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Civil Aeronautics Board
Federal Aviation Administration
Federal Communications Commission
Federal Power Commission
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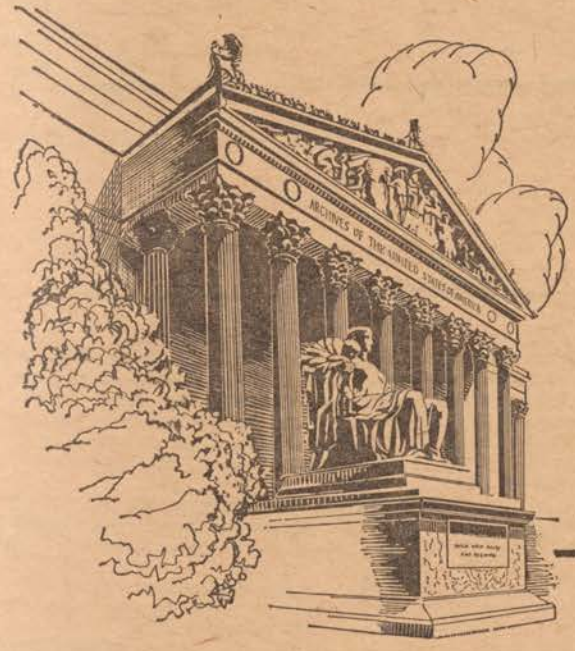

FEDERAL REGISTER

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[Docket No. 8093; Amdt. 45–5]

PART 45—IDENTIFICATION AND REGISTRATION MARKING

Special Rules for Antique and Exhibition Aircraft

The purpose of this amendment to Part 45 of the Federal Aviation Regulations is to relax the identification and registration marking requirements for antique and exhibition aircraft, including: (1) Treating any aircraft built at least 30 years ago as an antique aircraft (rather than requiring certification before Jan. 1, 1933); and (2) allowing, under certain conditions, aircraft to be operated for exhibition purposes (including motion picture or television productions, or airshows) without identification and registration marks. This amendment is based on a notice of proposed rule making (Notice 67–15) issued on April 10, 1967, and published in the FEDERAL REGISTER on April 14, 1967 (32 F.R. 5997).

The FAA is adopting the proposals in Notice 67–15 for the reasons stated therein, but with some changes discussed in detail below. However, the arrangement and numbering of this amendment is changed from that proposed in Notice 67–15. As adopted, §§ 45.21 and 45.23 are rules of general applicability, and § 45.22 is added as a self-contained special rule for antique, exhibition, and other aircraft.

All but one of the comments received in response to Notice 67–15 generally supported the amendments proposed. However, several comments objected to specific proposals, or suggested specific changes. The FAA is making changes in response to these comments and to suggestions in the objecting comment. One comment, while it favored the amendments proposed, also urged the FAA to make other changes to Part 45. Since these changes would go beyond the scope of Notice 67–15, the FAA is not considering them at this time.

Proposed § 45.21(e)(3) would have limited antique aircraft bearing nonstandard marks to speeds of less than 180 knots. Since the proposed 30-year antique aircraft standard would apply to aircraft having high performance capability, the 180-knot limitation was proposed to facilitate adequate identification of those aircraft, including identification by the Armed Forces. Several comments strongly objected to this proposal and presented arguments against its adoption. In the light of these comments, including those of the Department of Defense (DoD) discussed below, the FAA agrees that the 180-knot limitation should not be adopted.

In commenting on the notice, DoD stated that Armed Forces visual identification of antique and exhibition aircraft was not necessary in the contiguous 48 States. However, DoD stated that "an aircraft approaching the United States may be intercepted for visual identification regardless of its speed. We therefore recommend that antique aircraft bearing the proposed special markings be restricted to operations within the territorial airspace * * *", and also recommended against the 180-knot limitation.

After several discussions with DoD, the FAA concludes: (1) The public interest does not require restricting the operation of exhibition and antique aircraft bearing nonstandard marks to U.S. territorial airspace; and (2) the national defense interest requires prohibiting the operation of any exhibition or antique aircraft, that does not bear standard U.S. nationality and registration marks necessary for quick air-to-air identification, in an ADIZ or DEWIZ designated in Part 99 of the Federal Aviation Regulations. To carry out these conclusions, the FAA is adopting § 45.22(c)(1) that prohibits operation of these aircraft in an ADIZ or DEWIZ unless they bear standard marks temporarily. To ease the effect of § 45.22(c)(1) (including the additional burden imposed on owners of aircraft now covered by § 45.21(e)), the FAA is also adopting § 45.21(d)(3) to allow operators of these aircraft to affix standard marks with a readily removable material. These amendments allow operators of exhibition and antique aircraft to enter or leave the United States through an ADIZ or DEWIZ, but also ensure that aircraft bearing nonstandard marks do not operate in these zones. As adopted, new § 45.21(d) contains the exceptions to new § 45.21(c) (including those now in effect).

New § 45.22(a) relaxes present Part 45 for operators of exhibition aircraft. With minor editorial changes, the amendments adopted are substantially those proposed in § 45.21(f) of Notice 67–15. Comments on this part of the notice objected to requiring prior approval of the General Aviation District Office for flights within 5 miles of the takeoff airport, and expressed concern that requiring the filing of flight plans might force operators of exhibition aircraft to install radios. In adopting these relaxatory rules, the FAA must do so in a manner consistent with its responsibility for identification of aircraft under section 307(c) of the Federal Aviation Act of 1958. The FAA believes that requiring prior GADO approval or a flight plan provide the controls necessary to carry out this responsibility. Also, the FAA accepts flight plans filed in person or by telephone, and neither § 91.83 nor new § 45.22(a) requires them to be filed by radio.

The objecting comment argued that the 5-mile limitation in proposed § 45.21(f)(5)(i) was too restrictive. Since the airport control zone described in § 71.11 may exceed a 5-mile radius, the FAA agrees that the proposal was too narrow. As adopted, new § 45.22(a)(3)(i) applies to flights within the airport control zone of the takeoff airport (as designated in Subpart F of Part 71 of the Federal Aviation Regulations), or within 5 miles of that airport if it has no designated control zone. In summary, the FAA believes that allowing operation of aircraft for exhibition purposes without nationality and registration marks is fully justified under the conditions prescribed.

New § 45.22(b) extends present § 45.21(e) to all aircraft built at least 30 years ago, or having the same external configuration as an aircraft built at least 30 years ago. The 30 years are measured from the date an aircraft was built without regard to the date the aircraft was certificated or otherwise approved by the United States, or to the place it was built (in this country or a foreign country). Comments received requested clarification of these points. Other comments opposed the 30-year standard for antique aircraft in proposed § 45.21(e)(1), suggested a shorter period, but failed to present any new or convincing arguments for the shorter period. The FAA believes that 30 years is a reasonable standard for antique aircraft. Aircraft operators who do not come under § 45.22(b) may exhibit their authentically marked aircraft under § 45.22(a). Comments also asked the FAA to clarify the term "same external configuration." The term "configuration" is commonly defined to mean "arrangement of parts; form or figure determined by the disposition of parts." While the term "same external configuration" does not require aircraft to be "mirror images," it would perclude major differences in the external configuration of the aircraft involved. The FAA is adopting these provisions as proposed.

New § 45.22(b)(1) is based on § 45.21(e)(5) and the following flush paragraph proposed in the notice. One comment asked whether any marks might be displayed on the wings. With one exception, if the aircraft properly displays the marks that § 45.22(b)(1) requires, it may display other marks anywhere on the aircraft. The exception, in new § 45.22(b)(2), prohibits the display of any other mark that begins with "N" unless it is the same as the mark displayed under

§ 45.22(b)(1). Since other marks beginning with "N" might be too easily confused with the marks that § 45.22(b)(1) requires, their display is prohibited. However, the aircraft could display in any size, manner, or place (on the wings or elsewhere) the same mark that must be displayed on the fuselage or vertical tail surface. Other marks not beginning with "N" could be displayed anywhere.

In addition to prohibiting operations in an ADIZ or DEWIZ, § 45.22(c) specifies the other operations of exhibition and antique aircraft that are generally prohibited. New § 45.22(c)(2) combines the prohibitions proposed in §§ 45.21(e)(2) and 45.21(f)(4), and new § 45.22(c)(3) extends proposed § 45.21(e)(4) to both exhibition and antique aircraft. The language of § 45.22(c)(3) is changed from that proposed in the notice in response to comments received. Notice 67–15 proposed to prohibit operations of antique aircraft "for compensation or hire under an operating certificate." This was intended to prohibit holders of operating certificates from conducting operations under Parts 121, 127, 133, 135, and 137 with antique aircraft bearing nonstandard marks. However, the FAA does intend to allow holders of operating certificates to operate those aircraft if the operation is one that does not come within the applicability of Part 121, 127, 133, 135, or 137. In addition, the prohibition is also extended to operators of exhibition aircraft, since it would be inappropriate to allow holders of operating certificates to use either exhibition or antique aircraft bearing nonstandard marks in air carrier or commercial operations.

To the extent that these amendments impose new burdens or modify proposals in Notice 67–15, the notice, public procedure, and effective date requirements of section 553 of Title 5 of the United States Code do not apply because these amendments either relieve existing restrictions or involve military functions of the United States. Therefore, these amendments may be made effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, effective January 12, 1968, Part 45 of the Federal Aviation Regulations is amended by amending §§ 45.21 and 45.23, and by adding a new § 45.22, to read as follows:

§ 45.21 General.

(a) Except as provided in § 45.22, no person may operate a U.S.-registered aircraft unless that aircraft displays nationality and registration marks in accordance with the requirements of this section and §§ 45.23 through 45.33.

(b) Unless otherwise authorized by the Administrator, no person may place on any aircraft a design, mark, or symbol that modifies or confuses the nationality and registration marks.

(c) Aircraft nationality and registration marks must—

(1) Except as provided in paragraph (d) of this section, be painted on the aircraft or affixed by any other means insuring a similar degree of permanence;

(2) Have no ornamentation;

(3) Contrast in color with the background; and

(4) Be legible.

(d) The aircraft nationality and registration marks may be affixed to an aircraft with readily removable material if—

(1) It is intended for immediate delivery to a foreign purchaser;

(2) It is bearing a temporary registration number; or

(3) It is marked temporarily to meet the requirements of § 45.22(c)(1).

§ 45.22 Exhibition, antique, and other aircraft: Special rules.

(a) When display of aircraft nationality and registration marks in accordance with §§ 45.21 and 45.23 through 45.33 would be inconsistent with exhibition of that aircraft, a U.S.-registered aircraft may be operated without displaying those marks anywhere on the aircraft if:

(1) It is operated for the purpose of exhibition, including a motion picture or television production, or an airshow;

(2) Except for practice and test flights necessary for exhibition purposes, it is operated only at the location of the exhibition, between the exhibition locations, and between those locations and the base of operations of the aircraft; and

(3) For each flight in the United States:

(i) It is operated with the prior approval of the General Aviation District Office, in the case of a flight within the designated airport control zone of the takeoff airport, or within 5 miles of that airport if it has no designated control zone; or

(ii) It is operated under a flight plan filed under § 91.83 of this chapter describing the marks it dispalys, in the case of any other flight.

(b) When it was built at least 30 years ago or has the same external configuration as an aircraft built at least 30 years ago, a U.S.-registered aircraft may be operated without displaying marks in accordance with §§ 45.21 and 45.23 through 45.33 if:

(1) It displays in accordance with § 45.21(c) marks at least 2 inches high on each side of the fuselage or vertical tail surface consisting of the Roman capital letter "N" followed by:

(i) The U.S. registration number of the aircraft; or

(ii) The symbol appropriate to the airworthiness certificate of the aircraft ("C", standard; "R", restricted; "L", limited; or "X", experimental) followed by the U.S. registration number of the aircraft; and

(2) It displays no other mark that begins with the letter "N" anywhere on the aircraft, unless it is the same mark that is displayed under subparagraph (1) of this paragraph.

(c) No person may operate an aircarft under paragraph (a) or (b) of this section—

(1) In an ADIZ or DEWIZ described in Part 99 of this chapter unless it temporarily bears marks in accordance with §§ 45.21 and 45.23 through 45.33;

(2) In a foreign country unless that country consents to that operation; or

(3) In any operation conducted under Part 121, 127, 133, 135, or 137 of this chapter.

(d) If, due to the configuration of an aircraft, it is impossible for a person to mark it in accordance with §§ 45.21 and 45.23 through 45.33, he may apply to the Administrator for a different marking procedure.

§ 45.23 Display of marks; general.

(a) Each operator of an aircraft shall display on that aircraft marks consisting of the Roman capital letter "N" (denoting U.S. registration) followed by the registration number of the aircraft.

(b) When marks that include only the Roman capital letter "N" and the registration number are displayed on limited or restricted category aircraft or experimental or provisionally certificated aircraft, the operator shall also display on that aircraft near each entrance to the cabin or cockpit, in letters not less than 2 inches nor more than 6 inches in height, the words "limited," "restricted," "experimental," or "provisional airworthiness," as the case may be.

(Secs. 307(a) 307(c), 313(a), 501, 502, 601, 603, 1202, Federal Aviation Act of 1958; 49 U.S.C. 1348(a), 1348(c), 1354(a), 1401, 1402, 1421, 1423, 1522)

Issued in Washington, D.C., on January 5, 1968.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 68–443; Filed, Jan. 11, 1968; 8:45 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67–CE–115]

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

Alteration of Control Zone and Transition Area

On page 15118 of the FEDERAL REGISTER dated November 1, 1967, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Hutchinson, Kans.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendments.

No objections have been received and the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall be effective 0001 e.s.t., February 29, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on December 22, 1967.

JOHN A. HARGRAVE,
Acting Director, Central Region.

(1) In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

HUTCHINSON, KANS.

Within a 5-mile radius of Hutchinson Municipal Airport (latitude 38°03'55" N., longitude 97°51'35" W.); and within 2 miles each side of the Hutchinson VORTAC 042° radial, extending from the 5-mile radius zone to the VORTAC.

(2) In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

HUTCHINSON, KANS.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Hutchinson Municipal Airport (latitude 38°03'55" N., longitude 97°51'35" W.); within 8 miles northwest and 5 miles southeast of the Hutchinson VORTAC 042° and 222° radials extending from the 8-mile radius area to 12 miles southwest of the VORTAC; and within 8 miles northeast and 5 miles southwest of the Hutchinson ILS localizer northwest course, extending from the 8-mile radius area to 12 miles northwest of the OM; and that airspace extending upward from 1,200 feet above the surface within a 30-mile radius of Hutchinson VORTAC; within 10 miles west and 6 miles east of the Hutchinson VORTAC 025° radial, extending from the 30-mile radius area to 44 miles north of the VORTAC; within 6 miles southwest and 10 miles northeast of the Hutchinson VORTAC 296° radial, extending from the 30-mile radius area to 44 miles northwest of the VORTAC; within 6 miles north and 10 miles south of the Hutchinson VORTAC, 266° radial extending from the 30-mile radius area to 41 miles west of the VORTAC; and the area southwest of Hutchinson bounded on the northeast by the 30-mile radius area, on the south by the north edge of V-12N, and on the northwest by the southeast edge of V-280, excluding the portion which overlies the Wichita and Salina, Kans., transition areas.

[F.R. Doc. 68-444; Filed, Jan. 11, 1968; 8:45 a.m.]

[Airspace Docket No. 67-CE-118]

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

Alteration of Control Zone and Transition Area

On page 15119 of the FEDERAL REGISTER dated November 1, 1967, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Bloomington, Ind.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendments.

No objections have been received and the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall be effective 0001 e.s.t., February 29, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on December 22, 1967.

JOHN A. HARGRAVE,
Acting Director, Central Region.

(1) In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

BLOOMINGTON, IND.

Within a 5-mile radius of Monroe County Airport (latitude 39°08'25" N., longitude 86°37'00" W.) and within 2 miles each side of the Bloomington, Ind., VOR 072°, 181°, 236°, and 341° radials extending from the 5-mile radius zone to 8 miles east, south, southwest, and north of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(2) In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

BLOOMINGTON, IND.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Monroe County Airport (latitude 39°08'25" N., longitude 86°37'00" W.) and within 2 miles each side of the Bloomington, Ind., VOR 072°, 181°, 236°, and 341° radials extending from the 6-mile radius area to 8 miles east, south, southwest, and north of the VOR.

[F.R. Doc. 68-445; Filed, Jan. 11, 1968; 8:45 a.m.]

[Airspace Docket No. 67-CE-119]

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

Alteration of Control Zone and Transition Area

On pages 15118 and 15119 of the FEDERAL REGISTER dated November 1, 1967, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Escanaba, Mich.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendments.

No objections have been received and the proposed amendments are hereby adopted without change as set forth below.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0001 e.s.t., February 29, 1968, as hereinafter set forth:

(1) In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

ESCANABA, MICH.

Within a 5-mile radius of Escanaba Municipal Airport (latitude 45°43'25" N., longitude 87°05'40" W.); within 2 miles each side of the Escanaba VORTAC 007°, 101°, and 266° radials, extending from the 5-mile radius zone to 8 miles north, east, and west of the VORTAC; and within 2 miles each side of the 349° bearing from Escanaba Municipal Airport, extending from the 5-mile radius zone to 11 miles north of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(2) In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

ESCANABA, MICH.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Escanaba Municipal Airport (latitude 45°43'25" N., longitude 87°05'40" W.); within 8 miles west and 5 miles east of the Escanaba VORTAC 007° radial, within 8 miles north and 5 miles south of the Escanaba VORTAC 101° radial and within 8 miles south and 5 miles north of the Escanaba VORTAC 266° radial, extending from the VORTAC to 12 miles north, east, and west of the VORTAC; and within 8 miles west and 5 miles east of the 349° bearing from Escanaba Municipal Airport, extending from the airport to 15 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within a 15-mile radius of Escanaba VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued at Kansas City, Mo., on December 22, 1967.

JOHN A. HARGRAVE,
Acting Director, Central Region.

[F.R. Doc. 68-446; Filed, Jan. 11, 1968; 8:45 a.m.]

[Airspace Docket No. 67-CE-105]

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

Alteration of Federal Airways

On October 11, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 14111) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would realign V-38, V-144, and V-177 by deleting reference to the Monterey, Ind., VOR.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. The Air Transport Association of America concurred with the proposal. The Fulton County Board of Commissions, Rochester, Ind., and several users of Rochester Airport objected to the proposal to decommission the Monterey VOR. Interested persons were notified of the proposal to decommission the Monterey VOR. This proposal was considered by nonrule making procedures as Case 67-CE-17NR and all objections to the proposed action were taken under advisement at that time. Inasmuch as the actions considered in this docket are directed only toward alteration of Federal airways, objections to decommissioning the VOR are not considered herein.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 29, 1968, as hereinafter set forth.

Section 71.123 (32 F.R. 2009, 6390, 16435) is amended as follows:

1. In V-38 "6 miles wide, 12 AGL Monterey, Ind.;" is deleted.

2. In V-144, "6 miles wide, 12 AGL Monterey, Ind.;" is deleted.

3. In V–177 all before "From Naperville, Ill.," is deleted and "From Fort Wayne, Ind., 12 AGL INT Peotone, Ill., 098° and Chicago Heights, Ill., 140° radials; 12 AGL Chicago Heights." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on January 5, 1968.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 68–447; Filed, Jan. 11, 1968; 8:46 a.m.]

[Airspace Docket No. 67–CE–109]

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

Designation of Federal Airway

On October 10, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 14063) stating that the Federal Aviation Administration was considering the designation of V–420 from Green Bay, Wis., direct to Traverse City, Mich.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 29, 1968, as hereinafter set forth.

In § 71.123 (32 F.R. 2009) the following is added:

V–420 From Green Bay, Wisc., 12 AGL Traverse City, Mich.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on January 5, 1968.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 68–448; Filed, Jan. 11, 1968; 8:46 a.m.]

[Airspace Docket No. 67–WE–56]

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

Alteration of Federal Airway

On October 3, 1967 a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13776) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would realign and extend a segment of VOR Federal airway No. 263.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 29, 1968, as hereinafter set forth.

In § 71.123 (32 F.R. 2009, 7251) V–263 is amended by deleting "12 AGL Kiowa, Colo." and substituting "12 AGL INT Hugo 327° and Gill, Colo., 157° radials; 12 AGL Gill." therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on January 5, 1968.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 68–449; Filed, Jan. 11, 1968; 8:46 a.m.]

[Airspace Docket No. 67–CE–127]

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

Alteration of Transition Area; Correction

On December 8, 1967, a final rule was published in the FEDERAL REGISTER (32 F.R. 17575), F.R. Doc. 67–14292, which altered the Peru, Ind., transition area. However, in this redesignation the coordinates "latitude 41°00'00" N., longitude 86°33'00" W." were erroneously omitted from the 1,200-foot floor transition area. Action is taken herein to make this correction.

Since this amendment is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, the redesignation of the Peru, Ind., 1,200-foot floor transition area, as set forth in F.R. Doc. 67–14292, is corrected effective immediately as follows: After the phrase "to latitude 40°07'00" N., longitude 86°33'00" W.," add the phrase "to latitude 41°00'00" N., longitude 86°33'00" W.;".

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on December 22, 1967.

JOHN A. HARGRAVE,
Acting Director, Central Region.

[F.R. Doc. 68–450; Filed, Jan. 11, 1968; 8:46 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 8340; Amdt. 91–50]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Priority Handling Reports

The purpose of this amendment to Part 91 of the Federal Aviation Regulations is to eliminate the mandatory report from a pilot who is given priority by Air Traffic Control in an emergency. A report will now be required only if requested by ATC.

FAR 91.75(d) presently requires that the pilot must submit a detailed report to the nearest FAA Regional Office within 48 hours when, in an emergency, he has been given a priority by ATC.

The requirement for submitting this report was inserted into the air traffic rules in 1947 to minimize the practice of a pilot declaring an emergency in order to receive preferential handling by ATC. At this time turbojet aircraft were being introduced into the air traffic control system and pilots of those aircraft often declared emergencies in order to obtain priorities.

Since 1947, various factors have changed. Advancements in turbojet operational capability (especially fuel management), improved pilot familiarization, and improved procedures for handling these aircraft have made priority emergencies virtually nonexistent.

On August 23, 1966, the U.S. Air Force requested an exemption from § 91.75(d) citing as a primary reason the fact that, in many instances, ATC may grant a pilot priority and not inform the pilot. This regulation requires a pilot to file a report whether or not he may be aware that he has received priority handling. Therefore, it appears that the basis for the Air Force request is applicable to other pilots also. Since the need for the regulation has lessened proportionately with the decrease in priority emergencies, it now appears desirable to require priority reports only upon request of the ATC facility involved. This would reflect the diminishing basis for the requirement and avoid the incongruity of automatically requiring a report from a pilot receiving priority handling who may not be aware of the service received.

On August 10, 1967, a notice of proposed rule making was issued which proposed to amend FAR 91.75(d) as indicated above. Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Twelve comments were received in response to the notice. All were favorable.

In consideration of the foregoing, paragraph (d) of § 91.75 is amended, effective February 11, 1968, to read as follows:

§ 91.75 **Compliance with ATC clearance and instructions.**

* * * * *

(d) Each pilot in command who (though not deviating from a rule of this subpart) is given priority by ATC in an emergency, shall, if requested by ATC, submit a detailed report of that emergency within 48 hours to the chief of that ATC facility.

(Secs. 307, 313, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on January 5, 1[illegible].

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 68–451; Filed, Jan. 11, 1968; 8:46 a.m.]

[Reg. Docket No. 8615; Amdt. 575]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

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	
BHM VORTAC	ROE NDB	Direct	2800	T-dn	300-1	300-1	*200-½
Lewis Int	ROE NDB	Direct	2800	C-dn	900-1	900-1	900-1½
Helena Int	ROE NDB	Direct	2800	S-dn-23#	900-1	900-1	900-1
Bessemer Int	ROE NDB	Direct	2800	A-dn	1000-2	1000-2	1000-2
Trussville Int	ROE NDB (final)	Direct	1900				

Radar available.
Procedure turn N side of crs, 053° Outbnd, 233° Inbnd, 2800′ within 10 miles of ROE NDB.
Minimum altitude over facility on final approach crs, 1900′.
Crs and distance, facility to airport, 233°—4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4 miles after passing ROE NDB, climb to 3000′ on crs 233° within 15 miles.
NOTE: VASI Runway 23.
CAUTION: Tower 1375′, 1.6 miles S of final approach crs.
*Runways 5 and 23 only.
#Reduction not authorized.
MSA within 25 miles of facility: 000°–360°—2900′.

City, Birmingham; State, Ala.; Airport name, Municipal; Elev., 643′; Fac. Class., MHW; Ident., ROE; Procedure No. NDB(ADF) Runway 26, Amdt. 6; Eff. date, 27 Jan. 68; Sup. Amdt. No. ADF2, Amdt. 5; Dated, 5 Nov. 66

API VOR	LOM	Direct	2500	T-dn	300-1	300-1	200-½
Surf Int	LOM	Direct	2500	C-dn	500-1	500-1	500-1½
Big Run Int	LOM	Direct	2500	S-dn-13R/L	500-1	500-1	500-1
MX RBn	LOM	Direct	2500	A-dn	800-2	800-2	800-2
Griffith Int	MX RBn	Direct	2500				

Radar available.
Procedure turn W side of crs, 312° Outbnd, 132° Inbnd, 2500′ within 10 miles.
Minimum altitude over facility on final approach crs, 2200′.
Crs and distance, facility to airport, 132°—5.1 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.1 miles after passing LOM, make right turn, climb to 2300′ and proceed to Peotone VOR Inbnd on R 001°.
MSA within 25 miles of facility: 000°–090°—2600′; 090°–180°—2100′; 180°–270°—2400′; 270°–360°—2600′.

City, Chicago; State, Ill.; Airport name, Chicago-Midway; Elev., 619′; Fac. Class., LOM; Ident., MD; Procedure No. NDB(ADF) Runway 13 L/R, Amdt. 23; Eff. date, 27 Jan. 68; Sup. Amdt. No. ADF 1, Amdt. 22; Dated, 26 June 65

Portland VORTAC	SVY NDB	Direct	3400	T-dn%	300-1	300-1	200-½
Newberg VORTAC	SVY NDB	Direct	3400	C-dn	700-1	700-1	700-1½
Scappoose Int	SVY NDB (final)	Direct	3200	A-dn	800-2	800-2	800-2

Radar available.
Procedure turn S side of crs, 278° Outbnd, 098° Inbnd, 3400′ within 10 miles of Sauvies Island NDB.
Minimum altitude over SVY NDB on final approach crs, 3200′; over OM, 1600′; over LMM, 900′.
Crs and distance, facility to airport, 098°—9.5 miles; OM to airport, 098°—4 miles; LMM to airport, 098°—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.6 mile after passing LMM, climb direct to IA LOM, continue climb to 3400′ in a 1-minute left turn, 278° Inbnd, holding pattern E of IA LOM.
%200-½ authorized on Runways 10 R and L/28 R and L only. 700-2 required on Runways 2 and 20. Takeoffs all runways—Climb direct to PDX VORTAC, continue climb on R 329° PDX VORTAC within 10 miles to cross PDX VORTAC at or above: Northeastbound, V448, 5500′; northeastbound V448S, 2600′; eastbound V112, 2900′.
MSA within 25 miles of facility: 000°–090°—5400′; 090°–180°—3200′; 180°–270°—4600′; 270°–360°—4000′.

City, Portland; State, Oreg.; Airport name, Portland International; Elev., 26′; Fac. Class., MHW; Ident., SVY; Procedure No. NDB(ADF) Runway 10R, Amdt. 14; Eff. date, 27 Jan. 68; Sup. Amdt. No. ADF 1, Amdt. 13; Dated, 27 May 65

ADF 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	
Groves Int	IA LOM	Direct	6100	T-dn%	300-1	300-1	200-½
PDX VORTAC	IA LOM	Direct	3400	C-dn	700-1	700-1	700-1½
Oswego Int	IA LOM	Direct	3600	S-dn-28R$	700-1	700-1	700-1
Mount Scott Int	IA LOM	Direct	3500	A-dn	800-2	800-2	800-2

Radar available.
Procedure turn S side of crs, 098° Outbnd, 278° Inbnd, 3400′ within 10 miles.
Final approach from holding pattern at IA LOM not authorized, procedure turn required.
Minimum altitude over facility on final approach crs, 1700′.
Crs and distance, facility to airport 278°—5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5 miles after passing IA LOM, climb direct to SVY NDB, continue climb to 3200′ in standard holding pattern W of SVY NDB or, when directed by ATC, turn right, climb direct PDX VORTAC, continue climb to 4000′ on R 329° PDX VORTAC within 10 miles.
$Sliding scale not authorized for landing.
%200-½ authorized Runways 10 R/L and 28 R/L. 700-2 required Runways 2 and 20. Takeoffs all runways—Climb direct to PDX VORTAC, continue climb on R 329° PDX VORTAC within 10 miles to cross PDX VORTAC at or above: Northeastbound, V448, 5500′; northeastbound V448S, 2600′; eastbound V112, 2900′.
MSA within 25 miles of facility: 000°-180°—6000′; 180°-270°—3200′; 270°-360°—5400′.

City, Portland; State, Oreg.; Airport name, Portland International; Elev., 26′; Fac. Class., LOM; Ident., IA; Procedure No. NDB(ADF) Runway 28R, Amdt. 2; Eff. Date, 27 Jan. 68; Sup. Amdt. No. ADF 2, Amdt. 1; Dated, 27 May 65

TKA VOR	TKA NDB	Direct	2300	T-d	300-1	300-1	200-½
				C-d	700-2	700-2	700-2
				S-d	NA	NA	NA
				A-d	1000-2	1000-2	1000-2

Procedure turn S side of crs, 211° Outbnd, 031° Inbnd, 2300′ within 10 miles.
Minimum altitude over facility on final approach crs, 1100′.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of TKA NDB, turn left, climb to 2300′ on 211° bearing within 10 miles.
CAUTION: (1) 575′ terrain 1.1 miles S of airport. (2) Mountain range NE through SE within 2 to 4 miles of airport rises to 1400′.
MSA within 25 miles of facility: 070°-160°—9000′; 160°-250°—2000′; 250°-340°—8000′; 340°-070°—5000′.

City, Talkeetna; State, Alaska; Airport name, Talkeetna; Elev., 358′; Fac. Class., BH; Ident., TKA; Procedure No. NDB(ADF)-1, Amdt. 8; Eff. date, 27 Jan. 68; Sup. Amdt. No. ADF 1, Amdt. 7; Dated, 20 June 64

2. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

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	

PROCEDURE CANCELED, EFFECTIVE 27 JAN. 1968.

City, Bristol; State, Pa.; Airport name, 3-M; Elev., 35′; Fac. Class., T-VOR; Ident., PNE; Procedure No. 1, Amdt. 1; Eff. date, 5 June 65; Sup. Amdt. No. Orig.; Dated, 5 Sept. 64

				T-dn%	300-1	300-1	200-½
				C-dn	800-2	800-2	800-2
				S-dn-20	400-1	400-1	400-1
				A-dn	1000-3	1000-3	1000-3

Procedure turn N side of crs, 022° Outbnd, 202° Inbnd, 3500′ within 10 miles.
Minimum altitude over facility on final approach crs, 2800′.
Crs. and distance, facility to airport, 202°—4.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.9 miles after passing EPH VOR, turn left, climb direct to EPH VOR. Continue climb to 4000′ on R 060° within 10 miles.
% Takeoffs all runways—Climb direct to EPH VOR, thence continue climb on R 060 EPH VOR within 10 miles so as to cross EPH VOR at or above: Southwestbound V-2 and V-448, 2800′; westbound V-2N, 2800′; all turns N side R 060°.
MSA within 25 miles of facility: 000°-090°—3600′; 090°-180°—2800′; 180°-360°—4700′.

City, Ephrata; State, Wash.; Airport name, Ephrata Municipal; Elev., 1272′; Fac. Class., H-BVORTAC; Ident., EPH; Procedure No. VOR Runway 20, Amdt. 11; Eff. date, 27 Jan. 68; Sup. Amdt. No. 10; Dated, 7 Dec. 67

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	
10-mile DME Fix, R 329°	PDX VORTAC (final)	Direct	2500	T-dn%	300–1	300–1	200–½
10-mile DME Fix, R 070°	PDX VORTAC	Direct	4000	C-d	900–1	900–1	900–1½
10-mile DME Fix, R 274° clockwise	10-mile DME Fix, R 329°	10-mile DME Arc	3500	C-n	900–2	900–2	900–2
				A-dn	900–2	900–2	900–2
10-mile DME Fix, R 039°	PDX VORTAC	Direct	5000	DME minimums:			
10-mile DME Fix, R 054°	PDX VORTAC	Direct	5000	C-dn	700–1	700–1	700–1½

Radar available.
Procedure turn W side of crs, 329° Outbnd, 149° Inbnd, 4000′ within 10 miles.
Minimum altitude over facility on final approach crs, 2500′; over 5-mile DME Fix, R 150°, 926′.
Crs and distance, facility to airport, 150°—9.2 miles; from 5-mile DME Fix, R 159, 159°—4.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 9.2 miles after passing PDX VORTAC, turn left, climb direct PDX VORTAC, continue climb to 4000′ on R 329° within 10 miles.
%200–½ authorized on 10 R and L/28 R and L. 700–2 required on Runways 2 and 20. Takeoffs all runways—Climb direct to PDX VORTAC, climb on R 329° PDX VORTAC within 10 miles to cross PDX VORTAC at or above: Northeastbound V448, 5500′; Northeastbound V448S, 2600′; eastbound V112, 2900′.
MSA within 25 miles of facility: 090°–180°—5000′; 180°–270°—3300′; 270°–090°—6000′.

City, Portland; State, Oreg.; Airport name, Portland International; Elev., 26′; Fac. Class., H-BVORTAC; Ident., PDX; Procedure No. VOR–1, Amdt. Orig.; Eff. date, 27 Jan. 68

TKA NDB	TKA VOR	Direct	2300	T-d	300–1	300–1	200–½
				C-d	600–1	600–1	600–1½
				A-d	800–2	800–2	800–2

Procedure turn W side of crs, 156° Outbnd, 336° Inbnd, 2300′ within 10 miles.
Minimum altitude over facility on final approach crs, 980′.
Crs and distance, facility to airport, 345°—1.1 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of TKA VOR, turn left, climb to 2300′ on R 156° within 10 miles.
CAUTION: (1) 575′ terrain 1.1 miles S of airport. (2) Mountain range NE through SE within 2 to 4 miles of airport rises to 1400′.
MSA within 25 miles of facility; 070°–160°—9000′; 160°–250°—2000′; 250°–340°—8000′; 340°–070°—5000′.

City, Talkeetna; State, Alaska; Airport name, Talkeetna; Elev., 358′; Fac. Class., L-BVOR; Ident., TKA; Procedure No. VOR–1, Amdt. 2; Eff. date, 27 Jan. 68; Sup. Amdt. No. VOR 1, Amdt. 1; Dated 20 June 64

3. By amending the following very high frequency omnirange—distance measuring equipment (VOR/DME) procedures prescribed in § 97.15 to read:

VOR–DME 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	

PROCEDURE CANCELED, EFFECTIVE 27 JAN. 1968.

City, Portland; State, Oreg.; Airport name, Portland, International; Elev., 26′ Fac. Class., H-BVORTAC; Ident., PDX; Procedure No. VOR/DME No. 1, Amdt. 5; Eff. date, 30 Apr. 66; Sup. Amdt. No. 4; Dated, 7 Aug. 65

4. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

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	
BHM VORTAC	ROE NDB	Direct	2800	T-dn %%	300–1	300–1	*200–½
Lewis Int	ROE NDB	Direct	2800	C-dn	600–1	600–1	**600–1½
Helena Int	ROE NDB	Direct	2800	S-dn-23#	600–1	600–1	600–1
Bessemer Int	ROE NDB	Direct	2800	A-dn	800–2	800–2	800–2
Trussville Int	ROE NDB (final)	Direct	1900				

Radar available.
Procedure turn N side of crs. 052° Outbnd, 232° Inbnd, 2800′ within 10 miles of ROE NDB.
Minimum altitude abeam Roebuck NDB on final approach crs, 1900′.
Crs and distance, abeam Roebuck NDB to airport, 232°—4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4 miles after passing Roebuck NDB, climb to 3000′ on crs 232° and proceed to the BH LOM or, when directed by ATC, turn right, climb to 3000′ and proceed to BHM VORTAC.
NOTE: VASI Runway 23.
%% RVR 2400′ authorized Runway 5 for aircraft with more than two engines. RVR 5000′ for aircraft with two engines or less.
*Runways 5–23 only.
#Reduction not authorized.
**Circling not authorized E of airport between centerline extended of Runways 36 and 23.
MSA within 25 miles of ROE NDB: 000°–360°—2900′.

City, Birmingham; State, Ala.; Airport name, Municipal; Elev., 643′; Fac. Class., ILS; Ident., I-BHM; Procedure No. LOC (BC) Runway 23, Amdt. Orig.; Eff. date 27 Jan 68

MX NDB	LOM	Direct	2500	T-dn%	300–1	300–1	200–½
API VOR	LOM	Direct	2500	C-dn	500–1	500–1	500–1½
				S-dn-13R*	300–¾	300–¾	300–¾
				A-dn	600–2	600–2	600–2

Radar available.
Procedure turn W side of crs, 312° Outbnd, 132° Inbnd, 2500′ within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2500′.
Altitude of glide slope and distance to approach end of runway at LOM, 2255′—5.1 miles; at LMM, 868′—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished make right turn, climb to 2300′ and proceed to EON VOR Inbnd on R 001°.
NOTES: (1) Glide slope not usable below 868′. (2) Back crs unusable.
*500–1 required with glide slope inoperative. No reduction authorized for ALS and HIRLS.
%RVR 2400′ authorized for takeoff Runway 13R.
MSA within 25 miles of LOM: 000°–090°—2600′; 090°–180°—2100′; 180°–270°—2400′; 270°–360°—2600′.

City, Chicago; State, Ill.; Airport name, Chicago-Midway; Elev., 619′; Fac. Class., ILS; Ident., I-MDW; Procedure No. ILS Runway 13R, Amdt. 23; Eff. date, 27 Jan. 68; Sup. Amdt. No. ILS–13R, Amdt. 22; Dated, 26 June 65

13.8-mile DME Fix, R 329° PDX VORTAC	SVY NDB	Direct	3400	T-dn*%%	300–1	300–1	200–½
Scappoose Int	SVY NDB (final)	Direct	3200	C-dn	700–1	700–1	700–1½
UBG VORTAC	SVY NDB	Direct	3400	S-dn-10R# ##	200–½	200–½	200–½
PDX VORTAC	SVY NDB	Direct	3400	A-dn	700–2	700–2	700–2
15-mile DME Fix, R 175° PDX VORTAC	SVY NDB	Direct	3400				

Radar available.
Procedure turn S side of crs, 278° Outbnd, 098° Inbnd, 3400′ within 10 miles.
Minimum altitude at glide slope interception Inbnd, 3200′.
Altitude of glide slope and distance to approach end of runway at SVY NDB, 3111′—9.5 miles; at OM, 1371′—4 miles; at MM, 280′—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb direct to IA LOM, continue climb to 3400′ in a 1-minute left turn, 278° Inbnd holding pattern E of IA LOM or, when directed by ATC, climb direct to PDX VORTAC, continue climb to 4000′ on R 329° PDX VORTAC within 10 miles.
#500–1 required when glide slope inoperative. OM altitude, 1600′. 500–¾ authorized with operative ALS, except for 4-engine turbojets. Sliding scale not authorized.
%%200–½ authorized Runways 10 R/L and 28 R/L only. 700–2 required on Runways 2/20. Takeoffs all runways—Climb direct to PDX VORTAC, continue climb on R 329° PDX VORTAC within 10 miles to cross PDX VORTAC at or above: Northeastbound, V448, 5500′; Northeastbound V448S, 2600′; Eastbound V112, 2900′.
*RVR 2400′ authorized Runway 10R.
##RVR 2400′. Descent below 226′ not authorized unless approach lights are visible.
MSA within 25 miles of SVY NDB: 000°–090°—5400′; 090°–180°—3200′; 180°–270°—4600′; 270°–360°—4000′.

City, Portland; State, Oreg.; Airport name, Portland International; Elev., 26′; Fac. Class., ILS; Ident., I-PDX; Procedure No. ILS Runway 10R, Amdt. 16; Eff. date, 27 Jan. 68; Sup. Amdt. No. ILS–10R, Amdt. 15; Dated, 27 May 65

PDX VOR	Levee Int	Direct	3400	T-dn%%	300–1	300–1	200–½
UBG VOR	Levee Int	Direct	4000	C-dn	700–1	700–1	700–1½
Pearson Int	Levee Int	Direct	3400	S-dn-10L$ $$	600–1	600–1	600–1
Buxton Int	Levee Int (final)	Direct	3100	A-dn	800–2	800–2	800–2

Radar available.
Procedure turn S side of crs, 278° Outbnd, 098° Inbnd, 3400′ within 10 miles of Levee Int.
Minimum altitude over Levee Int on final approach course, 3100′; over Portal Int, 1500′.
Crs and distance, Levee Int to airport, 098°—9.8 miles; Portal Int to airport, 098°—4.4 miles.
No glide slope.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.4 miles after passing Portal Int, climb direct to IA LOM, continue climb to 3400′ in a 1-minute left turn, 278° Inbnd holding pattern E of IA LOM or, when directed by ATC, turn left, climb direct to PDX VORTAC, continue climb to 4000′ on R 329° PDX VORTAC within 10 miles.
NOTE: Dual VHF receivers required for this approach.
%%200–½ authorized Runways 10 R/L and 28 R/L only. 700–2 required on Runways 2 and 20. Takeoffs all runways—Climb direct to PDX VORTAC, continue climb on R 329° PDX VORTAC within 10 miles to cross PDX VORTAC at or above: northeastbound V448, 5500′; northeastbound V448S, 2600′; eastbound V112, 2900′.
$Sliding scale not authorized for landing.
$$600–¾ authorized with operative HIRL, except for 4-engine turbojets.

City, Portland; State, Oreg.; Airport name, Portland International; Elev., 26′; Fac. Class., ILS; Ident., I-IAP; Procedure No. LOC (BC) Runway 10L, Amdt. 4; Eff. date, 27 Jan. 68; Sup. Amdt. No. ILS–10L (BC), Amdt. 3; Dated, 30 Apr. 66

ILS 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	
Groves Int	IA LOM	Direct	6100	T-dn%*	300–1	300–1	200–½
PDX VORTAC	IA LOM	Direct	3400	C-dn	700–1	700–1	700–1½
				S-dn-28R#	300–1	300–1	300–1
Mount Scott Int	IA LOM	Direct	3500	A-dn	700–2	700–2	700–2
Oswego Int	IA LOM	Direct	3600				

Radar available.
Procedure turn S side of crs, 098° Outbnd, 278° Inbnd, 3400′ within 10 miles.
Final approach from holding pattern at IA LOM not authorized, procedure turn required.
Minimum altitude at glide slope interception Inbnd, 2900′.
Altitude of glide slope and distance to approach end of runway at OM, 1708′—5 miles; at MM, 284′—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5 miles after passing IA LOM, climb direct to SVY NDB, continue climb to 3200′ in standard holding pattern W of SVY NDB or, when directed by ATC, turn right, climb direct to PDX VORTAC, continue climb to 4000′ on R 329° PDX VORTAC within 10 miles.
#600–1 required when glide slope inoperative. OM altitude 1800′. Sliding scale not authorized.
%200–½ authorized Runways 10 R/L and 28 R/L only. 700–2 required on Runways 2 and 20. Takeoffs all runways—Climb direct to PDX VORTAC, continue climb on R 329° PDX VORTAC within 10 miles to cross PDX VORTAC at or above: Northeastbound, V448, 5500′; northeastbound V448S, 2600′; eastbound V112, 2900′.
*RVR 2400′ authorized Runway 28R.
MSA within 25 miles of IA LOM: 000°–180°—6000′; 180°–270°—3200′; 270°–360°—5400′.

City, Portland; State, Oreg.; Airport name, Portland International; Elev., 26′; Fac. Class., ILS; Ident., I-IAP; Procedure No. ILS Runway 28R, Amdt. 2; Eff. date, 27 Jan. 68; Sup. Amdt. No. ILS-28R, Amdt. 1; Dated, 27 May 65

5. By amending the following radar procedures prescribed in § 97.19 to read:

RADAR 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 a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument 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 altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

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	

PROCEDURE CANCELED, EFFECTIVE 27 JAN. 1968.

City, Detroit; State, Mich.; Airport name, Detroit City; Elev., 626′; Fac. Class. and Ident., Detroit City Radar; Procedure No. 1, Amdt. 3; Eff. date, 17 Dec. 66; Sup. Amdt. No. 2; Dated, 5 Mar. 66

				Precision approach			
				T-dn#%	300–1	300–1	200–½
				C-dn	700–1	700–1	700–1½
				S-dn-10R##	200–½	200–½	200–½
				A-dn	700–2	700–2	700–2
				Surveillance approach			
				T-dn%	300–1	300–1	200–½
				C-dn	800–1	800–1	800–1½
				S-dn-28R/10R**$	700–1	700–1	700–1
				S-dn-20**	800–1	800–1	800–1
				A-dn	800–2	800–2	800–2

As established by Portland ASR minimum altitude vectoring chart.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished: All runways—Climb direct to PDX VORTAC, continue climb to 4000′ R 329° PDX VORTAC within 10 miles or, when directed by ATC; Runway 10R—Climb direct to IA LOM, continue climb to 3400′ in 1-minute left turn, 278° Inbnd holding pattern East of IA LOM; Runway 28R—Climb direct to SVY NDB, continue climb to 3200′ in standard holding pattern W of SVY NDB.
%200–½ authorized for Runways 10 R–L and 28 R–L only. 700–2 required for Runways 2 and 20. Takeoffs all runways—Climb direct to PDX VORTAC, continue climb on R 329° PDX VORTAC within 10 miles to cross PDX VORTAC at or above: Northeastbound V448, 5500′; northeastbound V448S, 2600′; eastbound V112, 2900′.
$Minimum altitude over 3-mile radar fix Inbound on final to Runway 10R, 900′.
#RVR 2400′ authorized Runway 10R.
##RVR 2400′. Descent below 226′ not authorized unless approach lights are visible.
**Visibility reduction not authorized.

City, Portland; State, Oreg.; Airport name, Portland International; Elev., 26′; Fac. Class. and Ident., Portland Radar; Procedure No. Radar-1, Amdt. 12; Eff. date, 27 Jan. 68; Sup. Amdt. No. 1, Amdt. 11; Dated, 23 Apr. 66

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on December 20, 1967.

R. S. SLIFF,
Acting Director, Flight Standards Service.

[F.R. Doc. 68–28; Filed, Jan. 11, 1968; 8:45 a.m.]

Chapter III—National Transportation Safety Board

[NTSB Reg. PR-4]

PART 425—RULES OF PROCEDURE FOR APPEALS TO THE BOARD FROM DECISIONS OF THE COMMANDANT, U.S. COAST GUARD, SUSTAINING ORDERS OF REVOCATION OF LICENSES, CERTIFICATES, DOCUMENTS, AND REGISTERS

Adopted by the National Transportation Safety Board at its office in Washington, D.C., on the 18th day of December 1967.

Section 5(b)(2) of the Department of Transportation Act (80 Stat. 935, 94 U.S.C. 1654(b)(2)) provides that it shall be the duty of the National Transportation Safety Board to review on appeal the suspension, amendment, modification, revocation, or denial of any certificate or license issued by the Secretary of the Department of Transportation. The Commandant of the U.S. Coast Guard, by delegation from the Secretary, issues and, when appropriate, suspends or revokes licenses, certificates, documents, and registers in Coast Guard proceedings. Part 425 establishes the rules of procedure for appealing to the Board decisions of the Commandant, U.S. Coast Guard, sustaining orders of revocation of such licenses, certificates, documents, and registers.

Part 425 gives the party adversely affected by the Commandant's decision 10 days after service upon him or his attorney of the Commandant's decision to file a notice of appeal with the Board. Within 20 days after the filing of the notice of appeal, the part requires the party to file a brief or memorandum in support of his appeal. The party shall also file copies of the notice of appeal and the supporting brief or memorandum with the Coast Guard, which may, within 15 days of service of the brief or memorandum, file a reply brief or memorandum. Oral argument before the Board is not permitted unless it is specifically requested and the Board finds good cause for such argument. In cases reviewed by the Board, the part provides the Board will either affirm the Commandant's decision or if reversible error is found, it shall set aside the decision and dismiss the charges or remand the case to the Commandant for further consideration.

It should be noted that Part 425 is limited to orders of revocation and does not apply to orders suspending licenses, certificates, documents, and registers in proceedings under R.S. 4450, as amended (46 U.S.C. 239); Act of July 15, 1954 (46 U.S.C. 239 a–b); and section 4, Great Lakes Pilotage Act (46 U.S.C. 216(b)). Pursuant to section 5(m) of the Department of Transportation Act, the Board has delegated to the Commandant of the U.S. Coast Guard all of its review authority in section 5(b)(2) of the Department of Transportation Act regarding Coast Guard matters, except in those cases involving orders of revocation (14 CFR Part 400, 32 F.R. 12839).

Since this regulation is procedural in nature, notice and public procedure hereon are not required and the regulation may be made effective upon publication in the FEDERAL REGISTER.

Accordingly, the National Transportation Safety Board hereby adopts Part 425 of the Procedural Regulations (14 CFR Part 425) effective upon publication in the FEDERAL REGISTER, to read as follows:

Sec.
425.1 Applicability.
425.5 Notice of appeal.
425.10 Referral of record.
425.15 Issues on appeal.
425.20 Briefs or memoranda in support of appeal.
425.25 Oral argument.
425.30 Action by the Board.
425.35 Action after remand.

AUTHORITY: The provisions of this Part 425 issued under secs. 5(b)(2), 5(k), 5(m), Department of Transportation Act, 80 Stat. 931 et seq.

§ 425.1 Applicability.

The provisions of this part govern all proceedings before the National Transportation Safety Board on appeals taken from decisions, on or after April 1, 1967, of the Commandant, U.S. Coast Guard, sustaining orders of revocation of licenses, certificates, documents, and registers in proceedings under:

(a) R.S. 4450, as amended (46 U.S.C. 239);

(b) Act of July 15, 1954 (46 U.S.C. 239 a–b); or

(c) Section 4, Great Lakes Pilotage Act (46 U.S.C. 216(b)).

§ 425.5 Notice of appeal.

(a) When the Commandant has entered a decision on appeal sustaining an order of revocation of any license certificate, document, or register in proceedings described in § 425.1, the party may appeal the decision to the National Transportation Safety Board. Notice of appeal must be filed with the Board within 10 days after service of the Commandant's decision upon the party or his designated attorney. Upon good cause shown, the time for filing may be extended.

(b) Notice of appeal shall be addressed to the Docket Section, National Transportation Safety Board, Washington, D.C. 20591. At the same time, a copy shall be served on the Commandant (MVP), U.S. Coast Guard, Washington, D.C. 20591.

(c) The notice of appeal shall state the name of the party, the number of the Commandant's decision, and, in brief, the grounds for the appeal.

§ 425.10 Referral of record.

Upon receipt of copy of a notice of appeal under this part, the Commandant shall immediately transmit to the Board the complete record of hearing upon which his decision was based. This includes the charges, the transcript of testimony and hearing proceedings (including exhibits), briefs filed by the party, the decision of the hearing examiner, and the Commandant's decision on appeal. It does not include intra-agency staff memoranda provided as advice to the Commandant to aid in his decision.

§ 425.15 Issues on appeal.

The only issues that may be considered on appeal are:

(a) A finding of a material fact is erroneous;

(b) A necessary legal conclusion is without governing precedent or is a departure from or contrary to law or precedent;

(c) A substantial and important question of law, policy, or discretion is involved, or

(d) A prejudicial procedural error has occurred.

§ 425.20 Briefs or memoranda in support of appeal.

(a) Within 20 days after the filing of a notice of appeal, the appellant must file, in the same manner as prescribed for the notice in § 425.5, a brief or memorandum in support of the appeal.

(b) This document shall set forth:

(1) The name and address of the appellant;

(2) The number and a description of the license, certificate, document, or register involved;

(3) A summary of the charges affirmed by the Commandant as proved;

(4) Fact findings by the Commandant disputed by the appellant;

(5) Specific statements of errors of law asserted;

(6) Specific statements of any abuse of discretion asserted; and

(7) The relief requested.

(c) When reference to the record is required to support grounds of appeal enumerated in subparagraphs (4), (5), and (6) of paragraph (b) of this section, the appropriate portions of the record must be set forth in full in the brief or memorandum.

(d) When a brief or memorandum has been filed by appellant under this section, the Coast Guard may, within 15 days of service of the brief or memorandum on the Commandant, submit to the Board a reply brief or memorandum.

§ 425.25 Oral argument.

(a) If any party desires to argue a case orally before the Board, he should request leave to make such argument in his brief or memorandum filed pursuant to § 425.20.

(b) Oral argument before the Board will normally not be granted unless the Board finds good cause for such argument. If granted, the parties will be advised of the date.

§ 425.30 Action by the Board.

(a) If timely action to perfect an appeal under § 425.20 is not taken by an appellant, the Board will, on its own motion or on motion of the Coast Guard, dismiss the appeal.

(b) In a case reviewed by the Board, if no reversible error is found in the Commandant's decision on appeal, that decision will be affirmed.

(c) In a case reviewed by the Board, if reversible error is found in the Com-

mandant's decision on appeal, the Board may:

(1) If it finds the error incurable, set aside the entire decision and dismiss the charges; or

(2) If it finds the error curable, set aside the order, or conclusions, or findings of the Commandant and remand the case to him for further consideration.

(d) When a matter has been remanded to the Commandant under paragraph (c) of this section, he may act himself in accordance with the terms of the order of remand, or he may, as appropriate, further remand the matter to the examiner who heard the case or to another examiner, with appropriate directions.

§ 425.35 **Action after remand.**

When a case has been remanded under § 425.30, a party still has all rights of review under 46 CFR Part 137 and this part as applicable.

By the National Transportation Safety Board.

[SEAL] JOSEPH J. O'CONNELL, Jr., *Chairman.*

[F.R. Doc. 68-464; Filed, Jan. 11, 1968; 8:47 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Advertising Offering Sale of Treatment for Athlete's Foot

§ 15.159 **Advertising offering sale of treatment for athlete's foot.**

(a) The Commission rendered an advisory opinion in which it declined to give approval to advertising which offered to sell information as to a method of treatment which was represented to effect a cure for athlete's foot.

(b) For a stated sum of money, the advertisement in question offered to send prospective purchasers complete information detailing a simple, inexpensive cure for athlete's foot "with two products probably at present in your medicine cabinet." The treatment in question involved washing the feet with water and alcohol and then applying a common household salve. The Commission advised that it could not give its approval to any advertising which represents that this method of treatment will effect a cure for athlete's foot or to any advertising which goes beyond claims that the treatment will afford temporary relief from the itching and burning associated with athlete's foot.

(c) The opinion went on to state that the laws against deceptive advertising apply equally to those who are selling advice or information and to those who are selling products. In either case, in the Commission's view the test is whether the advice (or product) being offered will in fact achieve the results claimed for it in the advertising. If the advice recommends the use of a product, the efficacy of the product for the use recommended must of course also be considered.

(d) Finally, the Commission advised that the opinion in no way related to the question of whether the proposal would constitute the practice of medicine nor to the legality of the requesting party doing so.

(38 Stat. 717, as amended; 15 U.S.C. 41-58)

Issued: January 11, 1968.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 68-465; Filed, Jan. 11, 1968; 8:47 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Advertising Promoting Sale of Information and Product

§ 15.160 **Advertising promoting sale of information and a product.**

(a) The Commission issued an advisory opinion in regard to the legality of proposed advertising promoting the sale of information, which in turn advocated the purchase of an alleged stomach remedy. The individual requesting the opinion had no financial interest in or contractual right to advertise the product in question.

(b) The initial advertisement offered the sale of information for 20 cents and claimed that the information would enable one "to get that nervous stomach functioning properly again." Based upon the scientific information available to it, the Commission ruled that the product being advocated in the information being sold was not in fact a cure or treatment for nervous stomach or any other stomach ailment. Under the circumstances, the Commission concluded that the claim in the initial advertisement was deceptive.

(c) Its opinion concluded with the following statement: "The laws against deceptive advertising apply equally to those who are selling advice or information and to those who are selling products. In either case the test is whether the advice (or product) being offered will in fact achieve the results claimed for it in the advertising. If the advice recommends the use of a product, the efficacy of the product for the use recommended must of course also be considered.

(d) "This opinion in no way relates to the question of whether your proposal would constitute the practice of medicine or to the legality of your doing so."

(38 Stat. 717, as amended; 15 U.S.C. 41-58)

Issued: January 11, 1968.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 68-466; Filed, Jan. 11, 1968; 8:47 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.576]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Validity of Nonimmigrant Visas

Part 41, Chapter I, Title 22 of the Code of Federal Regulations is being amended to provide that, in certain circumstances, an indefinite validity visa stamped in an expired passport may be considered to be valid for application for admission into the United States.

Paragraph (c) of § 41.122 is amended to read:

§ 41.122 **Validity of visas.**

* * * * *

(c) *Validity of visa and number of applications for admission.* Except as provided in paragraph (d) of this section a nonimmigrant visa shall have the validity prescribed in schedules made available to consular officers by the Department, which reflect, as nearly as practicable, the reciprocal treatment accorded U.S. nationals by the government of the country of which the alien is a national or stateless resident. Nonimmigrant visas issued pursuant to section 101(a)(15)(B) of the Immigration and Nationality Act may, in the discretion of the consular officer, be made valid indefinitely and for an unlimited number of applications for admission for aliens who: (1) Are nationals of countries which offer reciprocal treatment to U.S. citizens, as determined by the Department of State; (2) are in possession of a valid passport in which the visa may be stamped; and (3) have satisfied the consular officer that they are bona fide visitors and will continue to maintain that status for an indefinite period of time. An indefinite validity visa shall not be valid for application for admission into the United States if the passport in which the visa is stamped has expired, except that in the case of an alien's first entry after expiration of the visaed passport it may be considered as valid provided the alien is also in possession of a valid passport issued by the appropriate authorities of the country of which he is a national as required by section 212(a)(26) of the Act and § 41.112. In all such cases the admission of the alien shall be authorized under the condition that the alien, before applying for admission on future occasions, shall have applied at a U.S. consular office abroad for transfer of the visa to a valid passport.

* * * * *

Effective date. The amendment to the regulation contained in this order shall become effective upon publication in the FEDERAL REGISTER.

The provisions of section 4 of the Administrative Procedure Act (80 Stat. 383; 5 U.S.C. 553) relative to notice of proposed rule making are inapplicable

to this order because the regulation contained herein involves foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

BARBARA M. WATSON,
Acting Administrator, Bureau of Security and Consular Affairs.

JANUARY 8, 1968.

[F.R. Doc. 68-441; Filed, Jan. 11, 1968; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

SUBCHAPTER A—GENERAL MANAGEMENT (1000)

[Circular No. 2238]

PART 1720—PROGRAMS AND OBJECTIVES

Subpart 1727—Designation of Areas and Sites

DESIGNATION OF NATURAL RESOURCE EXPERIMENT AND RESEARCH AREAS

On page 15546 of the FEDERAL REGISTER of November 8, 1967, there was published a notice and text of a proposed amendment of § 1727.1 of Title 43, Code of Federal Regulations. The purpose of the amendment is to provide for an additional type of designation for public and other Federal lands exclusively administered by the Secretary of the Interior through the Bureau of Land Management, namely, Natural Resource Experiment and Research Areas. Such designation will identify and improve public knowledge of the experimental and research efforts under way on these lands, and provide a basis for interpreting these efforts.

Interested persons were given 30 days within which to submit comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or amendments have been received. The proposed amendment is hereby adopted without change, and is set forth below. This amendment shall become effective at the beginning of the 30th calendar day following the date of this publication in the FEDERAL REGISTER.

STEWART L. UDALL,
Secretary of the Interior.

A new subparagraph is added to § 1727.1(b) to read as follows:

§ 1727.1 Areas or sites that may be designated.

* * * * *

(b) * * *

(4) *Natural resource experiment and research areas.* These are relatively small areas of land which are used for research or experimental purposes.

JANUARY 5, 1968.

[F.R. Doc. 68-463; Filed, Jan. 11, 1968; 8:47 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 16473; FCC 68-18]

PART 0—COMMISSION ORGANIZATION

PART 1—PRACTICE AND PROCEDURE

Discovery Procedures

Report and order. In the matter of amendment of Part 1 of the rules of practice and procedure to provide for discovery procedures.

1. A notice of rule making proposing adoption of discovery procedures was released by the Commission on February 28, 1966 (FCC 66-173) and was published in the FEDERAL REGISTER on March 4, 1966 (31 F.R. 3403). At the time the notice was issued, the Commission had before it Recommendation 30 of the Interim Administrative Conference of the United States and a resolution of the Practice and Procedure Committee of the Federal Communications Bar Association, both advocating adoption of appropriate discovery procedures, and tentatively concluded that such procedures would be a "useful addition to the rules of practice and procedure." Comments on the proposed rules were filed on March 24, 1966, by the law firm of Alk and Lubic, and on September 6, 1966, by the Columbia Broadcasting System, Inc., and the Federal Communications Bar Association. Though containing several important reservations and a number of suggestions for improvement of the proposed procedures, the comments supported the adoption of discovery procedures. In addition, members of the Commission's staff and representatives of the FCBA met and discussed the proposed rules. The Commission has carefully considered the views of all participants and has concluded that discovery procedures should be adopted. The interest and effort of those who have filed comments and joined in discussion with the staff are appreciated; many of the suggestions advanced have been given effect in the rules.

2. The new rules are set forth below. Changes in the sequence and combination of the provisions have been made, in the interest of clarity and better organization, which do not vary the substance of the rules as proposed. Section 0.461 has been modified to provide for the handling of requests for inspection of Commission records filed in the context of a hearing proceeding. The section entitled "Admission of facts and genuineness of documents" (now § 1.246), which contains a procedure for reaching agreement prior to hearing, has been grouped with other related provisions (see §§ 1.246–1.250) under a new heading, "Prehearing Procedures." The section entitled "Production of Statements," which codifies the Jencks rule,[1] has been included as § 1.362 with other provisions relating to evidence. Procedures governing discovery and the production and preservation of evidence for use at the hearing are set forth in §§ 1.311–1.325. Sections 1.311 and 1.313 apply generally to the various procedures available. Sections 1.315–1.319 provide for the taking of depositions, and § 1.321 governs their use at the hearing. Section 1.323 governs interrogatories to parties to be answered in writing. Section 1.325 provides for the production of documents and things and for entry upon real property. Collateral subpena procedures are set forth in § 1.333.

3. A number of substantive changes have also been made in the rules as proposed, on the basis of the comments and further Commission study. These changes, and some which have been advocated but not made, are discussed below. Sections 1.311–1.325 derive from existing Commission rules (§§ 1.311–1.319) which provide for the taking of depositions for purposes other than discovery, and from the Federal Rules of Civil Procedure, which provide for both discovery and the production and preservation of evidence. These new rules provide discovery procedures to facilitate preparation for the hearing, eliminate surprise, and promote fairness. It is hoped that more thorough preparation for hearing will produce a better record and expedite the decision-making process. When used for the preservation of evidence, these procedures are intended to avoid a failure of justice where it appears that it may not be possible to obtain the personal appearance of a witness at the hearing, and to promote the convenience of parties, witnesses and the Commission where it appears that the personal appearance of a witness at the hearing is unnecessary. They may also be used to facilitate the preparation of exhibit material based on documents or things in the possession, custody or control of other parties.

4. Several matters initially warrant emphasis and special comment. First, while the new rules contain a comprehensive set of prehearing procedures, they should not be invoked indiscriminately. Intelligent selection should be made of the particular procedure or combination of procedures which will prove most effective and expeditious in a particular set of circumstances. Secondly, the utility of these procedures will be dependent in no small part on the cooperation of the communications bar. In the civil courts, discovery takes place in the typically lengthy period between the filing of a complaint and the commencement of the trial. In Commission proceedings, the initial prehearing conference has normally been held about 30 days after designation of a proceeding for hearing, and the hearing proper has commenced within a relatively brief period following the conference. Since discovery is normally to be completed prior to the conference, and since the prehearing procedures are being expanded (see § 1.246), use of these procedures may delay commencement of both

[1] Jencks v. United States, 353 U.S. 657 (1957).

the conference and the hearing. Thus, in each case, it is desirable for counsel to weigh the value of using these procedures against the time required for their completion. In some cases, the value of the information sought may easily justify extensive use of the procedures. In others, however, the marginal value of the information may warrant restraint in their use in the interest of expedition. Finally, we wish to emphasize that the presiding officer will have full control over the use of these procedures. Under §§ 1.311(c) and 1.313, it is within his power to preclude any use, or particular uses, of these procedures in a particular case if he finds that their use will not contribute to the proper conduct of the proceeding, and he has adequate authority to prevent use of the procedures for purposes of delay and to prevent the abuse of parties or witnesses.

5. *Applicability, § 1.311(a).* These procedures may be used for purposes of discovery in any case of adjudication (as defined in the Administrative Procedure Act) which has been designated for hearing. The reference to the Administrative Procedure Act has been added to make it clear that discovery is not available in record rule making proceedings. The procedures now followed in such proceedings adequately provide for the disclosure of relevant facts. Discovery is available, however, with respect to the adjudicatory aspects of cases which may contain both adjudicatory and rule making issues. In addition, the procedures may be used for purposes other than discovery in record rule making proceedings.

6. We have considered the comments urging that the discovery procedures should not apply to the comparative aspects of application proceedings, and have decided to utilize them in these proceedings. We feel that discovery should serve the same useful purposes in comparative proceedings as it serves in others. It is suggested that the need for discovery in such proceedings is less and that the danger of abuse may be greater. However, we do not agree that the need is less, and adequate authority has been vested in the presiding officer under § 1.313 to limit or preclude discovery if the procedures should be abused or if their use would not be of value in a particular proceeding. See paragraph 4, supra.

7. *Scope of examination, § 1.311(b).* In one set of comments, it was suggested that we allow the examination of persons and parties to ascertain whether grounds exist for enlargement of the issues. This suggestion has been given careful consideration but has been rejected, at least for the present. The scope of the examination will be limited to matters relevant to the hearing issues, as originally proposed. In certain proceedings the range of possible issues is very broad. The use of discovery to ascertain whether grounds exist for enlargement of the issues would be difficult to limit and would offer substantial opportunity for abuse. The effort made in our Policy Statement On Comparative Broadcast Hearings of July 28, 1965, 30 F.R. 9660, to avoid unduly prolonging the hearing process by "fishing expeditions" into an applicant's every possible minor blemish would be undercut, without apparent sufficient compensating benefit, by permitting discovery beyond the range of the issues set for hearing.

8. *Limitations on discovery from the Commission, § 1.311(b) (1)–(4).* Section 1.311(b) (1)–(4) contains four limitations on discovery from the Commission. The first of these is that the informer's privilege shall encompass information which may lead to disclosure of the informer's identity. The passage in the proposed rules providing for "broad construction" of the privilege has been deleted.

9. The second limitation is that Commission personnel may be questioned for purposes of discovery only by written interrogatories under § 1.323. Interrogatories are to be served on the appropriate Bureau Chief and are to be answered and signed by such personnel with knowledge of the facts as the Commission may deem appropriate. We have carefully considered adverse comment on a similar provision contained in the proposed rules, but conclude that such a provision is necessary. At any one time, there are numerous hearing cases pending before the Commission. A multiplicity of demands on the Commission's limited staff would seriously interfere with its capacity to discharge its regular duties. The Commission is in this respect in a different position from that of private parties, who will normally be called upon to give depositions only in the single case in which they are participating. Furthermore the written interrogatory may well be the most useful of the several procedural devices, since a party may, in one set of interrogatories, obtain an answer to each of his questions from the person best able to furnish it, without time-consuming questioning to determine in advance the particular staff member who has knowledge of the facts.

10. The third of these provisions concerns the discovery, production and inspection of Commission records, and testimony concerning their contents. It provides that Commission personnel may be questioned regarding the existence, general nature and description, custody, condition, and location of Commission records. Secondly, it provides that the production of Commission records for inspection is governed by the Public Information Act of 1966 and the Commission's implementing rules (§§ 0.451–0.461). These rules establish two categories of Commission records—those which are routinely made available to any person who presents himself at the place where the records are kept, and those which are not routinely available for inspection. Requests for inspection of records in the latter category may now be submitted by any person under § 0.461. Normally, such requests are acted upon by the Executive Director. Where the records are sought by a party to a hearing proceeding for purposes of that proceeding, the need for information in the hearing is one of the factors to be considered in determining whether the records should be made available. In such circumstances, the presiding officer is in the best position to determine whether inspection should be permitted. Section 0.461 has accordingly been amended to provide for action by the presiding officer on requests for inspection in these circumstances. This provision provides, finally, that Commission personnel may not be questioned concerning the contents of Commission records until the records are made available for inspection. If the records are not made available for inspection, the reasons for withholding the records will be stated, and those reasons will apply with equal effect to testimony concerning their contents. This restriction, it should be made clear, pertains only to testimony concerning the contents of records per se and is not intended to limit the examination of Commission personnel regarding facts as to which they have direct personal knowledge independent of those records. Thus, for example, though investigative reports are normally withheld from inspection, and testimony concerning the contents of the reports would not be allowed, this would not preclude the parties from examining the Commission investigator concerning the facts of the case, subject to any other applicable limitations.

11. The last of these limiting provisions provides that Commission personnel may be questioned generally regarding the existence, description, nature, custody, condition, and location of documents and things, and persons having knowledge of relevant facts, and otherwise limits the examination of Commission personnel to facts of the case as to which they have direct personal knowledge. Thus, the rule permits questioning of Commission personnel concerning the identity of persons who have knowledge of relevant facts, and concerning the general nature of the information such persons may be able to furnish, but would not permit questioning concerning the information furnished by such persons during an investigation. Parties should seek such information from the person with direct knowledge of the facts. The purpose of discovery is to find the potential witness and to determine what he knows—not what he has related to the Commission's investigator. Where Commission personnel have direct personal knowledge of the facts of the case, they may be questioned concerning such facts on written interrogatories in the same manner as parties to the proceeding.

12. *Preliminary deposition procedures, §§ 1.315 and 1.316.* A number of technical changes have been made in the procedures to be followed before depositions are taken. The number of copies of the notice and related pleadings to be furnished the Commission, for example, has been reduced to five from the 15 copies required by the rules as proposed. The most important of the changes pertains to depositions upon written interrogatories. The proposed rules, following the Federal rules, provided for direct, cross,

redirect, and recross interrogatories. This series of written questions, we feel, is cumbersome and somewhat more extensive than what would normally be needed or utilized by the parties to Commission proceedings. The final rules provide for original interrogatories, additional interrogatories to be asked of the same witness at the same time and place, and cross interrogatories limited to matters raised in such original or additional interrogatories.

13. *The taking of depositions, § 1.318.* The procedures to be followed at the deposition hearing have been combined in § 1.318. They are essentially the same as those proposed. Section 1.318(e) has been conformed to Rule 30(e) of the Federal rules by including provision for waiver of the reading of the deposition by or to the witness prior to its being signed.

14. *Objections to the taking of depositions, § 1.319.* Procedures relating to objections to depositions are set out in § 1.319. They provide, first, that objections shall, if possible, be made in pleadings prior to the deposition hearing. See § 1.319(a). Secondly, they provide that errors of any kind which might be obviated, removed or cured if promptly presented are waived unless seasonable objection thereto is made at the taking of the deposition. Objections of this kind, which essentially relate to matters of form, are to be resolved by counsel if possible; and, if they cannot reach agreement, the testimony is to be taken subject to the objection. See § 1.319(b). If the notice to take depositions is carefully drafted, and if the examination is properly conducted, it should be possible to avoid the need to refer objections to the presiding officer for a ruling after the deposition hearing has begun. Nevertheless, we conceive that objections based on relevancy or privilege, or on the manner in which the examination is being conducted, may in some cases require a ruling by the presiding officer during the taking of depositions. In such cases, provision has been made for expeditious determination of the questions presented. See § 1.319(c). One form such a ruling may take it, should be noted, is that adequate notice has not been given of the matters to which the line of questioning objected to relates, or that, adequate notice having been given, the objection is untimely. The presiding officer is not limited to considerations of this kind. He may rule on the question of relevancy or privilege or take any action which is appropriate under § 1.313. As suggested in the comments, interlocutory appeals from such rulings are not allowed.

15. These procedures are designed to protect parties and deponents at the deposition hearing with a minimum of interruption of the hearing pending rulings on objections by the presiding officer. The delay and expense of such interruptions could otherwise frustrate the discovery process. In the Federal rules, there is reference of disputed questions to the court in the district where the deposition is being taken and the imposition of costs and reasonable expenses. See, for example, Rules 30(d) and 37(a). We have selected other means for achieving the protective purposes of this rule because we are doubtful that those used by the courts are available to us or would be entirely satisfactory.

16. In the notice, we stated that, "an unreasonable refusal to admit a fact subsequently proved, unexplained failure to respond to a notice for the taking of a deposition, or other misuse of these procedures will be considered as reflecting upon a party's fitness to be a licensee." In the comments, it has been suggested that if any "misuse" of these procedures will be considered to reflect on a party's fitness, the threat inferable from this phrase may discourage use of the discovery process by a party-licensee. It should be made clear, however, that the "misuse" which would reflect on a party's fitness is a deliberate or willful abuse of process, as where the procedures are used for purposes of delay or for the purpose of imposing expense on adverse parties, or where there is a deliberate and unexplained refusal to cooperate in the discovery process. Such misuse is properly to be taken into account, we believe.

17. *Use of depositions at the hearing, § 1.321.* Provisions relating to the use of depositions at the hearing have been combined in § 1.321. Except for minor changes, they are the same as those contained in the proposed rules. The comments suggested that unlimited use of depositions be permitted if the witness is more than 100 miles from the place of hearing, as provided in Rule 26(d)(3) of the Federal rules. In Federal court proceedings, however, witnesses are usually located in the judicial district or within 100 miles of the place of trial, and the court's subpena power operates only within such an area. See Federal Rule 45(e). Thus, if the deposition is not used and if the witness does not voluntarily appear, the testimony is lost. The Commission's subpena power, on the other hand, is not so limited, and witnesses in its hearing proceedings are often located at much greater distances than 100 miles from the place of hearing. If unlimited use of depositions were permitted in such cases, many Commission proceedings would be converted into trials by deposition. We conclude, therefore, that the 100-mile provision would not be appropriate in Commission proceedings. Financial hardship to parties or witnesses because of the distance of witnesses from the place of hearing can be raised in a showing of "exceptional circumstances" under § 1.321(d)(3).

18. *Admissions of fact and genuineness of documents, § 1.246.* Section 1.246 now contains the following provisions which were not contained in the proposed rule: (1) Time periods are specified for the service of requests for admissions; (2) copies of the request and the answer must be served on other parties and on the presiding officer; (3) the presiding officer may rule on the objections without additional pleadings; and (4) a ruling upholding the objections is not subject to interlocutory appeal. In the comments, it was suggested that use of an admission be limited to the proceeding in which it is made (see Federal Rule 36(b)). For reasons set forth in the notice, this suggestion has been rejected. The Commission is interested in determining the facts as they are, not as the parties may agree that they are for purposes of a particular case. Thus, if facts are not true or documents are not genuine, their truth or genuineness should be denied, even though the party answering the request might not consider them sufficiently material to warrant challenge in the particular proceeding.

19. *The production of statements, § 1.362.* This provision (now § 1.362) applies the Jencks rule (enunciated in Jencks v. United States, 353 U.S. 657 (1957), and modified in section 3500 of the Criminal Code) to all witnesses in adjudicatory proceedings. One of the parties commenting, noting that the rule is applied only against the Government in criminal cases, opposes a broader application to Commission proceedings and suggests that it be discarded rather than so applied. In our judgment, however, a rule requiring the production of written statements previously made by a witness and related to his direct testimony is a useful device in any proceeding in which the truth is sought and may, with equal reason, be applied to Government and non-Government witnesses. The fact that it has not previously been so applied in judicial proceedings is not in itself a basis for limiting its application in Commission proceedings.

20. *Time periods.* In one set of comments, finally, it is suggested that 5 days be added to the time limitations specified in the proposed rules. The time limitations have been reviewed and in some cases have been altered. The time limits have not, however, been generally extended. The limits set forth in the final rules are considered reasonable, especially in view of our desire to avoid excessive delay in commencement of the hearing pending completion of discovery. In this respect, it should be noted that where successive time periods are calculated from a single date (see, e.g., §§ 1.315 and 1.316), the special computation-of-time provisions set out in § 1.4 (f), (g), and (h) cannot reasonably be utilized in computing the date upon which action is required. In such cases, the number of days specified in the rule is the actual number of days within which action is required; except as provided in § 1.4(i) in the case of documents filed with the Commission, that period is not enlarged by § 1.4. It should, in addition, be made clear that the 24-hour period specified in § 1.319(c)(2) is not enlarged in any way by the provisions of § 1.4. When the discovery procedures are invoked, parties and counsel are expected to direct themselves with energy to their successful completion and to take extraordinary measures, if necessary, to avoid undue delay in commencement of the hearing.

21. *Effective date.* The rules set forth below pertain to matters of procedure and will be made effective on February 1, 1968. In cases designated for hearing

prior to the date the rules are effective, the presiding officer should allow or disallow the use of the various procedures in the interest of fairness and orderly procedure.

22. Authority for the amendments set forth below is contained in sections 4 (i) and (j), 303(r), and 409 of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j), 303(r), and 409; and in the Public Information Act of 1966, 5 U.S.C. 552.

In view of the foregoing: *It is ordered*, Effective February 1, 1968, that Parts 0 and 1 of the rules and regulations are amended as set forth below and that this proceeding is terminated.

(Secs. 4, 303, 409, 48 Stat., as amended, 1066, 1082, 1096; 47 U.S.C. 154, 303, 409; and 5 U.S.C. 552)

Adopted: January 4, 1968.

Released: January 11, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE,
Secretary.

Parts 0 and 1 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

1. Section 0.461(e) is added to read as follows:

§ 0.461 Requests for inspection of materials not routinely available for public inspection.

* * * * *

(e)(1) If the request is related to a hearing proceeding and is filed by a party to that proceeding, it shall be served on all other parties to the proceeding.

(2) The presiding officer will act on the request under the procedures and criteria set out in paragraphs (b) and (c) of this section and may also call for and consider pleadings filed by parties to the proceeding.

(3) Any party to the hearing and any person who has participated in proceedings on the request may appeal the presiding officer's ruling to the Commission. Appeals shall be filed within 5 days after the order is released. Oppositions to the appeal shall be filed within 5 days after the time for filing appeals has expired. Additional pleadings may be filed only if specifically authorized or requested by the Commission.

(4) Orders granting requests for inspection are stayed pending appeal and judicial review, in accordance with subparagraph (2) of paragraph (d) of this section.

2. The undesignated center heading preceding § 1.221 is revised to read as follows: "Participants and Issues."

3. The following changes are made in provisions located between the end of § 1.245 and the begining of § 1.258:

a. The undesignated center heading following § 1.245 is revised to read as follows: "Prehearing Procedures."

b. Section 1.246 is added to read as follows:

§ 1.246 Admission of facts and genuineness of documents.

(a) Within 20 days after the time for filing a notice of appearance has expired; or within 20 days after the release of an order adding parties to the proceeding (see §§ 1.223 and 1.227) or changing the issues (see § 1.229); or within such shorter or longer time as the presiding officer may allow on motion or notice, a party may serve upon any other party a written request for the admission by the latter of the genuineness of any relevant documents identified in and exhibited by a clear copy with the request or of the truth of any relevant matters of fact set forth in the request.

(b) Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, not less than 10 days after service thereof, or within such shorter or longer time as the presiding officer may allow on motion or notice, the party to whom the request is directed serves upon the party requesting the admission either (1) a sworn statement denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully admit or deny those matters, or (2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part. If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated in the request. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party deny only a part or a qualification of a matter of which an admission is requested, he shall specify so much of it as is true and deny only the remainder.

(c) A copy of the request and of any answer shall be served by the party filing on all other parties to the proceeding and upon the presiding officer.

(d) Written objections to the requested admissions may be ruled upon by the presiding officer without additional pleadings. Rulings may be appealed only if the written objections are overruled.

c. Section 1.251 is redesignated § 1.248, paragraph (c)(2) is revised, and paragraph (c)(6)(ii) of that section is deleted as follows:

§ 1.248 Prehearing conferences; hearing conferences.

* * * * *

(c) * * *

(2) The admission of facts and of the genuineness of documents (see § 1.246), and the possibility of stipulating with respect to facts;

* * * * *

(6) * * *

(ii) [Deleted]

* * * * *

§ 1.255 [Amended]

d. Section 1.255(d) is redesignated § 1.249 and a headnote to that section is added, to read as follows:

§ 1.249 Prehearing statement.

* * * * *

e. Section 1.250 is added to read as follows:

§ 1.250 Discovery and preservation of evidence; cross-reference.

For provisions relating to prehearing discovery and preservation of admissible evidence, see §§ 1.311–1.325.

f. An undesignated center heading is added following § 1.250, to read as follows: "Hearing and Intermediate Decision."

4. The undesignated center heading preceding the § 1.311 is revised to read as follows; §§ 1.311–1.319 are deleted, and §§ 1.311–1.325 are added in lieu thereof to read as follows:

THE DISCOVERY AND PRESERVATION OF EVIDENCE

§ 1.311 General.

Sections 1.311–1.325 provide for taking the deposition of any person (including a party), for interrogatories to parties, and for orders to parties relating to the production of documents and things and for entry upon real property. These procedures may be used for the discovery of relevant facts, for the production and preservation of evidence for use at the hearing, or for both purposes.

(a) *Applicability.* For purposes of discovery, these procedures may be used in any case of adjudication (as defined in the Administrative Procedure Act) which has been designated for hearing. For the preservation of evidence, they may be used in any case which has been designated for hearing and is conducted under the provisions of this subpart (see § 1.201).

(b) *Scope of examination.* Persons and parties may be examined regarding any matter, not privileged, which is relevant to the hearing issues, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts. It is not ground for objection to use of these procedures that the testimony will be inadmissible at the hearing if the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence. The use of these procedures against the Commission is subject to the following additional limitations:

(1) The informer's privilege shall encompass information which may lead to the disclosure of an informer's identity.

(2) Commission personnel may not be questioned by deposition for the purposes of discovery except on special order of the Commission, but may be questioned by written interrogatories under § 1.323. Interrogatories shall be served on the appropriate Bureau Chief (see § 1.21(b)). They will be answered and signed by those personnel with knowledge of the facts. The answers will be served by the Secretary of the Commission upon parties to the proceeding.

[2] Statement of Commissioner Cox in which Commissioner Bartley joins filed as part of the original document.

(3) The inspection of Commission records is governed by the Public Information Act of 1966 and by §§ 0.451–0.461 of this chapter. The production of Commission records for inspection and copying is subject to these provisions and is considered under criteria set forth therein. See, in particular, § 0.461(e). Commission personnel may be questioned by written interrogatories regarding the existence, general nature and description, custody, condition and location of Commission records, but may not be questioned concerning their contents unless the records are available (or are made available) for inspection under §§ 0.451–0.461. See § 0.451(b)(4) of this chapter.

(4) Subject to subparagraphs (1) through (3) of this paragraph, Commission personnel may be questioned generally by written interrogatories regarding the existence, description, nature, custody, condition and location of relevant documents and things and regarding the identity and location of persons having knowledge of relevant facts, and may otherwise only be examined regarding facts of the case as to which they have direct personal knowledge.

(c) *Schedule for use of the procedures.* (1) Except as provided in this paragraph or as otherwise ordered by the presiding officer, the use of these procedures shall be completed prior to the initial prehearing conference. The presiding officer may at any time order the parties or their attorneys to appear at a conference to consider the proper use of these procedures or the time to be allowed for such use.

(2) After the record has been closed, the parties may be permitted to take the testimony of witnesses, by deposition, for use in the event of further hearing proceedings, on motion, and solely to avoid a failure of justice.

(d) *Who shall act.* Actions provided for in §§ 1.311–1.325 will, in most cases, be taken by the officer designated to preside at the hearing (see § 1.241). If the proceeding, or a particular matter to which the action relates, is before the Commission, the Review Board, a commissioner or panel of commissioners, or the Chief Hearing Examiner, the action will be taken by such officer or body. The term "presiding officer", as used in §§ 1.311–1.325 shall be understood to refer to the appropriate officer or body. See §§ 0.341, 0.351, 0.365, and 1.271 of this chapter.

(e) *Stipulations regarding the taking of depositions.* If all of the parties so stipulate in writing and if there is no interference to the conduct of the proceeding, depositions may be taken before any person, at any time (subject to the limitation below) or place, upon any notice and in any manner, and when so taken may be used like other depositions. An original and one copy of the stipulation shall be filed with the Secretary of the Commission, and a copy of the stipulation shall be served on the presiding officer, at least 3 days before the scheduled taking of the deposition.

§ 1.313 Protective orders.

The use of the procedures set forth in §§ 1.311–1.325 is subject to control by the presiding officer, who may issue any order consistent with the provisions of those sections which is appropriate and just for the purpose of protecting parties and deponents or of providing for the proper conduct of the proceeding. The order may specify any measures, including the following, to assure proper conduct of the proceeding or to protect any party or deponent from annoyance, expense, embarrassment or oppression:

(a) That depositions shall not be taken or that interrogatories shall not be answered.

(b) That certain matters shall not be inquired into.

(c) That the scope of the examination or interrogatories shall be limited to certain matters.

(d) That depositions may be taken only at some designated time or place, or before an officer, other than that stated in the notice.

(e) That depositions may be taken only by written interrogatories or only upon oral examination.

(f) That after being sealed, the deposition shall be opened only by order of the presiding officer.

§ 1.315 Depositions upon oral examination—notice and preliminary procedure.

(a) *Notice.* A party to a hearing proceeding desiring to take the deposition of any person upon oral examination shall give a minimum of 15 days notice in writing to every other party, to the person to be examined, and to the presiding officer. An original and three copies of the notice shall be filed with the Secretary of the Commission. Related pleadings shall be served and filed in the same manner. The notice shall contain the following information:

(1) The name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs.

(2) The time and place for taking the deposition of each person to be examined, and the name or descriptive title and address of the officer before whom the deposition is to be taken.

(3) The matters upon which each person will be examined. See § 1.319.

(b) *Opposition motions.* Within 10 days after the notice to take depositions has been served, a motion opposing the taking of depositions may be filed by any party to the proceeding or by the person to be examined. See § 1.319(a).

(c) *Protective order.* On his own motion within the same 10-day period, or on motion made by any party or by the person to be examined, the presiding officer may issue a protective order. See § 1.313.

(d) *Depositions taken without an order therefor.* If an opposition is not filed within 10 days after service of the notice to take depositions and if no action is taken by the presiding officer on his own motion within that period, the depositions described in the notice may be taken. An order for the taking of depositions is not required.

§ 1.316 Depositions upon written interrogatories—notice and preliminary procedure.

(a) *Service of interrogatories; notice.* A party to the hearing proceeding desiring to take the deposition of any person upon written interrogatories shall serve the interrogatories upon every other party and shall give a minimum of 20 days notice in writing to every other party and to the person to be examined. An original and three copies of the interrogatories and the notice (and of all related pleadings) shall be filed with the Secretary of the Commission. A copy of the interrogatories and the notice (and of all related pleadings) shall be served on the presiding officer. The notice shall contain the following information:

(1) The name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs.

(2) The time and place for taking the deposition of each person to be examined, and the name or descriptive title and address of the officer before whom the deposition is to be taken.

(3) The matters upon which each person will be examined. See § 1.319.

(b) *Additional interrogatories.* Within 5 days after the filing and service of the original interrogatories, any other party to the proceeding may, in the same manner, file and serve additional interrogatories to be asked of the same witness at the same time and place, with notice to the witness of any additional matters upon which he will be examined .

(c) *Cross interrogatories.* Within 10 days after the filing and service of the original interrogatories, any party to the proceeding may, in the same manner, file and serve cross interrogatories, which shall be limited to matters raised in the original or in the additional interrogatories.

(d) *Motion to limit or suppress.* Within 15 days after the filing and service of the original interrogatories, any party to the proceeding may move to limit or suppress any original, additional or cross interrogatory, and the person to be examined may file a motion opposing the taking of depositions. See § 1.319(a).

(e) *Protective order.* On his own motion within the same 15-day period, or on motion made by any party or by the person to be examined, the presiding officer may issue a protective order. See § 1.313.

(f) *Depositions taken without an order therefor.* If a motion opposing or to limit or suppress the interrogatories is not filed within 15 days after filing of the original interlocutories and if no action is taken by the presiding officer on his own motion within that period, the deposition of the witness upon those interrogatories may be taken. An order for the taking of depositions is not required.

§ 1.318 **The taking of depositions.**

(a) *Persons before whom depositions may be taken.* Depositions shall be taken before any judge of any court of the United States; any U.S. Commissioner; any clerk of a district court; any chancellor, justice or judge of a supreme or superior court; the mayor or chief magistrate of a city; any judge of a county court, or court of common pleas of any of the United States; any notary public, not being of counsel or attorney to any party, nor interested in the event of the proceeding; or presiding officers, as provided in § 1.243.

(b) *Attendance of witnesses.* The attendance of witnesses at the taking of depositions may be compelled by the use of subpena as provided in §§ 1.331–1.340.

(c) *Oath; transcript.* The officer before whom the deposition is to be taken shall administer an oath or affirmation to the witness and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed, unless the parties agree otherwise.

(d) *Examination.* (1) In the taking of depositions upon oral examination, the parties may proceed with examination and cross-examination of deponents as permitted at the hearing. In lieu of participating in the oral examination, parties served with the notice to take depositions may transmit written interrogatories to the officer designated in the notice, who shall propound them to the witness and record the answers verbatim.

(2) In the taking of depositions upon written interrogatories, the party who served the original interrogatories shall transmit copies of all interrogatories to the officer designated in the notice, who shall propound them to the witness and record the answers verbatim.

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

(f) *Certification of deposition and filing by officer; copies.* The officer shall certify on the deposition that the witness was duly sworn by him, that the deposition is a true record of the testimony given by the witness, and that said officer is not of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. He shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly send the original and two copies of the deposition and of all exhibits, together with the notice and any interrogatories received by him, by certified mail to the Secretary of the Commission.

§ 1.319 **Objections to the taking of depositions.**

(a) *Objections to be made by motion prior to the taking of depositions.* If there is objection to the substance of any interrogatory or to examination on any matter clearly covered by the notice to take depositions, the objection shall be made in a motion opposing the taking of depositions or in a motion to limit or suppress the interrogatory as provided in §§ 1.315 (b) and 1.316(d) and shall not be made at the taking of the deposition.

(b) *Objections to be made at the taking of depositions.* Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition. If such objection is made, counsel shall, if possible, agree upon the measures required to obviate, remove, or cure such errors. The measures agreed upon shall be taken. If agreement cannot be reached, the objection shall be noted on the deposition by the officer taking it, and the testimony objected to shall be taken subject to the objection.

(c) *Additional objections which may be made at the taking of depositions.* Objection may be made at the taking of depositions on the ground of relevancy or privilege, if the notice to take depositions does not clearly indicate that the witness is to be examined on the matters to which the objection relates. See paragraph (a) of this section. Objection may also be made on the ground that the examination is being conducted in such manner as to unreasonably annoy, embarrass, or oppress a deponent or party.

(1) When there is objection to a line of questioning, as permitted by this paragraph, counsel shall, if possible, reach agreement among themselves regarding the proper limits of the examination.

(2) If counsel cannot agree on the proper limits of the examination the taking of depositions shall continue on matters not objected to and counsel shall, within 24 hours, either jointly or individually, telegraph statements of their positions to the presiding officer, together with the telephone numbers at which they and the officer taking the depositions can be reached, or shall otherwise jointly confer with the presiding officer. If individual statements are submitted, copies shall be provided to all counsel participating in the taking of depositions.

(3) The presiding officer shall promptly rule upon the question presented or take such other action as may be appropriate under § 1.313, and shall give notice of his ruling, by telephone, to counsel who submitted statements and to the officer taking the depositions. The presiding officer shall thereafter reduce his ruling to writing.

(4) The taking of depositions shall continue in accordance with the presiding officer's ruling. Such rulings are not subject to appeal.

§ 1.321 **Use of depositions at the hearing.**

(a) No inference concerning the admissibility of a deposition in evidence shall be drawn because of favorable action on the notice to take depositions.

(b) Except as provided in this paragraph and in § 1.319, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(1) Objections to the competency of a witness, or the competency, relevancy or materiality of testimony are waived by failure to make them before or during the taking of depositions if (and only if) the ground of the objection is one which might have been obviated or removed if presented at that time.

(2) Objection on the ground of privilege is waived by failure to make it before or during the taking of depositions.

(c) A party shall not be deemed to make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition as described in subparagraph (2) of paragraph (d) of this section. At the hearing any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party.

(d) At the hearing (or in a pleading), any part or all of a deposition, so far as admissible, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof, in accordance with any one of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(2) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent of a public or private corporation, partnership or association which is a party may be used by an adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the presiding officer finds: (i) That the witness is dead; or (ii) that the witness is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or (iii) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (iv) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce all of it which is relevant to the part introduced, and any party may introduce any other parts.

(5) Substitution of parties does not affect the right to use depositions previously taken; and, when an action in any hearing has been dismissed and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor.

§ 1.323 Interrogatories to parties.

(a) *Interrogatories.* Any party may serve upon any adverse party written interrogatories to be answered in writing by the party served or, if the party served is a public or private corporation or a partnership or association, by any officer or agent, who shall furnish such information as is available to the party. A copy of the interrogatories shall be served upon all parties to the proceeding. An original and three copies of the interrogatories, answers, and all related pleadings shall be filed with the Secretary of the Commission. A copy of the interrogatories, answers and all related pleadings shall be served on the presiding officer.

(1) Except as otherwise provided in a protective order, the number of interrogatories or sets of interrogatories is not limited.

(2) Except as provided in such an order, interrogatories may be served after a deposition has been taken, and a deposition may be sought after interrogatories have been answered.

(b) *Motion to limit or suppress.* Within 10 days after the service of interrogatories, the party on whom they were served may file a motion to limit or suppress any of them. The motion shall be served on all other parties to the proceeding. Answers to interrogatories to which objection is made shall be deferred until the motion has been acted on.

(c) *Protective order.* On his own motion within the same 10-day period, or on motion made by the party on whom the interrogatories were served, the presiding officer may issue a protective order. See § 1.313.

(d) *Answers.* Interrogatories shall be answered separately and fully in writing under oath or affirmation. Answers shall be signed by the person making them. The party to whom the interrogatories were directed shall serve a copy of the answers on all other parties to the proceeding within 15 days after service of the interrogatories, unless the presiding officer, on motion and notice and for good cause shown, enlarges or shortens the time. Answers may be used in the same manner as depositions of a party (see § 1.321(d)).

§ 1.325 Discovery and production of documents and things for inspection, copying, or photographing.

(a) Upon motion of any party showing good cause therefor and upon notice to all other parties, and subject to the provisions of § 1.313, the presiding officer may (1) order any party except the Commission (see paragraph (b) of this section) to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged, which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by § 1.311(b) and which are in his possession, custody, or control; or (2) order any party to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated object or operation thereon within the scope of the examination permitted by § 1.311(b). The order shall specify the time, place, and manner of making the inspection and taking the copies and photographs and may prescribe such terms and conditions as are just.

(b) Any party seeking the production of Commission records which are not routinely available for inspection (see §§ 0.456, 0.457, and 0.459 of this chapter) may file a request for inspection under § 0.461 of this chapter. See, in particular, § 0.461(e).

5. In § 1.333, paragraphs (e) and (f) are added, to read as follows:

§ 1.333 Requests for issuance of subpena.

* * * * *

(e) Requests for issuance of a subpena ad testificandum to enforce a notice to take depositions shall be submitted in writing. Such requests may be submitted with the notice or at a later date. The request shall not be granted until the period for the filing of motions opposing the taking of depositions has expired or, if a motion has been filed, until that motion has been acted on. Regardless of the time when the subpena request is submitted, it need not be accompanied by a showing that relevant and material evidence will be adduced, but merely that the person will be examined regarding a nonprivileged matter which is relevant to the hearing issues. The subpena request may ask that a subpena duces tecum be contemporaneously issued commanding the person to whom it is directed to produce designated books, papers, documents, or tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by § 1.311(b) but in that event the subpena request will be subject to the provisions of § 1.313 and paragraph (b) of this section.

(f) Requests for issuance of a subpena duces tecum to enforce an order for the production of documents and things for inspection and copying under § 1.325 may be submitted with the motion requesting the issuance of such an order. Regardless of the time when the subpena request is submitted, it need not be accompanied by a showing that relevant and material evidence will be adduced, but merely that the documents and things to be examined contain nonprivileged matter which is relevant to the subject matter of the proceeding.

6. Section 1.362 is added to read as follows:

§ 1.362 Production of statements.

After a witness is called and has given direct testimony in a hearing, and before he is excused, any party may move for the production of any statement of such witness, or part thereof, pertaining to his direct testimony, in possession of the party calling the witness, if such statement has been reduced to writing and signed or otherwise approved or adopted by the witness. Such motion shall be directed to the presiding officer. If the party declines to furnish the statement, the testimony of the witness pertaining to the requested statement shall be stricken.

[F.R. Doc. 68-471; Filed, Jan. 11, 1968; 8:48 a.m.]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 15]

PART 95—ADVISORY COMMITTEES

The purpose of this amendment is to provide a uniform regulation, for use throughout the Department of Transportation, relating to the formation and use of advisory committees.

The regulation applies to all committees, boards, commissions, councils, conferences, panels, task forces, or similar groups, including industry advisory committees, and to subcommittees and subgroups thereof, which are formed within the Department for the purpose of obtaining advice or recommendations, or for any other purpose, and which are not composed entirely of officers or employees of the Government.

Executive Order 11007, dated February 26, 1962, prescribes general rules for the formation and use of advisory committees by departments and agencies of the Government. Section 7 of the Executive order authorizes Department heads to

prescribe additional regulations, consistent with the order, "to govern the formation or use of such committees, or the appointment of members thereof."

The regulation applies to advisory committees of the Office of the Secretary of Transportation and each of the operating administrations of the Department of Transportation—the U.S. Coast Guard, the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, and the St. Lawrence Seaway Development Corporation. It does not apply to the National Transportation Safety Board.

Since this amendment relates to departmental management, procedures, and practices, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

This amendment is made under the authority of section 7 of Executive Order 11007, dated February 26, 1962 (Title 3, CFR 572 (1959–63 Comp.)) and section 9 of the Department of Transportation Act (49 U.S.C. 1657).

In consideration of the foregoing, Title 49 of the Code of Federal Regulations is amended by adding the following new Part 95 "Advisory Committees", effective January 12, 1968.

Issued in Washington, D.C., on January 5, 1968.

ALAN S. BOYD,
Secretary of Transportation.

Sec.
95.1 Applicability.
95.3 Definitions.
95.5 Use of advisory committees generally.
95.7 Industry advisory committees: Membership.
95.9 Meetings; other than industry advisory committees.
95.11 Meetings; industry advisory committees.
95.13 Antitrust laws.
95.15 Conflicts of interest statutes, orders, and regulations.

AUTHORITY: The provisions of this Part 95 issued under sec. 7, E.O. 11007, Feb. 26, 1962 (3 CFR Part 572 (1959–63 Comp.)); sec. 9, Department of Transportation Act (49 U.S.C. 1657).

§ 95.1 Applicability.

(a) This part prescribes uniform regulations governing the formation and use of advisory committees by the Office of the Secretary of Transportation, the U.S. Coast Guard, the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, and the St. Lawrence Seaway Development Corporation. It does not apply to the National Transportation Safety Board.

(b) This part applies to advisory committees formed or used by the organizations named in paragraph (a) of this section. It also applies to those organizations whenever they affiliate with, participate in, or use similar advisory committees formed or used by other departments or agencies of the Executive Branch of the Government, unless specifically exempted under paragraph (c) of this section. Advisory committees whose membership includes "consultants and advisers" are subject to this part regardless of whether those members are considered to be Government employees on the days they attend committee meetings.

(c) This part does not apply to—

(1) Any advisory committee the purpose, composition, and operation of which is specified by statute, unless and to the extent that statute authorizes the President to prescribe regulations for the committee's formation and use.

(2) Any advisory committee composed wholly of representatives of State or local agencies or of charitable, religious, educational, civic, social welfare, or similar nonprofit organizations.

(3) Any local, regional, or national committee whose only function is to disseminate information for public agencies, or any local civil committee whose primary function is to perform a public service, other than giving advice or making recommendations to the Government.

§ 95.3 Definitions.

For the purposes of this part—

(a) "Advisory committee" includes any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee, or other subgroup thereof, which is formed within the Department in the interest of obtaining advice or recommendations, or for any other purpose, and which is not composed wholly of officers or employees of the Government. It also includes any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or subgroup thereof, which is not formed within the Department, but only during the period it is being used by the Department in the same manner as a Government-formed advisory committee.

(b) "Industry advisory committee" includes any advisory committee composed predominately of members or representatives of a single industry or group of related industries, or any subdivision of a single industry, made on a geographic, service, or product basis.

(c) "Department" means Department of Transportation.

(d) "Secretary" means the Secretary of Transportation.

§ 95.5 Use of advisory committees generally.

(a) Advisory committees are formed to provide a means of obtaining advice, views, and recommendations of benefit to the operations of the Government from industrialists, businessmen, scientists, engineers, educators, and other public and private citizens whose experience and talents would not otherwise be available to the Department. An advisory committee may be used when its counsel is desired on matters under consideration by any part of the Department. Unless specifically authorized by law to the contrary, no advisory committee may be used for functions which are not solely advisory. Determinations of action to be taken with respect to matters upon which an advisory committee advises or recommends may be made only by a full-time, salaried officer or employee of the Government.

(b) An advisory committee may be established to serve the Department as a whole, the Office of the Secretary, any operating administration, any combination of the Office of the Secretary and the operating administrations, or the operating administrations collectively. However, no advisory committee may be formed or used unless (1) the committee is specifically authorized by law, or (2) the committee is specifically approved, in writing, by the Secretary or his designee, to be in the public interest in connection with the performance of duties imposed on the Department or any part of it.

§ 95.7 Industry advisory committees: Membership.

Each industry advisory committee must be reasonably representative of the group of industries, the single industry, or the product segment thereof to which it relates, taking into account the size and function of business enterprises in the industry or industries and their location, affiliation, and competitive status among other factors. Selection of industry members shall, unless otherwise provided by statute, be limited to persons actively engaged in operations in the particular industry, industries, or segments concerned, except in cases in which the Secretary or his designee considers that such a limitation would interfere with effective committee operations.

§ 95.9 Meetings; other than industry advisory committees.

(a) Meetings of an advisory committee, other than an industry advisory committee, may be held only at the call, or with the advance approval, of a full-time, salaried officer or employee of the Department, with an agenda formulated or approved by that officer or employee.

(b) Each meeting shall be chaired by, or be conducted in the presence of, a full-time, salaried officer or employee of the Government who is required to adjourn the meeting whenever he considers it to be in the public interest.

(c) Minutes shall be kept of each meeting. As a minimum, the minutes must contain a record of the persons present, a description of the matter discussed and conclusions reached, and a copy of any report received, issued, or approved by the committee. The accuracy of all minutes must be certified to by a full-time, salaried officer or employee of the Government who was present during the meeting to which the minutes pertain.

(d) The Secretary or his designee may waive any requirement of this section in any case in which he determines that—

(1) Compliance with that requirement would interfere with the proper functioning of the committee or would be impracticable;

(2) Adequate provisions are made to assure otherwise that the operation of the committee is subject to Government control and purpose; and

(3) The waiver is in the public interest.

§ 95.11 Meetings; industry advisory committees.

(a) Meetings of an industry advisory committee may be held only at the call of a full-time, salaried officer or employee of the Department, with an agenda formulated by that officer or employee.

(b) Each meeting shall be chaired by a full-time, salaried officer or employee of the Government who is required to adjourn the meeting whenever he considers it to be in the public interest.

(c) A verbatim transcript shall be kept of the proceedings at each meeting, including the name of each person present, his affiliation, and the capacity in which he attended, except in any case in which the Secretary or his designee determines that a verbatim transcript would interfere with the proper functioning of the committee or would be impracticable and therefore waives the requirement as being in the public interest. In such a case the procedure prescribed in § 95.9(c) applies.

(d) No industry advisory committee may receive, compile, or discuss data or reports showing the current or projected commercial operations of any identified business enterprise.

§ 95.13 Antitrust laws.

The activities of advisory committees are subject to the antitrust laws and committee members are not immune from prosecution under those laws. The Department of Justice takes the position that it retains complete freedom to institute proceedings, either civil or criminal, or both, in the event that any particular plan or course of action is used to accomplish unlawful private ends, and to institute civil actions to enjoin continuance of any act or practices found not to be in the public interest and persisted in after notice to desist. This part is intended to minimize the possibility of violating the antitrust laws. Industry representatives and Government personnel officially connected with advisory committees should be advised of the antitrust aspects of the committee activity.

§ 95.15 Conflicts of interest statutes, orders, and regulations.

There is a body of statutes, orders, and regulations prescribed by the President, the Secretary, and other authorities, dealing with conflicts of interest and designed to prevent any conflict between the official duties and status of Government officers and employees and their private interest. Government officers and employees are required to comply with all applicable laws, orders, and regulations. Part 99 of this chapter sets forth a comprehensive list of the conflicts of interest statutes and guidelines for the employees of the Department to follow in the application of these statutes to part-time advisers and consultants to the Government. Any officer or employee appointed to serve on an advisory committee who has any doubt or question respecting a possible conflict of interest shall seek specific legal advice on his individual situation.

[F.R. Doc. 68-457; Filed, Jan. 11, 1968; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 21, 27, 29, 43, 45, 91, 127]

[Docket No. 8444; Notice 67-44A]

CRITICAL ROTORCRAFT COMPONENTS

Design, Maintenance, and Operation (Air Carrier and General); Extension of Comment Period

The Federal Aviation Administration, in Notice 67-44, published in the FEDERAL REGISTER (32 F.R. 14106) on October 11, 1967, proposed several interrelated design, maintenance, and operation rules concerning critical components of rotorcraft. The comment period specified therein ended January 10, 1968.

The Aerospace Industries Association of America, Inc., by letter dated January 2, 1968, has requested an extension of the comment period. This request is based on the broad scope of the proposals, the need to coordinate airworthiness, maintenance, and operating aspects of the proposals, and involvement of petitioner in another massive regulatory project which has prevented full consideration of Notice 67-44.

I find that petitioner has shown a substantive interest in the proposed rules, that good cause exists for the requested extension, and that the extension is consistent with the public interest. Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 11.45) the time within which comments on Notice 67-44 will be received is extended to February 16, 1968.

Issued in Washington, D.C., on January 8, 1968.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 68-469; Filed, Jan. 11, 1968; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-161]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Fort Leonard Wood, Mo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

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

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

As a result of increased IFR air traffic at Forney AAF, Mo., the Kansas City Air Route Traffic Control Center requires an east departure routing for this traffic from Forney AAF which will be clear of V-190 and will provide dual routes between the AAF and St. Louis, Mo. Therefore, it is necessary to alter the Fort Leonard Wood, Mo., transition area to provide the necessary airspace protection for these east departure routings and for the dual routes.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

FORT LEONARD WOOD, MO.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Forney AAF (latitude 37°44'30" N., longitude 92°08'25" W.); 8 miles northeast and 5 miles southwest of the Forney AAF VOR 152° and 323° radials, extending from the VOR to 12 miles southeast and northwest of the VOR; and within 8 miles northeast and 5 miles southwest of the 146° bearing from Forney AAF RBN, extending from the RBN to 12 miles southeast of the RBN; and that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the following direct radials: Maples, Mo., VORTAC to Forney AAF VOR; Maples VORTAC to Forney AAF RBN; Vichy, Mo. VORTAC to Forney AAF VOR; and Vichy VORTAC to Forney AAF RBN; and within 5 miles each side of the Forney AAF VOR 086° radial and the Forney AAF RBN 080° bearing extending from the VOR and the RBN to V-72, excluding the portions which overlie the Vichy and Maples, Mo., transition areas.

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

Issued at Kansas City, Mo., on December 19, 1967.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 68-452; Filed, Jan. 11, 1968; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-164]

TRANSITION AREAS

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition areas at Minneapolis, Minn., and Eau Claire, Wis.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

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

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

As a result of increased IFR traffic in the Minneapolis, Minn., metropolitan area additional controlled airspace east of Minneapolis must be designated to provide more efficient radar vectoring capability for the protection of aircraft operating to and from the jet route structure. Also, a small amount of additional airspace is required to provide protection for aircraft departing from Airlake Industrial Airpark, Lakeville, Minn. In order to afford the necessary airspace protection above mentioned,

the designations of the Minneapolis, Minn., and Eau Claire, Wis., transition areas must be altered.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2148), the following transition areas are amended to read:

MINNEAPOLIS, MINN.

That airspace extending upward from 700 feet above the surface within a 23-mile radius of Minneapolis-St. Paul International Airport (latitude (44°53'10" N., longitude 93°13'10" W.); within 5 miles north and 8 miles south of the Flying Cloud, Minn., VOR 292° radial, extending from the 23-mile radius area to 12 miles west of the VOR; within 5 miles each side of the St. Paul, Minn., VOR 037° radial, extending from the 23-mile radius area to 13 miles northeast of the VOR; and within a 6-mile radius of Airlake Industrial Airpark (latitude 44°37'40" N., longitude 93°13'40" W.); and that airspace extending upward from 1,200 feet above the surface within a 36-mile radius of Minneapolis-St. Paul International Airport; that airspace west of Minneapolis bounded on the south by V-26, on the northwest by V-148, and on the east by the 36-mile radius area; and that airspace northwest of Minneapolis bounded on the southwest by V-171, on the west by the Darwin, Minn., VORTAC 021° radial, on the northeast by V-2 and on the southeast by the 36-mile radius area excluding the portion which overlies the Darwin, Minn., transition area; and that airspace extending upward from 4,000 feet MSL northwest of Minneapolis bounded on the northeast by V-2, on the southeast by the Darwin VORTAC 021° radial and on the west by V-171; and that airspace extending upward from 4,000 MSL southwest of Minneapolis bounded on the north by V-26S, on the northeast by a 36-mile radius circle centered on Minneapolis-St. Paul International Airport, on the southeast by V-219 and on the southwest by V-24.

EAU CLAIRE, WIS.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Eau Claire Municipal Airport (latitude 44°51'50" N., longitude 91°29'10" W.); and within 2 miles each side of the Eau Claire VORTAC 011° radial, extending from the 9-mile radius area to 8 miles north of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 8 miles south and 5 miles north of the 274° bearing from Eau Claire Municipal Airport, extending from the airport to 12 miles west of the airport; within the arc of a 14-mile radius circle centered on the Eau Claire VORTAC, extending from the Eau Claire VORTAC 258° radial clockwise to the Eau Claire VORTAC 091° radial; and that airspace extending upward from 4000 feet MSL southwest of Eau Claire bounded on the east by V-129, on the southwest by V-2N, and on the north by V-26S.

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

Issued at Kansas City, Mo., on December 19, 1967.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 68-453; Filed, Jan. 11, 1968; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-166]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Waterloo, Iowa.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

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

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

As a result of the increased air traffic in the Waterloo, Iowa area, additional controlled airspace is needed to provide protection for aircraft executing off-airway climbs and descents west of Waterloo. Therefore, it is necessary to alter the Waterloo, Iowa, transition area so that aircraft executing these climbs and descents will be operating within controlled airspace.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

WATERLOO, IOWA

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Waterloo Municipal Airport (latitude 42°33'20" N., longitude 92°24'00" W.); within 2 miles each side of the Waterloo ILS localizer northwest course, extending from the 7-mile radius area to 10 miles northwest of the OM; within 5 miles west and 8 miles east of the Waterloo VORTAC 200° radial, extending from the VORTAC to 12 miles south of the VORTAC; and within the arc of a 16-mile radius circle centered on the Waterloo VORTAC, extending clockwise from the Waterloo VORTAC 353° radial to the Waterloo VORTAC 134° radial; that airspace extending upward from 1,200 feet above the surface within the arc of a 29-mile radius circle centered on the Waterloo VORTAC; extending clockwise from a line 8 miles north of and parallel to the Waterloo VORTAC 096° radial to a line 8 miles east of and parallel to the Waterloo VORTAC 353° radial; and that airspace extending upward from 3,500 feet MSL bounded on the southeast by V-161W, on the west by V-13E, on the north by V-100 and on the east by the arc of a 29-mile radius circle centered on the Waterloo VORTAC.

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

Issued at Kansas City, Mo., on December 19, 1967.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 68-454; Filed, Jan. 11, 1968; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-149]

ADDITIONAL CONTROL AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate an additional control area from Kansas City, Mo., direct to Ottumwa, Iowa, with a floor of 5,000 feet MSL from Kansas City to 26 nautical miles southwest of Ottumwa thence 1,200 feet AGL to Ottumwa.

This proposed additional control area would provide controlled airspace for instrument flight rule air traffic operating between Kansas City and Ottumwa.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Building, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

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

Issued in Washington, D.C., on January 5, 1968.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 68-455; Filed, Jan. 11, 1968; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67–SO–123]

TRANSITION AREAS

Proposed Designation and Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would designate the Union City, Tenn., transition area, and alter the Dyersburg, Tenn., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Memphis Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 18097, Memphis, Tenn. 38118. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

The Union City transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Everett-Stewart Airport (lat. 36°22'44" N., long. 88°59'07" W.); within 2 miles each side of the Dyersburg VORTAC 036° radial, extending from the 5-mile radius area to 25 miles northeast of the VORTAC.

The Dyersburg transition area described in § 71.181 (32 F.R. 2148), would be altered by adding "* * * and that area northeast of Dyersburg VORTAC within 5 miles each side of the 16-mile radius arc of the Dyersburg VORTAC, extending from the southeast boundary of V–11E to the north boundary of V–140 * * *".

The proposed Union City transition area is required for the protection of IFR operations at Everett-Stewart Airport. The proposed addition to the Dyersburg 1,200-foot transition area is required for the protection of aircraft transitioning from the Dyersburg VORTAC 084° to the 032° radial via the 16-mile arc. A prescribed instrument approach procedure to this airport is proposed in conjunction with the designation of this transition area and the alteration of the Dyersburg transition area.

The official docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Administration, Room 724, 3400 Whipple Street, East Point, Ga.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)).

Issued in East Point, Ga., on December 29, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 68–456; Filed, Jan. 11, 1968; 8:46 a.m.]

Notices

DEPARTMENT OF STATE

[Public Notice 283]

FIJI ISLANDS AND TURKEY

Nonimmigrant Visas; Validity

Public Notice 261 of April 6, 1967 authorized consular officers to issue, in their discretion, nonimmigrant visas under section 101(a)(15)(B) of the Immigration and Nationality Act valid for an indefinite period of time to otherwise eligible nationals of certain countries which offer reciprocal or more liberal treatment to nationals of the United States who are in a similar class. Fiji Islands and Turkey are being added to the list of countries contained in that notice.

This notice amends Public Notice 261 of April 6, 1967 (32 F.R. 5643).

BARBARA M. WATSON,
Acting Administrator, Bureau of Security and Consular Affairs.

JANUARY 4, 1968.

[F.R. Doc. 68-442; Filed, Jan. 11, 1968; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S-1201]

CALIFORNIA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands in paragraph 3, together with any lands therein that may become public lands in the future. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Publication of this notice has the effect of segregating (a) all public lands described below from appropriation only under the agricultural land laws (43 U.S.C. Ch. 7 and 9, and 25 U.S.C. sec. 334) and from sales under 2455 of the Revised Statutes (43 U.S.C. 1171). The lands shall remain open to all other applicable forms of appropriation including the mining and mineral leasing laws.

3. The public lands are located within the following described areas of Lake, Napa, Yolo, Solano, Sonoma, and Mendocino Counties. For the purpose of this proposed classification, the area has been subdivided into blocks, each of which has been analyzed in detail and described in documents and maps available for inspection at the Ukiah District Office, 168 Washington Avenue, Ukiah, Calif. 95482, and on the records in the Sacramento Land Office, 650 Capitol Mall, Sacramento, Calif. 95814. The overall descriptions of the area are as follows:

MENDOCINO AND LAKE COUNTIES

MOUNT DIABLO MERIDIAN

Block A

All public lands in:

T. 11 N., R. 8 W.,
Sec. 6.
T. 12 N., R. 8 W.,
Secs. 7, 18, 19, 30, and 31.
T. 12 N., R. 9 W.,
Secs. 1 to 3, inclusive;
Secs. 10 to 15 inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 13 N., R. 9 W.,
Secs. 34 to 36, inclusive.

LAKE AND SONOMA COUNTIES

MOUNT DIABLO MERIDIAN

Block B

All public lands in:

T. 10 N., R. 7 W.,
Secs. 5 to 8 inclusive;
Secs. 17 to 20 inclusive.
T. 11 N., R. 7 W.,
Secs. 31 and 32.
T. 10 N., R. 8 W.,
Secs. 1 to 5, inclusive;
Secs. 9 to 16, inclusive;
Secs. 21 to 24, inclusive.
T. 11 N., R. 8 W.,
Secs. 32 to 36, inclusive.

NAPA COUNTY

MOUNT DIABLO MERIDIAN

Block C

All public lands in:

T. 8 N., R. 4 W.,
Secs. 1 to 18 inclusive, unsurveyed.
T. 9 N., R. 4 W.,
Secs. 13 to 36 inclusive, partly unsurveyed.

Excepting any lands in Block C inside the boundaries of Rancho Las Putas and Land Grant Catacula.

NAPA AND YOLO COUNTIES

MOUNT DIABLO MERIDIAN

Block D

All public lands in:

T. 8 N., R. 2 W.,
Secs. 5 to 8 inclusive;
Secs. 17 to 20 inclusive;
Sec. 29, N½.
T. 9 N., R. 2 W.,
Secs. 19 and 20;
Secs. 29 to 32 inclusive.
T. 8 N., R. 3 W.,
Secs. 1, 2, 11, and 12.
T. 9 N., R. 3 W.,
Secs. 1 to 4 inclusive, unsurveyed;
Secs. 9 to 16 inclusive, unsurveyed;
Secs. 21 to 27 inclusive, unsurveyed;
Secs. 34 to 36 inclusive, unsurveyed.
T. 10 N., R. 3 W.,
Secs. 19 to 30 inclusive, partly unsurveyed;
Secs. 32 to 36 inclusive, unsurveyed.

Excepting any lands in Block D inside the boundaries of Rancho Las Putas.

LAKE, SONOMA, NAPA, YOLO, SOLANO COUNTIES

MOUNT DIABLO MERIDIAN

Block E

All public lands in:

T. 7 N., R. 2 W.,
Secs. 4 to 9 inclusive;
Secs. 16 to 21 inclusive.
T. 8 N., R. 2W.,
Sec. 28;
Sec. 29, S½;
Secs. 32 and 33.
T. 7 N., R. 3 W.,
Secs. 1 and 4.
T. 8 N., R. 3 W.,
Secs. 19, 25, and 31.
T. 7 N., R. 4 W.,
Secs. 1 and 12.
T. 8 N., R. 4 W.,
Secs. 24 and 25.
T. 9 N., R. 4 W.,
Secs. 5, 6, and 7;
Sec. 17, E½NE¼.
T. 10 N., R. 4 W.,
Secs. 30 and 31.
T. 9 N., R. 5 W.,
Secs. 1, 2, 4, 5, 11, and 12.
T. 10 N., R. 5 W.,
Secs. 11, 14, and 23;
Secs. 25 to 28 inclusive;
Secs. 30 to 35 inclusive.
T. 12 N., R. 5 W.,
Sec. 29.
T. 9 N., R. 6 W.,
Secs. 3, 4, 9, 15, 16, and 17;
Secs. 19 to 22 inclusive;
Sec. 29.
T. 10 N., R. 6 W.,
Sec. 14, NW¼NE¼;
Sec. 19;
Secs. 27 to 30 inclusive;
Secs. 32 and 33.
T. 12 N., R. 6 W.,
Secs. 9, 10, 13, 14, 15, and 28.
T. 9 N., R. 7 W.,
Secs. 2, 3, 4, 10, and 11.
T. 10 N., R. 7 W.,
Secs. 23, 24, 25, 27, 28, 33, 34, and 35.
T. 11 N., R. 7 W.,
Secs. 19, 20, and 30.
T. 11 N., R. 8 W.,
Secs. 5, 13, 14, 18, 19, 21, 22, 27, 28, and 29.
T. 12 N., R. 8 W.,
Sec. 20.
T. 13 N., R. 8 W.,
Secs. 7, 8, 17, and 18.

The public lands proposed to be classified aggregate approximately 37,685 acres.

4. For a period of sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions,

or objections in connection with the proposed classification may present their views in writing to the Ukiah District Manager, 168 Washington Avenue, Ukiah, Calif. 95482, or at the public hearing.

5. A public hearing on this proposed classification will be held in the Napa County Courthouse, Napa, Calif., on January 30, 1968, at 7:30 p.m.

For the State Director.

JOHN F. LANZ,
District Manager.

[F.R. Doc. 68-322; Filed, Jan. 11, 1968; 8:45 a.m.]

[S-811]

CALIFORNIA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands in paragraph 3, together with any lands located in the area described in paragraph 3 that may become public lands in the future. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Publication of this notice has the effect of segregating (a) all the public lands described in paragraph 3 from appropriation only under the agricultural land laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C. sec. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171) and (h) the lands described in paragraph 4 from appropriation under the mining laws (30 U.S.C. Ch. 2). The lands shall remain open to all other appreciable forms of appropriation.

3. The public lands involved are located within the following described area of Lake, Colusa, Yolo, and Napa Counties, Calif., south of the Mendocino National Forest and north of Lake Berryessa. The public lands have been analyzed in detail and are described in documents and on maps available for inspection at the Ukiah District Office, 168 Washington Avenue, Ukiah, Calif. 95482, and in the Sacramento Land Office, 650 Capitol Mall, Sacramento, Calif. 95814. The description of the area is as follows:

MOUNT DIABLO MERIDIAN, CALIFORNIA

LAKE, COLUSA, YOLO, AND NAPA COUNTIES

All public lands in:

T. 9 N., R. 4 W.,
Secs. 3 and 4.
T. 10 N., R. 4 W.,
Secs. 4 to 9 inclusive;
Secs. 16 to 21 inclusive;
Secs. 27 to 29 inclusive;
Secs. 32 to 34 inclusive.
Tps. 11 and 12 N., R. 4 W.
T. 13 N., R. 4 W.,
Secs. 20 to 29 inclusive;
Secs. 32 to 36 inclusive.
T. 10 N., R. 5 W.,
Secs. 1, 2, 11, 12, 13, and 24.
T. 11 N., R. 5 W.,
Secs. 1 to 18 inclusive;
Secs. 20 to 29 inclusive;
Secs. 35 and 36.
T. 12 N., R. 5 W.,
Secs. 1 to 6 inclusive;
Secs. 9 to 16 inclusive;
Secs. 21 to 28 inclusive;
Secs. 31 to 36 inclusive.
T. 13 N., R. 5 W.,
Secs. 5 to 9 inclusive;
Secs. 17 to 22 inclusive;
Secs. 27 to 35 inclusive.
T. 14 N., R. 5 W.,
Secs. 5 to 8 inclusive;
Secs. 17 to 20 inclusive;
Secs. 29 to 32 inclusive.
T. 15 N., R. 5 W.,
Secs. 18 and 19;
Secs. 30 and 31.
T. 11 N., R. 6 W.,
Secs. 1, 12, 13, and 24.
T. 12 N., R. 6 W.,
Secs. 1 to 6 inclusive.
Tps. 13, 14, and 15 N., R. 6 W.
T. 16 N., R. 6 W.,
Secs. 21 to 28 inclusive;
Secs. 33 to 36 inclusive.
T. 12 N., R. 7 W.,
Sec. 1.
T. 13 N., R. 7 W.,
Secs. 1, 12, 13, 24, 25, and 36.
T. 14 N., R. 7 W.,
Secs. 1 to 18 inclusive;
Secs. 22 to 27 inclusive;
Secs. 34 to 36 inclusive.
T. 15 N., R. 7 W.,
Secs. 5 and 6;
Secs. 8 to 16 inclusive;
Secs. 24, 25, and 31;
Secs. 34 to 36 inclusive.
T. 14 N., R. 8 W.,
Sec. 1;
Secs. 12 to 14 inclusive.
T. 15 N., R. 8 W.,
Sec. 36.

Excepting the following public lands:

T. 10 N., R. 5 W.,
Sec. 11, SW¼SW¼.
T. 13 N., R. 5 W.,
Sec. 22, NW¼NW¼.

The public lands proposed to be classified aggregate approximately 30,133 acres.

4. As provided in paragraph 2 above, the following lands are segregated from appropriation under the mining laws (totaling approximately 1,415 acres):

MOUNT DIABLO MERIDIAN, CALIFORNIA

LAKE COLUSA, YOLO, AND NAPA COUNTIES

All public lands in:

T. 10 N., R. 4 W.,
Sec. 18, SW¼NE¼ and W½SE¼.
T. 12 N., R. 4 W.,
Sec. 3, SE¼SW¼ and SW¼SE¼.
T. 10 N., R. 5 W.,
Sec. 2, SE¼NE¼ and E½SE¼.
T. 11 N., R. 5 W.,
Sec. 18, lots 5 to 12, inclusive, and NE¼SW¼;
Sec. 26, NW¼SE¼.
T. 12 N., R. 5 W.,
Sec. 28, SE¼SW¼ and SW¼SE¼;
Sec. 33, NW¼NE¼ and NE¼NW¼, unsurveyed;
Sec. 34, NE¼ and N½NW¼.
T. 13 N., R. 5 W.,
Sec. 19, NE¼SE¼;
Sec. 27, NW¼SE¼.
T. 13 N., R. 6 W.,
Sec. 24, W½NE¼ and SE¼NE¼.
T. 14 N., R. 6 W.,
Sec. 5, lots 2 and 3, and SW¼NE¼.

5. For a period of sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit suggestions or objections in connection with the proposed classification may present their views in writing to the Ukiah District Manager, Bureau of Land Management, 168 Washington Avenue, Ukiah, Calif. 95482.

6. A public hearing on this proposed classification will be held in the Napa County Courthouse, Napa, Calif., on January 30, 1968, at 7:30 p.m.

For the State Director.

JOHN F. LANZ,
District Manager.

[F.R. Doc. 68-323; Filed, Jan. 11, 1968; 8:45 a.m.]

Fish and Wildlife Service

[Docket No. S-415]

HENRY CLARK KNUTSON, SR.

Notice of Loan Application

JANUARY 4, 1968.

Henry Clark Knutson, Sr., 936 North Coast Highway, Newport, Oreg. 97365, has applied for a loan from the Fisheries Loan Fund to aid in financing the construction of a new 57-foot length overall steel vessel to engage in the fishery for albacore, cod, flounders, lingcod, Pacific Ocean perch, rockfishes, sablefish, shrimp, and Dungeness crab.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

R. C. BAKER,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 68-459; Filed, Jan. 11, 1968; 8:47 a.m.]

[Docket No. S-421]

GARY J. AND CAROLYN R. MARINCOVICH

Notice of Loan Application

JANUARY 4, 1968.

Gary J. Marincovich and Carolyn R. Marincovich, 200 West Kensington Avenue, Astoria, Oreg. 97103, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 31.8-foot registered length wood vessel to engage in the fishery for salmon and Dungeness crab.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

R. C. BAKER,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 68-460; Filed, Jan. 11, 1968; 8:47 a.m.]

[Docket No. S-422]

SVERRE AND HELEN J. MOGSTER

Notice of Loan Application

JANUARY 4, 1968.

Sverre Mogster and Helen J. Mogster, 510 Meade Avenue, Sumner, Wash. 98390, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 44.2-foot length steel vessel to engage in the fishery for salmon and albacore.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

R. C. BAKER,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 68-461; Filed, Jan. 11, 1968; 8:47 a.m.]

[Docket No. G-396]

PRESTON J. SIMON

Notice of Loan Application

JANUARY 4, 1968.

Preston J. Simon, Star Route, Box 5, Brownsville, Tex. 78520, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 64.8-foot registered length wood vessel to engage in the fishery for shrimp.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

R. C. BAKER,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 68-462; Filed, Jan. 11, 1968; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Bureau of the Census

RETAILERS' INVENTORIES, SALES, AND NUMBER OF ESTABLISHMENTS

Notice of Determination To Continue Survey

In accordance with Title 13, United States Code, sections 181, 224, and 225, and due notice of consideration having been published December 8, 1967 (32 F.R. 17603), I have determined that certain 1967 annual data for retail trade establishments are needed to provide a sound statistical basis for the formation of policy by various governmental agencies and are also applicable to a variety of public and business needs. This annual survey is a continuation of similar surveys conducted each year since 1951, and makes available on a comparable classification basis data covering 1967 year-end inventories, annual sales, cash and credit sales, and number of retail stores operated as of the end of the year. These data are not publicly available on a timely basis from nongovernmental or other governmental sources.

Reports will be required only from a selected sample of retail firms in the United States. The sample will provide, with measurable reliability, estimates of inventories, sales by type (cash and credit), and sales-inventory ratios. Reports will be requested from stores sampled on the basis of their sales size and/or location in Census sample areas. A group of the largest firms, in terms of number of retail stores, will be requested to report their sales and number of stores by county; but those firms which are participating monthly in the Bureau's geographic area survey will be asked to report in total only.

Report forms will be furnished to the firms covered by the survey and will be due 15 days after receipt. Copies of the forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that an annual survey be conducted for the purpose of collecting these data.

A. ROSS ECKLER,
Director,
Bureau of the Census.

DECEMBER 29, 1967.

[F.R. Doc. 68-438; Filed, Jan. 11, 1968; 8:45 a.m.]

Business and Defense Services Administration

UNIVERSITY OF COLORADO MEDICAL CENTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00157-33-46040. Applicant: University of Colorado Medical Center, 4200 East Ninth Avenue, Denver, Colo. 80220. Article: Philips EM-300-S Electron Microscope; Anticontamination Device PW 2526-00; 70-mm. Camera. Manufacturer: Philips Electronic Instruments, Holland. Intended use of article: High resolution studies of developing myelin sheath in central and peripheral nervous system; histochemical localization of enzyme activity on or within subcellular membraneous organelles. Comments: No comments have been received

with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, the Model EMU–4 electron microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed, resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) For the purposes for which the foreign article is intended to be used, we find the additional resolving capabilities of the foreign article to be pertinent. (2) The foreign article provides accelerating voltages of 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU–4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage of the foreign article affords optimum contrast for unstained specimens and that the voltages intermediate between 50 and 100 kilovolts afford optimum contrast for negatively stained specimens. The capability for obtaining optimum contrast is necessary to the accomplishment of the purposes for which the foreign article is intended to be used and is therefore a pertinent characteristic.

For the foregoing reasons, we find that the RCA Model EMU–4 is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manfactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68–436; Filed, Jan. 11, 1968; 8:45 a.m.]

UNIVERSITY OF MISSOURI AT ROLLA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00145–65–82600. Applicant: University of Missouri at Rolla, General Services Building, Purchasing Department, Rolla, Mo. 65401. Article: Recording Vacuum Thermoanalyzer with auxiliary equipment consisting of the following: High Vacuum Installation; DTA Amplifier Installation; Derivative Computor Installation; Middle Range Furnace Installation; High Temperature Furnace Installation; and High Temperature Corrosive Gas Inlet. Manufacturer: Mettler Analytical and Precision Balances, Switzerland. Intended use of article: The article will be used in basic investigations into the thermal behavior of materials in controlled gas environments. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has the capability of simultaneously determining the differential thermal effects and the thermogravimetric effects resulting from the application of heat to ceramics, inorganic materials and metals. For the purposes for which the foreign article is intended to be used, the simultaneous determination of differential thermal and thermogravimetric effects is pertinent.

The Department of Commerce knows of no vacuum thermoanalyzer capable of such simultaneous determination, which is being manufactured in the United States.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68–437; Filed, Jan. 11, 1968; 8:45 a.m.]

Maritime Administration

[Report No. 85]

LIST OF FREE WORLD AND POLISH FLAG VESSELS ARRIVING IN CUBA SINCE JANUARY 1, 1963

Correction

In F.R. Doc. 68–124 appearing at page 81 in the issue of Thursday, January 4, 1968, the asterisk preceding "Aragon" in the second column on page 83 should be deleted.

CIVIL AERONAUTICS BOARD

[Docket No. 18141]

SCANDINAVIAN AIRLINES SYSTEM ENFORCEMENT PROCEEDING

Notice Rescheduling Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the public hearing in this proceeding heretofore assigned to be held in Washington, D.C., on January 23, 1968, is hereby rescheduled and will now be held before the undersigned Examiner on January 22, 1968, at 10 a.m., e.s.t., in Hearing Room B, Federal Trade Commission Building, 30 Church Street, New York, N.Y.

Dated at Washington, D.C., on January 9, 1968.

[SEAL] RICHARD A. WALSH,
Hearing Examiner.

[F.R. Doc. 68–470; Filed, Jan. 11, 1968 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 17926, 17927; FCC 67–1353]

WENY, INC., AND CHANNEL 9 SYRACUSE, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of WENY, Inc., Elmira, N.Y., Docket No. 17926, File No. BPCT–3918; Channel 9 Syracuse, Inc., Elmira, N.Y., Docket No. 17927, File No. BPCT–4000; for construction permit for new television broadcast station.

1. The Commission has before it for consideration the above-captioned applications each requesting a construction permit for a new television broadcast station to operate on Channel 36, Elmira, N.Y.

2. Consideration of the programing proposals is required because of the substantial and material difference between the proposals in that WENY, Inc., proposes a local operation, while Channel 9 Syracuse, Inc., proposes a satellite operation. Therefore, evidence regarding the extent to which the respective proposals will meet the local needs of Elmira will be admissible under the standard comparative issue specified herein.

3. Channel 9 Syracuse, Inc., proposes to operate its station as a total satellite of its commonly owned station WNYS, Channel 9, Syracuse, N.Y., and there will be overlap of the Grade A contours of the two stations. Under the provisions of § 73.636(a)(1) of the Commission's rules, an application which proposes overlap of the Grade B contours of commonly owned stations could not be granted and would be dismissed. However, Note 4 to § 73.636 of the rules provides that the provisions of § 73.636(a)(1) will not be applicable to satellite operations, but, rather such proposals will be considered on a case by case basis in order to determine whether the overlap would be against the public interest. On the basis of the information now available, the Commission is unable to determine whether a grant of the application of Channel 9 Syracuse, Inc., would result in such overlap with its commonly owned station as to be against

the public interest. Accordingly, an appropriate issue will be specified.

4. Channel 9 Syracuse, Inc., proposes to locate its main studios outside the corporate limits of Elmira, N.Y. Since the applicant proposes to operate the station as a total satellite, there is no need for a main studio and the applicant indicates that it will maintain limited studio facilities at its transmitter site. The Commission believes that the location proposed would not be inconsistent with the operation of the station in the public interest. We will provide, therefore, that in the event of a grant of the application of Channel 9 Syracuse, Inc., the Commission's consent to the location will be granted, pursuant to § 73.613(b) of the rules.

5. WENY, Inc., is qualified to construct, own, and operate the proposed new television broadcast station, and, except as indicated by the issue set forth below, Channel 9 Syracuse, Inc., is qualified to construct, own, and operate the proposed new television broadcast station. The applications are, however, mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. The Commission is, therefore, unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of WENY, Inc., and Channel 9 Syracuse, Inc. are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to the application of Channel 9 Syracuse, Inc., the extent of the overlap of the service contours of the proposed station and Station WNYS, Channel 9 Syracuse, N.Y., and whether such overlap exists as to be against the public interest.

2. To determine which of the proposals would better serve the public interest.

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

It is further ordered, That, in the event of a grant of the application of Channel 9 Syracuse, Inc., the applicant's request, pursuant to § 73.613(b) of the Commission's rules to locate its main studios outside of the corporate limits of Elmira, N.Y., shall be granted.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this order, file with the Commission, in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or if feasible, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: December 13, 1967.

Released: January 4, 1968.

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

[F.R. Doc. 68-472; Filed, Jan. 11, 1968; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP68-182]

CITY OF FLEMINGSBURG, KY., AND KENTUCKY GAS TRANSMISSION CORP.

Notice of Application

JANUARY 5, 1968.

Take notice that on December 26, 1967, the city of Flemingsburg, Ky. (Applicant), filed in Docket No. CP68-182 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Kentucky Gas Transmission Corp. (Respondent) to establish physical connection of its transmission facilities with the facilities to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in Applicant and environs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a natural gas distribution system within its borders and in the surrounding vicinity of Fleming County, Ky., and requests that Respondent be ordered to sell and deliver to Applicant the volumes of natural gas needed to satisfy Applicant's requirements.

The estimated third year peak day and annual requirements of Applicant's system are 1,688 Mcf and 171,961 Mcf, respectively.

The total estimated cost of Applicant's facilities is $548,000, which will be financed through the sale of Water, Sewer, and Gas Revenue Bonds.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 1, 1968.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-439; Filed, Jan. 11, 1968; 8:45 a.m.]

[Docket No. CP68-183]

COLORADO INTERSTATE GAS CO.

Notice of Application

JANUARY 5, 1968.

Take notice that on December 26, 1967, Colorado Interstate Gas Co. (Applicant), Post Office Box 1087, Colorado Springs, Colo. 80901, filed in Docket No. CP68-183 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations under the Act for a certificate of public convenience and necessity authorizing the construction during the 12-month period between April 1, 1968, to April 1, 1969, and operation of certain natural gas facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct during the twelve-month period from April 1, 1968, to April 1, 1969, and operate various gas-purchase facilities for the connection of additional supplies of natural gas, which facilities are to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting new supplies of gas in various producing areas generally coextensive with its system.

The total estimated cost of the proposed facilities will not exceed $800,000 with no single project to exceed $200,000. The proposed facilities will be financed from funds on hand, funds from operations, or from short-term bank loans.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before February 1, 1968.

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 without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-440; Filed, Jan. 11, 1968; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Investigation and Suspension Docket No. 8391]

MINIMUM CARLOAD WEIGHTS GOVERNED BY CUBICAL CAPACITY OF CAR

Order of Investigation and Suspension

Order. At a session of the Interstate Commerce Commission, Board of Suspension, held at its office in Washington, D.C., on the 22d day of December 1967.

It appearing, that there have been filed with the Interstate Commerce Commission tariff schedules setting forth new classifications, and new rules, regulations, and practices affecting rates and charges, applicable on interstate or foreign commerce, to become effective December 28, 1967, designated as follows:

Uniform Classification Committee, Agent; ICC 2:

In Supplement 25 ,on pages 2 and 3, in Rule 34, all matter subject to the increase symbols;

ICC 4:

In Supplement 24, on pages 24 and 25, in Rule 34, all matter subject to the increase symbols;

And it further appearing, that upon consideration of the said schedules and protests thereto there is reason to believe that they would, if permitted to become effective, result in rates and charges, rules, regulations, or practices which would be unjust and unreasonable in violation of the Interstate Commerce Act;

and good cause appearing therefor:

It is ordered, That an investigation be, and it is hereby, instituted into and concerning the lawfulness of the rules and regulations contained in said schedules, with a view to making such findings and orders in the premise as the facts and circumstances shall warrant. In the event the said schedules are changed, amended, or reissued upon termination of the suspension period and the investigation having not been concluded, such changed, amended, or reissued schedules will be included in this investigation.

It is further ordered, That the operation of the said schedules be and it hereby is suspended, and that the use thereof on interstate and foreign commerce be deferred to and including July 27, 1968, unless otherwise ordered by this Commission.

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

It is further ordered, That neither the schedules hereby suspended nor those 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.

And it is further ordered, That a copy of this order be filed with the schedules in the office of the Interstate Commerce Commission, and that copies hereof be served upon the carriers parties to the said schedules and that the said carriers be, and they are hereby, made respondents to this proceeding.

By the Commission, Board of Suspension.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-467; Filed, Jan. 11, 1968; 8:47 a.m.]

[Investigation and Suspension Docket No. 8391]

MINIMUM CARLOAD WEIGHTS GOVERNED BY CUBICAL CAPACITY OF CAR

Investigation and Suspension; Modified Procedure

In the matter of directing modified procedure in this proceeding.

Present: John W. Bush, Commissioner, to whom the matter which is the subject of this order has been assigned for action thereon.

It is ordered, That this proceeding be handled under modified procedure; the filing and service of pleadings to be as follows: (a) Opening statement of facts and argument by respondent(s) and any parties supporting respondent(s) on or before 30 days from the date of this order (shown below); (b) 30 days after that date, statement of facts and argument by protestant(s) and any supporting parties; and (c) reply by respondent(s) and any supporting parties 10 days thereafter.

And it is further ordered, That protestant(s) shall timely advise respondent(s) and this Commission of the identity, including addresses, of the individuals composing the protestant's(s') defense committee, if any, together with an indication of the number of copies of respondent's(s') statement which are desired, and to whom the copies are to be sent.

Because of the necessity for deciding the issues within the 7-month suspension period, it is contemplated that no recommended report and order will be issued.

Dated at Washington, D.C., this 26th day of December A.D. 1967.

By the Commission, Commissioner Bush.

[SEAL] H. NEIL GARSON, *Secretary.*

REPRESENTATIVES OF THE PARTIES

J. W. Hepburn (Protestant), National Can Corp., 5959 South Cicero Avenue, Chicago, Ill. 60638.

John F. Donelan (Attorney for Protestant), National Industrial Traffic League, 711 14th Street, NW., Washington, D.C. 20005.

Curtis L. Wagner, Jr. (Protestant), Chief, Regulatory Law Division, Office of the Judge Advocate General, Department of the Army, Washington, D.C. 20310.

J. D. Sherson (Respondent), Uniform Classification Committee, Room 202, Union Station, 516 West Jackson Boulevard, Chicago, Ill. 60606.

[F.R. Doc. 68-468; Filed, Jan. 11, 1968; 8:48 a.m.]

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