

ing March 31, 1962, in the case of wheat and grain sorghums and within the 60-day period following July 31, 1962, in the case of corn, the total storage payment for the producer shall not exceed 14 cents per bushel for corn and wheat and 24 cents per hundredweight for grain sorghums.

(3) Storage payments provided under subparagraphs (1) and (2) of this paragraph shall be advanced to producers beginning on the day following the last day of the 1961-62 storage period on corn, wheat, and grain sorghums under resale loan as of the last date of the 1962 storage period in the following amounts:

Corn and Wheat—14 cents per bushel.
Grain Sorghums—24 cents per hundredweight.

The balance of the storage payment due a producer shall be paid at the time of settlement in accordance with the applicable provisions of subparagraphs (1) and (2) of this paragraph. If a producer receives payment of any amount to which he is not entitled under the provisions of subparagraph (4) of this paragraph, he shall refund such amount plus interest thereon promptly upon demand by CCC.

(4) *No storage payments.* Notwithstanding the provision of this paragraph, in no case will any storage payment be made where the producer has made any false representation in the loan documents, in obtaining the loan, or in settlement of the loan, where the commodity has been abandoned, where there has been conversion on the part of the producer, or where the commodity was damaged or otherwise impaired due to negligence on the part of the producer.

(b) *Track-loading payments.* A track-loading payment of 3 cents per bushel will be made to the producer on barley, corn, oats, rye and wheat, and 6 cents per 100 pounds on grain sorghums delivered to CCC in accordance with instructions of the county committee on track at a country point.

§ 421.5561 Maturity and satisfaction.

(a) Loans will mature on demand but not later than April 30, 1962, for barley, oats and rye (March 10, 1962, in Arizona and California for barley); March 31, 1963, for grain sorghums and wheat; and July 31, 1963, for corn. The producer must pay off his loan, plus interest on or before maturity or deliver the mortgaged commodity in accordance with the instructions of the county office. Producers may elect to make delivery of corn, grain sorghums and wheat within the 60-day period following March 31, 1962, for grain sorghums and wheat and July 31, 1962, for corn, provided the producer has notified the county office in writing prior to the applicable date for the commodity of his intentions to make delivery. The producer may, however, pay off his loan and redeem his commodity at any time prior to the delivery of the commodity to CCC or removal of the commodity by CCC. Credit will be given at the applicable settlement value according to grade and quality for the total quantity eligible for

delivery. Delivery of the commodity will be accepted only from the structure(s) in which the commodity under resale is stored, and the producer shall not include in the quantity of the commodity delivered in settlement of a loan any commodity which has been added to or substituted for the commodity described in the note and chattel mortgage covering the loan. The provisions of § 421.5019 (a), (b), and (f) shall be applicable to all commodities. The provisions for barley in § 421.5086 (a) (1), (b) (2), (3), and (4) and (e) and (g); for corn in § 421.5146 (a) (1), (d), and (f); for grain sorghums in § 421.5236 (a) (1), (b) (2), (3), and (4), and (e) and (g); for oats in § 421.5286 (a) (1), (d), and (f); for rye in § 421.5386 (a) (1), (b) (2), (3), (4), and (e) and (g); and for wheat in § 421.5046 (a) (1), (b) (2), (3), (4), (5), and (e) and (g) shall apply.

(b) The making of any fraudulent representation by the producer, in connection with settlement or deliveries under the loan shall render the producer personally liable, aside from any additional liability under criminal and civil frauds statutes, for the amount of the loan, for any additional amounts paid to the producer on the commodity, and for all costs which the Corporation would not have incurred had it not been for the producer's fraudulent representation, together with interest at the rate of 6 percent per annum on such amounts from the date of disbursement. For the purpose of establishing any deficiency remaining due in the event the producer has made any such fraudulent representation, the value of the commodity delivered to the Corporation under the loan or removed by the Corporation, shall be the market value, as determined by the Corporation, on the date of delivery or removal, or the sales price if the commodity is sold by CCC in order to determine its market value.

§ 421.5562 Support rates, premiums and discounts.

(a) The support rate for an extended farm-storage loan shall remain the same as for the original loan. For a purchase agreement transferred to a resale loan, the support rate shall be the support rate contained in the following sections: For barley in § 421.5087(b); for corn in § 421.5147(a) (1) and (2); for grain sorghums in § 421.5237(b); for oats in § 421.5287(a) (1) and (2); for rye in § 421.5387(b); and for wheat in § 421.5047(b).

(b) The applicable discounts or premiums established for variation in quality as shown for barley in § 421.5083(c) (2) and § 421.5087(c) for corn in § 421.5143(b) and § 421.5147(b) (1) and (3); for grain sorghums in § 421.5233(c) (2) and § 421.5237(c); for oats in § 421.5283 and § 421.5287(b) (1) and (3); for rye in § 421.5383(c) and § 421.5387(c); and for wheat in § 421.5043(c) and § 421.5047(c) shall apply to (a) computation of the amount of a loan on a commodity transferred to a resale loan from a purchase agreement and (b) the determination of the settlement value of loans on such commodities.

§ 421.5563 Death, incompetency, or disappearance.

In case of the death, incompetency or disappearance of any producer who is entitled to the payment of any sum under the loan, the payment of such sum shall be made to the person or persons who would be entitled to such producer's payment under the regulations contained in §§ 472.1051 to 472.1054 of this chapter (Payment Program for Shorn Wool and Unshorn Lambs, 24 F.R. 649, January 30, 1959, as amended), upon proper application to the office of the county committee which made the loan. Application forms may be obtained from the office of the county committee.

Issued this 28th day of April 1961.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

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[1961 Honey Bulletin]

PART 434—HONEY

Subpart—1961 Honey Price Support Program

This bulletin (hereinafter called subpart) contains the regulations applicable to the 1961 Honey Price Support Program whereby the Secretary of Agriculture makes price support for extracted honey available through the Commodity Credit Corporation and the Commodity Stabilization Service (referred to in this subpart as CCC and CSS respectively).

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AUTHORITY: §§ 434.1201 to 434.1226 issued under sec. 4, 62 Stat. 1070 as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072 secs. 201, 401, 63 Stat. 1052, 1054; 15 U.S.C. 714c, 7 U.S.C. 1446, 1421.

This subpart will be administered by the Sugar Division, CSS, under the general direction and supervision of the Executive Vice President, CCC. In the field the program will be carried out by State and County Agricultural Stabili-

zation and Conservation Committees (hereinafter called State and county committees) and by CSS commodity offices. Producers interested in participating in the program should contact their county office through which the price support documents will be distributed. A producer with whom the county office has experienced difficulties in settling a loan shall be ineligible for a honey loan, but he shall be eligible to enter into a purchase agreement. Approval of documents shall be by the county office manager, or other employee designated by him to act in his behalf. Such designations shall be on file in the county office. Copies of all honey price support documents shall be retained in the county office. County office managers, State and county committees, and CSS commodity offices do not have authority to modify or waive any of the provisions of this subpart or any amendments or supplements hereto.

§ 434.1202 Availability of price support.

(a) *Method of support.* Price support will be available through loans and purchase agreements.

(b) *Area.* Loans and purchase agreements will be available wherever eligible honey is produced in the continental United States.

(c) *Where to apply.* Application for price support should be made at the county office serving the county in which the honey is stored.

(d) *When to apply.* Loans and purchase agreements will be available from April 1, 1961, through December 31, 1961. Applicable documents must be signed by the producer and delivered to the county office not later than December 31, 1961.

(e) *Eligible producer.* (1) An eligible producer shall be any individual or other legal entity, including a partnership, association, or corporation, who, in 1961, extracts honey produced by bees owned by him. Executors, administrators, trustees, or receivers, who represent an eligible producer or his estate may qualify for price support provided the loan or purchase agreement documents executed by them are legally valid.

(2) A bona fide producer-owned and producer-controlled cooperative marketing association of honey producers operating in good faith as a cooperative marketing association of producers which satisfies the following conditions shall be deemed an eligible producer and shall be eligible for loans and purchase agreements on all eligible honey received from eligible producer-members:

(i) The major portion of the honey handled by the association is delivered to the association by producer-members;

(ii) The producer-members are bound by contract to deliver their eligible honey to the association free from all liens and encumbrances;

(iii) The producer-members must share proportionately in the proceeds from marketings of eligible honey according to the grade and quantity of such honey each delivers to the association.

(iv) The association must have authority to obtain a loan on the security of the eligible honey and to give a lien

thereon as well as authority to sell such honey.

(3) All determinations with respect to the eligibility of cooperative marketing associations of producers shall be made by or under the direction of the State committee.

§ 434.1203 Eligible honey.

Any honey except that described in § 434.1204 which meets the following requirements at the time it is placed under loan or tendered for purchase under a purchase agreement, is eligible for price support.

(a) The honey shall be of the 1961 crop produced and extracted in the continental United States by an eligible producer.

(b) The honey shall be packed in metal containers of a capacity of not less than 5 gallons nor greater than 70 gallons and of a style used in normal commercial practice in the honey industry. The 5-gallon containers shall contain 60 pounds of honey and larger containers shall be filled to their rated capacities.

(1) The 5-gallon containers shall be new, clean, sound, uncased and free from appreciable dents and rust. The handle of each container shall be firm and strong enough to permit carrying the filled can. The cap liner and the threads on both the cap and the can opening shall not be damaged in any way that will prevent a tight seal. Cans which are punctured or have been punctured and resealed by soldering will not be acceptable.

(2) Steel drums shall be new, or used drums which have been reconditioned inside and outside. They shall be clean, treated to prevent rusting, and fitted with gaskets which provide a tight seal.

(c) The beneficial interest in the honey shall be in the producer tendering it for a loan or for delivery under a purchase agreement and must always have been in him, or must have been in him and in a former producer whom he succeeded as owner of the bees before the honey was extracted. In the case of a cooperative marketing association these requirements as to beneficial interest shall apply to each producer-member whose honey is placed under loan or tendered for purchase under a purchase agreement by the association.

(d) The honey shall be equal to or better than Grade C of the United States Standards for Grades of Extracted Honey, effective April 16, 1951: *Provided, however,* That in areas in which the State committee determines that existing conditions make fermentation of high moisture honey probable during the period of storage, the maximum moisture content allowable may be reduced by such committee from 20 percent to 18.6 percent for any or all floral sources.

(e) The honey offered for a farm-storage loan shall have been stored in containers specified in paragraph (b) of this section for at least 15 days prior to the drawing of samples by the loan inspector. The containers shall be stacked upright in a manner which will prevent damage to them and be so arranged and marked as to be readily accessible and

identifiable for inspection and sampling purposes.

§ 434.1204 Ineligible honey.

Andromeda, Athel, Bitterweed, Broomweed, Cajeput, Carrot, Chinquapin, Dog Fennel, Desert Hollyhock, Gumweed, Mescal, Onion, Prickly Pear, Prune, Queen's Delight, Rabbit Brush, Snowbrush (Ceanothus), Snow-on-the Mountain, Tarweed, and similar objectionably flavored honeys or blends of honey as determined by the Director, Sugar Division, CSS, shall not be eligible for price support, regardless of whether they meet other eligibility requirements.

§ 434.1205 Approved storage.

Loans shall be made only on honey in approved storage. Purchase agreements may be made without regard to whether the honey is in approved storage.

(a) *Farm-storage.* Farm-storage shall consist of storage structures located on or off the farm (excluding public warehouses) which are determined by the county office to be so located and so substantially and permanently constructed as to afford safe storage for honey. Structures shall be clean, dry, weather proof, and lockable. Structures used to house honey other than that covered by a single price support loan shall be partitioned to preserve the identity of the honey covered by each price support loan, and to segregate the collateral honey from any other honey in the storage structure. Collateral honey shall be so marked as to be readily identifiable as such.

(b) *Cooperative storage.* Approved storage for cooperative marketing associations shall meet the requirements stated in paragraph (a) of this section. If the storage structure is used to house honey other than that which secures a single price support loan, the structure shall be partitioned to preserve the identity of the honey covered by each price support loan, and to segregate the collateral honey from any other honey in the storage structure: *Provided,* That preservation of the identity of each individual producer's honey in the lot which secures the price support loan will not be required. However, collateral honey shall be so marked as to be readily identifiable as such.

§ 434.1206 Disbursement of loans.

Disbursement of loans will be made by financial institutions which are subject to separate regulations published in the FEDERAL REGISTER or by means of sight drafts drawn on CCC by county offices. No disbursement shall be made after January 15, 1962, unless recommended by the State committee and approved by the Executive Vice President, CCC. Payment in cash, credit to the producer's account, or the issuance of a check or draft, shall constitute disbursement. The producer shall not present the loan documents for disbursement of funds unless the honey is in existence, is in good condition, and is in approved storage. The disbursement received by the producer shall be promptly refunded by him if the honey was not in existence in good condition and in approved storage at the time of disbursement.

§ 434.1207 Financial institutions.

As used in this subpart, a financial institution is a commercial bank which accepts demand deposits, or an association organized pursuant to State laws and supervised by State banking authorities, or a Production Credit Association.

§ 434.1208 Applicable forms and other requirements.

The approved forms consist of the loan and purchase agreement forms and such other forms and documents as are specified in this subpart and which, together with the provisions of this subpart, govern the rights and responsibilities of the producer. The note and supplemental loan agreements, chattel mortgages, and purchase agreements, must be dated, signed by the producer, and delivered to the county office on or before the final date of availability of loans or purchase agreements.

(a) **Loans.** Applicable forms shall consist of Producer's Note and Supplemental Loan Agreement, secured by Commodity Chattel Mortgage, Commodity Delivery Notice, Loan Settlement, and such other forms and documents as may be required by CCC.

(b) **Purchase agreements.** Applicable forms shall consist of the Purchase Agreement and Purchase Agreement Settlement signed by the producer and approved by the county office manager, the Commodity Delivery Notice issued by the county office, and such other forms and documents as may be required by CCC.

(c) **Other requirements.** The producer's Note and Supplemental Loan Agreements and Commodity Chattel Mortgages must have State and documentary revenue stamps affixed thereto when required by law. Loan and purchase agreement documents executed by an administrator, executor, or trustee, will be acceptable only where legally valid.

§ 434.1209 Liens.

If there are any liens or encumbrances on honey tendered for a loan or for delivery under purchase agreement, waivers that will fully protect the interests of CCC as determined by the county committee must be obtained.

§ 434.1210 Service charges.

Producers shall pay the following service charges on the quantity of honey placed under a loan or specified in a purchase agreement. Loan service charges shall be collected at the time of disbursement except for any prepayment made pursuant to paragraph (b) of this section. An additional service charge shall be paid on any additional quantity delivered to and accepted by CCC under a loan. Service charges on a purchase agreement shall be collected at the time the purchase agreement form is completed.

(a) Service charges shall be computed at the rates shown in the following table:

Method of price support	Rate (per 100 pounds net)	Minimum charge
	Cents	
Farm-storage loan.....	5	\$3.00
Purchase agreement.....	2½	1.50

(b) State committees are authorized to require prepayment of \$3.00 of the service charge on a loan at the time of application.

(c) No refund of authorized service charges will be made.

§ 434.1211 Set-offs.

(a) If any installment or installments on any loan made available by CCC on farm-storage facilities or mobile drying equipment are payable, under the provisions of the note evidencing such loan, out of any amount due the producer under the program provided for in this subpart, the producer must designate CCC or the lending agency holding such note as payee of such amount to the extent of such installments, but not to exceed that portion of the amount remaining after deduction of service charges and amounts due prior lienholders.

(b) If the producer is indebted to CCC, or if the producer is indebted to any other agency of the United States, and such indebtedness is listed on the county debt record, amounts due the producer under the program provided for in this subpart, after deduction of amounts payable on farm-storage facilities or mobile drying equipment and other amounts provided in paragraph (a) of this section, shall be applied, as provided in the Secretary's setoff regulations, 7 CFR Part 13 (23 F.R. 3757), to such indebtedness.

(c) Compliance with the provisions of this section shall not deprive the producer of any right he might otherwise have to contest the justness of the indebtedness involved in the setoff action either by administrative appeal or by legal action.

§ 434.1212 Determination of quantity.

(a) The quantity of honey for loan purposes shall be computed on the basis of 11 pounds for each gallon of rated capacity of the containers.

(b) At the time of acquisition by CCC of honey under loan or purchase agreement the quantity shall be determined by or under the direction of the State committee. The quantity determination of honey acquired in 5-gallon cans shall be the number of cans times the average net weight of honey per can rounded to the nearest whole pound or 60 pounds per can whichever is lower. The quantity determination of honey acquired in larger containers shall be the actual net weight of the honey.

§ 434.1213 Determination of grade and color.

(a) When application for a loan is made the county office shall draw samples of the honey and transmit them prepaid to the Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, AMS, for grade and color determination. The quantity of honey drawn for samples shall be furnished by the producer at no cost to CCC. At the time the samples are drawn the county office shall collect the inspection fee for the account of the Processed Products Standardization and Inspection Branch.

(b) When honey is delivered to CCC the samples for grade and color determination shall be drawn by representatives of the Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, AMS, and CCC will pay the fees for sampling and inspection. The weight of the honey delivered to CCC, determined in accordance with § 434.1212 shall include the quantity of honey drawn for samples.

(c) Table honey shall, insofar as is practicable, be segregated into lots by color to conform with the color categories stated in § 434.1225. If a lot of honey is not segregated so that it can be certified as one color in accordance with the U.S. Standards for Grades of Extracted Honey, effective April 16, 1951, the loan, settlement for the loan, or purchase under purchase agreement, shall be made on the basis of the darkest color shown on the inspection certificate: *Provided*, That if the inspection certificate at time of delivery to CCC shows that the lot of honey contains more than two colors and if the number of samples of the darkest color shown on such certificate is not more than one-sixth of the total number of samples, the color for the purpose of settlement shall be the next lighter color shown in § 434.1225.

(d) Table honey shall, insofar as is practicable, be segregated from nontable honey. The loan, settlement for the loan, or purchase under purchase agreement, shall be made on the basis of nontable honey if the honey is not segregated so that it can be classified as table honey in accordance with § 434.1225.

(e) In the case of blends of table and nontable honeys, the loan, settlement for the loan, or purchase under purchase agreement, shall be made on the basis of nontable honey. If any blends of honey contain ineligible honey the lot as a whole shall be considered ineligible for a loan, or for delivery under a purchase agreement.

§ 434.1214 Maturity of loans.

Unless demand is made earlier, loans shall mature on April 30, 1962, in all States.

§ 434.1215 Interest rate.

Loans shall bear interest at the rate of 3½ per centum per annum from the date of disbursement of the loan: *Provided*, That if the producer has made a fraudulent representation in the loan documents or in obtaining the loan, the principal amount of the loan and any costs incurred by CCC shall bear interest from the date of disbursement at the rate of 6 per centum per annum.

§ 434.1216 Transfer of producer's interest.

(a) **Loans.** The producer shall not transfer either his remaining interest in nor his right to redeem honey pledged as security for a loan, nor shall anyone acquire such interest or right. A producer who wishes to liquidate all or part of his loan by contracting for the sale of the honey, must obtain written prior approval of the county office on Commodity Loan Form 12 to remove the honey from storage when the proceeds of the sale are needed to repay all or any

part of the loan. Any such approval shall be subject to the terms and conditions set out in Commodity Loan Form 12, copies of which may be obtained by producers or prospective purchasers at the county office.

(b) *Purchase agreements.* The producer may not assign his interest in a purchase agreement.

§ 434.1217 Safeguarding the honey.

The producer obtaining a loan is obligated to maintain the storage structure in good repair and to keep the mortgaged honey in storage and in good condition until the loan is liquidated.

§ 434.1218 Insurance.

CCC will not require the producer to insure the honey placed under loan; however, if the producer insures such honey and indemnity is paid thereon, such indemnity shall inure to the benefit of CCC to the extent of its interest, after first satisfying the producer's equity in the honey involved in the loss.

§ 434.1219 Loss or damage to honey.

If the honey is going out of condition or is in danger of going out of condition the producer shall notify the county office. The producer is responsible for any loss in quantity, quality, or change in color of the honey placed under loan. Notwithstanding the foregoing, physical loss or damage to honey occurring after disbursement of the loan will be assumed by CCC to the extent of the settlement value at the time of destruction of the quantity destroyed, or in an amount equivalent to the extent of the damage, as determined by CCC, less any insurance proceeds to which CCC may be entitled and the salvage value: *Provided*, The producer establishes to the satisfaction of CCC each of the following conditions: (a) The physical loss or damage occurred without fault, negligence, or conversion on the part of the producer; (b) the physical loss or damage resulted solely from an external cause other than insect infestation, vermin, or animals; (c) the producer gave the county office immediate notice confirmed in writing of such loss or damage; and (d) the producer made no fraudulent representation in the loan documents or in obtaining the loan. No physical loss or damage which occurred prior to disbursement to the producer will be assumed by CCC. Where disbursement was by sight draft or check, the date of the draft or check shall constitute the date of disbursement.

§ 434.1220 Personal liability of the producer for the honey.

The making of any fraudulent representation by the producer in the loan documents or in obtaining the loan, or the conversion or unlawful disposition of any portion of the honey by him, may render him subject to criminal prosecution under Federal law and shall render him personally liable for the amount due on the loan and for any resulting expense incurred by CCC.

§ 434.1221 Release of the honey under loan.

The producer may at any time obtain release of the honey under loan by pay-

ing to CCC the principal amount of the note, plus applicable charges and accrued interest. The county office shall arrange for the release of the chattel mortgage upon payment of the note. Partial release of the honey prior to the loan maturity date may be arranged with the county office after making payment for the quantity of the honey to be released, plus applicable charges and accrued interest. If the structure is used to house honey other than that which is collateral for a loan, all or part of such noncollateral honey may be removed without payment on the loan upon application to the county office.

§ 434.1222 Liquidation of loans and delivery under purchase agreements.

(a) *Loans.* The producer is obligated to pay off his loan on or before maturity or to deliver the honey in accordance with the instructions of the county office. The producer shall, prior to loan maturity date, give the county office written notice of his intention to deliver the honey. However, the county committee may permit the producer to pay off all or part of his loan and redeem the proportionate quantity of his honey at any time prior to delivery to CCC or removal by CCC. Only the quantity in the containers included in the lot placed under loan may be delivered. Delivery points for honey under loan shall be limited to those recommended by the State Committee and approved by the Director, Sugar Division, CSS. If the farm is sold or there is a change of tenancy before the loan maturity date the honey under loan may be delivered upon approval by the county office, or it may be delivered before the loan maturity date for other reasons if approved by the Executive Vice President, CCC. Settlement will be made at the applicable support rate in effect at the approved point of delivery, subject to the provisions of the Producer's Note and Supplemental Loan Agreement and this subpart, based upon the quantity, floral source, color, and grade at the time of delivery as determined in accordance with §§ 434.1212(b) and 434.1213 (b), (c), (d), and (e). If honey is delivered to CCC prior to the loan maturity date upon request of the producer and with the approval of CCC, the loan settlement shall be reduced at the rate of one-twentieth of a cent per pound per month or fraction thereof, from the date delivery is accomplished, or from the final date for delivery shown in the delivery instructions issued by the county office, whichever is earlier, to and including the loan maturity date. The settlement value for honey acquired by CCC which does not meet requirements with respect to grade, shall be determined at the support rate for the honey placed under loan less the estimated cost, as determined by CCC, for conditioning such honey to conform to the grade of honey described in the loan documents. The settlement value for honey acquired by CCC which does not meet requirements because of floral source, or which cannot be conditioned to meet grade requirements, shall be the actual market value, if any, of such honey as deter-

mined by CCC. The producer shall pay CCC for any deficiency in quantity, floral source, grade or color. Any payment due the producer may be made by sight draft drawn on CCC by the county office.

(b) *Handling small amounts on settlement.* To avoid administrative costs of making small payments and handling small accounts, amounts due the producer of \$3.00 or less will be paid only upon his request. Deficiencies of \$3.00 or less, including interest, may be disregarded unless demand for payment is made by CCC.

(c) *Purchase agreements.* The producer, who signs a purchase agreement shall not be obligated to sell any quantity of the honey to CCC. However, the quantity stated in the purchase agreement shall be the maximum quantity he may sell to CCC. If the producer who signs a purchase agreement wishes to sell the honey to CCC, he shall have a 30-day period prior to the loan maturity date during which he must notify the county office of his intention to sell. Deliveries shall not be accepted before the loan maturity date, or such earlier date as may be prescribed by the Executive Vice President, CCC. The producer may be required to retain the honey for a period of 60 days after the loan maturity date without any cost to CCC. Delivery under purchase agreements shall be made in accordance with instructions issued by the county office. Delivery points for purchase agreements shall be limited to those recommended by the State committee and approved by the Director, Sugar Division, CSS. Honey delivered under a purchase agreement must meet the requirements for eligible honey as set forth in §§ 434.1203 and 434.1213 (e). Payment for eligible honey delivered to CCC under purchase agreements shall be at the applicable support rate in effect at the approved delivery point, on the basis of the quantity, floral source, color, and grade at the time of delivery as determined in accordance with §§ 434.1212(b), and 434.1213 (b), (c), (d), and (e). Such payment will be made to the producer by sight draft drawn on CCC by the county office.

§ 434.1223 Foreclosure.

If the loan (i.e., the amount of the note, interest, and charges) is not satisfied upon maturity by payment or by delivery of the honey, the holder of the note is authorized to remove the honey from storage; and also to sell, assign, transfer, and deliver the honey or documents evidencing title thereto at such time, in such manner, and upon such terms as the holder of the note may determine, at public or private sale, and the holder of the note may become the purchaser of the whole or any part of the honey. Any such disposition may similarly be effected without removing the honey from storage. If, upon maturity and nonpayment of the producer's note, CCC is the holder of the note, then at CCC's election title to the unredeemed honey securing the note shall, without a sale thereof, immediately vest in CCC. Whenever CCC acquires title to the unredeemed honey,

CCC shall have no obligation to pay for any market value which such honey may have in excess of the loan indebtedness, i.e., the unpaid amount of the note plus interest and charges. Nothing herein shall preclude the making of the following payments to the producer or his personal representative only, without right of assignment to or substitution of any other party: (a) Any amount by which the settlement value of the collateral honey may exceed the principal amount of the loan, or (b) the amount by which the proceeds of the sale may exceed the loan indebtedness if the collateral honey is sold to third parties rather than CCC acquiring full title to such collateral honey. If honey removed by CCC from storage is sold at less than the amount due on the loan (excluding interest), and if the quantity, floral source, grade, or color of the honey as removed is lower than that on which the loan was computed, the producer shall pay to CCC the difference between the amount due on the loan and the higher of the sales proceeds or the settlement value of the honey removed by CCC, plus interest.

§ 434.1224 Charges not to be assumed by CCC.

CCC will not pay or assume any insurance charges, storage charges, inspection charges to determine eligibility for a loan, or any handling or processing charges necessary to make the honey meet the grade requirements.

§ 434.1225 Support rates.

Loans will be made, and honey delivered under purchase agreements shall be purchased, at the support rates set forth below:

For States of Montana, Wyoming, Colorado, New Mexico, and States west thereof:

	Rate (cents per pound)
1. White and lighter table honey-----	12.0
2. Extra light amber table honey-----	11.0
3. Light amber table honey-----	9.5
4. Other table honey and nontable honey-----	7.5

For all States east of Montana, Wyoming, Colorado, and New Mexico:

	Rate (cents per pound)
1. White and lighter table honey-----	12.9
2. Extra light amber table honey-----	11.9
3. Light amber table honey-----	10.4
4. Other table honey and nontable honey-----	8.4

(a) "Table honey" means honey having the predominant flavor of a floral source which can be readily marketed for table use in all parts of the country. Such sources include Alfalfa, Bird's-foot trefoil, Blackberry, Brazil Brush, Catclaw, Clover, Cotton, Fireweed, Gallberry, Huajillo, Lima Bean, Mesquite, Orange, Raspberry, Sage, Saw Palmetto, Sourwood, Star Thistle, Sweetclover, Tupelo, Vetch, Western Wild Buckwheat, Wild Alfalfa, and similar mild-flavored honeys, or blends of mild-flavored honeys, as determined by the Director, Sugar Division, CSS.

(b) "Nontable honey" means honey having a predominant flavor of limited

national acceptability for table use but considered to be suitable for table use in areas in which it is produced. Such honeys include those with a predominant flavor of Astez, Avocado, Buckwheat (except Western Wild Buckwheat), Cabbage Palmetto, Dandelion, Eucalyptus, Goldenrod, Heartsease (Smartweed), Horsemint, Mangrove, Manzanita, Mint, Partridge Pea, Rattan Vine, Safflower, Salt Cedar (Tamarix Gallica), Spanish Needle, Spikeweed, Ti-ti, Toyon (Christmas Berry), Tulip-Poplar, Wild Cherry, and similarly-flavored honeys, or blends of such honeys, as determined by the Director, Sugar Division, CSS.

§ 434.1226 CSS commodity offices.

The CSS commodity offices and the areas served by them are:

Evanston, Illinois, 2201 Howard Street: Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia.

Dallas 1, Texas, 500 South Ervay Street: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas.

Kansas City 41, Missouri, 560 Westport Road: Colorado, Kansas, Missouri, Nebraska, Wyoming.

Minneapolis 10, Minnesota, 6400 France Avenue, South: Minnesota, Montana, North Dakota, South Dakota, Wisconsin.

Portland 5, Oregon, 1218 Southwest Washington Street: Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, Alaska.

Effective date: April 28, 1961.

Signed at Washington, D.C., on April 28, 1961.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 61-4082; Filed, May 3, 1961;
8:48 a.m.]

Title 29—LABOR

Chapter I—National Labor Relations Board

PART 101—STATEMENTS OF PROCEDURE, SERIES 8

PART 102—RULES AND REGULATIONS, SERIES 8

Miscellaneous Amendments

Pursuant to section 3(b) of the National Labor Relations Act, as amended, and subject to such instructions and Rules and Regulations as may be issued by the Board from time to time, the Board delegates to its Regional Directors "its powers under section 9 to determine the unit appropriate for the purpose of collective bargaining, to investigate and provide for hearings, and determine whether a question of representation exists, and to direct an election or take a secret ballot under subsection (c) or (e) of section 9 and certify the results thereof." Such delegation shall be effective with respect to any petition filed under subsection (c) or (e) of section 9 of the Act on May 15, 1961.

Pursuant to section 3(b) the National Labor Relations Board finds that

it is in the public interest and will better effectuate the purposes of the Act to issue the following rules as soon as possible, and further finds that compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 1003) as to notice of proposed rule making and delayed effective date is unnecessary in this instance. Accordingly, the following rules and regulations and statements of procedure will become effective with respect to any petition filed under subsection (c) or (e) of section 9 of the National Labor Relations Act, as amended, on May 15, 1961.

By virtue of the authority vested in it by the National Labor Relations Act, approved July 5, 1935,¹ the National Labor Relations Board hereby issues the following amendments to its statements of procedure and to its rules and regulations, Series 8, which it finds necessary to carry out the provisions of said Act.

National Labor Relations Board statements of procedure and rules and regulations, Series 8, as hereby amended, shall be in force and effect until further amended or rescinded by the Board.

Dated, Washington, D.C., April 28, 1961.

By direction of the Board.

[SEAL] OGDEN W. FIELDS,
Executive Secretary.

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

Sections 101.20 and 101.21 are amended to read as follows:

§ 101.20 Formal hearing.

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

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

(c) The hearing, usually open to the public, is held before a hearing officer who normally is an attorney or field examiner attached to the regional office but may be another qualified official. The hearing, which is nonadversary in character, is part of the investigation in which the primary interest of the Board's agents is to insure that the record contains as full a statement of the pertinent facts as may be necessary for determination of the case. The parties

¹ 49 Stat. 449; 29 U.S.C. 151-166, as amended by act of June 23, 1947 (61 Stat. 136; 29 U.S.C. Sup. 151-167), act of October 22, 1951 (65 Stat. 601; 29 U.S.C. 158, 159, 168), and act of September 14, 1959 (Pub. Law No. 86-257).

are afforded full opportunity to present their respective positions and to produce the significant facts in support of their contentions. In most cases a substantial number of the relevant facts are undisputed and stipulated. The parties are permitted to argue orally on the record before the hearing officer.

§ 101.21 Procedure after hearing.

(a) Pursuant to section 3(b) of the act, the Board has delegated to its regional directors its powers under section 9 of the act, to determine the unit appropriate for the purpose of collective bargaining, to investigate and provide for hearings, and determine whether a question of representation exists, and to direct an election or take a secret ballot under subsection (c) or (e) of section 9 and certify the results thereof. These powers include the issuance of such decisions, orders, rulings, directions, and certifications as are necessary to process any representation or deauthorization petition. Thus, by way of illustration and not of limitation, the regional director may dispose of petitions by administrative dismissal or by decision after formal hearing; pass upon rulings made at hearings and requests for extensions of time for filing of briefs; rule on objections to elections and challenged ballots in connection with elections directed by the regional director or the Board, after administrative investigation or formal hearing; rule on motions to amend or rescind any certification issued after the effective date of the delegation; and entertain motions for oral argument. The regional director may at any time transfer the case to the Board for decision, but until such action is taken, it will be presumed that the regional director will decide the case. In the event the regional director decides the issues in a case, his decision is final subject to the review procedure set forth in the Board's rules and regulations.

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

(c) With respect to objections to the conduct of the election and challenged

ballots, the regional director may, in his discretion, (1) issue a report on such objections and/or challenged ballots and transmit the issues to the Board for resolution, as in cases involving consent elections to be followed by Board certifications, or (2) decide the issues on the basis of the administrative investigation or after a hearing, with the right to transfer the case to the Board for decision at any time prior to his disposition of the issues on the merits. In the event the regional director adopts the first procedure, the parties have the same rights, and the same procedure is followed, as has already been described in connection with the post election procedures in cases involving consent election to be followed by Board certification. In the event the regional director adopts the second procedure, the parties have the same rights, and the same procedure is followed, as has already been described in connection with hearings before elections.

(d) The parties have the right to request review of any final decision of the regional director, within the times set forth in the Board's rules and regulations, on one or more of the grounds specified therein. Any such request for review must be a self-contained document permitting the Board to rule on the basis of its contents without the necessity of recourse to the record, and must meet the other requirements of the Board's rules and regulations as to its contents. The regional director's action is not stayed by the filing of such a request or the granting of review, unless otherwise ordered by the Board. Thus, the regional director may proceed immediately to make any necessary arrangements for an election, including the issuance of a notice of election. However, unless a waiver is filed, he will normally not schedule an election until a date between the 20th and 30th days after the date of his decision, to permit the Board to rule on any request for review which may be filed. As to administrative dismissals prior to the close of hearing, see § 101.18(c).

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

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

§ 101.23 [Amendment]

In § 101.23 *Initiation and investigation of a petition in connection with a case under section 8(b)(7)*, paragraph (c) is amended to read as follows:

(c) If the regional director believes, after preliminary investigation of the petition, that there are substantial issues which require determination before an election may be held, he may order a hearing on the issues. This hearing is followed by regional director or Board decision and direction of election, or other disposition. The procedures to be used in connection with such hearing and posthearing proceedings are the

same, insofar as they are applicable, as those described in §§ 101.20 and 101.21, except that the parties may not file briefs with the regional director or the Board, unless special permission therefor is granted, but may state their respective legal positions fully on the record at the hearing, and except that any request for review must be filed promptly after issuance of the regional director's decision.

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

§ 101.28 [Amendment]

In § 101.28 *Consent agreements providing for election*, the second paragraph is amended to read as follows: "The procedures to be used in connection with a consent-election agreement providing for regional director's determination and a consent-election agreement providing for Board certification are the same as those already described in subpart C of the Statements of Procedure in connection with similar agreements in representation cases under section 9(c) of the act, except that no provision is made for runoff elections."

Section 101.30 is amended to read as follows:

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

(a) The procedures are the same as those described in Subpart C of the Statements of Procedure respecting representation cases arising under section 9(c) of the act. If the preliminary investigation indicates that there are substantial issues which require determination before an appropriate election may be held, the regional director will institute formal proceedings by issuance of a notice of hearing on the issues which, after hearing, is followed by regional director or Board decision and direction of election or dismissal. The notice of hearing together with a copy of the petition is served upon petitioner, the employer, and upon any other known persons or labor organizations claiming to have been designated by employees involved in the proceeding.

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

(c) Upon the close of the hearing, the entire record in the case is then forwarded to the regional director or the Board, together with an informal analy-

sis by the hearing officer of the issues and the evidence but without recommendations. All parties may file briefs with the regional director or the Board within 7 days after the close of the hearing. If the case is transferred to the Board after the close of the hearing, briefs may be filed with the Board within the time prescribed by the regional director. The parties may also request to be heard orally. Because of the nature of the proceeding, however, permission to argue orally is rarely granted. After review of the entire case, the regional director or the Board issues a decision either dismissing the petition or directing that an election be held. In the latter event, the election is conducted under the supervision of the regional director in the manner already described in § 101.19.

(d) The parties have the same rights, and the same procedure is followed, with respect to objections to the conduct of the election and challenged ballots as has already been described in connection with the postelection procedures in representations cases under section 9(c) of the act.

Subpart C of Part 102 is amended to read as follows:

Subpart C—Procedure Under Section 9(c) of the Act for the Determination of Questions Concerning Representation of Employees³

- Sec.
- 102.60 Petition for certification or decertification; who may file; where to file; withdrawal.
 - 102.61 Contents of petition for certification; contents of petition for decertification.
 - 102.62 Consent-election agreements.
 - 102.63 Investigation of petition by regional director; notice of hearing; service of notice; withdrawal of notice.
 - 102.64 Conduct of hearing.
 - 102.65 Motions; interventions.
 - 102.66 Introduction of evidence; rights of parties at hearing; subpoenas.
 - 102.67 Proceedings before the regional director; further hearing; briefs; action by the regional director; appeals from action by the regional director; statement in opposition to appeal; transfer of case to Board; proceedings before the Board; Board action.
 - 102.68 Record; what constitutes; transmission to Board.
 - 102.69 Election procedure; tally of ballots; objections; certification by regional director; report on challenged ballots; report on objections; exceptions; action of the Board; hearing.
 - 102.70 Runoff election.
 - 102.71 Refusal to issue notice of hearing; appeals to Board from action of the regional director.
 - 102.72 Filing petition with general counsel; investigation upon motion of general counsel; transfer of petition and proceeding from region to general counsel or to another region; consolidation of proceedings in same region; severance; procedure before general counsel in cases over which he has assumed jurisdiction.

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

A petition for investigation of a question concerning representation of employees under paragraphs (1) (A) (i) and (1) (B) of section 9(c) of the act (hereinafter called a petition for certification) may be filed by an employee or group of employees or any individual or labor organization acting in their behalf or by an employer. A petition under paragraph (1) (A) (ii) of section 9(c) of the act, alleging that the individual or labor organization which has been certified or is being currently recognized as the bargaining representative is no longer such representative (hereinafter called a petition for decertification), may be filed by any employee or group of employees or any individual or labor organization acting in their behalf. Petitions under this section shall be in writing and signed,⁴ and either shall be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments or shall contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. Four copies of the petition shall be filed. Except as provided in § 102.72, such petitions shall be filed with the regional director for the region wherein the bargaining unit exists, or, if the bargaining unit exists in two or more regions, with the regional director for any of such regions. Prior to the transfer of the case to the Board, pursuant to § 102.67, the petition may be withdrawn only with the consent of the regional director with whom such petition was filed. After the transfer of the case to the Board, the petition may be withdrawn only with the consent of the Board. Whenever the regional director or the Board, as the case may be, approves the withdrawal of any petition, the case shall be closed.

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

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

- (1) The name of the employer.
- (2) The address of the establishments involved.
- (3) The general nature of the employer's business.
- (4) A description of the bargaining unit which the petitioner claims to be appropriate.
- (5) The names and addresses of any other persons or labor organizations who claim to represent any employees in the alleged appropriate unit, and brief descriptions of the contracts, if any, covering the employees in such unit.
- (6) The number of employees in the alleged appropriate unit.
- (7) A statement that the employer declines to recognize the petitioner as the

representative within the meaning of section 9(a) of the act or that the labor organization is currently recognized but desires certification under the act.

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

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

(10) Any other relevant facts.

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

(1) The name and address of the petitioner.

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

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

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

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

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

(7) Any other relevant facts.

(c) Petitions for decertification shall contain the following:

(1) The name of the employer.

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

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

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

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

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

(7) The number of employees in the unit.

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

(9) Any other relevant facts.

§ 102.62 Consent-election agreements.

(a) Where a petition has been duly filed, the employer and any individuals or labor organizations representing a substantial number of employees involved may, with the approval of the

³ Procedure under the first proviso to section 8(b) (7) (C) of the act is governed by subpart D.

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

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

(b) Where a petition has been duly filed, the employer and any individuals or labor organizations representing a substantial number of the employees involved may, with the approval of the regional director, enter into an agreement providing for a waiver of hearing and a consent election leading to a determination by the Board of the facts ascertained after such consent election, if such a determination is necessary. Such agreement shall also include a description of the appropriate bargaining unit, the time and place of holding the election, and the payroll period to be used in determining which employees within the appropriate unit shall be eligible to vote. Such consent election shall be conducted under the direction and supervision of the regional director. The method of conducting such election and the postelection procedure shall be consistent with that followed by the regional director in conducting elections pursuant to §§ 102.69 and 102.70.

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

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

§ 102.64 Conduct of hearing.

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

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

§ 102.65 Motions; interventions.

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

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

(c) All motions, rulings, and orders shall become a part of the record, except that rulings on motions to revoke subpoenas shall become a part of the record

only upon the request of the party aggrieved, as provided in § 102.66(c). Unless expressly authorized by the rules and regulations, rulings by the regional director or by the hearing officer shall not be appealed directly to the Board, but shall be considered by the Board on appropriate appeal pursuant to § 102.67 (b), (c), and (d) or whenever the case is transferred to it for decision: *Provided, however,* That if the regional director has issued an order transferring the case to the Board for decision, such rulings may be appealed directly to the Board by special permission of the Board. Nor shall rulings by the hearing officer be appealed directly to the regional director, unless expressly authorized by the rules and regulations, except by special permission of the regional director, but shall be considered by the regional director when he reviews the entire record. Requests to the regional director, or to the Board in appropriate cases, for special permission to appeal from such rulings of the hearing officer shall be filed promptly, in writing, and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on each of the other parties and on the regional director.

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

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

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

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

(c) Any party may file applications for subpoenas in writing with the regional director if made prior to hearing, or with the hearing officer if made at the hearing. Applications for subpoenas may be made ex parte. The regional director or the hearing officer, as the case may be, shall forthwith grant the subpoenas requested. Any person served with a subpoena, whether ad testificandum or duces tecum, if he does not intend to comply with the subpoena, shall, within 5 days after the date of service of the subpoena, petition in writing to revoke the subpoena. Such petition shall be filed with the regional director who may either rule upon it or refer it for ruling to the hearing officer: *Provided, however,* That if the evidence called for is to be produced at a hearing and the hearing has opened,

the petition to revoke shall be filed with the hearing officer. Notice of the filing of petitions to revoke shall be promptly given by the regional director or hearing officer, as the case may be, to the party at whose request the subpoena was issued. The regional director or the hearing officer, as the case may be, shall revoke the subpoena if, in his opinion, the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpoena does not describe with sufficient particularity the evidence whose production is required, or if for any other reason sufficient in law the subpoena is otherwise invalid. The regional director or the hearing officer, as the case may be, shall make a simple statement of procedural or other grounds for his ruling. The petition to revoke, any answer filed thereto, and any ruling thereon shall not become part of the record except upon the request of the party aggrieved by the ruling. Persons compelled to submit data or evidence are entitled to retain or, on payment of lawfully prescribed costs, to procure copies or transcripts of the data or evidence submitted by them.

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

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

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

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

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

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

§ 102.67 Proceedings before the regional director; further hearing; briefs; action by the regional director; appeals from action by the regional director; statement in opposition to appeal; transfer of case to Board; proceedings before the Board; Board action.

(a) The regional director may proceed, either forthwith upon the record, or after oral argument or the submission of briefs, or further hearing, as he may deem proper, to determine the unit appropriate for the purpose of collective bargaining, to determine whether a question concerning representation exists, and to direct an election, dismiss the petition, or make other disposition of the

matter. Any party desiring to submit a brief to the regional director shall file the original and one copy thereof, which may be a typed carbon copy, within 7 days after the close of the hearing: *Provided, however*, That prior to the close of the hearing and for good cause, the hearing officer may grant an extension of time not to exceed an additional 14 days. Requests for additional time in which to file a brief under authority of this section not addressed to the hearing officer during the hearing shall be made to the regional director, in writing, and copies thereof shall immediately be served on each of the other parties. Requests for extension of time shall be made not later than 3 days before the date such briefs are due in the regional office. No reply brief may be filed except upon special leave of the regional director.

(b) A decision by the regional director upon the record shall set forth his findings, conclusions, and order or direction. The decision of the regional director shall be final: *Provided, however*, That within 10 days after service thereof any party may file seven copies of a request for review with the Board in Washington, D.C. Such request shall be printed or otherwise legibly duplicated: *Provided, however*, That carbon copies shall not be filed and if submitted will not be accepted. Copies thereof shall be served simultaneously on all other parties to the proceeding and the regional director in the same manner used to file with the Board, except that if personal service is made upon the Board, service upon the other parties shall be made in such manner as would reasonably insure receipt by the other parties within 3 days after the date of service upon the Board. A statement of such service shall be filed simultaneously with the Board. The filing of such a request shall not, unless otherwise ordered by the Board, operate as a stay of any action taken or directed by the regional director: *Provided, however*, That the regional director, in the absence of a waiver, may issue a notice of election but shall not conduct any election or open and count any challenged ballots until the Board has ruled upon any request for review which may be filed.

(c) The Board will grant a request for review only where compelling reasons exist therefor. Accordingly, a request for review may be granted only upon one or more of the following grounds:

(1) That a substantial question of law or policy is raised because of (i) the absence of, or (ii) a departure from, officially reported Board precedent.

(2) That the regional director's decision on a substantial factual issue is clearly erroneous on the record and such error prejudicially affects the rights of a party.

(3) That the conduct of the hearing or any ruling made in connection with the proceeding has resulted in prejudicial error.

(4) That there are compelling reasons for reconsideration of an important Board rule or policy.

(d) Any request for review must be a self-contained document enabling the

Board to rule on the basis of its contents without the necessity of recourse to the record. With respect to paragraph (c) (2) of this section, and other grounds where appropriate, said request must contain a summary of all evidence or rulings bearing on the issues together with page citations from the transcript and a summary of argument. But such request may not raise any issue or allege any facts not timely presented to the regional director.

(e) Any party may, within 7 days after the last day on which the request for review must be filed, file with the Board seven copies of a statement in opposition thereto, which shall be duplicated and served in accordance with the requirements of paragraph (b) of this section; except that if personal service of the request for review is made upon the Board, 10 days will be allowed. However, 3 days will not be added to either of the aforesaid prescribed periods as provided in § 102.114. A statement of such service of opposition shall be filed simultaneously with the Board. The Board may deny the request for review without awaiting a statement in opposition thereto.

(f) The parties may, at any time, waive their right to request review. Failure to request review shall preclude such parties from relitigating, in any related subsequent unfair labor practice proceeding, any issue which was, or could have been, raised in the representation proceeding. Denial of a request for review shall constitute an affirmation of the regional director's action which shall also preclude relitigating any such issues in any related subsequent unfair labor practice proceeding.

(g) The granting of a request for review shall not stay the regional director's decision unless otherwise ordered by the Board. Within 7 days after issuance of an order granting review, the appellants and other parties may file seven copies of a brief with the Board, which shall be duplicated and served in accordance with the requirements of paragraph (b) of this section. A statement of such service shall be filed simultaneously with the Board. Such briefs may be reproductions of those previously filed with the regional director and/or other briefs which shall be limited to the issues raised in the request for review. Where review has been granted, the Board will consider the entire record in the light of the grounds relied upon for review. Any request for review may be withdrawn with the permission of the Board at any time prior to the issuance of the decision of the Board thereon.

(h) In any case in which it appears to the regional director that the proceeding raises questions which should be decided by the Board, he may, at any time, issue an order, to be effective after the close of the hearing and before decision, transferring the case to the Board for decision. Such an order may be served on the parties upon the record of the hearing.

(i) If any case is transferred to the Board for decision after the parties have filed briefs with the regional director,

the parties may, within such time after service of the order transferring the case as is fixed by the regional director, file with the Board seven copies of the brief previously filed with the regional director. Such copies shall be printed or otherwise legibly duplicated: *Provided, however,* That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted. No further briefs shall be permitted except by special permission of the Board. If the case is transferred to the Board before the time expires for the filing of briefs with the regional director and before the parties have filed briefs, such briefs shall be filed as set forth above and served in accordance with paragraph (b) of this section, within the time set by the regional director. If the order transferring the case is served upon the parties during the hearing, the hearing officer may, prior to the close of the hearing and for good cause, grant an extension of time within which to file a brief with the Board for a period not to exceed an additional 14 days. Requests for extension of time in which to file a brief with the Board under authority of this section not addressed to the hearing officer during the hearing shall be filed in writing with the Board and copies thereof shall immediately be served on each of the other parties and the regional director. Requests for extension of time shall be received by the Board not later than 3 days before the date such briefs are due in Washington, D.C. A copy of any such request shall be served immediately on each of the other parties and the regional director and shall contain a statement that such service has been made. No reply brief may be filed except upon special leave of the Board.

(j) Upon transfer of the case to the Board, the Board shall proceed, either forthwith upon the record, or after oral argument or the submission of briefs, or further hearing, as it may determine, to decide the issues referred to it or to review the decision of the regional director and shall direct a secret ballot of the employees, dismiss the petition, affirm or reverse the regional director's order in whole or in part, or make such other disposition of the matter as it deems appropriate.

§ 102.68 Record; what constitutes; transmission to Board.

The record in the proceeding shall consist of: the petition, notice of hearing with affidavit of service thereof, motions, rulings, orders, the stenographic report of the hearing and of any oral argument before the regional director, stipulations, exhibits, documentary evidence, affidavits of service, depositions, and any briefs or other documents submitted by the parties to the regional director or to the Board, and the decision of the regional director, if any. Immediately upon issuance by the regional director of an order transferring the case to the Board, or upon issuance of an order granting a request for review by the Board, the regional director shall transmit the record to the Board.

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

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

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

(c) If objections are filed to the conduct of the election or conduct affecting the result of the election, or if the challenged ballots are sufficient in number to affect the results of the election, the regional director shall investigate such objections or challenges, or both. If a consent election has been held pursuant to § 102.62(b) the regional director shall prepare and cause to be served upon the parties a report on objections or

challenged ballots, or both, including his recommendations, which report, together with the tally of ballots, he shall forward to the Board at Washington, D.C. Within 10 days from the date of issuance of the report on challenged ballots or objections, or both, or within such further period as the Board may allow upon written request to the Board for an extension made not later than 3 days before such exceptions are due in Washington, D.C., with copies of such request served on each of the other parties, any party may file with the Board in Washington, D.C., seven copies of exceptions to such report which shall be printed or otherwise legibly duplicated. Immediately upon the filing of such exceptions, the party filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the regional director. A statement of service shall be made to the Board. If no exceptions are filed to such report, the Board, upon the expiration of the period for filing such exceptions, may decide the matter forthwith upon the record or may make other disposition of the case. The report on challenged ballots may be consolidated with the report on objections in appropriate cases. If the election has been conducted pursuant to a direction of election issued following any proceeding under § 102.67, the regional director may (1) issue a report on objections or challenged ballots, or both, as in the case of a consent election pursuant to § 102.62(b), or (2) exercise his authority to decide the case and issue a decision disposing of the issues and directing appropriate action or certifying the results of the election. In either instance, such action by the regional director may be on the basis of an administrative inappropriate action or certifying the regional director that substantial and material factual issues exist which can be resolved only after a hearing, on the basis of a hearing before a hearing officer, designated by the regional director. If the regional director issues a report on objections and challenges, the parties shall have the rights set forth in paragraphs (c) and (e) of this section; if the regional director issues a decision, the parties shall have the rights set forth in § 102.67 to the extent consistent herewith.

(d) Any hearing pursuant to this section shall be conducted in accordance with the provisions of §§ 102.64, 102.65, and 102.66, insofar as applicable, except that upon the close of such hearing, the hearing officer shall, if directed by the regional director, prepare and cause to be served upon the parties a report resolving questions of credibility and containing findings of fact and recommendations as to the disposition of the issues. In any case in which the regional director has directed that a report be prepared and served, any party may, within 10 days from the date of issuance of such report, file with the regional director the original and one copy, which may be a carbon copy, of exceptions to such report. A copy of such exceptions shall immediately be served upon each of the other parties

and a statement of service filed with the regional director. If no exceptions are filed to such report, the regional director, upon the expiration of the period for filing such exceptions, may decide the matter forthwith upon the record or may make other disposition of the case.

(e) In a case involving a consent election held pursuant to § 102.62(b), if exceptions are filed, either to the report on challenged ballots or objections, or both if it be a consolidated report, and it appears to the Board that such exceptions do not raise substantial and material issues with respect to the conduct or results of the election, the Board may decide the matter forthwith upon the record, or may make other disposition of the case. If it appears to the Board that such exceptions raise substantial and material factual issues, the Board may direct the regional director or other agent of the Board to issue and cause to be served upon the parties a notice of hearing on said exceptions before a hearing officer. The hearing shall be conducted in accordance with the provisions of §§ 102.64, 102.65, and 102.66, insofar as applicable. Upon the close of the hearing the agent conducting the hearing, if directed by the Board, shall prepare and cause to be served upon the parties a report resolving questions of credibility and containing findings of fact and recommendations to the Board as to the disposition of the challenges or objections, or both if it be a consolidated report. (The agent conducting the hearing shall forward to the Board in Washington, D.C., the notice of hearing, motions, rulings, orders, stenographic report of the hearing, stipulations, exceptions, documentary evidence, all of which, together with the objection to the conduct of the election or conduct affecting the results of the election, the report on such objections, the report on challenged ballots, and exceptions to the report on objections or to the report on challenged ballots, and the record previously made, together with his report, if any, shall constitute the record in the case.) In any case in which the Board has directed that a report be prepared and served, any party may within 10 days from the date of issuance of the report on challenged ballots or objections, or both, file with the Board in Washington, D.C., seven copies of exceptions to such report: *Provided, however,* That in any proceeding wherein a representation case has been consolidated with an unfair labor practice case for purposes of hearing the provisions of § 102.46 of these rules shall govern with respect to the filing of exceptions to the intermediate report and recommended order. Immediately upon the filing of such exceptions, the party filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the regional director. A statement of service shall be made to the Board simultaneously with the filing of exceptions. If no exceptions are filed to such report, the Board, upon the expiration of the period for filing such exceptions, may decide the matter forthwith upon the record or may make other disposition of the case. The Board shall thereupon proceed pursuant to § 102.67.

(f) The notice of hearing, motions, rulings, orders, stenographic report of the hearing, stipulations, exceptions, documentary evidence, all of which, together with the objections to the conduct of the election or conduct affecting the results of the election, any report on such objections, any report on challenged ballots, exceptions to any such report, any briefs or other documents submitted by the parties, the decision of the regional director, if any, and the record previously made as described in § 102.68, shall constitute the record in the case. Immediately upon issuance of a report on objections or challenges, or both, upon issuance by the regional director of an order transferring the case to the Board, or upon issuance of an order granting a review for review by the Board, the regional director shall transmit the record to the Board.

(g) In any such case in which the regional director or the Board, upon a ruling on challenged ballots, has directed that such ballots be opened and counted and a revised tally of ballots issued, and no objection to such revised tally is filed by any party within 3 days after the revised tally of ballots has been furnished, the regional director shall forthwith issue to the parties certification of the results of the election, including certification of representatives where appropriate, with the same force and effect as if issued by the Board. The proceeding shall thereupon be closed.

§ 102.70 Runoff election.

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

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

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

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

cast valid ballots, there shall be no runoff election and a certification of results of election shall be issued. Only one such further election pursuant to this paragraph may be held.

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

§ 102.71 Refusal to issue notice of hearing; appeals to Board from action of the regional director.

If, after a petition has been filed, and prior to the close of the hearing, it shall appear to the regional director that no further proceedings are warranted the regional director may dismiss the petition by administrative action and so advise the petitioner in writing, accompanied by a simple statement of the procedural or other grounds for the dismissal. The petitioner may obtain a review of such action by filing a request therefor with the Board in Washington, D.C., and filing a copy of such request with the regional director and each of the other parties within 10 days of service of such notice of dismissal. The request shall be submitted in seven copies and shall contain a complete statement setting forth the facts and reasons upon which the request is based. Requests for an extension of time within which to file the request for review shall be filed with the Board in Washington, D.C., and a statement of service shall accompany such request.

§ 102.72 Filing petition with general counsel; investigation upon motion of general counsel; transfer of petition and proceeding from region to general counsel or to another region; consolidation of proceedings in same region; severance; procedure before general counsel in cases over which he has assumed jurisdiction.

Whenever it appears necessary in order to effectuate the purposes of the act, or to avoid unnecessary costs or delay, the general counsel may permit a petition to be filed with him in Washington, D.C., or may, at any time after a petition has been filed with a regional director pursuant to § 102.60, order that such petition and any proceeding that may have been instituted with respect thereto:

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

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

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

(d) Be severed from any other proceeding with which it may have been consolidated pursuant to this section.

The provisions of §§ 102.60 to 102.71 shall, insofar as applicable, apply to proceedings before the general counsel pursuant to this section, and the powers granted to regional directors in such provisions shall, for the purpose of this section, be reserved to and exercised by

the general counsel. After the transfer of any petition and any proceeding which may have been instituted in respect thereto from one region to another pursuant to this section, the provisions of this subpart shall, insofar as applicable, govern such petition and such proceeding as if the petition had originally been filed in the region to which the transfer is made.

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

§ 102.77 [Amendment]

In § 102.77 *Investigation of petition by regional director; directed election*, paragraph (b) is amended to read as follows:

(b) If after the investigation of such petition or any petition filed under subpart C of these rules, and after the investigation of the charge filed pursuant to § 102.73, it appears to the regional director that an expedited election under section 8(b)(7)(C) is warranted, and that the policies of the act would be effectuated thereby, he shall forthwith proceed to conduct an election by secret ballot of the employees in an appropriate unit, or make other disposition of the matter: *Provided, however*, That in any case in which it appears to the regional director that the proceeding raises questions which cannot be decided without a hearing, he may issue and cause to be served on the parties, individuals, and labor organizations involved a notice of hearing before a hearing officer at a time and place fixed therein. In this event, the method of conducting the hearing and the procedure following, including transfer of the case to the Board, shall be governed insofar as applicable by §§ 102.63 to 102.68, inclusive, except that the parties shall not file briefs without special permission of the regional director or the Board, as the case may be, but shall, however, state their respective legal positions upon the record at the close of the hearing, and except that any request for review of a decision of the regional director shall be filed promptly after the issuance of such decision.

§ 102.80 [Amendment]

In § 102.80 *Dismissal of petition; refusal to process petition under expedited procedure*, paragraph (a) is amended to read as follows:

(a) If, after a petition has been filed pursuant to the provisions of § 102.76, and prior to the close of the hearing, it shall appear to the regional director that further proceedings in respect thereto in accordance with the provisions of § 102.77 are not warranted, he may dismiss the petition by administrative action, and the action of the regional director shall be final, subject to a prompt appeal to the Board on special permission which may be granted by the Board. Upon such appeal the provisions of § 102.71 shall govern insofar as applicable. Such appeal shall not operate as a stay unless specifically ordered by the Board.

Subpart E—Procedure for Referendum Under Section 9(e) of the Act

Section 102.85 is amended to read as follows:

§ 102.85 Investigation of petition by regional director; consent referendum; directed referendum.

Where a petition has been filed pursuant to § 102.83 and it appears to the regional director that the petitioner has made an appropriate showing, in such form as the regional director may determine, that 30 percent or more of the employees within a unit covered by an agreement between their employer and a labor organization requiring membership in such labor organization desire to rescind the authority of such labor organization to make such an agreement, he shall proceed to conduct a secret ballot of the employees involved on the question whether they desire to rescind the authority of the labor organization to make such an agreement with their employer: *Provided, however*, That in any case in which it appears to the regional director that the proceeding raises questions which cannot be decided without a hearing, he may issue and cause to be served on the parties a notice of hearing before a hearing officer at a time and place fixed therein. The regional director shall fix the time and place of the election, eligibility requirements for voting, and other arrangements of the balloting, but the parties may enter into an agreement, subject to the approval of the regional director, fixing such arrangements. In any such consent agreements, provision may be made for final determination of all questions arising with respect to the balloting by the regional director or by the Board.

Section 102.88 is amended to read as follows:

§ 102.88 Refusal to conduct referendum; appeal to Board.

If, after a petition has been filed, and prior to the close of the hearing, it shall appear to the regional director that no referendum should be conducted, he shall dismiss the petition by administrative action. Such dismissal shall be in writing and accompanied by a simple statement of the procedural or other grounds. The petitioner may obtain a review of such action by filing a request therefor with the Board in Washington, D.C., and filing a copy of such request with the regional director and each of the other parties within 10 days from the service of notice of such dismissal. The request shall contain a complete statement setting forth the facts and reasons upon which the request is based.

Subpart F—Procedure To Hear and Determine Dispute Under Section 10(k) of the Act

Section 102.90 is amended to read as follows:

§ 102.90 Notice of hearing; hearing; proceedings before the Board; briefs; determination of dispute.

If it appears to the regional director that the charge has merit and the parties

to the dispute have not submitted satisfactory evidence to the regional director that they have adjusted, or have agreed upon methods for the voluntary adjustment of, the dispute out of which such unfair labor practice shall have arisen, he shall cause to be served on all parties to such dispute a notice of the filing of said charge together with a notice of hearing under section 10(k) of the act before a hearing officer at a time and place fixed therein which shall be not less than 10 days after service of the notice of hearing. The notice of hearing shall contain a simple statement of the issues involved in such dispute. Such notice shall be issued promptly, and, in cases in which it is deemed appropriate to seek injunctive relief pursuant to section 10(l) of the act, shall normally be issued within 5 days of the date upon which injunctive relief is first sought. Hearings shall be conducted by a hearing officer, and the procedure shall conform, insofar as applicable, to the procedure set forth in §§ 102.64 to 102.68. Upon the close of the hearing, the proceeding shall be transferred to the Board and the Board shall proceed either forthwith upon the record, or after oral argument, or the submission of briefs, or further hearing, to determine the dispute or make other disposition of the matter. Should any party desire to file a brief with the Board, seven copies thereof shall be filed with the Board at Washington, D.C., within 7 days after the close of the hearing. Immediately upon such filing, a copy shall be served on the other parties. Such brief shall be legibly printed or otherwise legibly duplicated: *Provided, however*, That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted. Requests for extension of time in which to file a brief under authority of this section shall be in writing and received by the Board in Washington, D.C., 3 days prior to the due date with copies thereof served on each of the other parties. No reply brief may be filed except upon special leave of the Board.

[F.R. Doc. 61-4079; Filed, May 3, 1961; 8:47 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 202—ANCHORAGE REGULATIONS

Boston Harbor, Mass.

Pursuant to the provisions of section 7 of the River and Harbor Act of March 4, 1915 (38 Stat. 1053; 33 U.S.C. 471), § 202.134 establishing and governing the use and navigation of anchorages in Boston Harbor, Massachusetts, is hereby amended with respect to paragraph (a) (2) to cover the new boundaries of President Roads Anchorage, effective on publication in the FEDERAL REGISTER since the enlarged area is already in use, as follows:

§ 202.134 Boston Harbor, Mass.

(a) *The anchorage grounds.* * * *

(2) *President Roads Anchorage*—(i) 40-foot anchorage. Beginning at a point bearing 237°, 522 yards from Deer Island Light; thence to a point bearing 254°, 2,280 yards from Deer Island Light; thence to a point bearing 261°, 2,290 yards from Deer Island Light; thence to a point bearing 278°, 2,438 yards from Deer Island Light; thence to a point bearing 319°, 933 yards from Deer Island Light; thence to a point bearing 319°, 666 yards from Deer Island Light; and thence to point of beginning.

(ii) *35-foot anchorage.* Beginning at a point bearing 256°, 2,603 yards from Deer Island Light; thence to a point bearing 258°30', 3,315 yards from Deer Island Light; thence to a point bearing 264°, 3,967 yards from Deer Island Light; thence to a point bearing 261°, 2,290 yards from Deer Island Light; and thence to point of beginning.

[Regs., April 19, 1961, 285/91 (Boston Harbor, Mass.)—ENGW—O] (Sec. 7, 38 Stat. 1053; 33 U.S.C. 471)

R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 61-4061; Filed, May 3, 1961; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 61-501]

PART 3—RADIO BROADCAST SERVICES

CONELRAD; New Method of Alerting and Operation

At a session of the FCC held at its offices in Washington, D.C., on the 12th day of April 1961;

The Commission having under consideration its CONELRAD rules pertaining to the Broadcast Services (Subparts G and H of Part 3), and

It appearing that improvements in the CONELRAD alerting system and in the Emergency Broadcast System have been developed; that these improved systems will afford the Department of Defense more effective control over electromagnetic radiations during periods of national emergency; that arrangements have been completed for placing these systems in operation; that the Department of Defense has requested the Commission to implement these systems as soon as possible; and that the Commission's rules should be amended to reflect these improved systems; and

It further appearing that the Commission's rules should, as the Department of Defense has requested, be updated to reflect revised alerting procedures, and that certain editorial changes, including the merging of Subparts G and H of Part 3, should be effectuated at this time; and

It further appearing that the amendments adopted herewith either pertain to military functions of the United States or are editorial in nature; that national defense considerations and the Commission's obligations under Executive Order 10312 require implementation of the improved CONELRAD alerting system and Emergency Broadcast System without delay; and hence that compliance with the notice and procedural provisions of Section 4 of the APA is neither necessary nor desirable; and

It further appearing that the amendments adopted herewith are issued pursuant to authority contained in sections 1, 4(i), and 303(r) of the Communications Act of 1934, as amended, and section 4 of Executive Order 10312.

It is ordered, That effective June 5, 1961, Part 3 of the Commission's rules and regulations is amended as set forth below.

Released: May 1, 1961.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended. E.O. 10312, 16 F.R. 12452; 3 CFR, 1951 Supp.)

FEDERAL COMMUNICATIONS
COMMISSION,
BEN F. WAPLE,
Acting Secretary.

Subparts G and H are hereby deleted and a new Subpart G is substituted to read as follows:

Subpart G—CONELRAD
SCOPE AND OBJECTIVE

- Sec.
3.901 Scope of subpart.
3.902 Object of plan.

DEFINITIONS

- 3.910 CONELRAD.
3.911 North American Air Defense Command Combat Operations Center.
3.912 National Defense Emergency Authorization (NDEA).
3.913 Emergency Broadcast System (EBS).
3.914 24-hour key station.
3.915 CONELRAD Radio alert.
3.916 CONELRAD Radio All Clear.
3.917 Cluster.
3.918 Sequential control.
3.919 CONELRAD Manual.

RADIO ALERTS

- 3.930 Notification of a CONELRAD Radio Alert.
3.931 Reception of a CONELRAD Radio Alert.
3.932 Operation during a CONELRAD Radio Alert.
3.933 Emergency weather warnings.
CONELRAD RADIO ALL CLEAR
3.940 Notification of a CONELRAD Radio All Clear.

SYSTEM OPERATION

- 3.950 Procedure.
3.951 Participation.

TESTS

- 3.961 Alerting system.
3.962 Entire system.
3.963 Equipment.
3.964 Log entries.

DRILLS

- 3.970 Notification of a drill.
3.971 Operation during a CONELRAD Drill.
3.980 Participation by telephone companies.

Subpart G—CONELRAD

SCOPE AND OBJECTIVE

§ 3.901 Scope of subpart.

This subpart applies to all broadcast stations governed by this Part and is for the purpose of providing for operation of certain stations located within the continental United States (including Alaska) during periods of enemy air attack or imminent threat thereof.

§ 3.902 Object of plan.

The aim of this plan is to minimize the navigational aid that may be obtained from the continued operation of broadcast stations while at the same time providing for transmission of vital information to the public. During a CONELRAD Radio Alert condition, when not broadcasting vital information, stations operating in the Emergency Broadcasting System may, on their own responsibility, broadcast such other programs as they may desire.

DEFINITIONS

§ 3.910 CONELRAD.

The term CONELRAD is a short title for the expression Control of Electromagnetic Radiations.

§ 3.911 North American Air Defense Command Combat Operations Center.

The combat operation center from which the Commander-in-Chief, North American Air Defense Command (CINCNORAD), supervises and coordinates defense activities within the North American Region, including dissemination of warnings, identification and security control of air traffic and utilization of available combat forces in support of the national defense effort.

§ 3.912 National Defense Emergency Authorization (NDEA).

An authorization issued by the Commission permitting controlled operation of a station during a CONELRAD Radio Alert condition.

§ 3.913 Emergency Broadcast System (EBS).

The Emergency Broadcast System under CONELRAD consists of standard broadcast stations which have been issued NDEA's by the Commission to operate on 640 or 1240 kc during a CONELRAD Radio Alert condition.

§ 3.914 24-hour key station.

A station capable of disseminating a CONELRAD Radio Alert, by broadcast, at any time during the day or night.

§ 3.915 CONELRAD Radio Alert.

The CONELRAD Radio Alert is the Department of Defense notice to radio stations to operate in accordance with FCC CONELRAD rules.

§ 3.916 CONELRAD Radio All Clear.

The CONELRAD Radio All Clear is the Department of Defense notice to radio stations to discontinue controlled operations imposed by an outstanding CONELRAD Radio Alert.

RULES AND REGULATIONS

§ 3.917 Cluster.

A cluster is a group of broadcast stations serving a single area, all operating on the same Emergency Broadcast System frequency. All stations in a cluster will be interconnected and will carry a common program.

§ 3.918 Sequential control.

Sequential control is the interconnecting of several stations in a cluster. By means of a mechanical, manual or an electronic device at a central control point, the stations in a cluster are turned on and off in sequence over the means provided for sequential control. In some cases these facilities also carry the cluster program.

§ 3.919 CONELRAD Manual.

The CONELRAD Manual is the document containing the detailed description of how broadcast stations will be alerted and operated in the Emergency Broadcast System. The Manual will be subject to modification from time to time as experience indicates a need for such changes.

RADIO ALERTS

§ 3.930 Notification of a CONELRAD Radio Alert.

(a) All notifications of CONELRAD Radio Alerts shall be issued by an appropriate military authority. These notifications will be accomplished by teletype messages to those stations on the teletype alerting system. In addition to receiving the notification by teletype, these stations will be notified by means of radio monitoring another broadcast station. Certain other stations will be notified by telephone or other FCC approved method.

(b) Each broadcast station not notified as set forth in paragraph (a) of this section will be alerted by means of radio monitoring of a standard, commercial FM or television broadcast station.

(c) Immediately upon receipt of a notification of a CONELRAD Radio Alert, all standard, FM and television broadcast stations, including such stations operating under equipment or program test authority, will proceed as follows:

- (1) Discontinue normal program.
- (2) Transmit the CONELRAD Attention Signal as follows:
 - (i) Cut the transmitter carrier for 5 seconds. (Sound carrier only for TV stations.)
 - (ii) Return carrier to the air for 5 seconds.
 - (iii) Cut transmitter carrier for 5 seconds. (Sound carrier only for TV stations.)
 - (iv) Return carrier to the air.
 - (v) Broadcast 1000 cycle steady state tone for 15 seconds.
- (3) Broadcast the following CONELRAD Radio Alert Message.

We interrupt our normal program to cooperate in Security and Civil Defense measures as requested by the United States Government.

This is a CONELRAD Radio Alert.

Normal broadcasting will now be discontinued for an indefinite period. Civil Defense information will be broadcast in most areas at 640 or 1240 on your regular radio receiver.

I repeat—

This is a CONELRAD Radio Alert.

Normal broadcasting will now be discontinued for an indefinite period. Civil Defense information will be broadcast in most areas at 640 or 1240 on your regular radio receiver.

(4) Remove transmitter carrier from the air for the duration of the CONELRAD Radio Alert. (See § 3.932 (a) and (b).)

(d) Noncommercial educational FM broadcast stations upon receipt of a CONELRAD Radio Alert will interrupt the program in progress, and broadcast the CONELRAD Radio Alert Message as in § 3.930(c)(3). The station will then discontinue its carrier and maintain radio silence for the duration of the CONELRAD Radio Alert.

(e) International broadcast stations upon receipt of a CONELRAD Radio Alert will interrupt the program in progress, may make a brief sign-off announcement not longer than one minute and, except for those stations specifically authorized by the Federal Communications Commission to continue transmitting, will leave the air and maintain radio silence.

(f) During the experimental period many broadcast stations may be off the air. All broadcast stations will be supplied with a list of 24-hour broadcast stations at least one of which must be monitored during any period of operation when the regularly used stations is not on the air.

§ 3.931 Reception of a CONELRAD Radio Alert.

All broadcast stations must install, unless specifically exempt, the necessary equipment to receive notifications of CONELRAD Radio Alerts and CONELRAD Radio All Clears by means of reception of radio broadcast messages, and must maintain this equipment in a state of readiness for reception, including arrangements for human listening watch or automatic alarm devices, or both. Such equipment should have its termination at the transmitter control location.

§ 3.932 Operation during a CONELRAD Radio Alert.

(a) Those stations which are authorized to participate in the Emergency Broadcast System will immediately begin operations on assigned frequencies in accordance with the terms of their National Defense Emergency Authorizations and current operations instructions. Except as provided in paragraph (b) of this section, all other broadcast stations will observe radio silence until the CONELRAD Radio All Clear is issued by appropriate military authority.

(b) Stations in the international broadcast service permitted to continue transmitting will be individually authorized to transmit by the Federal Communications Commission with concurrence of the Secretary of Defense, and the Director, Office of Civil and Defense Mobilization, and will transmit only government broadcasts or messages. The stations' carrier must be removed from the air during periods of no broadcast or message transmissions.

(c) No identification may be broadcast between the time the CONELRAD Radio Alert is received and the time the CONELRAD Radio All Clear is announced, unless expressly authorized by the FCC. The transmission of any information which would serve as a navigational aid to the enemy is prohibited.

(d) A station operating in the Emergency Broadcast System may transmit in accordance with its National Defense Emergency Authorization during a CONELRAD Radio Alert beyond its normal hours and nothing in its regular license or other instrument of authorization shall prevent such operation in the Emergency Broadcast System.

(e) Prior to commencing routine operation or originating any emissions under program test, equipment test, experimental or other authorizations or for any other purpose, licensees or permittees shall first ascertain whether a CONELRAD Radio Alert exists and if so shall refrain from operation or operate in the Emergency Broadcast System whichever is appropriate.

§ 3.933 Emergency weather warnings.

Upon receipt of notification from the United States Weather Bureau of an Emergency Weather Warning of a condition of immediate danger to life and property, all standard, commercial FM, and television broadcast stations may at their option, during authorized hours of operation only, transmit the CONELRAD Attention Signal, as set forth in § 3.930(b)(2), prior to broadcasting the Emergency Weather Warning, as provided in §§ 3.90, 3.296, and 3.632, respectively. Nothing in this Section shall be construed as permitting a standard broadcast station licensed to operate daytime only or limited time, to operate during unauthorized hours.

CONELRAD RADIO ALL CLEAR

§ 3.940 Notification of a CONELRAD Radio All Clear.

The CONELRAD Radio All Clear notification will be transmitted through the same channels as the CONELRAD Radio Alert. Stations operating in the Emergency Broadcast System will transmit the CONELRAD Radio All Clear Message on the Emergency Broadcast System frequency. All standard, commercial FM, and TV stations, upon resuming regular authorized operation, will follow the prescribed procedure and immediately broadcast the CONELRAD Radio All Clear Message.

SYSTEM OPERATION

§ 3.950 Procedure.

Each broadcast station permitted to operate during a CONELRAD Radio Alert must observe operating procedures for the mode of operation to which it is assigned.

§ 3.951 Participation.

(a) Any standard broadcast station desiring to participate in the Emergency Broadcast System should advise the FCC Field Supervisor of its willingness to make such technical modification of the station equipment as might be necessary to permit operation on a system

frequency and with such power as might be necessary. The Commission will then issue a National Defense Emergency Authorization to the station specifying the frequency to be used by the station.

(b) At such time as technical consideration may warrant the inclusion of FM and TV broadcast stations within the operating system, appropriate announcement will be made by the Commission and application for participation may be made as above set forth.

(c) Any station participating in the Emergency Broadcast System may withdraw from the system by giving thirty days notice to the FCC Field Supervisor in writing and by submitting its National Defense Emergency Authorization for cancellation.

(d) Broadcast stations are specifically exempt from complying with § 3.57 while operating under their National Defense Emergency Authorization.

TESTS

§ 3.961 Alerting system.

Tests of the alerting system will be conducted periodically.

§ 3.962 Entire system.

Tests of the entire system will be conducted from time to time. During such tests, all stations which are authorized to operate in the Emergency Broadcast System will operate in accordance with terms of their National Defense Emergency Authorizations. Other stations will not be required to go off the air during such tests but will be subject to any interference which might result. Such tests will be scheduled to take place during the experimental period. Industry representatives will be consulted prior to conducting tests of the Emergency Broadcast System to obtain views relative to the action and to coordinate the activity.

§ 3.963 Equipment.

The licensee of each station authorized to participate in Emergency Broadcast System operation shall make such tests of his equipment as may be necessary to assure it is ready for instant use. (See paragraph VII. A. 2 of the CONELRAD Manual for Broadcast Stations.)

§ 3.964 Log entries.

Appropriate entries of all tests shall be made in the operating log.

DRILLS

§ 3.970 Notification of a drill.

At some time it may be necessary to conduct a drill under conditions of simulated attack. Industry representatives will be consulted prior to conducting CONELRAD Drills to obtain views relative to the action and to coordinate the activity. Such drills will only be called when the Department of Defense, the Office of Civil and Defense Mobilization and the Federal Communications Commission concurrently agree that the drill is necessary. All stations will be notified well in advance of such a drill.

§ 3.971 Operation during a CONELRAD Drill.

During a CONELRAD Drill, all broadcast stations will take the same steps as

such stations would be required to take in the event of an actual CONELRAD Radio Alert under this part of the rules and current operating instructions.

§ 3.980 Participation by telephone companies.

(a) Telephone companies that have facilities available in place may, without charge, connect an unaffiliated commercial radio broadcast station to a commercial radio network operated by ABC, CBS, MBS, NBC, or any other network, for the duration of a CONELRAD Drill or a CONELRAD Radio Alert: *Provided*, That

(1) The radio station is authorized by the Commission to participate in the Emergency Broadcast System under § 3.951;

(2) The network authorizes such connection; and

(3) The radio station has in service a local channel from the radio station studio or radio transmitter to the telephone company principal central office (toll test).

(b) Every such carrier rendering any such free service shall make and file, in duplicate, with the Commission, on or before the 31st day of July and on or before the 31st day of January in each year, reports covering the periods of six months ending on the 30th day of June and the 31st day of December, respectively, next prior to said dates. These reports shall show the call letters and locations of the broadcast stations to which free service was rendered pursuant to this rule and the charges in dollars which would have accrued to the carrier for such service rendered if charges therefor had been collected at the published tariff rates.

[F.R. Doc. 61-4114; Filed, May 3, 1961; 8:53 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

DeSoto National Wildlife Refuge, Iowa and Nebraska

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

IOWA AND NEBRASKA

DESOTO NATIONAL WILDLIFE REFUGE

Sport fishing on the DeSoto National Wildlife Refuge, Iowa and Nebraska, is permitted only on the areas designated by signs as open to fishing. This open area, comprising 850 acres or 100 percent of the total water area of the refuge, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Sport

fishing is subject to the following conditions:

(a) Species permitted to be taken: Smallmouth and largemouth bass, sauger, and other minor species permitted under States' regulations.

(b) Open season: May 1, 1961, through September 15, 1961; 4:30 a.m. to 10:00 p.m. daily.

(c) Daily creel limits:

Smallmouth and largemouth bass—10, combined or singly.
Sauger—10.

Creel limits for other minor species are as prescribed by States' regulations.

(d) Methods of fishing:

1. No more than two lines, with one hook on each line, may be used for fishing; one hook means a single, double or treble pointed hook.

2. Trot lines are not permitted.

3. The use of boats is permitted.

(e) Other provisions:

1. The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

2. A Federal permit is not required to enter the public fishing area.

3. The provisions of this special regulation are effective to September 16, 1961.

R. W. BURWELL,
Regional Director, Bureau of
Sport Fisheries and Wildlife.

APRIL 24, 1961.

[F.R. Doc. 61-4068; Filed, May 3, 1961; 8:46 a.m.]

PART 33—SPORT FISHING

Union Slough National Wildlife Refuge, Iowa

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

IOWA

UNION SLOUGH NATIONAL WILDLIFE REFUGE

Sport fishing on the Union Slough National Wildlife Refuge, Iowa, is permitted only on the areas designated by signs as open to fishing. This open area, comprising 6 acres or 1 percent of the total water area of the refuge, is delineated on a map available at the refuge headquarters and from the Office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Smallmouth and largemouth bass, bullheads, yellow perch and other minor species permitted by State regulations.

(b) Open season: May 27, 1961, through September 30, 1961; daylight hours only.

(c) Daily creel limits:

Smallmouth and largemouth bass—5, singly or combined.
Bullheads—no limit.
Yellow perch—15.

RULES AND REGULATIONS

Creel limits for other minor species are as prescribed by State regulations.

(d) Methods of fishing:

1. No more than two lines, with one hook on each line, may be used for fishing; one hook means a single, double, or treble pointed hook.

2. The use of minnows or fish, or parts thereof, for bait is not permitted.

3. The use of boats is not permitted.

(e) Other provisions:

1. The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

2. A Federal permit is not required to enter the public fishing area.

3. The provisions of this special regulation are effective to October 1, 1961.

R. W. BURWELL,
*Regional Director, Bureau of
Sport Fisheries and Wildlife.*

APRIL 27, 1961.

[F.R. Doc. 61-4069; Filed, May 3, 1961;
8:46 a.m.]

Proposed Rule Making

CIVIL AERONAUTICS BOARD

[14 CFR Parts 221, 296, 297]

[Economic Regs. Docket No. 11509]

CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND OF FOREIGN AIR CARRIERS; CLASSIFICATION AND EXEMPTION OF INDIRECT AIR CARRIERS; INTERNATIONAL AIR FREIGHT FORWARDERS

Notice of Proposed Rule Making

MAY 1, 1961.

Notice is hereby given that the Civil Aeronautics Board has under consideration amendments to the above entitled parts of the Board's Economic Regulations relating to the billing of shippers by air carriers and foreign air carriers for transportation services and the payment of transportation charges. This notice is issued, in part, in response to a petition of 12 domestic air freight forwarders, represented by the Air Freight Forwarders Association,¹ for amendment of § 296.5 of Part 296.

The principal features of the proposed rules are explained in the attached Explanatory Statement and the proposed rules are set forth below. These amendments are proposed under authority of Sections 204(a), 403, and 416 of the Federal Aviation Act of 1958 (72 Stat. 743, 759, 771; 49 U.S.C. 1324, 1373, 1386).

Interested persons may participate in the proposed rule making through submission of ten (10) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington 25, D.C. All relevant matter in communications received on or before June 2, 1961 will be considered by the Board before taking final action on the proposed rules. Upon receipt by the Board, copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

By the Civil Aeronautics Board.

[SEAL]

JAMES L. DEEGAN,
Acting Secretary.

¹ Pursuant to Part 263 of the Board's Economic Regulations (14 CFR Part 263), the Board grants leave to the Air Freight Forwarders Association to represent the following named members of the Association in this proceeding: ABC Air Freight Co., Inc., Acme Air Cargo, Inc., Airborne Freight Corp., Air Cargo Consolidators, Inc., Air Express International Corp., Allied Air Freight, Inc., Barnett Air Cargo, Inc., Peter A. Bernacki, Inc., Emery Air Freight Corporation, General Air Freight, Inc., World-Wide Services, Inc., 4-A Air Freight Corp.

Explanatory statement. Twelve domestic air freight forwarders have filed a petition, Docket 11509, requesting the Board to amend § 296.5 (14 CFR 296.5) by extending from 7 days to 21 days the time within which forwarders must pay transportation charges to direct air carriers. Petitioners contend that in most situations the 7-day requirement is impossible to comply with under sound bookkeeping practices, and that in the remainder of the cases it is impracticable to do so. In addition, the petitioners state that under the currently effective rule, direct air carriers disposed to prefer some forwarders can do so by waiting an extended period of time before billing such forwarders, since the rule requires payment 7 days "after being billed." The petitioners also point to the more favorable rule applicable to international forwarders, § 297.4 of the Board's Economic Regulations, which allows a 30-day period "after being billed" within which to make payment to the direct air carriers.

Upon consideration of the petition, the Board has decided to issue a notice of proposed rule making which encompasses the issue raised by the petition and in addition deals with the related question of the billing practices of air carriers. The notice would extend the period within which domestic freight forwarders must pay their transportation charges to direct air carriers from 7 days to 21 days, and reduce the period within which international freight forwarders must pay their transportation charges from 30 days to 21 days. It also proposes that all direct and indirect air carriers be required to file as tariff rules their billing rules, regulations and practices.

With respect to expanding the payment period from 7 days to 21 days, the Board's proposal is based tentatively on the representations of the petitioners that it is administratively impossible or impracticable to pay their transportation charges within the presently effective 7-day period. Upon consideration of the comments received, a different period may be established or no change made in the present rule. The Board proposes to make the period within which international freight forwarders must pay their transportation charges the same as that which applies to domestic forwarders since there appears to be no substantial difference between the administrative problems of domestic and international forwarders.

The proposed new requirement that carriers' tariffs contain their billing practices vis-a-vis shippers of property is based on the consideration that the time within which a shipper must pay a bill is economically meaningful only if the billing practices of the carrier are also determined. Proposed new paragraph (i) of § 296.38 would therefore require statements, in carriers' tariffs, of the billing intervals; the period covered by each billing (for instance, the practice

may be to include in the bills all charges for transportation up to ten days prior to the billing date); the time within which bills are payable; and any charges for late payment of bills.

1. It is proposed to amend Part 221 by adding a new rule, designated § 221.38(i), to read:

(i) *Carriers' rules for billing shippers.* All direct and indirect air carriers and foreign air carriers shall state in their tariffs governing transportation of property their rules, regulations and practices relating to the billing of shippers (including the billing of indirect air carriers by direct air carriers) for transportation services rendered. Such statements shall include the billing intervals; the period covered by each billing; the time within which the bills are payable; and any charges for late payment.

2. It is proposed to amend § 296.5 by substituting "21 days" for "7 days."

3. It is proposed to amend § 297.4 by substituting "21 days" for "30 days."

[F.R. Doc. 61-4098; Filed, May 3, 1961; 8:51 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 9]

[Docket No. 14095; FCC 61-548]

ADDITIONAL FREQUENCY FOR CIVIL AIR PATROL STATIONS

Notice of Proposed Rule Making

1. Notice is hereby given of the proposed rule making in the above-entitled matter.

2. The Commission is in receipt of a letter from the Department of the Air Force requesting that the Commission's rules be amended to make the frequency 4602.5 kc available for assignment to land and mobile stations of the Civil Air Patrol, the civilian adjunct of the Air Force. The request is for use of the frequency in the States of Wisconsin, Illinois, Michigan, Ohio, Indiana, and Kentucky with an authorized power output of 400 watts and employing 0.1A1, 1.1F1, and 6A3 emission.

3. The frequency 4602.5 kc is a Government/non-Government frequency. The Department of the Air Force represents that the interested Government agencies supported the need of the Civil Air Patrol for additional frequencies and have voiced no objection to the proposed use of the frequency by the Civil Air Patrol.

4. Authority for the proposed amendment is contained in section 303 (c), (f), and (r) of the Communications Act of 1934, as amended.

5. Any interested person who is of the opinion that the proposed amendment should not be adopted or should not be

adopted in the form set forth herein may file with the Commission on or before June 5, 1961, written data, views, or arguments setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Rebuttal comments may be filed within 10 days from the last day of filing original comments. The Commission will consider all such comments prior to taking final action in this matter, provided that, notwithstanding the provisions of § 1.213 of the rules, the Commission's consideration will not be limited solely to the comments filed in this proceeding.

6. In accordance with the provisions of § 1.54 of the Commission's rules, an original and 14 copies of all statements, briefs or comments shall be furnished to the Commission.

Adopted: April 26, 1961.

Released: April 28, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

Section 9.912 is amended to read as follows:

§ 9.912 Frequencies available.

The following frequencies are available for assignment to Civil Air Patrol land and mobile stations within the United States, its territories and possessions, except as otherwise provided in this section.

(a) 2374 kc, A-1, A-2, A-3 emission, 400 watts maximum power.

(b) 4467.5 kc, A-1, A-2, A-3 emission, 400 watts maximum power.

Assignment of this frequency is limited to stations in the District of Columbia and the following States:

Alabama.	New Jersey.
Connecticut.	New York.
Delaware.	North Carolina.
Florida.	Pennsylvania.
Georgia.	Rhode Island.
Maine.	South Carolina.
Maryland.	Tennessee.
Massachusetts.	Vermont.
Mississippi.	Virginia.
New Hampshire.	West Virginia.

(c) 4507.5 kc, A-1, A-2, A-3 emission, 400 watts maximum power. This fre-

quency is available for assignment to stations in all areas of the continental United States (excluding Alaska), except those listed in paragraph (b) of this section.

(d) 4585 kc, A-1, A-2, A-3 emission, 400 watts maximum power.

(e) 4602.5 kc, A-1, F-1, A-3 emission, 400 watts maximum power.

Assignment of this frequency is limited to stations in the following States:

Wisconsin.	Ohio.
Illinois.	Indiana.
Michigan.	Kentucky.

(f) 26,620 kc, A-1, A-2, A-3 emission, 250 watts maximum power. Assignment of this frequency is limited to stations in the State of Hawaii.

(g) 143.91 Mc, A-1, A-2, A-3 emission, 10 watts maximum power. Assignment of this frequency is limited to stations in the continental United States (excluding Alaska).

(h) 148.14 Mc, A-2, A-3 emission, 50 watts maximum power.

[F.R. Doc. 61-4115; Filed, May 3, 1961; 8:53 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Billings Area Office Redelelegation Order 1, Amdt. 9]

BILLINGS AREA; AUTHORITY OF SPECIFICALLY DESIGNATED EMPLOYEES

Functions Relating to Credit Matters

APRIL 28, 1961.

Order 1, as amended, is further amended by the addition of section 3.132 under Part 3, "Authority of Specifically Designated Employees," to read as follows:

PART 3—AUTHORITY OF SPECIFICALLY DESIGNATED EMPLOYEES

FUNCTIONS RELATING TO CREDIT MATTERS

SEC. 3.132 *Approval of mortgages and deeds of trust.* The Superintendent, Wind River Agency, may approve mortgages and deeds of trust pursuant to 25 CFR 121.61 given as security for loans to finance productive enterprises operated by borrowers; to provide housing facilities for borrowers; and for the purchase or construction of other improvements to be utilized by borrowers when the loans are made under a loan guaranty agreement of the Shoshone Tribe approved by the Commissioner or his authorized representative.

JOHN O. CROW,
Acting Commissioner.

[F.R. Doc. 61-4070; Filed, May 3, 1961; 8:46 a.m.]

Bureau of Land Management

EAST ADDITION, TOWNSITE OF KODIAK, ALASKA; PORTIONS OF U.S. SURVEYS 2538A AND 2538B

Notice of Sale

APRIL 28, 1961.

1. *Statutory authority.* The lots in the East Addition, Kodiak Townsite, will be disposed of under section 2381, United States Revised Statutes (43 U.S.C. sec. 712). The townsite plat of U.S. Survey Number 2538B was accepted on February 17, 1942. The townsite plat of the Dependent Resurvey of a Portion of U.S. Survey Number 2538A and Extension of U.S. Survey Number 2538B East Addition of Townsite of Kodiak, Alaska, was accepted on February 20, 1958, and officially filed on April 17, 1958.

2. *Lots and minimum prices.* The lots which will be offered for sale and minimum prices thereof are shown below.

3. *Public sale.* The lots will be offered for sale by the Operations Supervisor, Anchorage, or his representative at public outcry to the highest bidder at the Court Room in the Post Office Building at Kodiak, Alaska, on May 17, 1961, be-

ginning at 1:00 p.m. The sale will be continued as long as may be necessary until all the lots have been offered.

4. *Payments.* No lot shall be sold for less than the minimum price. Full payment may be made in cash on the date of the sale, or one-fourth of the purchase price may be paid in cash at that time and the balance in not to exceed three equal annual installments, with interest at the rate of four percent per annum to the date of payment. Payment on the date of the sale must be made to the officer conducting the sale. The deferred installments, with the interest, must be paid to the Manager, Anchorage Land Office, Cordova Building, Sixth and Cordova, Anchorage, Alaska.

5. *Citizenship requirements.* Every individual purchasing a lot will be required to furnish evidence that he is a citizen of the United States, or that he has declared his intention to become such a citizen, and every corporation purchasing a lot will be required to furnish evidence, including a certified copy of its articles of incorporation, showing that it was organized under the laws of the United States or of some State, Territory, or possession thereof, and that it is authorized to acquire and hold real estate in Alaska.

6. *Manner of sale.* Bids and payments may be made in person or by agent, but may not be made by mail nor at any time or place other than that fixed by these regulations. Any person or corporation may purchase any number of lots for which he is the successful bidder, with the exception that in the case of the eight lots offered in Block 30, each person or corporation may purchase no more than two lots. No bids will be made in increments of less than \$10.00.

7. *Authority of officer conducting the sale.* The officer conducting the sale is hereby authorized to reject any and all bids for any lot, and to suspend, adjourn, or postpone the sale of any lot or lots. After all the lots have been offered, the sale will be adjourned or closed, as the officer in charge may deem proper.

8. *Forfeitures for nonpayment.* If any person who has made partial payment on a lot fails to make any succeeding payment required under these regulations, at the date such payment becomes due, the money theretofore paid and his right to the lot will be forfeited.

9. *Removal of improvements.* Owners of buildings who do not purchase the lots on which the buildings are located will be allowed three months from the date of the sale in which to remove their improvements.

10. *Disposal of unsold lots after sale has been adjourned.* Lots remaining unsold upon adjournment or closure of this sale will be held for future disposition at such time as a demand for the lots exists.

11. *Reservations.* Patents for the lots, when issued, will contain the reservations of rights-of-way for ditches and canals in accordance with the Act of August 30, 1890 (26 Stat. 391), and for the construction of railroads and telegraph and telephone lines as provided by the Act of March 12, 1914 (38 Stat. 305).

12. *Warning.* All persons are warned against forming any combination or agreement which will prevent any lot from selling advantageously or which will, in any way, hinder or embarrass the sale. Any persons so offending will be prosecuted under Section 59 of the Criminal Code of the United States (18 U.S.C. sec. 113).

Block 30

Lot:	
10-----	\$1,400
11-----	1,400
12-----	1,400
13-----	1,300
14-----	1,300
15-----	1,200
16-----	1,200
17-----	1,100

Block 47—Con.

Lot:	
7-----	75
8-----	75
9-----	75
10-----	75
11-----	75
12-----	75

Block 49

Lot:	
3-----	\$200

Block 52

Lot:	
6-----	\$75
7-----	50

Block 40

Lot:	
13-----	\$75
14-----	75
15-----	75
16-----	75

Block 47

Lot:	
5-----	\$75
6-----	75

Block 53

Lot:	
2-----	\$50
3-----	50

Dated: April 28, 1961.

L. T. MAIN,
Operations Supervisor, Anchorage.

[F.R. Doc. 61-4071; Filed, May 3, 1961; 8:40 a.m.]

[No. 61-2]

OREGON

Notice of Proposed Withdrawal and Reservation of Lands

APRIL 26, 1961.

The Bureau of Reclamation has filed an application, Serial Number Oregon 010763, for the withdrawal, subject to valid existing rights, of the lands described below from all forms of appropriation under the public land laws as provided by section 3 of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416).

The applicant desires the lands for the development of the Bully Creek Reservoir, Vale Project, Oregon, and for operation and maintenance purposes. The lands lie in the upper reaches of the proposed reservoir in northern Malheur County, Oregon.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.