidence;

(2) Every party has the right to present his care 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; and

(3) Where any decision rests on official notice of a material fact not appearing in the evidence in the record, any party is on timely request afforded a reasonable opportunity to show the contrary.

§ 101.11 Intermediate report (recommended decision).

(a) At the conclusion of the hearing the trial examiner prepares an intermediate report (recommended decision) stating findings of fact and conclusions, as well as the reasons for his determinations on all material issues, and making recommendations as to action which should be taken in the case. The trial examiner may recommend dismissal or sustain the complaint, in whole or in part, and recommend that the respondent cease and desist from the unlawful acts found and take action to remedy their effects.

(b) The intermediate report is filed with the Board in Washington, D.C., and copies are simultaneously served on each of the parties. At the same time the Board, through its executive secretary, issues and serves on each of the parties an order transferring the case to the Board. The parties may accept and comply with the recommendations of the trial examiner, and thus normally conclude the entire proceedings at this point. Or, the parties or counsel for the Board may file exceptions to the intermediate report with the Board and may also request permission to appear and argue orally before the Board in Washington, D.C. They may also submit proposed findings and conclusions to the Board. Oral argument is very frequently granted.

§ 101.12 Board decision and order.

(a) If any party files exceptions to the intermediate report, the Board, with the assistance of the legal assistants to each Board member who function in much the same manner as law clerks do for judges, reviews the entire record, including the trial examiner's report and recommendations, the exceptions thereto, the complete transcript of evidence, and the exhibits, briefs, and arguments. The Board does not consult with members of the trial examining staff or with any agent of the general counsel in its deliberations. It then issues its decision and order in which it may adopt, modify, or reject the findings and recommendations of the trial examiner. The decision and order contains detailed findings of fact, conclusions of law, and basic reasons for decision on all material issues raised, and an order either dismissing the complaint in whole or in part or requiring the respondent to cease and desist from its unlawful practices and to take appropriate affirmative action.

(b) If no exceptions are filed to the intermediate report, and the respondent does not comply with its recommendations, the Board adopts the report and recommendations of the trial examiner. All objections and exceptions, whether or not previously made during or after the hearing, are deemed waived for all purpose.

(c) If no exceptions are filed to the intermediate report and its recommendations and the respondent complies therewith, the case is normally closed but the Board may, if it deems necessary in order to effectuate the policies of the act, adopt the report and recommendations of the trial examiner.

§ 101.13 Compliance with Board decision and order.

(a) Shortly after the Board's decision and order is issued the director of the regional office in which the charge was filed communicates with the respondent for the purpose of obtaining compliance. Conferences may be held to arrange the details necessary for compliance with the terms of the order.

(b) If the respondent effects full compliance with the terms of the order, the regional director submits a report to that effect to Washington, D.C., after which the case may be closed. Despite compliance, however, the Board's order is a continuing one; therefore, the closing of a case on compliance is necessarily conditioned upon the continued observance of that order; and in some cases it is deemed desirable, notwithstanding compliance, to implement the order with an enforcing decree. Subsequent violations of the order may become the basis of further proceedings.

§ 101.14 Judicial review of Board decision and order.

If the respondent does not comply with the Board's order, or the Board deems it desirable to implement the order with a court decree, the Board may petition the appropriate Federal court for enforcement. Or, the respondent may petition the circuit court of appeals to review and set aside the Board's order. Upon such review or enforcement proceedings, the court reviews the record and the Board's findings and order and sustains them if they are in accordance with the requirements of law. The court may enforce, modify, or set aside in whole or in part the Board's findings and order, or it may remand the case to the Board for further proceedings as directed by the court. Following the court's decree, either the Government or the private party may petition the Supreme Court for review upon writ of certiorari. Such applications for review to the Supreme Court are handled by the Board through the Solicitor General of the United States.

§ 101.15 Compliance with court decree.

After a Board order has been enforced by a court decree, the Board has the responsibility of obtaining compliance with that decree. Investigation is made by the regional office of the respondent's efforts to comply. If it finds that the respondent has failed to live up to the terms of the court's decree, the general counsel may, on behalf of the Board, petition the court to hold him in contempt of court. The court may order immediate remedial action and impose sanctions and penalties.

§ 101.16 Back-pay proceedings.

After a Board order directing the payment of back pay has been enforced by a court order, the regional office computes the amount of back pay due each employee. If informal efforts to dispose of the matter prove unsuccessful, the regional director is then authorized to issue a "back-pay specification" in the name of the Board and a notice of hearing before a trial examiner, both of which are served on the parties involved. The specification sets forth the computations showing how the regional director arrived at the net back pay due each employee. The respondent must file an answer within 15 days of the receipt of the specification, setting forth a particularized statement of its defense. The procedure before the trial examiner or the Board is substantially the same as that described in §§ 101.10 to 101.14, inclusive.

Subpart C—Representation Cases Under Section 9(c) of the Act

§ 101.17 Initiation of representation case.

The investigation of the question as to whether a union represents a majority of an appropriate grouping of employees is initiated by the filing of a petition by any person or labor organization acting on behalf of a substantial number of employees or by an employer when one or more individuals or labor organizations present to him a claim to be recognized as the exclusive bargaining representative. If there is a certified or currently recognized representative, any employee, or group of employees, or any individual or labor organization acting in their behalf may also file decertification proceedings to test the question of whether the certified or recognized agent is still the representative of the employees. The petition must be in writing and signed, and either must be notarized or must contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. It is filed with the regional director for the region in which the proposed or actual bargaining unit exists. Petition forms, which are supplied by the regional office upon request, provide, among other things, for a description of the contemplated or existing appropriate bargaining unit, the approximate number of employees involved, and the names of all labor organizations which claim to represent the employees. If a petition is filed by a labor organization or in the case of a petition to decertify a certified or recognized bargaining agent, the petitioner must supply, within 48 hours after filing but in no event later than the last day on which the petition might timely be filed, evidence of representa-

tion. Such evidence is usually in the form of cards authorizing the labor organization to represent the employees or authorizing the petitioner to file a decertification proceeding.

§ 101.18 Investigation of petition.

(a) Upon receipt of the petition in the regional office, it is docketed and assigned to a member of the staff, usually a field examiner, for investigation. He conducts an investigation to ascertain (1) whether the employer's operations affect commerce within the meaning of the act, (2) the appropriateness of the unit of employees for the purposes of collective bargaining and the existence of a bona fide question concerning representation within the meaning of the act, (3) whether the election would effectuate the policies of the act and reflect the free choice of employees in the appropriate unit, and (4) whether, if the petitioner is a labor organization seeking recognition, there is a sufficient probability, based on the evidence of representation of the petitioner, that the employees have selected it to represent them. The evidence of representation submitted by the petitioning labor organization or by the person seeking decertification is ordinarily checked to determine the number or proportion of employees who have designated the petitioner, it being the Board's administrative experience that in the absence of special factors the conduct of an election serves no purpose under the statute unless the petitioner has been designated by at least 30 percent of the employees. However, in the case of a petition by an employer, no proof of representation on the part of the labor organization claiming a majority is required and the regional director proceeds with the case if other factors require it unless the labor organization withdraws its claim to majority representation. The field examiner, or other member of the staff, attempts to ascertain from all interested parties whether or not the grouping or unit of employees described in the petition constitutes an appropriate bargaining unit.

(b) The petitioner may on its own initiative request the withdrawal of the petition if the investigation discloses that no question of representation exists within the meaning of the statute, because, among other possible reasons, the unit is not appropriate, or a written contract precludes further investigation at that time, or where the petitioner is a labor organization or a person seeking decertification and the showing of representation among the employees is insufficient to warrant an election under the 30-percent principle stated in paragraph (a) of this section.

(c) For the same or similar reasons the regional director may request the petitioner to withdraw its petition. If, despite the regional director's recommendations, the petitioner refuses to withdraw the petition, the regional director then dismisses the petition stating the grounds for his dismissal and informing the petitioner of his right of appeal to the Board in Washintgon, D.C. The petitioner may within 10 days appeal from the regional director's dismissal by filing such request with the Board in Washington, D.C. After a full review of the file with the assistance of its staff, the Board may sustain the dismissal, stating the grounds of its affirmance, or may direct the regional director to take further action.

§ 101.19 Consent adjustments before formal hearing.

The Board has devised and makes available to the parties two types of informal consent procedures through which representation issues can be resolved without recourse to formal procedures. These informal arrangements are commonly referred to as consent-election agreement, followed by regional director's determination, and consent-election agreement, followed by Board certification. Forms for use in these informal procedures are available in the regional offices.

(a) (1) The consent-election agreement followed by the regional director's determination of representatives is the most frequently used method of informal adjustment of representation cases. The terms of the agreement providing for this form of adjustment are set forth in printed forms, which are available upon request at the Board's regional offices. Under these terms the parties agree with respect to the appropriate unit, the payroll period to be used as the basis of eligibility to vote in an election, and the place, date, and hours of balloting. A Board agent arranges the details incident to the mechanics and conduct of the election. For example, he usually arranges preelection conferences in which the parties check the list of voters and attempt to resolve any questions of eligibility. Also, prior to the date of election, the holding of such election shall be adequately publicized by the posting of official notices in the establishment whenever possible or in other places, or by the use of other means considered appropriate and effective. These notices reproduce a sample ballot and outline such election details as location of polls, time of voting, and eligibility rules.

(2) The actual polling is always conducted and supervised by Board agents. Appropriate representatives of each party may assist them and observe the election. As to the mechanics of the election, a ballot is given to each eligible voter by the Board's agents. The ballots are marked in the secrecy of a voting booth. The Board agents and authorized observers have the privilege of challenging for reasonable cause employees who apply for ballots.

(3) Customarily the Board agents, in the presence and with the assistance of the authorized observers, count and tabulate the ballots immediately after the closing of the polls. A complete tally of the ballots is served upon the parties upon the conclusion of the count.

(4) If challenged ballots are sufficient in number to affect the results of the count, the regional director conducts an investigation and rules on the challenges. Similarly, if objections to the conduct of the election are filed within 5 days of the issuance of the tally of ballots, the regional director likewise conducts an investigation and rules upon the objections. If, after investigation, the objections are found to have merit, the regional director may void the election results and conduct a new election.

(5) This form of agreement provides that the rulings of the regional director on all questions relating to the election (for example, eligibility to vote and the validity of challenges and objections) are final and binding. Also, the agreement provides for the conduct of a runoff election, in accordance with the provisions of the Board's Rules and Regulations, if two or more labor organizations appear on the ballot and no one choice receives the majority of the valid votes cast.

(6) The regional director issues to the parties a certification of the results of the election, including certification of representatives where appropriate, with the same force and effect as if issued by the Board.

(b) The consent-election agreement followed by a Board determination provides that disputed matters following the agreed-upon election, if determinative of the results, shall be the basis of a formal decision by the Board instead of an informal determination by the regional director. Thus, it is provided that the Board, rather than the regional director, makes the final determination of questions raised concerning eligibility, challenged votes, and objections to the conduct of the election. Thus, if challenged ballots are sufficient in number to affect the results of the count, the regional director conducts an investigation and issues a report on the challenges instead of ruling thereon. Similarly, if objections to the conduct of the election are filed within 5 days after issuance of the tally of ballots, the regional director likewise conducts an investigation and issues a report instead of ruling upon the validity of the objections. In either event, the regional director's report is served upon the parties, who may file exceptions thereto within 10 days with the Board in Washington, D.C. The Board then reviews the entire record made and may, if a substantial issue is raised, direct a hearing on the challenged ballots or the objections to the conduct of the election. Or, the Board may, if no substantial issues are raised, affirm the regional director's report and take appropriate action in termination of the proceedings. If a hearing is held upon the challenged ballots or objections, all parties are heard and, if directed by the Board, a report containing findings of fact and recommendations as to the disposition of the challenges or objections, or both, and resolving issues of credibility is issued by the hearing officer and served upon the parties, who may file exceptions thereto within 10 days with the Board in Washington, D.C. The record made on the hearing is reviewed by the Board with the assistance of its legal assistants and a final determination made thereon. If the objections are found to have merit, the election results may be voided and a new election conducted under the supervision of the regional director. If the union has been selected as the representative, the Board

or the regional director, as the case may be, issues its certification, and the proceeding is terminated. If upon a decertification or employer petition the union loses the election, the Board or the regional director, as the case may be, certifies that the union is not the chosen representative.

§ 101.20 Formal hearing.

If no informal adjustment of the question concerning representation has been effected and it appears to the regional director that formal action is necessary, the regional director will institute formal proceedings by issuance of a notice of hearing on the issues, which is followed by Board decision and direction of election or dismissal of the case. In certain types of cases, involving novel or complex issues, the regional director may submit the case for advice to the general counsel before issuing notice of hearing.

§ 101.21 Hearing; procedure after hearing.

(a) The notice of hearing, together with a copy of the petition, is served upon the unions and employer filing or named in the petition and upon other known persons or labor organizations claiming to have been designated by employees involved in the proceeding.

(b) The hearing, usually open to the public, is held before a hearing officer who normally is an attorney or field examiner attached to the regional office but may be another qualified official. The hearing, which is nonadversary in character, is part of the investigation in which the primary interest of the Board's agents is to insure that the record contains as full a statement of the pertinent facts as may be necessary for determination of the case by the Board. The parties are afforded full opportunity to present their respective positions and to produce the significant facts in support of their contentions. In most cases a substantial number of the relevant facts are undisputed and stipulated. The parties are permitted to argue orally on the record before the hearing officer.

(c) Upon the close of the hearing, the entire record in the case is forwarded to the Board in Washington, D.C. The hearing officer also transmits an analysis of the issues and the evidence, but makes no recommendations in regard to resolution of the dispute. All parties may file briefs with the Board within 7 days after the close of the hearing and may also request to be heard orally by the Board. Because of the nature of the proceedings, however, permission to argue orally is rarely granted. After review of the entire case, the Board issues its decision either dismissing the petition or directing that an election be held. In the latter event, the election is conducted under the supervision of the regional director in the manner already described in § 101.19.

(d) The parties have the same rights, and the same procedure is followed, with respect to objections to the conduct of the election and challenged ballots, as has already been described in connection with the postelection procedures in cases involving consent elections to be followed by Board certifications.

(e) If the election involves two or more labor organizations and if the election results are inconclusive because no choice on the ballot received the majority of valid votes cast, a runoff election is held as provided in the board's rules and regulations.

Subpart D—Unfair Labor Practice and Representation Cases Under Sections 8(b)(7) and 9(c) of the Act

§ 101.22 Initiation and investigation of a case under section 8(b)(7).

(a) The investigation of an alleged violation of section 8(b)(7) of the act is initiated by the filing of a charge. The manner of filing such charge and the contents thereof are the same as described in § 101.2. In some cases, at the time of the investigation of the charge, there may be pending a representation petition involving the employees of the employer named in the charge. In those cases, the results of the investigation of the charge will determine the course of the petition.

(b) The investigation of the charge is conducted in accordance with the provisions of § 101.4, insofar as they are applicable. If the investigation reveals that there is merit in the charge, a complaint is issued as described in § 101.8, and an application is made for an injunction under section 10(l) of the act, as described in § 101.37. If the investigation reveals that there is no merit in the charge, the regional director, absent a withdrawal of the charge, dismisses it, subject to appeal to the general counsel. However, if the investigation reveals that issuance of a complaint may be warranted but for the pendency of a representation petition involving the employees of the employer named in the charge, action on the charge is suspended pending the investigation of the petition as provided in § 101.23.

§ 101.23 Initiation and investigation of a petition in connection with a case under section 8(b)(7).

(a) A representation petition [1] involving the employees of the employer named in the charge is handled under an expedited procedure when the investigation of the charge has revealed that: (1) The employer's operations affect commerce within the meaning of the act; (2) picketing of the employer is being conducted for an object proscribed by section 8(b)(7) of the act; (3) subparagraph (C) of that section is applicable to the picketing; and (4) the petition has been filed within a reasonable period of time not to exceed 30 days from the commencement of the picketing. In these circumstances, the member of the regional director's staff, to whom the matter has been assigned, investigates the petition to ascertain further: (1) The unit appropriate for collective bargaining; and (2) whether an election in that unit would effectuate the policies of the act.

(b) If, based on such investigation, the regional director determines that an election is warranted, he may, without a prior hearing, direct that an election be held in an appropriate unit of employees. Any party aggrieved may file a request with the Board for special permission to appeal that action to the Board, but such review, if granted, will not, unless otherwise ordered by the Board, stay the proceeding. If the regional director determines that an election is not warranted, he dismisses the petition or makes other disposition of the matter. Should he conclude that an election is warranted, he fixes the basis of eligibility of voters and the place, date, and hours of balloting. The mechanics of arranging the balloting, the other procedures for the conduct of the election, and the postelection proceedings are the same, insofar as appropriate, as those described in § 101.19, except that the regional director's rulings on any objections to the conduct of the election or challenged ballots are final and binding, unless the Board, on an application by one of the parties, grants such party special permission to appeal from the regional director's rulings. The party requesting such review by the Board must do so promptly, in writing, and state briefly the grounds relied upon. Such party must also immediately serve a copy on each of the other parties, including the regional director. Neither the request for review by the Board nor the Board's grant of such review operates as a stay of any action taken by the regional director, unless specifically so ordered by the Board. If the Board grants permission to appeal, and it appears to the Board that substantial and material factual issues have been presented with respect to the objections to the conduct of the election or challenged ballots, it may order that a hearing be held on such issues or take other appropriate action.

(c) If the regional director believes, after preliminary investigation of the petition, that there are substantial issues which require Board determination before an election may be held, he may order a hearing on the issues. This hearing is followed by Board decision and direction of election, or other disposition. The procedures to be used in connection with such hearing and posthearing proceedings are the same, insofar as they are applicable, as those described in § 101.21, except that the parties may not file briefs with the Board, unless special permission therefor is granted by the Board, although they may state their respective legal positions fully on the record at the hearing.

(d) Should the parties so desire, they may, with the approval of the regional director, resolve the issues as to the unit, the conduct of the balloting, and related matters pursuant to informal consent procedures, as described in § 101.19(a).

(e) If a petition has been filed which does not meet the requirements for processing under the expedited proce-

[1] The manner of filing of such petition and the contents thereof are the same as described in § 101.17, except that the petitioner is not required to allege that a claim was made upon the employer for recognition or that the union represents a substantial number of employees.

dure, the regional director may process it under the procedures set forth in Subpart C of this part.

§ 101.24 Final disposition of a charge which has been held pending investigation of the petition.

(a) Upon the determination that the issuance of a direction of election is warranted on the petition, the regional director, absent withdrawal of the charge, dismisses it subject to an appeal to the general counsel in Washington, D.C.

(b) If, however, the petition is dismissed or withdrawn, the investigation of the charge is resumed, and the appropriate steps described in § 101.22 are taken with respect to it.

§ 101.25 Appeal from the dismissal of a petition, or from the refusal to process it under the expedited procedure.

If the regional director determines after his investigation of the representation petition that further proceedings based thereon are not warranted, he, absent withdrawal of the petition, dismisses it, stating the grounds therefor. If the regional director determines that the petition does not meet the requirements for processing under the expedited procedure, he advises the petitioner of his determination to process the petition under the procedures described in Subpart C of this part. In either event, the regional director informs all the parties of his action, and such action is final, although the Board may grant an aggrieved party permission to appeal from the regional director's action. Such party must request such review promptly, in writing, and state briefly the grounds relied upon. Such party must also immediately serve a copy on each of the other parties, including the regional director. Neither the request for review by the Board, nor the Board's grant of such review, operates as a stay of the action taken by the regional director, unless specifically so ordered by the Board.

Subpart E—Referendum Cases Under Section 9(e) (1) and (2) of the Act

§ 101.26 Initiation of rescission of authority cases.

The investigation of the question as to whether the authority of a labor organization to make an agreement requiring membership in a labor organization as a condition of employment is to be rescinded is initiated by the filing of a petition by an employee or group of employees on behalf of 30 percent or more of the employees in a bargaining unit covered by an agreement between their employer and a labor organization requiring membership in such labor organization. The petition must be in writing and signed, and either must be notarized or must contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. It is filed with the regional director for the region in which the alleged appropriate bargaining unit exists or, if the bargaining unit exists in two or more regions, with the regional director for any such regions. The blank form, which is supplied by the regional office upon request, provides, among other things, for a description of the bargaining unit covered by the agreement, the approximate number of employees involved, and the names of any other labor organizations which claim to represent the employees. Petitioner must supply with the petition, or within 48 hours after filing, its evidence of authorization from the employees.

§ 101.27 Investigation of petition; withdrawals and dismissals.

(a) Upon receipt of the petition in the regional office, it is filed, docketed, and assigned to a member of the staff, usually a field examiner, for investigation. He conducts an investigation to ascertain (1) whether the employer's operations affect commerce within the meaning of the act, (2) whether there is in effect an agreement requiring as a condition of employment membership in a labor organization, (3) whether petitioner has been authorized by at least 30 percent of the employees to file such a petition, and (4) whether an election would effectuate the policies of the act by providing for a free expression of choice by the employees. The evidence of designation submitted by petitioner, usually in the form of cards signed by individual employees authorizing the filing of such a petition, is checked to determine the proportion of employees who desire recission.

(b) Petitioner may on its own initiative request the withdrawal of the petition if the investigation discloses that an election is inappropriate, because, among other possible reasons, petitioner's card-showing is insufficient to meet the 30-percent statutory requirement referred to in paragraph (a) of this section.

(c) For the same or similar reasons the regional director may request the petitioner to withdraw its petition. If petitioner, despite the regional director's recommendation, refuses to withdraw the petition, the regional director then dismisses the petition, stating the grounds for his dismissal and informing petitioner of his right of appeal to the Board in Washington, D.C. The petitioner may within 10 days appeal from the regional director's dismissal by filing such request with the Board in Washington, D.C. The request shall contain a complete statement setting forth the facts and reasons upon which the request is made. After a full review of the file, the Board, with the assistance of its staff, may sustain the dismissal, stating the grounds for its affirmance, or may direct the regional director to take further action.

§ 101.28 Consent agreements providing for election.

The Board makes available to the parties two types of informal consent procedures through which authorization issues can be resolved without resort to formal procedures. These informal agreements are commonly referred to as (a) consent-election agreement, followed by regional director's determination, and (b) consent-election agreement, followed by Board certification. Forms for use in these informal procedures are available in regional offices.

The procedures to be used in connection with a consent-election agreement providing for regional director's determination and a consent-election agreement providing for Board certification are the same as those already described in subpart C of the Statements of Procedure in connection with representation cases under section 9(c) of the act, except that no provision is made for runoff elections.

§ 101.29 Procedure respecting election conducted without hearing.

If the regional director determines that the case is an appropriate one for election without formal hearing, an election is conducted as quickly as possible among the employees and upon the conclusion of the election the regional director furnishes to the parties a tally of the ballots. The parties, however, have an opportunity to make appropriate challenges and objections to the conduct of the election and they have the same rights, and the same procedure is followed, with respect to objections to the conduct of the election and challenged ballots, as has already been described in subpart C of the Statements of Procedure in connection with the postelection procedures in representation cases under section 9(c) of the act, except that no provision is made for a runoff election. If no such objections are filed within 5 days and if the challenged ballots are insufficient in number to affect the results of the election, the regional director issues to the parties a certification of the results of the election, with the same force and effect as if issued by the Board.

§ 101.30 Formal hearing and procedure respecting election conducted after hearing.

(a) If the preliminary investigation indicates that there are substantial issues which require Board determination before an appropriate election may be held, the regional director will institute formal proceedings by issuance of a notice of hearing on the issues which, after hearing, is followed by Board decision and direction of election or dismissal. The notice of hearing together with a copy of the petition is served upon petitioner, the employer, and upon any other known persons or labor organizations claiming to have been designated by employees involved in the proceeding.

(b) The hearing, usually open to the public, is held before a hearing officer who normally is an attorney or field examiner attached to the regional office but may be another qualified official. The hearing, which is nonadversary in character, is part of the investigation in which the primary interest of the Board's agents is to insure that the record contains as full a statement of the pertinent facts as may be necessary for determination of the case by the Board. The parties are afforded full opportunity to present their respective positions and to produce the significant facts in support of their contentions. In most cases a substantial number of the relevant facts are undisputed and stipulated. The parties are permitted to argue orally on the record before the hearing officer.

(c) Upon the close of the hearing, the entire record in the case is then forwarded to the Board in Washington, D.C., together with an informal analysis by the hearing officer of the issues and the evidence but without recommendations. All parties may file briefs with the Board within 7 days after the close of the hearing and may also request to be heard orally by the Board. Because of the nature of the proceeding, however, permission to argue orally is rarely granted. After review of the entire case, the Board issues its decision either dismissing the petition or directing that an election be held. In the latter event, the election is conducted under the supervision of the regional director in the manner already described in § 101.19.

(d) The parties have the same rights, and the same procedure is followed, with respect to objections to the conduct of the election and challenged ballots as has already been described in connection with the postelection procedures in cases involving consent elections to be followed by Board certifications.

Subpart F — Jurisdictional Dispute Cases Under Section 10(k) of the Act

§ 101.31 Initiation of proceedings to hear and determine jurisdictional disputes under section 10(k).

The investigation of a jurisdictional dispute under section 10(k) is initiated by the filing of a charge, as described in § 101.2, by any person alleging a violation of paragraph (4)(D) of section 8(b).

§ 101.32 Investigation of charges; withdrawal of charges; dismissal of charges and appeals to Board.

These matters are handled as described in §§ 101.4 to 101.7, inclusive. Cases involving violation of paragraph (4)(D) of section 8(b) in which it is deemed appropriate to seek injunctive relief of a district court pursuant to section 10(l) of the act, are given priority over all other cases in the office except other cases under section 10(l) of the act and cases of like character.

§ 101.33 Initiation of formal action; settlement.

If, after investigation, it appears to the regional director that the Board should determine the dispute under section 10(k) of the act, he issues a notice of filing of the charge together with a notice of hearing which includes a simple statement of issues involved in the jurisdictional dispute and which is served on all parties to the dispute out of which the unfair labor practice is alleged to have arisen. The hearing is scheduled for not less than 10 days after service of the notice of hearing. If the parties present to the regional director satisfactory evidence that they have adjusted the dispute, the regional director withdraws the notice of hearing and either permits the withdrawal of the charge or dismisses the charge. If the parties submit to the regional director satisfactory evidence that they have agreed upon methods for the voluntary adjustment of the dispute, the regional director shall defer action upon the charge and shall withdraw the notice of hearing if issued. The parties may agree on an arbitrator, a proceeding under section 9(c) of the act, or any other satisfactory method to resolve the dispute.

§ 101.34 Hearing.

If the parties have not adjusted the dispute or agreed upon methods of voluntary adjustment, a hearing, usually open to the public, is held before a hearing officer. The hearing is nonadversary in character, and the primary interest of the hearing officer is to insure that the record contains as full a statement of the pertinent facts as may be necessary for a determination of the issues by the Board. All parties are afforded full opportunity to present their respective positions and to produce evidence in support of their contentions. The parties are permitted to argue orally on the record before the hearing officer. At the close of the hearing, the case is transmitted to the Board for decision. The hearing officer prepares an analysis of the issues and the evidence, but makes no recommendations in regard to resolution of the dispute.

§ 101.35 Procedure before the Board.

The parties have 7 days after the close of the hearing, subject to any extension that may have been granted, to file briefs with the Board and to request oral argument which the Board may or may not grant. The Board then considers the evidence taken at the hearing and the hearing officer's analysis together with any briefs that may be filed and the oral argument, if any, and issues its determination or makes other disposition of the matter.

§ 101.36 Compliance with determination; further proceedings.

After the issuance of determination by the Board, the regional director in the region in which the proceeding arose communicates with the parties for the purpose of ascertaining their intentions in regard to compliance. Conferences may be held for the purpose of working out details. If the regional director is satisfied that the parties are complying with the determination, he dismisses the charge. If the regional director is not satisfied that the parties are complying, he issues a complaint and notice of hearing, charging violation of section 8(b)(4)(D) of the act, and the proceeding follows the procedure outlined in §§ 101.8 to 101.15, inclusive.

Subpart G—Procedure Under Section 10 (j) and (l) of the Act

§ 101.37 Application for temporary relief or restraining orders.

Whenever it is deemed advisable to seek temporary injunctive relief under section 10(j) or whenever it is determined that a complaint should issue alleging violation of section 8(b)(4)(A), (B), or (C), or section 8(e), or section 8(b)(7), or whenever it is appropriate to seek temporary injunctive relief for a violation of section 8(b)(4)(D), the officer or regional attorney to whom the matter has been referred will make application for appropriate temporary relief or restraining order in the district court of the United States within which the unfair labor practice is alleged to have occurred or within which the party sought to be enjoined resides or transacts business, except that such officer or regional attorney will not apply for injunctive relief under section 10(l) with respect to an alleged violation of section 8(b)(7) if a charge under section 8(a)(2) has been filed and after preliminary investigation, he has reasonable cause to believe that such charge is true and that a complaint should issue.

§ 101.38 Change of circumstances.

Whenever a temporary injunction has been obtained pursuant to section 10(j) and thereafter the trial examiner hearing the complaint, upon which the determination to seek such injunction was predicated, recommends dismissal of such complaint, in whole or in part, the officer or regional attorney handling the case for the Board suggests to the district court which issued the temporary injunction the possible change in circumstances arising out of the findings and recommendations of the trial examiner.

Subpart H—Declaratory Orders and Advisory Opinions Regarding Board Jurisdiction

§ 101.39 Initiation of advisory opinion case.

The question of whether the Board will assert jurisdiction over a labor dispute which is the subject of a proceeding in an agency or court of a State or Territory is initiated by the filing of a petition with the Board. This petition may be filed only if (a) a proceeding is currently pending before such agency or court, and (b) the petitioner is a party to such proceedings before such agency or court or is the agency or court itself. The petition must be in writing and signed. When a petition is filed by a private party, it shall either be sworn to or shall contain a declaration under the penalties of the Criminal Code that its contents are true and correct. It is filed with the executive secretary of the Board in Washington, D.C. No particular form is required, but the petition must be properly captioned and must contain the allegations required by § 102.99 of this chapter. None of the information sought relates to the merits of the dispute. The petition may be withdrawn at any time before the Board issues its advisory opinion determining whether it would or would not assert jurisdiction on the basis of the facts before it.

§ 101.40 Proceedings following the filing of the petition.

(a) A copy of the petition is served upon all other parties and the appropriate regional director by the petitioner.

(b) Interested persons may request intervention by a written motion to the Board. Such intervention may be granted in the discretion of the Board.

(c) Parties other than the petitioner may reply to the petition in writing, admitting or denying any or all of the matters asserted therein.

(d) No briefs shall be filed except upon special permission of the Board.

(e) After review of the entire record, the Board issues an advisory opinion as to whether the facts presented would or would not cause it to assert jurisdiction over the case if the case had been originally filed before it. The Board will limit its advisory opinion to the jurisdictional issue confronting it, and will not presume to render an opinion on the merits of the case or on the question of whether the subject matter of the dispute is governed by The Labor Management Relations Act of 1947, as amended.

§ 101.41 Informal procedures for obtaining opinions on jurisdictional questions.

Although a formal petition is necessary to obtain an advisory opinion from the Board, other avenues are available to persons seeking informal and, in most cases, speedy opinions on jurisdictional issues. In discussion of jurisdiction questions informally with regional office personnel, information and advice concerning the Board's jurisdictional standards may be obtained. Such practices are not intended to be discouraged by the rules providing for formal advisory opinions by the Board, although the opinions expressed by such personnel are not to be regarded as binding upon the Board or the general counsel.

§ 101.42 Procedures for obtaining declaratory orders of the Board.

(a) When both an unfair labor practice charge and a representation petition are pending concurrently in a regional office, appeals from a regional director's dismissals thereof do not follow the same course. Appeal from the dismissal of a charge must be made to the general counsel, while appeal from dismissal of a representation petition may be made to the Board. To obtain uniformity in disposing of such cases on jurisdictional grounds at the same stage of each proceeding, the general counsel may file a petition for a declaratory order of the Board. Such order is intended only to remove uncertainty with respect to the question of whether the Board would assert jurisdiction over the labor dispute.

(b) A petition to obtain a declaratory Board order may be filed only by the general counsel. It must be in writing and signed. It is filed with the executive secretary of the Board in Washington, D.C. No particular form is required, but the petition must be properly captioned and must contain the allegations required by § 102.106 of this chapter. None of the information sought relates to the merits of the dispute. The petition may be withdrawn any time before the Board issues its declaratory order deciding whether it would or would not assert jurisdiction over the cases.

§ 101.43 Proceedings following the filing of the petition.

(a) A copy of the petition is served upon all other parties.

(b) Interested persons may request intervention by a written motion to the Board. Such intervention may be granted in the discretion of the Board.

(c) All other parties may reply to the petition in writing.

(d) Briefs may be filed.

(e) After review of the record, the Board issues a declaratory order as to whether it will assert jurisdiction over the cases, but it will not render a decision on the merits at this stage of the cases.

(f) The declaratory Board order will be binding on the parties in both cases.

PART 102—RULES AND REGULATIONS, SERIES 8

Subpart A—Definitions

Subpart B—Procedure Under Section 10 (a) to (i) of the Act for the Prevention of Unfair Labor Practices

Subpart C—Procedure Under Section 9(c) of the Act for the Determination of Questions Concerning Representation of Employees

AUTHORITY: 102.1 to 102.121 issued under 49 Stat. 449; 29 U.S.C. 151–168; and Act of September 14, 1959 (Pub. Law 86–257; 73 Stat. 519).

Subpart A—Definitions

§ 102.1 Terms defined in section 2 of the act.

The terms "person," "employer," "employee," "representative," "labor organization," "commerce," "affecting commerce," and "unfair labor practice," as used herein, shall have the meanings set forth in section 2 of the National Labor Relations Act, as amended by title I of the Labor Management Relations Act, 1947.

§ 102.2 Act; Board; Board agent.

The term "act" as used herein shall mean the National Labor Relations Act, as amended. The term "Board" shall mean the National Labor Relations Board and shall include any group of three or more members designated pursuant to section 3(b) of the act. The term "Board agent" shall mean any member, agent, or agency of the Board, including its general counsel.

§ 102.3 General counsel.

The term "general counsel" as used herein shall mean the general counsel under section 3(d) of the act.

§ 102.4 Region.

The term "region" as used herein shall mean that part of the United States or any Territory thereof fixed by the Board as a particular region.

§ 102.5 Regional director; regional attorney.

The term "regional director" as used herein shall mean the agent designated by the Board as regional director for a particular region. The term "regional attorney" as used herein shall mean the attorney designated by the Board as regional attorney for a particular region.

§ 102.6 Trial examiner; hearing officer.

The term "trial examiner" as used herein shall mean the agent of the Board conducting the hearing in an unfair labor practice or Telegraph Merger Act proceeding. The term "hearing officer" as used herein shall mean the agent of the Board conducting the hearing in a proceeding under section 9 or in a dispute proceeding under section 10(k) of the act.

§ 102.7 State.

The term "State" as used herein shall include the District of Columbia and all States, Territories, and possessions of the United States.

§ 102.8 Party.

The term "party" as used herein shall mean the regional director in whose region the proceeding is pending and any person named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any Board proceeding, including, without limitation, any person filing a charge or petition under the act, any person named as respondent, as employer, or as party to a contract in any proceeding under the act, and any labor organization alleged to be dominated, assisted, or supported in violation of section 8(a)(1) or 8(a)(2) of the act; but nothing herein shall be construed to prevent the Board or its designated agent from limiting any party to participate in the proceedings to the extent of his interest only.

Subpart B—Procedure Under Section 10 (a) to (i) of the Act for the Prevention of Unfair Labor Practices [1]

CHARGE

§ 102.9 Who may file; withdrawal and dismissal.

A charge that any person has engaged in or is engaging in any unfair labor practice affecting commerce may be made by any person. Any such charge may be withdrawn, prior to the hearing, only with the consent of the regional director with whom such charge was filed; at the hearing and until the case has been transferred to the Board pursuant to § 102.45, upon motion, with the consent of the trial examiner designated to conduct the hearing; and after the case has been transferred to the Board pursuant to § 102.45, upon motion, with the consent of the Board. Upon withdrawal of any charge, any complaint based thereon shall be dismissed by the regional director issuing the complaint, the trial examiner designated to conduct the hearing, or the Board.

§ 102.10 Where to file.

Except as provided in § 102.33 such charge shall be filed with the regional director for the region in which the alleged unfair labor practice has occurred or is occurring. A charge alleging that an unfair labor practice has occurred or is occurring in two or more regions may be filed with the regional director for any of such regions.

§ 102.11 Forms; jurat; or declaration.

Such charge shall be in writing and signed, and either shall be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments or shall contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. Three additional copies of such charge shall be filed together with one additional copy for each named party respondent.[2]

§ 102.12 Contents.

Such charge shall contain the following:

(a) The full name and address of the person making the charge.

(b) If the charge is filed by a labor organization, the full name and address of any national or international labor organization of which it is an affiliate or constituent unit.

(c) The full name and address of the person against whom the charge is made (hereinafter referred to as the "respondent").

(d) A clear and concise statement of the facts constituting the alleged unfair labor practices affecting commerce.

[1] Procedure under sec. 10 (j) to (l) of the act is governed by Subparts F and G of this part. Procedure for unfair labor practice cases and representation cases under sec. 8(b)(7) of the act is governed by Subpart D of this part.

[2] A Blank form for making a charge will be supplied by the regional director upon request.

§ 102.13 Note.

This section, which in Series 7 of the rules and regulations related to the filing requirements of section 9 (f), (g), and (h) of the Labor Management Relations Act, was eliminated by amendments effective September 14, 1959. To avoid the renumbering of §§ 102.14 to 102.72 the Board has left this section number blank.

§ 102.14 Service of charge.

Upon the filing of a charge, the charging party shall be responsible for the timely and proper service of a copy thereof upon the person against whom such charge is made. The regional director will, as a matter of course, cause a copy of such charge to be served upon the person against whom the charge is made, but he shall not be deemed to assume responsibility for such service.

COMPLAINT

§ 102.15 When and by whom issued; contents; service.

After a charge has been filed, if it appears to the regional director that formal proceedings in respect thereto should be instituted, he shall issue and cause to be served upon all the other parties a formal complaint in the name of the Board stating the unfair labor practices and containing a notice of hearing before a trial examiner at a place therein fixed and at a time not less than 10 days after the service of the complaint.

§ 102.16 Hearing; extension.

Upon his own motion or upon proper cause shown by any other party, the regional director issuing the complaint may extend the date of such hearing.

§ 102.17 Amendment.

Any such complaint may be amended upon such terms as may be deemed just, prior to the hearing, by the regional director issuing the complaint; at the hearing and until the case has been transferred to the Board pursuant to § 102.45, upon motion, by the trial examiner designated to conduct the hearing; and after the case has been transferred to the Board pursuant to § 102.45, at any time prior to the issuance of an order based thereon, upon motion, by the Board.

§ 102.18 Withdrawal.

Any such complaint may be withdrawn before the hearing by the regional director on his own motion.

§ 102.19 Review by the general counsel of refusal to issue.

If, after the charge has been filed, the regional director declines to issue a complaint, he shall so advise the parties in writing, accompanied by a simple statement of the procedural or other grounds. The person making the charge may obtain a review of such action by filing a request therefor with the general counsel in Washington, D.C., and filing a copy of the request with the regional director, within 10 days from the service of the notice of such refusal by the regional director. The request shall contain a complete statement setting forth the facts and reasons upon which the request is based.

ANSWER

§ 102.20 Answer to complaint; time for filing; contents; allegations not denied deemed admitted.

The respondent shall, within 10 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

§ 102.21 Where to file; service upon the parties; form.

An original and four copies of the answer shall be filed with the regional director issuing the complaint. Immediately upon the filing of his answer, respondent shall serve a copy thereof on each of the other parties. An answer of a party represented by counsel shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his answer and state his address. Except when otherwise specifically provided by rule or statute, an answer need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him that he has read the answer; 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. If an answer is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the answer had not been served. For a willful violation of this rule an attorney may be subjected to appropriate disciplinary action. Similar action may be taken if scandalous or indecent matter is inserted.

§ 102.22 Extension of time for filing.

Upon his own motion or upon proper cause shown by any other party the regional director issuing the complaint may by written order extend the time within which the answer shall be filed.

§ 102.23 Amendment.

The respondent may amend his answer at any time prior to the hearing. During the hearing or subsequent thereto, he may amend his answer in any case where the complaint has been amended, within such period as may be fixed by the trial examiner or the Board. Whether or not the complaint has been amended, the answer may, in the discretion of the trial examiner or the Board, upon motion, be amended upon such terms and within such periods as may be fixed by the trial examiner or the Board.

MOTIONS

§ 102.24 Motions; where to file prior to hearing and during hearing; contents; service on other parties.

All motions made prior to the hearing shall be filed in writing with the regional director issuing the complaint, and shall briefly state the order or relief applied for and the grounds for such motion. The moving party shall file an original and four copies of all such motions and immediately serve a copy thereof upon each of the other parties. All motions made at the hearing shall be made in writing to the trial examiner or stated orally on the record.

§ 102.25 Ruling on motions; where to file motions after hearing and before transfer of case to Board.

The trial examiner designated to conduct the hearing shall rule upon all motions (except as provided in §§ 102.16, 102.22, 102.29, and 102.47). The trial examiner may, before the hearing, rule on motions filed prior to the hearing, and shall cause copies of his ruling to be served upon all the parties. All motions filed subsequent to the hearing, but before the transfer of the case to the Board pursuant to § 102.45, shall be filed with the trial examiner, care of the chief trial examiner in Washington, D.C., or associate chief trial examiner, San Francisco, California, as the case may be, and a copy thereof shall be served on each of the parties. Rulings by the trial examiner on motions, and any orders, in connection therewith, if announced at the hearing, shall be stated orally on the record; in all other cases such rulings and orders shall be issued in writing. The trial examiner shall cause a copy of the same to be served upon each of the other parties, or shall make his ruling in the intermediate report. Whenever the trial examiner has reserved his ruling on any motion, and the proceeding is thereafter transferred to and continued before the Board pursuant to § 102.50, the Board shall rule on such motion.

§ 102.26 Motions; rulings and orders part of the record; rulings not to be appealed directly to Board without special permission; requests for special permission to appeal.

All motions, rulings, and orders shall become part of the record, except that rulings on motions to revoke subpenas shall become a part of the record only upon the request of the party aggrieved thereby, as provided in § 102.31. Unless expressly authorized by the rules and regulations, rulings by the regional director and by the trial examiner on motions, by the trial examiner on objections, and orders in connection therewith, shall not be appealed directly to the Board except by special permission of the Board, but shall be considered by the Board in reviewing the record, if exception to the ruling or order is included in the statement of exceptions filed with the Board, pursuant to § 102.46. Requests to the Board for special permission to appeal from such rulings of the regional director or the trial examiner shall be filed promptly, in writing, and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on each other party.

§ 102.27 Review of granting of motion to dismiss entire complaint; reopening of record.

If any motion in the nature of a motion to dismiss the complaint in its entirety is granted by the trial examiner before filing his intermediate report, any party may obtain a review of such action by filing a request therefor with the Board in Washington, D.C., stating the grounds for review and immediately on such filing shall serve a copy thereof on the regional director and the other parties. Unless such request for review is filed within 10 days from the date of the order of dismissal, the case shall be closed.

§ 102.28 Filing of answer or other participation in proceedings not a waiver of rights.

The right to make motions or to make objections to rulings upon motions shall not be deemed waived by the filing of an answer or by other participation in the proceedings before the trial examiner or the Board.

INTERVENTION

§ 102.29 Intervention; requisites; rulings on motions to intervene.

Any person desiring to intervene in any proceeding shall file a motion in writing or, if made at the hearing, may move orally on the record, stating the grounds upon which such person claims an interest. Prior to the hearing, such a motion shall be filed with the regional director issuing the complaint; during the hearing such motion shall be made to the trial examiner. An original and four copies of written motions shall be filed. Immediately upon filing such motion, the moving party shall serve a copy thereof upon each of the other parties. The regional director shall rule upon all such motions filed prior to the hearing, and shall cause a copy of said rulings to be served upon each of the other parties, or may refer the motion to the trial examiner for ruling. The trial examiner shall rule upon all such motions made at the hearing or referred to him by the regional director, in the manner set forth in § 102.25. The regional director or the trial examiner, as the case may be, may by order permit intervention in person or by counsel or other representative to such extent and upon such terms as he may deem proper.

WITNESSES, DEPOSITIONS, AND SUBPENAS

§ 102.30 Examination of witnesses; depositions.

Witnesses shall be examined orally under oath, except that for good cause shown after the issuance of a complaint, testimony may be taken by deposition.

(a) Applications to take depositions shall be in writing setting forth the reasons why such depositions should be taken, the name and post office address of the witness, the matters concerning which it is expected the witness will testify, and the time and place proposed for the taking of the deposition, together with the name and address of the person before whom it is desired that the deposition be taken (for the purposes of this section hereinafter referred to as the "officer"). Such application shall be made to the regional director prior to the hearing, and to the trial examiner during and subsequent to the hearing but before transfer of the case to the Board pursuant to § 102.45 or § 102.50. Such application shall be served upon the regional director or the trial examiner, as the case may be, and upon all other parties, not less than 7 days (when the deposition is to be taken within the continental United States) and 15 days (if the deposition is to be taken elsewhere) prior to the time when it is desired that the deposition be taken. The regional director or trial examiner, as the case may be, shall upon receipt of the application, if in his discretion good cause has been shown, make and serve upon the parties an order which will specify the name of the witness whose deposition is to be taken and the time, the place, and the designation of the officer before whom the witness is to testify, who may or may not be the same officer as that specified in the application. Such order shall be served upon all the other parties by the regional director or upon all parties by the trial examiner.

(b) Such deposition may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the examination is held, including any agent of the Board authorized to administer oaths. If the examination is held in a foreign country, it may be taken before any secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States.

(c) At the time and place specified in said order the officer designated to take such deposition shall permit the witness to be examined and cross-examined under oath by all the parties appearing, and his testimony shall be reduced to typewriting by the officer or under his direction. All objections to questions or evidence shall be deemed waived unless made at the examination. The officer shall not have power to rule upon any objections but he shall note them upon the deposition. The testimony shall be subscribed by the witness in the presence of the officer who shall attach his certificate stating that the witness was duly sworn by him, that the deposition is a true record of the testimony and exhibits given by the witness, and that said officer is not of counsel or attorney to any of the parties nor interested in the event of the proceeding or investigation. If the deposition is not signed by the witness because he is ill, dead, cannot be found, or refuses to sign it, such fact shall be included in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver an original and two copies of said transcript, together with his certificate, in person or by registered mail to the regional director or the trial examiner, care of the chief trial examiner in Washington, D.C., or associate chief trial examiner, San Francisco, California, as the case may be.

(d) The trial examiner shall rule upon the admissibility of the deposition or any part thereof.

(e) All errors or irregularities in compliance with the provisions of this section shall be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is or, with due diligence, might have been ascertained.

(f) If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

§ 102.31 Issuance of subpenas; petitions to revoke subpenas; right to inspect or copy data.

(a) Any member of the Board shall, on the written application of any party, forthwith issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence, or documents, in their possession or under their control. Applications for subpenas, if filed prior to the hearing, shall be filed with the regional director. Applications for subpenas filed during the hearing shall be filed with the trial examiner. Either the regional director or the trial examiner, as the case may be, shall grant the application, on behalf of any member of the Board. Applications for subpenas may be made ex parte. The subpena shall show on its face the name and address of the party at whose request the subpena was issued.

(b) Any person, served with a subpena, whether ad testificandum or duces tecum, if he does not intend to comply with the subpena, shall, within 5 days after the date of service of the subpena upon him, petition in writing to revoke the subpena. All petitions to revoke subpenas shall be served upon the party at whose request the subpena was issued. Such petition to revoke, if made prior to the hearing, shall be filed with the regional director and the regional director shall refer the petition to the trial examiner or the Board for ruling. Petitions to revoke subpenas filed during the hearing shall be filed with the trial examiner. Notice of the filing of petitions to revoke shall be promptly given by the regional director or the trial examiner, as the case may be, to the party at whose request the subpena was issued. The trial examiner or the Board, as the case may be, shall revoke the subpena if in its opinion the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpena does not describe with sufficient particularity the evidence whose production is required, or if for any other reason sufficient in law the subpena is otherwise invalid. The trial examiner or the Board, as the case may be, shall make a simple statement of procedural or other grounds for the ruling on the petition to revoke. The petition to revoke, any answer filed thereto, and any ruling thereon shall not become part of the official record except upon the request of the party aggrieved by the ruling.

(c) Persons compelled to submit data or evidence at a public proceeding are entitled to retain or, on payment of lawfully prescribed costs, to procure copies or transcripts of the data or evidence submitted by them. Persons compelled to submit data or evidence in the nonpublic investigative stages of proceedings may, for good cause, be limited by the regional director to inspection of the official transcript of their testimony, but shall be entitled to make copies of documentary evidence or exhibits which they have produced.

(d) Upon the failure of any person to comply with a subpena issued upon the request of a private party, the general counsel shall, in the name of the Board but on relation of such private party, institute proceedings in the appropriate district court for the enforcement thereof, unless in the judgment of the Board the enforcement of such subpena would be inconsistent with law and with the policies of the act. Neither the general counsel nor the Board shall be deemed thereby to have assumed responsibility for the effective prosecution of the same before the court.

§ 102.32 Payment of witness fees and mileage; fees of persons taking depositions.

Witnesses summoned before the trial examiner shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear and the person taking the deposition shall be paid by the party at whose instance the deposition is taken.

TRANSFER, CONSOLIDATION, AND SEVERANCE

§ 102.33 Transfer of charge and proceeding from region to region; consolidation of proceedings in same region; severance.

Whenever the general counsel deems it necessary in order to effectuate the purposes of the act or to avoid unnecessary costs or delay, he may permit a charge to be filed with him in Washington, D.C., or may, at any time after a charge has been filed with a regional director pursuant to § 102.10, order that such charge and any proceeding which may have been initiated with respect thereto:

(a) Be transferred to and continued before him for the purpose of investigation or consolidation with any other proceeding which may have been instituted in a regional office or with him; or

(b) Be consolidated with any other proceeding which may have been instituted in the same region; or

(c) Be transferred to and continued in any other region for the purpose of investigation or consolidation with any proceeding which may have been instituted in or transferred to such other region.

The provisions of §§ 102.9 to 102.32, inclusive, shall, insofar as applicable, govern proceedings before the general counsel pursuant to this section, and the powers granted to regional directors in such provisions shall, for the purpose of this section, be reserved to and exercised by the general counsel. After the transfer of any charge and any proceeding which may have been instituted with respect thereto from one region to another pursuant to this section, the provisions of this subpart shall, insofar as applicable, govern such charge and such proceeding as if the charge had originally been filed in the region to which the transfer is made.

Motions to sever proceedings may be filed before hearing, with the regional director, and during the hearing, with the trial examiner. The regional director shall refer all such motions filed with him to the trial examiner for ruling. Rulings by the trial examiner on motions to sever may be appealed to the Board in accordance with § 102.26.

HEARINGS

§ 102.34 Who shall conduct; to be public unless otherwise ordered.

The hearing for the purpose of taking evidence upon a complaint shall be conducted by a trial examiner designated by the chief trial examiner in Washington, D.C., or the associate chief trial examiner, San Francisco, Calif., as the case may be, unless the Board or any member thereof presides. At any time a trial examiner may be designated to take the place of the trial examiner previously designated to conduct the hearing. Such hearings shall be public unless otherwise ordered by the Board or the trial examiner.

§ 102.35 Duties and powers of trial examiners.

It shall be the duty of the trial examiner to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice affecting commerce as set forth in the complaint or amended complaint. The trial examiner shall have authority, with respect to cases assigned to him, between the time he is designated and transfer of the case to the Board, subject to the rules and regulations of the Board and within its powers:

(a) To administer oaths and affirmations;

(b) To grant applications for subpenas;

(c) To rule upon petitions to revoke subpenas;

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

(e) To take or cause depositions to be taken whenever the ends of justice would be served thereby;

(f) To regulate the course of the hearing and, if appropriate or necessary, to exclude persons or counsel from the hearing for contemptuous conduct and to strike all related testimony of witnesses refusing to answer any proper question;

(g) To hold conferences for the settlement or simplification of the issues by consent of the parties, but not to adjust cases;

(h) To dispose of procedural requests or similar matters, including motions re-

ferred to the trial examiner by the regional director and motions to amend pleadings; also to dismiss complaints or portions thereof, and to order hearings reopened prior to issuance of intermediate reports (recommended decisions);

(i) To make and file intermediate reports in conformity with section 8 of the Administrative Procedure Act;

(j) To call, examine, and cross-examine witnesses and to introduce into the record documentary or other evidence;

(k) To take any other action necessary under the foregoing and authorized by the published Rules and Regulations of the Board.

§ 102.36 Unavailability of trial examiners.

In the event the trial examiner designated to conduct the hearing becomes unavailable to the Board after the hearing has been concluded and before the filing of his intermediate report, the Board may transfer the case to itself for purposes of further hearing or issuance of an intermediate report or both on the record as made, or may request the chief trial examiner in Washington, D.C., or associate chief trial examiner, San Francisco, Calif., as the case may be, to designate another trial examiner for such purposes.

§ 102.37 Disqualification of trial examiners.

A trial examiner may withdraw from a proceeding whenever he deems himself disqualified. Any party may request the trial examiner, at any time following his designation by the chief trial examiner or associate chief trial examiner and before filing of his intermediate report, to withdraw on ground of personal bias or disqualification, by filing with him promptly upon the discovery of the alleged facts a timely affidavit setting forth in detail the matters alleged to constitute grounds for disqualification. If, in the opinion of the trial examiner, such affidavit is filed with due diligence and is sufficient on its face, he shall forthwith disqualify himself and withdraw from the proceeding. If the trial examiner does not disqualify himself and withdraw from the proceeding, he shall so rule upon the record, stating the grounds for his ruling and proceed with the hearing, or if the hearing has closed, he shall proceed with issuance of his intermediate report, and the provisions of § 102.26, with respect to review of rulings of trial examiners, shall thereupon apply.

§ 102.38 Rights of parties.

Any party shall have the right to appear at such hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record documentary or other evidence, except that the participation of any party shall be limited to the extent permitted by the trial examiner: *And provided further*, That documentary evidence shall be submitted in duplicate.

§ 102.39 Rules of evidence controlling so far as practicable.

Any such proceeding shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the United States under the rules of civil procedure for the district courts of the United States, adopted by the Supreme Court of the United States pursuant to the act of June 19, 1934 (U.S.C., title 28, secs. 723–B, 723–C).

§ 102.40 Stipulations of fact admissible.

In any such proceeding stipulations of fact may be introduced in evidence with respect to any issue.

§ 102.41 Objection to conduct of hearing; how made; objections not waived by further participation.

Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing, accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing.

§ 102.42 Filing of briefs and proposed findings with the trial examiner and oral argument at the hearing.

Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings and conclusions, or both, with the trial examiner who may fix a reasonable time for such filing, but not in excess of 35 days from the close of the hearing. Requests for further extensions of time shall be made to the chief trial examiner in Washington, D.C., or associate chief trial examiner, San Francisco, California, as the case may be. No request will be considered unless received at least 3 days prior to the expiration of the time fixed for the filing of briefs or proposed findings and conclusions. Notice of the request for any extension shall be immediately served upon all other parties, and proof of service shall be furnished. Three copies of the brief or proposed findings and conclusions shall be filed with the trial examiner, and copies shall be served upon each of the other parties, and proof of such service shall be furnished.

§ 102.43 Continuance and adjournment.

In the discretion of the trial examiner, the hearing may be continued from day to day, or adjourned to a later date or to a different place, by announcement thereof at the hearing by the trial examiner, or by other appropriate notice.

§ 102.44 Misconduct at hearing before a trial examiner or the Board; refusal of witness to answer questions.

(a) Misconduct at any hearing before a trial examiner or before the Board shall be ground for summary exclusion from the hearing.

(b) Such misconduct of an aggravated character, when engaged in by an attorney or other representative of a party, shall be ground for suspension or disbarment by the Board from further practice before it after due notice and hearing.

(c) The refusal of a witness at any such hearing to answer any question which has been ruled to be proper shall, in the discretion of the trial examiner, be ground for striking all testimony previously given by such witness on related matters.

INTERMEDIATE REPORT AND TRANSFER OF CASE TO THE BOARD

§ 102.45 Intermediate report and recommended order; contents; service; transfer of the case to the Board; contents of record in case.

(a) After hearing for the purpose of taking evidence upon a complaint, the trial examiner shall prepare an intermediate report and recommended order, but the initial decision shall be made by the Board. Such report shall contain findings of fact, conclusions, and the reasons or basis therefor, upon all material issues of fact, law, or discretion presented on the record, and the recommended orders shall contain recommendations as to what disposition of the case should be made, which may include, if it be found that the respondent has engaged in or is engaging in the alleged unfair labor practices, a recommendation for such affirmative action by the respondent as will effectuate the policies of the act. The trial examiner shall file the original of the intermediate report and recommended order with the Board and cause a copy thereof to be served upon each of the parties. Upon the filing of the report and recommended order, the Board shall enter an order transferring the case to the Board and shall serve copies of the order, setting forth the date of such transfer, upon all the parties. Service of the intermediate report and of the order transferring the case to the Board shall be complete upon mailing.

(b) The charge upon which the complaint was issued and any amendments thereto, the complaint and any amendments thereto, notice of hearing, answer and any amendments thereto, motions, rulings, orders, the stenographic report of the hearing, stipulations, exhibits, documentary evidence, and depositions, together with the intermediate report and recommended order and exceptions, shall constitute the record in the case.

EXCEPTIONS TO THE RECORD AND PROCEEDINGS

§ 102.46 Exceptions or supporting briefs; time for filing; where to file; service on parties; extension of time; effect of failure to include matter in exceptions; oral arguments.

(a) Within 20 days, or within such further period as the Board may allow, from the date of the service of the order transferring the case to the Board, pursuant to § 102.45, any party may (in accordance with section 10(c) of the act and §§ 102.113 and 102.114) file with the

Board in Washington, D.C., seven copies of a statement in writing setting forth exceptions to the intermediate report and recommended order or to any other part of the record or proceedings (including rulings upon all motions or objections), together with seven copies of a brief in support of said exceptions and immediately upon such filing copies shall be served on each of the other parties; and any party may, within the same period, file seven copies of a brief in support of the intermediate report and recommended order. Copies of such exceptions and briefs shall immediately be served on each of the other parties. Statements of exceptions and briefs shall designate by precise citation of page and line the portions of the record relied upon. Upon special leave of the Board, any party may file a reply brief upon such terms as the Board may impose. Requests for such leave or for extension of the time in which to file exceptions or briefs under authority of this section shall be in writing and copies thereof shall be immediately served on each of the other parties. Requests for an extension must be received by the Board 3 days prior to the due date.

(b) No matter not included in a statement of exceptions may thereafter be urged before the Board, or in any further proceeding.

(c) Should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board simultaneously with the statement of any exceptions filed pursuant to the provisions of paragraph (a) of this section with proof of service on all other parties furnished with such request. The Board shall notify the parties of the time and place of oral argument, if such permission is granted.

(d) Oral arguments are limited to 30 minutes for each party entitled to participate. No request for additional time will be granted unless timely application is made in advance of oral argument.

(e) Exceptions to intermediate reports and recommended orders, or to the record, briefs in support of exceptions, and briefs in support of intermediate reports and recommended orders shall be legibly printed or otherwise legibly duplicated: *Provided, however,* That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted.

§ 102.47 Filing of motion after transfer of case to Board.

All motions filed after the case has been transferred to the Board pursuant to § 102.45 shall be filed with the Board in Washington, D.C., by transmitting seven copies thereof, together with an affidavit of service, upon each of the parties. Such motions shall be legibly printed or otherwise duplicated: *Provided, however,* That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted.

PROCEDURE BEFORE THE BOARD

§ 102.48 Action of Board upon expiration of time to file exceptions to intermediate report.

(a) In the event no statement of exceptions is filed as herein provided, the findings, conclusions, and recommendations of the trial examiner as contained in his intermediate report and recommended order shall be adopted by the Board and become its findings, conclusions, and order, and all objections and exceptions thereto shall be deemed waived for all purposes. However, the Board may, in its discretion, order such case closed upon compliance.

(b) Upon the filing of a statement of exceptions and briefs, as provided in § 102.46, the Board may decide the matter forthwith upon the record, or after oral argument or may reopen the record and receive further evidence before a member of the Board or other Board agent or agency, or may close the case upon compliance with recommendations of the intermediate report, or may make other disposition of the case.

§ 102.49 Modification or setting aside of order of Board before record filed in court; action thereafter.

Within the limitations of the provisions of section 10(c) of the act, and § 102.48, until a transcript of the record in a case shall have been filed in a court, within the meaning of section 10 of the act, the Board may at any time upon reasonable notice modify or set aside, in whole or in part, any findings of fact, conclusions of law, or order made or issued by it. Thereafter, the Board may proceed pursuant to § 102.50, insofar as applicable.

§ 102.50 Hearings before Board or member thereof.

Whenever the Board deems it necessary in order to effectuate the purpose of the act or to avoid unnecessary costs or delay, it may, at any time after a complaint has issued pursuant to § 102.15 or § 102.33, order that such complaint and any proceeding which may have been instituted with respect thereto be transferred to and continued before it or any member of the Board. The provisions of this subpart shall, insofar as applicable, govern proceedings before the Board or any member pursuant to this section, and the powers granted to trial examiners in such provisions shall, for the purpose of this section, be reserved to and exercised by the Board or the member thereof who shall preside.

§ 102.51 Settlement or adjustment of issues.

At any stage of a proceeding prior to hearing, where time, the nature of the proceeding, and the public interest permit, all interested parties shall have opportunity to submit to the regional director, with whom the charge was filed, for consideration facts, arguments, offers of settlement, or proposals of adjustment.

BACK-PAY PROCEEDINGS

§ 102.52 Initiation of proceedings.

After the entry of a court decree enforcing an order of the Board directing the payment of back pay, if it appears to the regional director that there has arisen a controversy between the Board and a respondent concerning the amount of back pay due which cannot be resolved without a formal proceeding, the regional director shall issue and cause to be served upon the respondent a back-pay specification in the name of the Board. The specification shall contain or be accompanied by a notice of hearing before a trial examiner at a place therein fixed and at a time not less than 15 days after the service of the specification.

§ 102.53 Contents of back-pay specification.

The specification shall specifically and in detail show, for each employee, the back-pay periods broken down by calendar quarters, the specific figures and basis of computation as to gross back pay and interim earnings, the expenses for each quarter, the net back pay due, and any other pertinent information.

§ 102.54 Answer to back-pay specification.

(a) *Filing and service of answer.* The respondent shall, within 15 days from the service of the specification, file an answer thereto; an original and four copies shall be filed with the regional director issuing the specification, and a copy thereof shall immediately be served on any other respondent jointly liable.

(b) *Contents of the answer.* The answer shall be in writing, the original being signed and sworn to by the respondent or by a duly authorized agent with appropriate power of attorney affixed, and shall contain the post office address of the respondent. The respondent shall specifically admit, deny, or explain each and every allegation of the specification, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. Denials shall fairly meet the substance of the allegations denied. When a respondent intends to deny only a part of an allegation, the respondent shall specify so much of it as is true and shall deny only the remainder. As to all matters within the knowledge of the respondent, including but not limited to the various factors entering into the computation of gross back pay, a general denial shall not suffice. As to such matters, if the respondent disputes either the accuracy of the figures in the specification or the premises on which they are based, he shall specifically state the basis for his disagreement, setting forth in detail his position as to the applicable premises and furnishing the appropriate supporting figures.

(c) *Effect of failure to answer or to plead specifically and in detail.* If the respondent fails to file any answer within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without notice to the respondent, find the specification to be true and enter such order as may be appropriate. If the respondent files an answer but fails to deny any allegation of the specification in the manner required by paragraph (b) of this section, and the failure so to deny is not adequately explained, such allegation shall be deemed to be admitted to be true, and may be so found by the Board without the taking of evidence supporting such

allegation, and the respondent shall be precluded from introducing any evidence controverting said allegation.

§ 102.55 Extension of time for filing.

Upon his own motion or upon proper cause shown by any respondent, the regional director issuing the specification may by written order extend the time within which the answer shall be filed.

§ 102.56 Extension of date of hearing.

Upon his own motion or upon proper cause shown, the regional director issuing the specification may extend the date of hearing.

§ 102.57 Amendment.

After the issuance of the notice of hearing, the specification and the answer may be amended upon leave of the trial examiner or the Board, as the case may be, good cause therefor appearing.

§ 102.58 Withdrawal.

Any such specification may be withdrawn before the hearing by the regional director on his own motion.

§ 102.59 Hearing; posthearing procedure.

After the issuance of a notice of hearing, the procedures provided in §§ 102.24 to 102.51, inclusive, shall be followed insofar as applicable.

Subpart C—Procedure Under Section 9(c) of the Act for the Determination of Questions Concerning Representation of Employees [3]

§ 102.60 Petition for certification or decertification; who may file; where to file; withdrawal.

A petition for investigation of a question concerning representation of employees under paragraphs (1) (A) (i) and (1) (B) of section 9(c) of the act (hereinafter called a petition for certification) may be filed by an employee or group of employees or any individual or labor organization acting in their behalf or by an employer. A petition under paragraph (1) (A) (ii) of section 9(c) of the act, alleging that the individual or labor organization which has been certified or is being currently recognized as the bargaining representative is no longer such representative (hereinafter called a petition for decertification), may be filed by any employee or group of employees or any individual or labor organization acting in their behalf. Petitions under this section shall be in writing and signed,[4] and either shall be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments or shall contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. Four copies of the petition shall be filed. Except as provided in § 102.72, such petitions shall be filed with the regional director for the region wherein the bargaining unit exists, or, if the bargaining unit exists in two or more regions, with the regional director for any of such regions. Prior to the close of the hearing, pursuant to § 102.63, the petition may be withdrawn only with the consent of the regional director with whom such petition was filed. After the close of the hearing, the petition may be withdrawn only with the consent of the Board. Whenever the regional director or the Board, as the case may be, approves the withdrawal of any petition, the case shall be closed.

§ 102.61 Contents of petition for certification; contents of petition for decertification.

(a) A petition for certification, when filed by an employee or group of employees or an individual or labor organization acting in their behalf, shall contain the following:

(1) The name of the employer.

(2) The address of the establishments involved.

(3) The general nature of the employer's business.

(4) A description of the bargaining unit which the petitioner claims to be appropriate.

(5) The names and addresses of any other persons or labor organizations who claim to represent any employees in the alleged appropriate unit, and brief descriptions of the contracts, if any, covering the employees in such unit.

(6) The number of employees in the alleged appropriate unit.

(7) A statement that the employer declines to recognize the petitioner as the representative within the meaning of section 9(a) of the act or that the labor organization is currently recognized but desires certification under the act.

(8) The name, affiliation, if any, and address of the petitioner.

(9) Whether a strike or picketing is in progress at the establishment involved and, if so, the approximate number of employees participating, and the date such strike or picketing commenced.

(10) Any other relevant facts.

(b) A petition for certification, when filed by an employer, shall contain the following:

(1) The name and address of the petitioner.

(2) The general nature of the petitioner's business.

(3) A brief statement setting forth that one or more individuals or labor organizations have presented to the petitioner a claim to be recognized as the exclusive representative of all employees in the unit claimed to be appropriate; a description of such unit; and the number of employees in the unit.

(4) The name or names, affiliation, if any, and addresses of the individuals or labor organizations making such claim for recognition.

(5) A statement whether the petitioner has contracts with any labor organization or other representatives of employees and, if so, their expiration date.

(6) Whether a strike or picketing is in progress at the establishment involved and, if so, the approximate number of employees participating, and the date such strike or picketing commenced.

(7) Any other relevant facts.

(c) Petitions for decertification shall contain the following:

(1) The name of the employer.

(2) The address of the establishments and a description of the bargaining unit involved.

(3) The general nature of the employer's business.

(4) Name and address of the petitioner and affiliation, if any.

(5) Name or names of the individuals or labor organizations who have been certified or are being currently recognized by the employer and who claim to represent any employees in the unit involved, and the expiration date of any contracts covering such employees.

(6) An allegation that the individuals or labor organizations who have been certified or are currently recognized by the employer are no longer the representative in the appropriate unit as defined in section 9(a) of the act.

(7) The number of employees in the unit.

(8) Whether a strike or picketing is in progress at the establishment involved and, if so, the approximate number of employees participating, and the date such strike or picketing commenced.

(9) Any other relevant facts.

§ 102.62 Consent-election agreements.

(a) Where a petition has been duly filed, the employer and any individuals or labor organizations representing a substantial number of employees involved may, with the approval of the regional director, enter into a consent-election agreement leading to a determination by the regional director of the facts ascertained after such consent election. Such agreement shall include a description of the appropriate unit, the time and place of holding the election, and the payroll period to be used in determining what employees within the appropriate unit shall be eligible to vote. Such consent election shall be conducted under the direction and supervision of the regional director. The method of conducting such consent election shall be consistent with the method followed by the regional director in conducting elections pursuant to §§ 102.69 and 102.70 except that the rulings and determinations by the regional director of the results thereof shall be final, and the regional director shall issue to the parties a certification of the results of the election, including certification of representatives where appropriate, with the same force and effect as if issued by the Board, provided further that rulings or determinations by the regional director in respect to any amendment of such certification shall also be final.

(b) Where a petition has been duly filed, the employer and any individuals or labor organizations representing a substantial number of the employees involved may, with the approval of the regional director, enter into an agreement providing for a waiver of hearing and a consent election leading to a deter-

[3] Procedure under the first proviso to sec. 8(b)(7)(C) of the act is governed by subpart D of this part.

[4] Blank forms for filing such petitions will be supplied by the regional office upon request.

mination by the Board of the facts ascertained after such consent election, if such a determination is necessary. Such agreement shall also include a description of the appropriate bargaining unit, the time and place of holding the election, and the payroll period to be used in determining which employees within the appropriate unit shall be eligible to vote. Such consent election shall be conducted under the direction and supervision of the regional director. The method of conducting such election and the postelection procedure shall be consistent with that followed by the regional director in conducting elections pursuant to §§ 102.69 and 102.70.

§ 102.63 Investigation of petition by regional director; notice of hearing; service of notice; withdrawal of notice.

After a petition has been filed, if no agreement such as that provided in § 102.62 is entered into and if it appears to the regional director that there is reasonable cause to believe that a question of representation affecting commerce exists, that the policies of the act will be effectuated, and that an election will reflect the free choice of employees in the appropriate unit, he shall prepare and cause to be served upon the parties and upon any known individuals or labor organizations purporting to act as representatives of any employees directly affected by such investigation, a notice of hearing before a hearing officer at a time and place fixed therein. A copy of the petition shall be served with such notice of hearing. Any such notice of hearing may be amended or withdrawn before the close of the hearing by the regional director on his own motion.

§ 102.64 Conduct of hearing.

(a) Hearings shall be conducted by a hearing officer and shall be open to the public unless otherwise ordered by the hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding. It shall be the duty of the hearing officer to inquire fully into all matters in issue and necessary to obtain a full and complete record upon which the Board may discharge its duties under section 9(c) of the act.

(b) The hearing officer may, in his discretion, continue the hearing from day to day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice.

§ 102.65 Motions; interventions.

(a) All motions, including motions for intervention pursuant to paragraph (b) of this section, shall be in writing or, if made at the hearing, may be stated orally on the record and shall briefly state the order or relief sought and the grounds for such motion. An original and four copies of written motions shall be filed and a copy thereof immediately shall be served upon each of the other parties to the proceeding. Motions made prior to the hearing shall be filed with the regional director, and motions made during the hearing shall be filed with the hearing officer. After the close of the hearing all motions shall be filed with the Board. Such motions to the Board shall be legibly printed or otherwise legibly duplicated: *Provided, however,* That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted. Seven copies of such motions shall be filed with the Board. The regional director may rule upon all motions filed with him, causing a copy of said ruling to be served upon each of the parties, or he may refer the motion to the hearing officer: *Provided,* That if the regional director grants a motion to dismiss the petition the petitioner may obtain a review of such ruling in the manner prescribed in § 102.71. The hearing officer shall rule, either orally on the record or in writing, upon all motions filed at the hearing or referred to him as hereinabove provided, except that he shall refer to the Board for appropriate action all motions to dismiss petitions, at such time as the Board considers the entire record.

(b) Any person desiring to intervene in any proceeding shall make a motion for intervention, stating the grounds upon which such person claims to have an interest in the proceeding. The regional director or the hearing officer, as the case may be, may by order permit intervention in person or by counsel or other representative to such extent and upon such terms as he may deem proper, and such intervenor shall thereupon become a party to the proceeding.

(c) All motions, rulings, and orders shall become a part of the record, except that rulings on motions to revoke subpenas shall become a part of the record only upon the request of the party aggrieved, as provided in § 102.66(c). Unless expressly authorized by the rules and regulations, rulings by the regional director and by the hearing officer shall not be appealed directly to the Board except by special permission of the Board, but shall be considered by the Board when it reviews the entire record. Requests to the Board for special permission to appeal from such rulings of the regional director or the hearing officer shall be filed promptly, in writing, and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on each other party.

(d) The right to make motions or to make objections to rulings on motions shall not be deemed waived by participation in the proceeding.

§ 102.66 Introduction of evidence; rights of parties at hearing; subpenas.

(a) Any party shall have the right to appear at any hearing in person, by counsel, or by other representative, and any party and the hearing officer shall have power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses shall be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Stipulations of fact may be introduced in evidence with respect to any issue.

(b) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing, accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing.

(c) Any party may file applications for subpenas in writing with the regional director if made prior to hearing, or with the hearing officer if made at the hearing. Applications for subpenas may be made ex parte. The regional director or the hearing officer, as the case may be, shall forthwith grant the subpenas requested. Any person served with a subpena, whether ad testificandum or duces tecum, if he does not intend to comply with the subpena, shall, within 5 days after the date of service of the subpena, petition in writing to revoke the subpena. Such petition shall be filed with the regional director who may either rule upon it or refer it for ruling to the hearing officer: *Provided, however,* That if the evidence called for is to be produced at a hearing and the hearing has opened, the petition to revoke shall be filed with the hearing officer. Notice of the filing of petitions to revoke shall be promptly given by the regional director or hearing officer, as the case may be, to the party at whose request the subpena was issued. The regional director or the hearing officer, as the case may be, shall revoke the subpena if, in his opinion, the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpena does not describe with sufficient particularity the evidence whose production is required, or if for any other reason sufficient in law the subpena is otherwise invalid. The regional director or the hearing officer, as the case may be, shall make a simple statement of procedural or other grounds for his ruling. The petition to revoke, any answer filed thereto, and any ruling thereon shall not become part of the record except upon the request of the party aggrieved by the ruling. Persons compelled to submit data or evidence are entitled to retain or, on payment of lawfully prescribed costs, to procure copies or transcripts of the data or evidence submitted by them.

(d)(1) Misconduct at any meeting before a hearing officer or before the Board shall be ground for summary exclusion from the hearing.

(2) Such misconduct of an aggravated character, when engaged in by an attorney or other representative of a party, shall be ground for suspension or disbarment by the Board from further practice before it after due notice and hearing.

(3) The refusal of a witness at any such hearing to answer any question which has been ruled to be proper shall, in the discretion of the hearing officer, be ground for striking all testimony previously given by such witness on related matters.

(e) Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing.

(f) The hearing officer may submit an analysis of the record to the Board but he shall make no recommendations.

(g) Witness fees and mileage shall be paid by the party at whose instance the witness appears.

§ 102.67 Record; what constitutes; transmission to Board.

Upon the close of the hearing the regional director shall forward to the Board in Washington, D.C., the petition, notice of hearing, motions, rulings, orders, the stenographic report of the hearing, stipulations, exhibits, documentary evidence, and depositions, all of which shall constitute the record in the proceeding.

§ 102.68 Proceedings before the Board; further hearing; briefs; Board direction of election; certification of results.

The Board shall thereupon proceed, either forthwith upon the record, or after oral argument or the submission of briefs, or further hearing, as it may determine, to direct a secret ballot of the employees or to make other disposition of the matter. Should any party desire to file a brief with the Board, seven copies thereof shall be filed with the Board in Washington, D.C., within 7 days after the close of the hearing: *Provided, however,* That prior to the close of the hearing and for good cause, the hearing officer may grant an extension of that time not to exceed an additional 14 days. Such brief shall be legibly printed or otherwise legibly duplicated: *Provided, however,* That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted. Copies shall be served on all other parties to the proceeding, and proof of such service shall be filed with the Board at the time the briefs are filed. Requests for extension of time in which to file a brief under authority of this section not addressed to the hearing officer during the hearing shall be in writing and copies thereof shall immediately be served on each of the other parties. Requests for extension of time shall be made not later than 3 days before the date such briefs are due in Washington, D.C. No reply brief may be filed except upon special leave of the Board.

§ 102.69 Election procedure; tally of ballots; objections; certification by regional director; report on challenged ballots; report on objections; exceptions; action of the Board; hearing.

(a) Unless otherwise directed by the Board, all elections shall be conducted under the supervision of the regional director in whose region the proceeding is pending. All elections shall be by secret ballot. Whenever two or more labor organizations are included as choices in an election, either participant may, upon its prompt request to and approval thereof by the regional director, whose decision shall be final, have its name removed from the ballot: *Provided, however,* That in a proceeding involving an employer filed petition or a petition for decertification the labor organization certified, currently recognized, or found to be seeking recognition may not have its name removed from the ballot without giving timely notice in writing to all parties, including the regional director, disclaiming any representation interest among the employees in the unit. Any party may be represented by observers of his own selection, subject to such limitations as the regional director may prescribe. Any party and Board agents may challenge, for good cause, the eligibility of any person to participate in the election. The ballots of such challenged persons shall be impounded. Upon the conclusion of the election, the regional director shall cause to be furnished to the parties a tally of the ballots. Within 5 days after the tally of ballots has been furnished, any party may file with the regional director four copies of objections to the conduct of the election or conduct affecting the results of the election, which shall contain a short statement of the reasons therefor. Such filing must be timely whether or not the challenged ballots are sufficient in number to affect the results of the election. Copies of such objections shall immediately be served upon each of the other parties by the party filing them, and proof of service shall be made.

(b) If no objections are filed within the time set forth above, if the challenged ballots are insufficient in number to affect the result of the election, and if no runoff election is to be held pursuant to § 102.70, the regional director shall forthwith issue to the parties a certification of the results of the election, including certification of representatives where appropriate, with the same force and effect as if issued by the Board, and the proceeding will thereupon be closed.

(c) If objections are filed to the conduct of the election or conduct affecting the result of the election, or if the challenged ballots are sufficient in number to affect the result of the election, the regional director shall investigate such objections or challenges, or both, and shall prepare and cause to be served upon the parties a report on challenged ballots or objections, or both, including his recommendations, which report, together with the tally of ballots, he shall forward to the Board in Washington, D.C. Within 10 days from the date of issuance of the report on challenged ballots or objections, or both, or within such further period as the Board may allow upon written request to the Board for an extension made not later than 3 days before such exceptions are due in Washington, D.C., with copies of such request served on each of the other parties, any party may file with the Board in Washington, D.C., seven copies of exceptions to such report which shall be legibly printed or otherwise legibly duplicated. Immediately upon the filing of such exceptions, the party filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the regional director. Proof of service shall be made to the Board. If no exceptions are filed to such report, the Board, upon the expiration of the period for filing such exceptions, may decide the matter forthwith upon the record or may make other disposition of the case. The report on challenged ballots may be consolidated with the report on objections in appropriate cases.

(d) If exceptions are filed, either to the report on challenged ballots or objections, or both if it be a consolidated report, and it appears to the Board that such exceptions do not raise substantial and material issues with respect to the conduct or results of the election, the Board may decide the matter forwith upon the record, or may make other disposition of the case. If it appears to the Board that such exceptions raise substantial and material factual issues, the Board may direct the regional director or other agent of the Board to issue and cause to be served upon the parties a notice of hearing on said exceptions before a hearing officer. The hearing shall be conducted in accordance with the provisions of §§ 102.64, 102.65, and 102.66, insofar as applicable. Upon the close of the hearing the agent conducting the hearing, if directed by the Board, shall prepare and cause to be served upon the parties a report resolving questions of credibility and containing findings of fact and recommendations to the Board as to the disposition of the challenges or objections, or both if it be a consolidated report. The agent conducting the hearing shall forward to the Board in Washington, D.C., the notice of hearing, motions, rulings, orders, stenographic report of the hearing, stipulations, exceptions, documentary evidence, all of which, together with the objection to the conduct of the election or conduct affecting the results of the election, the report on such objections, the report on challenged ballots, and exceptions to the report on objections or to the report on challenged ballots, and the record previously made, together with his report, if any, shall constitute the record in the case. In any case in which the Board has directed that a report be prepared and served, any party may within 10 days from the date of issuance of the report on challenged ballots or objections, or both, file with the Board in Washington, D.C., seven copies of exceptions to such report: *Provided, however,* That in any proceeding wherein a representation case has been consolidated with an unfair labor practice case for purposes of hearing the provisions of § 102.46 of these rules shall govern with respect to the filing of exceptions to the intermediate report and recommended order. Immediately upon the filing of such exceptions, the party filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the regional director. Proof of service shall be made to the Board. If no exceptions are filed to such report, the Board, upon the expiration of the period for filing such exceptions, may decide the matter forthwith upon the record or may make other disposition of the case. The Board shall thereupon proceed pursuant to § 102.68.

(e) In any such case in which the Board, upon a ruling on challenged ballots, has directed the regional director to open and count such ballots and to issue a revised tally of ballots, and no objection to such revised tally is filed by any party within 3 days after the revised tally of ballots has been furnished, the regional director shall forthwith issue to the parties certification of the results of the election, including certification of representatives where

appropriate, with the same force and effect as if issued by the Board. The proceeding shall thereupon be closed.

§ 102.70 Runoff election.

(a) The regional director shall conduct a runoff election, without further order of the Board, when an election in which the ballot provided for not less than three choices (i.e., at least two representatives and "neither") results in no choice receiving a majority of the valid ballots cast and no objections are filed as provided in § 102.69. Only one runoff shall be held pursuant to this section.

(b) Employees who were eligible to vote in the election and who are in an eligible category on the date of the runoff election shall be eligible to vote in the runoff election.

(c) The ballot in the runoff election shall provide for a selection between the two choices receiving the largest and second largest number of votes.

(d) In the event the number of votes cast in an inconclusive election in which the ballot provided for a choice among two or more representatives and "neither" or "none" is equally divided among the several choices; or in the event the number of ballots cast for one choice in such election is equal to the number cast for another of the choices but less than the number cast for the third choice, the regional director shall declare the first election a nullity and shall conduct another election, providing for a selection from among the three choices afforded in the original ballot; and he shall thereafter proceed in accordance with paragraphs (a), (b), and (c) of this section. In the event two or more choices receive the same number of ballots and another choice receives no ballots and there are no challenged ballots that would affect the results of the election, and if all eligible voters have cast valid ballots, there shall be no runoff election and a certification of results of election shall be issued. Only one such further election pursuant to this paragraph may be held.

(e) Upon the conclusion of the runoff election, the provisions of § 102.69 shall govern, insofar as applicable.

§ 102.71 Refusal to issue notice of hearing; appeals to Board from action of the regional director.

If, after a petition has been filed, it shall appear to the regional director that no notice of hearing should issue as provided in § 102.63, the regional director may dismiss the petition and shall so advise the petitioner in writing, accompanied by a simple statement of the procedural or other grounds. The petitioner may obtain a review of such action by filing a request therefor with the Board in Washington, D.C., and filing a copy of such request with the regional director and each of the other parties within 10 days of service of such notice of dismissal. The request shall be submitted in seven copies and shall contain a complete statement setting forth the facts and reasons upon which the request is based. Requests for an extension of time within which to file the request for review shall be filed with the Board in Washington, D.C., and proof of service shall accompany such request.

§ 102.72 Filing petition with general counsel; investigation upon motion of general counsel; transfer of petition and proceeding from region to general counsel or to another region; consolidation of proceedings in same region; severance; procedure before general counsel in cases over which he has assumed jurisdiction.

Whenever the general counsel deems it necessary in order to effectuate the purposes of the act, or to avoid unnecessary costs or delay, he may permit a petition to be filed with him in Washington, D.C., or may, at any time after a petition has been filed with a regional director pursuant to § 102.60, order that such petition and any proceeding that may have been instituted with respect thereto:

(a) Be transfered to and continued before him, for the purpose of investigation or consolidation with any other proceeding which may have been instituted in a regional office or with him; or

(b) Be consolidated with any other proceeding which may have been instituted in the same region; or

(c) Be transferred to and continued in any other region, for the purpose of investigation or consolidation with any proceeding which may have been instituted in or transferred to such region; or

(d) Be severed from any other proceeding with which it may have been consolidated pursuant to this section.

The provisions of §§ 102.60 to 102.71, inclusive, shall, insofar as applicable, apply to proceedings before the general counsel pursuant to this section, and the powers granted to regional directors in such provisions shall, for the purpose of this section, be reserved to and exercised by the general counsel. After the transfer of any petition and any proceeding which may have been instituted in respect thereto from one region to another pursuant to this section, the provisions of this subpart shall, insofar as applicable, govern such petition and such proceeding as if the petition had originally been filed in the region to which the transfer is made.

Subpart D—Procedure for Unfair Labor Practice and Representation Cases Under Sections 8(b)(7) and 9(c) of the Act

§ 102.73 Initiation of proceedings.

Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of section 8(b)(7) of the act, the regional director shall investigate such charges, giving it the priority specified in Subpart G of this part.

§ 102.74 Complaint and formal proceedings.

If it appears to the regional director that the charge has merit, formal proceedings in respect thereto shall be instituted in accordance with the procedures described in §§ 102.15 to 102.51, inclusive, insofar as they are applicable, and insofar as they are not inconsistent with the provisions of this subpart. If it appears to the regional director that issuance of a complaint is not warranted, he shall decline to issue a complaint, and the provisions of § 102.19, including the provisions for appeal to the general counsel, shall be applicable unless an election has been directed under §§ 102.77 and 102.78, in which event the provisions of § 102.81 shall be applicable.

§ 102.75 Suspension of proceedings on the charge where timely petition is filed.

If it appears to the regional director that issuance of a complaint may be warranted but for the pendency of a petition under section 9(c) of the act, which has been filed by any proper party within a reasonable time not to exceed 30 days from the commencement of picketing, the regional director shall suspend proceedings on the charge and shall proceed to investigate the petition under the expedited procedure provided below, pursuant to the first proviso to subparagraph (C) of section 8(b)(7) of the act.

§ 102.76 Petition; who may file; where to file; contents.

When picketing of an employer has been conducted for an object proscribed by section 8(b)(7) of the act, a petition for the determination of a question concerning representation of the employees of such employer may be filed in accordance with the provisions of §§ 102.60 and 102.61, insofar as applicable: *Provided, however,* That if a charge under § 102.73 has been filed against the labor organization on whose behalf picketing has been conducted, the petition shall not be required to contain a statement that the employer declines to recognize the petitioner as the representative within the meaning of section 9(a) of the act; or that the labor organization is currently recognized but desires certification under the act; or that the individuals or labor organizations who have been certified or are currently recognized by the employer are no longer the representative; or, if the petitioner is an employer, that one or more individuals or labor organizations have presented to the petitioner a claim to be recognized as the exclusive representative of the employees in the unit claimed to be appropriate.

§ 102.77 Investigation of petition by regional director; directed election.

(a) Where a petition has been filed pursuant to § 102.76 the regional director shall make an investigation of the matters and allegations set forth therein. Any party, and any individual or labor organization purporting to act as representative of the employees involved and any labor organization on whose behalf picketing has been conducted as described in section 8(b)(7)(C) of the act, may present documentary and other evidence relating to the matters and allegations set forth in the petition.

(b) If after the investigation of such petition or any petition filed under subpart C of this part, and after the investigation of the charge filed pursuant to § 102.73, it appears to the regional director that an expedited election under

section 8(b)(7)(C) is warranted, and that the policies of the act would be effectuated thereby, he shall forthwith proceed to conduct an election by secret ballot of the employees in an appropriate unit, or make other disposition of the matter. *Provided, however,* That in any case in which it appears to the regional director that the proceeding raises questions which should be decided by the Board before election, he may issue and cause to be served on the parties, individuals, and labor organizations involved a notice of hearing before a hearing officer at a time and place fixed therein. In this event, the method of conducting the hearing and the procedure following, including transfer of the case to the Board, shall be governed insofar as applicable by §§ 102.63 to 102.68, inclusive, except that the parties shall not file briefs without special permission of the Board and except that the parties shall, however, state their respective legal positions upon the record at the close of the hearing.

§ 102.78 Election procedure; method of conducting balloting; postballoting procedure.

If no agreement such as that provided in § 102.79 has been made, the regional director shall fix the time and place of the election, eligibility requirements for voting, and other arrangements for the balloting. The method of conducting the balloting and the postballoting procedure shall be governed, insofar as applicable, by the provisions of §§ 102.69 and 102.70 except that the labor organization on whose behalf picketing has been conducted may not have its name removed from the ballot without the consent of the regional director and except that the regional director's rulings on any objections or challenged ballots shall be final unless the Board grants special permission to appeal from the regional director's rulings. Any request for such permission shall be filed promptly, in writing, and shall briefly state the grounds relied upon. The party requesting review shall immediately serve a copy thereof on each other party. A request for review shall not operate as a stay of the regional director's rulings unless so ordered by the Board.

§ 102.79 Consent-election agreements.

Where a petition has been duly filed, the parties involved may, subject to the approval of the regional director, enter into an agreement governing the method of conducting the election as provided for in § 102.62(a), insofar as applicable.

§ 102.80 Dismissal of petition; refusal to process petition under expedited procedure.

(a) If, after a petition has been filed pursuant to the provisions of § 102.76, it shall appear to the regional director that further proceedings in respect thereto in accordance with the provisions of § 102.77 are not warranted, he may dismiss the petition, and the action of the regional director shall be final, subject to a prompt appeal to the Board on special permission which may be granted by the Board. Upon such appeal the provisions of § 102.71 shall govern insofar as applicable. Such appeal shall not operate as a stay unless specifically ordered by the Board.

(b) If it shall appear to the regional director that an expedited election is not warranted but that proceedings under Subpart C of this part are warranted, he shall so notify the parties in writing with a simple statement of the grounds for his decision.

(c) Where the regional director, pursuant to §§ 102.77 and 102.78, has determined that a hearing prior to election is not required to resolve the issues raised by the petition and has directed an expedited election, any party aggrieved may file a request with the Board for special permission to appeal from such determination. Such request shall be filed promptly, in writing, and shall briefly state the grounds relied upon. The party requesting such appeal shall immediately serve a copy thereof on each other party. Should the Board grant the requested permission to appeal, such action shall not, unless specifically ordered by the Board, operate as a stay of any action by the regional director.

§ 102.81 Final processing of charge held during pendency of petition; review by the general counsel.

(a) Where an election has been directed by the regional director or the Board in accordance with the provisions of §§ 102.77 and 102.78, the regional director shall decline to issue a complaint on the charge, and he shall so advise the parties in writing, accompanied by a simple statement of the procedural or other grounds for his action. The person making the charge may obtain a review of such action by filing a request therefor with the general counsel in Washington, D.C., and filing a copy of the request with the regional director, within 3 days from the service of the notice of such refusal by the regional director. The request shall contain a complete statement setting forth the facts and reasons upon which the request is based. Such request for review shall not operate as a stay of any action by the regional director.

(b) Where an election has not been directed and the petition has been dismissed in accordance with the provisions of § 102.80, the regional director shall resume investigation of the charge and shall proceed in accordance with § 102.74.

§ 102.82 Transfer, consolidation, and severance.

The provisions of §§ 102.33 and 102.72, respecting the filing of a charge or petition with the general counsel and the transfer, consolidation, and severance of proceedings, shall apply to proceedings under this subpart, except that the provisions of §§ 102.73 to 102.81, inclusive, shall govern proceedings before the general counsel.

Subpart E—Procedure for Referendum Under Section 9(e) of the Act

§ 102.83 Petition for referendum under section 9(e)(1) of the act; who may file; where to file; withdrawal.

A petition to rescind the authority of a labor organization to make an agreement requiring as a condition of employment membership in such labor organization may be filed by an employee or group of employees on behalf of 30 percent or more of the employees in a bargaining unit covered by such an agreement. The petition shall be in writing and signed, and either shall be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments or shall contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief.[5] Four copies of the petition shall be filed with the regional director wherein the bargaining unit exists or, if the unit exists in two or more regions, with the regional director for any of such regions. The petition may be withdrawn only with the approval of the regional director with whom such petition was filed, except that if the proceeding has been transferred to the Board, pursuant to § 102.67, the petition may be withdrawn only with the consent of the Board. Upon approval of the withdrawal of any petition the case shall be closed.

§ 102.84 Contents of petition to rescind authority.

(a) The name of the employer.

(b) The address of the establishments involved.

(c) The general nature of the employer's business.

(d) A description of the bargaining unit involved.

(e) The name and address of the labor organization whose authority it is desired to rescind.

(f) The number of employees in the unit.

(g) Whether there is a strike or picketing in progress at the establishment involved and, if so, the approximate number of employees participating, and the date such strike or picketing commenced.

(h) The date of execution and of expiration of any contract in effect covering the unit involved.

(i) The name and address of the person designated to accept service of documents for petitioners.

(j) Any other relevant facts.

§ 102.85 Investigation of petition by regional director; consent referendum; directed referendum.

Where a petition has been filed pursuant to § 102.83 and it appears to the regional director that the petitioner has made an appropriate showing, in such form as the regional director may determine, that 30 percent or more of the employees within a unit covered by an agreement between their employer and a labor organization requiring membership in such labor organization desire to rescind the authority of such labor organization to make such an agreement, he shall proceed to conduct a secret ballot of the employees involved on the question whether they desire to rescind the authority of the labor organization to

[5] Forms for filing such petitions will be supplied by the regional office upon request.

make such an agreement with their employer: *Provided, however,* That in any case in which it appears to the regional director that the proceeding raises questions which should be decided by the Board before election, he may issue and cause to be served on the parties a notice of hearing before a hearing officer at a time and place fixed therein. The regional director shall fix the time and place of the election, eligibility requirements for voting, and other arrangements of the balloting, but the parties may enter into an agreement, subject to the approval of the regional director, fixing such arrangements. In any such consent agreements, provision may be made for final determination of all questions arising with respect to the balloting by the regional director or by the Board.

§ 102.86 Hearing; posthearing procedure.

The method of conducting the hearing and the procedure following the hearing, including transfer of the case to the Board, shall be governed, insofar as applicable, by sections 102.63 to 102.68, inclusive.

§ 102.87 Method of conducting balloting; postballoting procedure.

The method of conducting the balloting and the postballoting procedure shall be governed by the provisions of § 102.69, insofar as applicable.

§ 102.88 Refusal to conduct referendum; appeal to Board.

If, after a petition has been filed, it shall appear to the regional director that no referendum should be conducted, he shall dismiss the petition. Such dismissal shall be in writing and accompanied by a simple statement of the procedural or other grounds. The petitioner may obtain a review of such action by filing a request therefor with the Board in Washington, D.C., and filing a copy of such request with the regional director and each of the other parties within 10 days from the service of notice of such dismissal. The request shall contain a complete statement setting forth the facts and reasons upon which the request is based.

Subpart F—Procedure To Hear and Determine Disputes Under Section 10(k) of the Act

§ 102.89 Initiation of proceedings.

Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of paragraph (4)(D) of section 8(b), the regional director of the office in which such charge is filed or to which it is referred shall investigate such charge and if it is deemed appropriate to seek injunctive relief of a district court pursuant to section 10(l) of the act, he shall give it priority over all other cases in the office except other cases under section 10(l) of the act and cases of like character.

§ 102.90 Notice of hearing; hearing; proceedings before the Board; briefs; determination of dispute.

If it appears to the regional director that the charge has merit and the parties to the dispute have not submitted satisfactory evidence to the regional director that they have adjusted, or have agreed upon methods for the voluntary adjustment of, the dispute out of which such unfair labor practice shall have arisen, he shall cause to be served on all parties to such dispute a notice of the filing of said charge together with a notice of hearing under section 10(k) of the act before a hearing officer at a time and place fixed therein which shall be not less than 10 days after service of the notice of hearing. The notice of hearing shall contain a simple statement of the issues involved in such dispute. Such notice shall be issued promptly, and in cases in which it is deemed appropriate to seek injunctive relief pursuant to section 10(l) of the act, shall normally be issued within 5 days of the date upon which injunctive relief is first sought. Hearings shall be conducted by a hearing officer, and the procedure shall conform, insofar as applicable, to the procedure set forth in §§ 102.64 to 102.67, inclusive. Upon the close of the hearing, the Board shall proceed either forthwith upon the record, or after oral argument, or the submission of briefs, or further hearing, to determine the dispute or make other disposition of the matter. Should any party desire to file a brief with the Board, seven copies thereof shall be filed with the Board at Washington, D.C., within 7 days after the close of the hearing. Immediately upon such filing, a copy shall be served on the other parties. Such brief shall be legibly printed or otherwise legibly duplicated: *Provided, however,* That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted. Requests for extension of time in which to file a brief under authority of this section shall be in writing and received by the Board in Washington, D.C., 3 days prior to the due date with copies thereof served on each of the other parties. No reply brief may be filed except upon special leave of the Board.

§ 102.91 Compliance with determination; further proceedings.

If, after issuance of the determination by the Board, the parties submit to the regional director satisfactory evidence that they have complied with the determination, the regional director shall dismiss the charge. If no satisfactory evidence of compliance is submitted, the regional director shall proceed with the charge under paragraph (4)(D) of section 8(b) and section 10 of the act and the procedure prescribed in §§ 102.9 to 102.51, inclusive, shall, insofar as applicable, govern.

§ 102.92 Review of determination.

The record of the proceeding under section 10(k) and the determination of the Board thereon shall become a part of the record in such unfair labor practice proceeding and shall be subject to judicial review, insofar as it is in issue, in proceedings to enforce or review the final order of the Board under section 10 (e) and (f) of the act.

§ 102.93 Alternative procedure.

If, either before or after service of the notice of hearing, the parties submit to the regional director satisfactory evidence that they have adjusted the dispute, the regional director shall dismiss the charge and shall withdraw the notice of hearing if notice was issued. If, either before or after issuance of notice of hearing, the parties submit to the regional director satisfactory evidence that they have agreed upon methods for the voluntary adjustment of the dispute, the regional director shall defer action upon the charge and shall withdraw the notice of hearing if notice has issued. If it appears to the regional director that the dispute has not been adjusted in accordance with such agreed-upon methods and that an unfair labor practice within the meaning of section 8(b)(4)(D) of the act is occurring or has occurred, he may issue a complaint under § 102.15, and the procedure prescribed in §§ 102.9 to 102.51, inclusive, shall, insofar as applicable, govern; and §§ 102.90 to 102.92, inclusive, are inapplicable.

Subpart G—Procedure in Cases Under Section 10 (j), (l), and (m) of the Act

§ 102.94 Expeditious processing of section 10(j) cases.

(a) Whenever temporary relief or a restraining order pursuant to section 10(j) of the act has been procured by the Board, the complaint which has been the basis for such temporary relief or restraining order shall be heard expeditiously and the case shall be given priority by the Board in its successive steps following the issuance of the complaint (until ultimate enforcement or dismissal by the appropriate circuit court of appeals) over all other cases except cases of like character and cases under section 10 (l) and (m) of the act.

(b) In the event the trial examiner hearing a complaint, concerning which the Board has procured temporary relief or a restraining order pursuant to section 10(j), recommends a dismissal in whole or in part of such complaint, the chief law officer shall forthwith suggest to the district court which issued such temporary relief or restraining order the possible change in circumstances arising out of the findings and recommendations of the trial examiner.

§ 102.95 Priority of cases pursuant to section 10 (l) and (m) of the act.

Whenever a charge is filed alleging the commission of an unfair labor practice within the meaning of paragraph (4) (A), (B), (C), or (7) of section 8(b) of the act, or section 8(e) of the act, the regional office in which such charge is filed or to which it is referred shall give it priority over all other cases in the office except cases of like character and cases under paragraph (4)(D) of section 8(b) of the act in which it is deemed appropriate to seek injunctive relief of a district court pursuant to section 10(l) of the act.

(b) Whenever a charge is filed alleging the commission of an unfair labor practice within the meaning of subsection (a)(3) or (b)(2) of section 8 of the act, the regional office in which such charge is filed or to which it is referred shall give it priority over all other cases in the office except cases of like charac-

ter and cases under section 10(l) of the act.

§ 102.96 Issuance of complaint promptly.

Whenever the regional attorney or other Board officer to whom the matter may be referred seeks injunctive relief of a district court pursuant to section 10(l) of the act, a complaint against the party or parties sought to be enjoined, covering the same subject matter as such application for injunctive relief, shall be issued promptly, normally within 5 days of the date upon which such injunctive relief is first sought, except in those cases under section 10(l) of the act in which the procedure set forth in §§ 102.90 to 102.92, inclusive, is deemed applicable.

§ 102.97 Expeditious processing of section 10 (l) and (m) cases in successive stages.

(a) Any complaint issued pursuant to § 102.95(a) or, in a case in which it is deemed appropriate to seek injunctive relief of a district court pursuant to section 10(l) of the act, any complaint issued pursuant to § 102.93 or notice of hearing issued pursuant to § 102.90 shall be heard expeditiously and the case shall be given priority in such successive steps following its issuance (until ultimate enforcement or dismissal by the appropriate circuit court of appeals) over all cases except cases of like character.

(b) Any complaint issued pursuant to § 102.95(b) shall be heard expeditiously and the case shall be given priority in its successive steps following its issuance (until ultimate enforcement or dismissal by the appropriate circuit court of appeals) over all cases except cases of like character and cases under section 10(l) of the act.

Subpart H—Declaratory Orders and Advisory Opinions Regarding Board Jurisdiction

§ 102.98 Petition for advisory opinion; who may file; where to file.

(a) Whenever a party to a proceeding before any agency or court of any State or Territory is in doubt whether the Board would assert jurisdiction on the basis of its current jurisdictional standards, he may file a petition with the Board for an advisory opinion on whether it would assert jurisdiction on the basis of its current standards.

(b) Whenever an agency or court of any State or Territory is in doubt whether the Board would assert jurisdiction over the parties in a proceeding pending before such agency or court, the agency or court may file a petition with the Board for an advisory opinion on whether the Board would decline to assert jurisdiction on the basis of its current standards.

§ 102.99 Contents of petition for an advisory opinion.

(a) A petition for an advisory opinion, when filed by a party to a proceeding before an agency or court of a State or Territory, shall allege the following:

(1) The name of the petitioner.

(2) The names of all other parties to the proceeding.

(3) The name of the agency or court.

(4) The docket number and nature of the proceeding.

(5) The general nature of the business involved in the proceeding.

(6) The commerce data relating to the operations of such business.

(7) Whether the commerce data described in this section are admitted or denied by other parties to the proceeding.

(8) The findings, if any, of the agency or court respecting the commerce data described in this section.

(9) Whether a representation or unfair labor practice proceeding involving the same labor dispute is pending before the Board and, if so, the case number thereof.

Petitions under this subsection shall be in writing and signed, and either shall be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments or shall contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief.

(b) A petition for an advisory opinion, when filed by an agency or court of a State or Territory, shall allege the following:

(1) The name of the agency or court.

(2) The names of the parties to the proceeding.

(3) The docket number and nature of the proceeding.

(4) The general nature of the business involved in the proceeding.

(5) The findings of the agency or court, or, in the absence of findings, a statement of the evidence relating to the commerce operations of such business.

§ 102.100 Notice of petition; service of petition.

Upon the filing of a petition, the petitioner shall immediately serve in the manner provided by § 102.112 a copy of the petition upon all parties to the proceeding and upon the director of the Board's regional office having jurisdiction over the territorial area in which such agency or court is located. A statement of service shall be filed with the petition as provided by § 102.113(b).

§ 102.101 Response to petition; service of response.

Any party served with such petition may, within 5 days after service thereof, respond to the petition, admitting or denying its allegations. Such response shall immediately be served upon all other parties to the proceeding, and a statement of service shall be filed in accordance with the provisions of § 102.113(b).

§ 102.102 Intervention.

Any person desiring to intervene shall make a motion for intervention, stating the grounds upon which such person claims to have an interest in the petition.

§ 102.103 Proceedings before the Board; briefs; advisory opinions.

The Board shall thereupon proceed, upon the petition, responses, and submission of briefs, to determine whether, on the facts before it, the commerce operations of the employer involved are such that it would or would not assert jurisdiction. Such determination shall be in the form of an advisory opinion and shall be served upon the parties. No briefs shall be filed except upon special permission of the Board.

§ 102.104 Withdrawal of petition.

The petitioner may withdraw his petition at any time prior to issuance of the Board's advisory opinion.

§ 102.105 Petitions for declaratory orders; who may file; where to file; withdrawal.

Whenever both an unfair labor practice charge and a representation case relating to the same employer are contemporaneously on file in a regional office of the Board, and the general counsel entertains doubt whether the Board would assert jurisdiction over the employer involved, he may file a petition with the Board for a declaratory order disposing of the jurisdictional issue in the cases. Such petition may be withdrawn at any time prior to the issuance of the Board's order.

§ 102.106 Contents of petition for declaratory order.

A petition for a declaratory order shall allege the following:

(a) The name of the employer.

(b) The general nature of the employer's business.

(c) The case numbers of the unfair labor practice and representation cases.

(d) The commerce data relating to the operations of such business.

(e) Whether any proceeding involving the same subject matter is pending before an agency or court of a State or Territory.

§ 102.107 Notice of petition; service of petition.

Upon filing a petition, the general counsel shall immediately serve a copy thereof upon all parties and shall file a statement of service as provided by § 102.113(b).

§ 102.108 Response to petition; service of response.

Any party to the representation or unfair labor practice case may, within 5 days after service thereof, respond to the petition, admitting or denying its allegations. Such response shall be served upon the general counsel and all other parties, and a statement of service shall be filed as provided by § 102.113(b).

§ 102.109 Intervention.

Any person desiring to intervene shall make a motion for intervention, stating the grounds upon which such person claims to have an interest in the petition.

§ 102.110 Proceedings before the Board; briefs; declaratory orders.

The Board shall thereupon proceed, upon the petition, responses, and submission of briefs, to determine whether, on the facts before it, the commerce operations of the employer involved are such that it would or would not assert jurisdiction over them. Such determination shall be made by a declaratory order, with like effect as in the case of other orders of the Board, and shall be served

upon the parties. Any party desiring to file a brief shall file seven copies with the Board in Washington, D.C., with a statement that copies thereof are being served simultaneously upon the other parties.

Subpart I—Service and Filing of Papers

§ 102.111 Service of process and papers; proof of service.

(a) Charges, complaints and accompanying notices of hearing, final orders, intermediate reports, and subpenas of the Board, its member, agent, or agency, may be served personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same, setting forth the manner of such service, shall be proof of the same, and the return post office receipt or telegraph receipt therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the same.

(b) Process and papers of the Board, other than those specifically named in paragraph (a) of this section, may be forwarded by certified mail. The return post office receipt therefor shall be proof of service of the same.

§ 102.112 Same; by parties; proof of service.

Service of papers by a party on other parties shall be made by registered mail, or by certified mail, or in any manner provided for the service of papers in a civil action by the law of the State in which the hearing is pending. When service is made by registered mail, or by certified mail, the return post office receipt shall be proof of service. When service is made in any manner provided by such law, proof of service shall be made in accordance with such law.

§ 102.113 Date of service; filing of proof of service.

(a) The date of service 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 date, the provisions of § 102.114 apply.

(b) The person or party serving the papers or process on other parties in conformance with §§ 102.111 and 102.112 shall submit a written statement of service thereof to the Board stating the names of the parties served and the date and manner of service. Proof of service as defined in § 102.112 shall be required by the Board only if subsequent to the receipt of the statement of service a question is raised with respect to proper service. Failure to make proof of service does not affect the validity of the service.

§ 102.114 Time; additional time after service by mail.

(a) In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default after which the designated period of time begins to run, is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or a legal holiday, in which event the period runs until the end of the next day, which is neither a Sunday nor a legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Sundays and holidays shall be excluded in the computation. For the purpose of this section a Saturday on which the Board's offices are not open for business shall be considered as a holiday, but a half holiday shall be considered as other days and not as a holiday. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after service of a notice or other paper upon him, and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period: *Provided, however,* That 3 days shall not be added if any extension of such time may have been granted.

(b) When the act or any of these rules require the filing of a motion, brief, exception, or other paper in any proceeding, such document must be received by the Board or the officer or agent designated to receive such matter before the close of business of the last day of the time limit, if any, for such filing or extension of time that may have been granted.

Subpart J—Certification and Signature of Documents

§ 102.115 Certification of papers and documents.

The executive secretary of the Board or, in the event of his absence or disability, whosoever may be designated by the Board in his place and stead shall certify copies of all papers and documents which are a part of any of the files or records of the Board as may be necessary or desirable from time to time.

§ 102.116 Signature of orders.

The executive secretary or the associate executive secretary or, in the event of their absence or disability, whosoever may be designated by the Board in their place and stead is hereby authorized to sign all orders of the Board.

Subpart K—Records and Information

§ 102.117 Files, records, etc., in exclusive custody of Board and not subject to inspection; formal documents and final opinions and orders subject to inspection.

(a) The formal documents described as the record in the case or proceeding and defined in §§ 102.45, 102.67, and 102.69 are matters of official record and are available for inspection and examination by persons properly and directly concerned, during usual business hours, at the appropriate regional office of the Board or in Washington, D.C., as the case may be. True and correct copies thereof will be certified upon submission of such copies a reasonable time in advance of need and payment of lawfully prescribed costs: *Provided, however,* That if the Board, the general counsel, or the regional director with whom the documents are filed shall find in a particular instance good cause why a matter of official record should be kept confidential, such matter shall not be available for public inspection or examination. Application for such inspection, if desired to be made at the Board's office in Washington, D.C., shall be made to the executive secretary or the general counsel, as the case may be, and, if desired to be made at any regional office, shall be made to the regional director. The executive secretary, the general counsel, or the regional director may, in his discretion, require that the application be made in writing and under oath and set forth the facts upon which the applicant relies to show that he is properly and directly concerned with such inspection and examination. Should the executive secretary, the general counsel, or the regional director, as the case may be, deny any such application, he shall give prompt notice thereof, accompanied by a simple statement of procedural or other grounds.

(b) All final opinions or orders of the Board in the adjudication of cases (except those required for good cause to be held confidential and not cited as precedents) and its Rules and Regulations are available to public inspection during regular business hours at the Board's offices in Washington, D.C. Copies may be obtained upon request made to any regional office of the Board at its address as published in the FEDERAL REGISTER, or to the director of information in Washington, D.C. Subject to the provisions of §§ 102.31 and 102.66, all files, documents, reports, memoranda, and records pertaining to the internal management of the Board or to the investigation or disposition of charges or petitions during the nonpublic investigative stages of proceedings and before the institution of formal proceedings, and all matters of evidence obtained by the Board or any of its agents in the course of investigation, which have not been offered in evidence at a hearing before a trial examiner or hearing officer or have not been made part of an official record by stipulation, whether in the regional offices of the Board or in its principal office in the District of Columbia, are for good cause found by the Board held confidential and are not matters of official record or available to public inspection, unless permitted by the Board, its chairman, the general counsel, or any regional director.

§ 102.118 Same; Board employees prohibited from producing files, records, etc., pursuant to subpena ad testificandum or subpena duces tecum, prohibited from testifying in regard thereto.

No regional director, field examiner, trial examiner, attorney, specially designated agent, general counsel, member of the Board, or other officer or employee of the Board shall produce or present any files, documents, reports, memoranda, or records of the Board or testify in behalf of any party to any cause pending in any court or before the Board, or any other

board, commission, or other administrative agency of the United States, or of any State, Territory, or the District of Columbia with respect to any information, facts, or other matter coming to his knowledge in his official capacity or with respect to the contents of any files, documents, reports, memoranda, or records of the Board, whether in answer to a subpena, subpena duces tecum, or otherwise, without the written consent of the Board or the chairman of the Board if the official or document is subject to the supervision or control of the Board; or the general counsel if the official or document is subject to the supervision or control of the general counsel. Whenever any subpena ad testificandum or subpena duces tecum, the purpose of which is to adduce testimony or require the production of records as described hereinabove, shall have been served upon any such persons or other officer or employee of the Board, he will, unless otherwise expressly directed by the Board or the chairman of the Board or the general counsel, as the case may be, move pursuant to the applicable procedure, whether by petition to revoke, motion to quash, or otherwise, to have such subpena invalidated on the ground that the evidence sought is privileged against disclosure by this rule: *Provided*, After a witness called by the general counsel has testified in a hearing upon a complaint under section 10(c) of the act, the respondent may move for the production of any statement of such witness in possession of the general counsel, if such statement has been reduced to writing and signed or otherwise approved or adopted by the witness. Such motion shall be granted by the trial examiner. If the general counsel declines to furnish the statement, the testimony of the witness shall be stricken.

Subpart L—Practice Before the Board of Former Employees

§ 102.119 Prohibition of practice before Board of its former regional employees in cases pending in region during employment.

No person who has been an employee of the Board and attached to any of its regional offices shall engage in practice before the Board or its agents in any respect or in any capacity in connection with any case or proceeding which was pending in any regional office to which he was attached during the time of his employment with the Board.

§ 102.120 Same; application to former employees of Washington staff.

No person who has been an employee of the Board and attached to the Washington staff shall engage in practice before the Board or its agents in any respect or in any capacity in connection with any case or proceeding pending before the Board or any regional offices during the time of his employment with the Board.

Subpart M—Construction of Rules

§ 102.121 Rules to be liberally construed.

The rules and regulations in this part shall be liberally construed to effectuate the purposes and provisions of the act.

Subpart N—Enforcement of Rights, Privileges, and Immunities Granted or Guaranteed Under Section 222(f), Communications Act of 1934, as Amended, to Employees of Merged Telegraph Carriers

§ 102.122 Enforcement.

All matters relating to the enforcement of rights, privileges, or immunities granted or guaranteed under section 222 (f) of the Communications Act of 1934, as amended, shall be governed by the provisions of Subparts A, B, I, J, K, and M of this part, insofar as applicable, except that reference in Subpart B of this part to "unfair labor practices" or "unfair labor practices affecting commerce" shall for the purposes of this article mean the denial of any rights, privileges, or immunities granted or guaranteed under section 222(f) of the Communications Act of 1934, as amended.

Subpart O—Amendments

§ 102.123 Amendment or rescission of rules.

Any rule or regulation may be amended or rescinded by the Board at any time.

§ 102.124 Petitions for issuance, amendment, or repeal of rules.

Any interested person may petition the Board, in writing, for the issuance, amendment, or repeal of a rule or regulation. An original and five copies of such petition shall be filed with the Board in Washington, D.C., and shall state the rule or regulation proposed to be issued, amended, or repealed, together with a statement of grounds in support of such petition.

§ 102.125 Action on petition.

Upon the filing of such petition, the Board shall consider the same and may thereupon either grant or deny the petition in whole or in part, conduct an appropriate hearing thereon, or make other disposition of the petition. Should the petition be denied in whole or in part, prompt notice shall be given of the denial, accompanied by a simple statement of the grounds unless the denial is self-explanatory.

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