

the balloons. On the other hand, an evaluation of the information submitted in support of the suggested change indicates that it anticipates the use of various lighting arrangements as an alternative to the proposed position lights. For these reasons, the Agency has determined that the suggested change should not be incorporated into the regulation.

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, Part 31 of the Federal Aviation Regulations (14 CFR Part 31) is amended effective April 12, 1965, as follows:

1. Section 31.25 is amended by adding the following at the end of paragraph (c):

§ 31.25 Factor of safety.

(c) * * * The primary attachments of the envelope to the basket, trapeze, or other means provided for carrying occupants must be designed so that failure is extremely remote or so that any single failure will not jeopardize safety of flight.

2. Section 31.45 is amended by adding the following at the end thereof:

§ 31.45 Fuel cells.

* * * For pressurized fuel systems, each element and its connecting fittings must be tested to an ultimate pressure of at least twice the maximum pressure to which the system will be subjected in normal operation. In the test, no part of the system may fail or malfunction.

3. Section 31.47 is amended by adding the following new paragraphs:

§ 31.47 Heaters.

(c) There must be controls, instruments, or other equipment essential to the safe control and operation of the heater. They must be shown to be able to perform their intended functions during normal and emergency operation.

(d) The heater system (including the burner unit, controls, fuel lines, fuel cells, regulators, control valves, and other related elements) must be substantiated by an endurance test of at least 50 hours. In making the test, each element of the system must be installed and tested so as to simulate the actual balloon installation. The test program must be conducted so that each 10-hour part of the test includes 7 hours at maximum heat output of the heater and 3 hours divided into at least 10 equal increments between minimum and maximum heat output ranges.

(e) The test must also include at least three flameouts and restarts.

(f) Each element of the system must be serviceable at the end of the test.

4. Section 31.49 is amended by adding the following new paragraphs:

§ 31.49 Control systems.

(d) Each hot air balloon must have a means to allow the controlled release of hot air during flight.

(e) Each hot air balloon must have a means to indicate the maximum envelope skin temperatures occurring during operation. The indicator must be readily visible to the pilot and marked to indicate the limiting safe temperature of the envelope material. If the markings are on the cover glass of the instrument, there must be provisions to maintain the correct alignment of the glass cover with the face of the dial.

5. Section 31.55 is amended to read as follows:

§ 31.55 Deflation means.

There must be a means to allow emergency deflation of the envelope so as to allow a safe emergency landing. If a system other than a manual system is used, the reliability of the system used must be substantiated.

6. Subpart D is amended by adding the following sections after § 31.59:

§ 31.61 Static discharge.

Unless shown not to be necessary for safety, there must be appropriate bonding means in the design of each balloon using flammable gas as a lifting means to ensure that the effects of static discharges will not create a hazard.

§ 31.63 Safety belts.

There must be a safety belt, harness, or other restraining means for each occupant, unless the Administrator finds it unnecessary. If installed, the belt, harness, or other restraining means and its supporting structure must meet the strength requirements of Subpart C of this part.

§ 31.65 Position lights.

(a) If position lights are otherwise required by this chapter, there must be one steady white position light, and one flashing red position light with an effective flash frequency of at least 40, but not more than 100, cycles per minute.

(b) Both lights must have 360 degrees horizontal coverage and must be visible for at least 2 miles under clear atmospheric conditions.

(c) The white light must be located not more than 20 feet below the basket, trapeze, or other means for carrying occupants. The red light must be located not less than 7, or more than 10, feet below the white light.

(d) There must be a means to retract and store the lights.

7. Subpart F is amended by adding the following new section after § 31.83:

§ 31.85 Required basic equipment.

In addition to any equipment required by this subchapter for a specific kind of operation, the following equipment is required:

(a) For all balloons:

- (1) A compass.
- (2) An altimeter.
- (3) A rate of climb indicator.

(b) For hot air balloons:

- (1) A fuel quantity gage.
- (2) An envelope temperature indicator.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423))

Issued in Washington, D.C., on March 3, 1965.

N. E. HALABY,
Administrator.

[F.R. Doc. 65-2559; Filed, Mar. 12, 1965; 8:45 a.m.]

[Docket No. 6512; Amdt. 39-47]

PART 39—AIRWORTHINESS DIRECTIVES

Aero Products A6441FN-606 Propellers

There has been a separation during flight of a blade from an Aero Products A6441FN-606 propeller as a result of a fatigue crack, which progressed from a defect in the inboard fillet of the cuff ring on the blade shank. Since this condition is likely to exist or develop in other products of the same type design, an airworthiness directive is being issued to require a magnetic particle inspection of Aero Products A6441FN-606 propellers. The inspection schedule required by this AD was established upon the recommendation of the manufacturer, with a shorter compliance time required of propellers with hours' time in service in the critical range. A longer compliance time is specified for less critical higher and lower time blades.

As a situation exists which demands immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 39.13 of Part 39 (14 CFR Part 39) is hereby amended by adding the following new airworthiness directive:

AERO PRODUCTS. Applies to A6441FN-606 propeller blades shipped from Allison before February 19, 1965, that have not been overhauled.

Compliance required as indicated, unless already accomplished.

To prevent further blade failures as a result of fatigue cracks in the cuff ring, accomplish the following:

(a) Inspect blades with less than 750 hours' time in service on the effective date of this AD in accordance with paragraph (e) within the next 450 hours' time in service.

(b) Inspect blades with 750 or more but less than 1,000 hours' time in service on the effective date of this AD in accordance with paragraph (e) prior to the accumulation of 1,200 hours' time in service.

(c) Inspect blades with 1,000 or more but less than 1,600 hours' time in service on the effective date of this AD in accordance with paragraph (e) within the next 200 hours' time in service.

(d) Inspect blades with 1,600 or more hours' time in service on the effective date of this AD in accordance with paragraph (e) within the next 450 hours' time in service.

(e) Remove the spinner assembly, fairing assemblies, blade deicing slip ring assembly and attaching parts from the blade, and clean the blade surface in the cuff ring area in accordance with Allison Commercial Service Letter No. 168 dated March 1, 1965. Inspect the cuff ring area for cracks by fluorescent or nonfluorescent magnetic particle process in accordance with Allison Commercial Service Letter No. 168, or by an equivalent method approved by the Engineering and Manufacturing Branch, FAA Central Region.

(f) Remove cracked blades from service and report immediately by telephone or telegram to the Chief, Engineering and Manufacturing Branch, FAA Central Region, Kansas City, Mo.

Note: During the inspection required by this AD, particular attention should be given to the cuff ring fillets.

This amendment shall become effective March 13, 1965.

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

Issued in Washington, D.C., on March 8, 1965.

C. W. WALKER,
Acting Director,
Flight Standards Service.

[F.R. Doc. 65-2560; Filed, Mar. 12, 1965; 8:45 a.m.]

[Airspace Docket No. 64-SW-45]

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

Designation of Control Zone; Change of Effective Date

On November 24, 1964, Federal Register Document 64-11951 was published in the FEDERAL REGISTER (29 F.R. 15717) which designated a part-time control zone at Riverside Airport, Tulsa, Okla., effective 0001 e.s.t., March 4, 1965.

Subsequent to the publication of this rule in the FEDERAL REGISTER it was determined that the Riverside Airport traffic control tower will not be commissioned until on or about March 15, 1965. Accordingly, action is taken herein to amend the rule to change its effective date to coincide with the new date for commissioning the control tower.

Since this amendment is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective immediately.

In consideration of the foregoing, Federal Register Document No. 64-11951 is amended, effective immediately, to change the effective date of the amendment therein from 0001 e.s.t., March 4, 1965 to 0001 e.s.t., March 15, 1965.

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

Issued in Fort Worth, Tex., on March 3, 1965.

ARCHIE W. LEAGUE,
Director, Southwest Region.

[F.R. Doc. 65-2561; Filed, Mar. 12, 1965; 8:45 a.m.]

[Airspace Docket No. 65-WA-4]

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

Transition Area; Correction

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to correct an error that appears in Federal Register Document 64-12285 (29 F.R. 17502), which is a compilation of regulations established in accordance with Parts 71, 73, and 75, and published on December 15, 1964.

A final rule designating the present transition area at Eglin AFB, Fla., was published in the FEDERAL REGISTER (28 F.R. 2092) on March 5, 1963. The publication of the official document erroneously described a set of coordinates. On January 24, 1964, a compilation of regulations was published in the FEDERAL REGISTER (29 F.R. 1002) as Federal Register Document 64-467. In this document the erroneous set of coordinates of the Eglin AFB transition area was perpetuated. The error has been inadvertently continued in the compilation of regulations published on December 15, 1964, as Federal Register Document 64-12285. Therefore, action is taken herein to correct the description of the transition area in accordance with the official document as it appeared prior to the erroneous publication on March 5, 1963.

Since this action is editorial in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is corrected, effective immediately, as hereinafter set forth.

In § 71.181 (29 F.R. 17643), the Eglin AFB, Fla., transition area is amended by deleting the last set of coordinates from the description, "latitude 30°20'15" N., longitude 86°48'00" W.", and substituting "latitude 30°23'20" N., longitude 86°45'00" W." therefor.

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

Issued in Washington, D.C., on March 4, 1965.

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

[F.R. Doc. 65-2562; Filed, Mar. 12, 1965; 8:45 a.m.]

[Airspace Docket No. 64-WA-54]

PART 75—ESTABLISHMENT OF JET ROUTES

Alteration

On December 5, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 16432) stating that the Federal Aviation Agency was considering an amendment to Part 75 of the Federal Aviation Regulations that would extend Jet Route No. 14 from the Richmond, Va., VOR to an intersection overlying the Kenton, Del., VORTAC.

Interested persons were afforded an opportunity to participate in the pro-

posed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., May 27, 1965, as hereinafter set forth.

In § 75.100 (29 F.R. 17786), J-14 is amended by deleting "Richmond, Va." from the caption and substituting "Kenton, Del." therefor; and by deleting "Richmond, Va." from the text and substituting therefor "Richmond, Va.; to the INT of the Richmond 039° and the Yardley, Pa., 205° radials."

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

Issued in Washington, D.C., on March 5, 1965.

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

[F.R. Doc. 65-2563; Filed, Mar. 12, 1965; 8:45 a.m.]

[Airspace Docket No. 64-WA-79]

PART 75—ESTABLISHMENT OF JET ROUTES

Alteration

On November 20, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 15583) stating that the Federal Aviation Agency proposed to realign Jet Route No. 84 from Reno, Nev., via Stockton, Calif., to Oakland, Calif.

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

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., May 27, 1965, as hereinafter set forth.

In § 75.100 (29 F.R. 17776) Jet Route No. 84 is amended as follows: "From Oakland, Calif., via Sacramento, Calif.; Reno, Nev.;" is deleted and "From Oakland, Calif., via Stockton, Calif.; Reno, Nev.;" is substituted therefor.

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

Issued in Washington, D.C., on March 5, 1965.

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

[F.R. Doc. 65-2564; Filed, Mar. 12, 1965; 8:46 a.m.]

Chapter V—National Aeronautics and Space Administration

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

Subpart 5—Delegations and Designations

SCOPE OF SUBPART, AND AUTHORITY DELEGATION TO CORPS OF ENGINEERS BOARD OF CONTRACT APPEALS

Section 1204.500 is revised in its entirety and § 1204.506 is added.

§ 1204.500 Scope of subpart.

This subpart establishes various delegations of authority to, and designations of, National Aeronautics and Space Administration officials and other Government officials acting on behalf of the agency to carry out prescribed functions of the National Aeronautics and Space Administration.

§ 1204.506 Delegation of authority to the Corps of Engineers Board of Contract Appeals.

(a) Determination: The Corps of Engineers Board of Contract Appeals, Office of the Chief of Engineers, United States Army (hereinafter referred to as the Board), is authorized to act for and exercise the full authority of the Administrator of the National Aeronautics and Space Administration in all cases in which by the terms of a Corps of Engineers' lease of NASA real property the lessee may appeal to the Administrator of NASA or his representative from the findings of fact and final decision of the contracting officer or his authorized representative.

(b) Delegation of authority: The Board shall have all powers necessary for the proper performance of its duties. This includes but is not limited to authority to conduct hearings, dismiss proceedings, order the production of documents and other evidence, take official notice of facts within general knowledge, and decide all questions of fact and law raised by the appeal. There shall be no administrative appeal from decisions of the Board.

(c) Counsel to represent the interests of the Government in proceedings before the Board shall be designated in accordance with current procedures of the Corps of Engineers as they may be amended from time to time.

(42 U.S.C. 2473(b)(1))

Effective date. The provisions of §§ 1204.500 and 1204.506 are effective upon publication in the FEDERAL REGISTER.

JAMES E. WEBB,
Administrator.

[F.R. Doc. 65-2606; Filed, Mar. 12, 1965;
8:48 a.m.]

Title 22—FOREIGN RELATIONS**Chapter IV—International Joint Commission, United States and Canada****PART 401—RULES OF PROCEDURE**

The International Joint Commission, by virtue of the provisions of Article XII of the Treaty between the United States of America and His Majesty the King, dated the 11th day of January 1909, hereby revokes the rules of procedure which it adopted on the 2d day of February 1912, as subsequently amended, and, in their place and stead, adopts the following rules of procedure:

Subpart A—General

- Sec.
401.1 Definitions.
401.2 Chairmen.
401.3 Permanent offices.

- Sec.
401.4 Duties of secretaries.
401.5 Meetings.
401.6 Service of documents.
401.7 Conduct of hearings.
401.8 Decision by the whole Commission.
401.9 Suspension or amendment of rules.
401.10 General rule.
401.11 Availability of records.

Subpart B—Applications

- 401.12 Presentation to Commission.
401.13 Copies required.
401.14 Authorization by Government.
401.15 Notice of publication.
401.16 Statement in response.
401.17 Statement in reply.
401.18 Supplemental or amended applications and statements.
401.19 Reducing or extending time and dispensing with statements.
401.20 Interested persons and counsel.
401.21 Consultation.
401.22 Attendance of witnesses and production of documents.
401.23 Hearings.
401.24 Expenses of proceedings.
401.25 Government brief regarding navigable waters.

Subpart C—References

- 401.26 Presentation to Commission.
401.27 Notice and publication.
401.28 Advisory boards.
401.29 Hearings.
401.30 Proceedings under Article X.

AUTHORITY: The provisions of this Part 401 issued under Art. XII, 36 Stat. 2453.

Subpart A—General**§ 401.1 Definitions.**

(a) In the construction of the regulations in this part, unless the context otherwise requires, words importing the singular number shall include the plural and words importing the plural number shall include the singular, and;

(b) "Applicant" means the Government or person on whose behalf an application is presented to the Commission in accordance with § 401.12;

(c) "Government" means the Government of Canada or the Government of the United States of America;

(d) "Person" includes Province, State, department or agency of a Province or State, municipality, individual, partnership, corporation and association, but does not include the Government of Canada or the Government of the United States of America;

(e) "Oath" includes affirmation;

(f) "Reference" means the document by which a question or matter of difference is referred to the Commission pursuant to Article IX of the Treaty;

(g) "The Treaty" means the Treaty between the United States of America and His Majesty the King, dated the 11th day of January 1909;

(h) "Canadian section" consists of the commissioners appointed by Her Majesty on the recommendation of the Governor in Council of Canada;

(i) "United States section" consists of the commissioners appointed by the President of the United States.

§ 401.2 Chairmen.

(a) The commissioners of the United States section of the Commission shall appoint one of their number as chairman, to be known as the Chairman of the

United States Section of the International Joint Commission, and he shall act as chairman at all meetings of the Commission held in the United States and in respect to all matters required to be done in the United States by the chairman of the Commission.

(b) The commissioners of the Canadian section of the Commission shall appoint one of their number as chairman, to be known as the Chairman of the Canadian Section of the International Joint Commission, and he shall act as chairman at all meetings of the Commission held in Canada and in respect to all matters required to be done in Canada by the chairman of the Commission.

(c) In case it shall be impracticable for the chairman of either section to act in any matter, the commissioner of such section who is senior in order of appointment shall act in his stead.

§ 401.3 Permanent offices.

The permanent offices of the Commission shall be at Washington, in the District of Columbia, and at Ottawa, in the Province of Ontario, and, subject to the directions of the respective chairmen acting for their respective sections, the secretaries of the United States and Canadian sections of the Commission shall have full charge and control of said offices, respectively.

§ 401.4 Duties of secretaries.

(a) The secretaries shall act as joint secretaries at all meetings and hearings of the Commission. The secretary of the section of the Commission of the country in which a meeting or hearing is held shall prepare a record thereof and each secretary shall preserve an authentic copy of the same in the permanent offices of the Commission.

(b) Each secretary shall receive and file all applications, references and other papers properly presented to the Commission in any proceeding instituted before it and shall number in numerical order all such applications and references; the number given to an application or reference shall be the primary file number for all papers relating to such application or reference.

(c) Each secretary shall forward to the other for filing in the office of the other copies of all official letters, documents, records or other papers received by him or filed in his office, pertaining to any proceeding before the Commission, to the end that there shall be on file in each office either the original or a copy of all official letters and other papers, relating to the said proceeding.

(d) Each secretary shall also forward to the other for filing in the office of the other copies of any letters, documents or other papers received by him or filed in his office which are deemed by him to be of interest to the Commission.

§ 401.5 Meetings.

(a) Subject at all times to special call or direction by the two Governments, meetings of the Commission shall be held at such times and places in the United States and Canada as the Commission or the Chairman may determine and in any event shall be held each year at Washington in April and at Ottawa

in October, beginning ordinarily on the first Tuesday of the said months.

(b) If the Commission determines that a meeting shall be open to the public, it shall give such advance notice to this effect as it considers appropriate in the circumstances.

§ 401.6 Service of documents.

(a) Where the secretary is required by the regulations in this part to give notice to any person, this shall be done by delivering or mailing such notice to the person at the address for service that the said person has furnished to the Commission, or if no such address has been furnished, at the dwelling house or usual place of abode or usual place of business of such person.

(b) Where the secretary is required by the regulations in this part to give notice to a Government, this shall be done by delivering or mailing such notice to the Secretary of State for External Affairs of Canada or to the Secretary of State of the United States of America, as the case may be.

(c) Service of any document pursuant to § 401.22 shall be by delivering a copy thereof to the person named therein, or by leaving the same at the dwelling house or usual place of abode or usual place of business of such person. The person serving the notice or request shall furnish an affidavit to the secretary stating the time and place of such service.

§ 401.7 Conduct of hearings.

Hearings may be conducted, testimony received and arguments thereon heard by the whole Commission or by one or more Commissioners from each section of the Commission, designated for that purpose by the respective sections or the Chairman thereof.

§ 401.8 Decision by the whole Commission.

The whole Commission shall consider and determine any matter or question which the Treaty or any other treaty or international agreement, either in terms or by implication, requires or makes it the duty of the Commission to determine. For the purposes of this section and § 401.7, "the whole Commission" means all of the commissioners appointed pursuant to Article VII of the Treaty whose terms of office have not expired and who are not prevented by serious illness or other circumstances beyond their control from carrying out their functions as commissioners. In no event shall a decision be made without the concurrence of at least four commissioners.

§ 401.9 Suspension or amendment of rules.

The Commission may suspend, repeal, or amend all or any of the rules of procedure at any time, with the concurrence of at least four commissioners. Both Governments shall be informed forthwith of any such action.

§ 401.10 General rule.

The Commission may, at any time, adopt any procedure which it deems expedient and necessary to carry out the true intent and meaning of the Treaty.

§ 401.11 Availability of records.

(a) The following items in the official records of the Commission shall be available for public information at the permanent offices of the Commission:

Applications.
References.
Public Notices.
Press Releases.
Statements in Response.
Statements in Reply.
Records of hearings, including exhibits filed.
Briefs and formal Statements submitted at hearings or at other times.

(b) Decisions rendered and orders issued by the Commission and formal opinions of any of the Commissioners with relation thereto, shall be available similarly for public information after duplicate originals of the decisions or orders have been transmitted to and filed with the Governments pursuant to Article XI of the Treaty.

(c) Copies of reports submitted to one or both of the Governments pursuant to the Treaty shall be available similarly for public information only with the consent of the Government or Governments to whom the reports are addressed.

(d) Reports, letters, memoranda and other communications addressed to the Commission, by boards or committees created by or at the request of the Commission, are privileged and shall become available for public information only in accordance with a decision of the Commission to that effect.

(e) Except as provided in the preceding paragraphs of this section, records of deliberations, and documents, letters, memoranda and communications of every nature and kind in the official records of the Commission, whether addressed to or by the Commission, commissioners, secretaries, advisers or any of them, are privileged and shall become available for public information only in accordance with a decision of the Commission to that effect.

(f) A copy of any document, report, record or other paper which under this section is available for public information may be furnished to any person upon payment of any cost involved in its reproduction.

Subpart B—Applications

§ 401.12 Presentation to Commission.

(a) Where one or the other of the Governments on its own initiative seeks the approval of the Commission for the use, obstruction or diversion of waters with respect to which under Articles III or IV of the Treaty the approval of the Commission is required, it shall present to the Commission an application setting forth as fully as may be necessary for the information of the Commission the facts upon which the application is based and the nature of the order of approval desired.

(b) Where a person seeks the approval of the Commission for the use, obstruction or diversion of waters with respect to which under Articles III or IV of the Treaty the approval of the Commission is required, he shall prepare an application to the Commission and forward it

to the Government within whose jurisdiction such use, obstruction or diversion is to be made, with the request that the said application be transmitted to the Commission. If such Government transmits the application to the Commission with a request that it take appropriate action thereon, the same shall be filed by the Commission in the same manner as an application presented in accordance with paragraph (a) of this section. Transmittal of the application to the Commission shall not be construed as authorization by the Government of the use, obstruction or diversion proposed by the applicant. All applications by persons shall conform, as to their contents, to the requirements of paragraph (a) of this section.

(c) Where the Commission has issued an Order approving a particular use, obstruction or diversion, in which it has specifically retained jurisdiction over the subject matter of an application and has reserved the right to make further orders relating thereto, any Government or person entitled to request the issuance of such further order may present to the Commission a request, setting forth the facts upon which it is based and the nature of the further order desired. On receipt of the request, the Commission shall proceed in accordance with the terms of the Order in which the Commission specifically retained jurisdiction. In each case the secretaries shall notify both Governments and invite their comments before the request is complied with.

§ 401.13 Copies required.

(a) Subject to paragraph (c) of this section, two duplicate originals and fifty copies of the application and of any supplemental application, statement in response, supplemental statement in response, statement in reply and supplemental statement in reply shall be delivered to either secretary. On receipt of such documents, the secretary shall forthwith send one duplicate original and twenty-five copies to the other secretary.

(b) Subject to paragraph (c) of this section, two copies of such drawings, profiles, plans of survey, maps and specifications as may be necessary to illustrate clearly the matter of the application shall be delivered to either secretary and he shall send one copy forthwith to the other secretary.

(c) Notwithstanding paragraphs (a) and (b) of this section, such additional copies of the documents mentioned therein as may be requested by the Commission shall be provided forthwith.

§ 401.14 Authorization by Government.

(a) Where the use, obstruction or diversion of waters for which the Commission's approval is sought has been authorized by or on behalf of a Government or by or on behalf of a State or Province or other competent authority, two copies of such authorization and of any plans approved incidental thereto shall accompany the application when it is presented to the Commission in accordance with § 401.12.

(b) Where such a use, obstruction or diversion of waters is authorized by or on behalf of a Government or by or on behalf of a State or Province or other competent authority after an application has been presented to the Commission in accordance with § 401.12, the applicant shall deliver forthwith to the Commission two copies of such authorization and of any plans approved incidental thereto.

§ 401.15 Notice of publication.

(a) As soon as practicable after an application is presented or transmitted in accordance with § 401.12, the secretary of the section of the Commission appointed by the other Government shall send a copy of the application to such Government.

(b) Except as otherwise provided pursuant to § 401.19, the secretaries, as soon as practicable after the application is received, shall cause a notice to be published in the Canada Gazette and the Federal Register and once each week for three successive weeks in two newspapers, published one in each country and circulated in or near the localities which, in the opinion of the Commission, are most likely to be affected by the proposed use, obstruction or diversion. Subject to paragraph (c) of this section, the notice shall state that the application has been received, the nature and locality of the proposed use, obstruction or diversion, the time within which any person interested may present a statement in response to the Commission and that the Commission will hold a hearing or hearings at which all persons interested are entitled to be heard with respect thereto.

(c) If the Commission so directs, the notice referred to in paragraph (b) of this section, appropriately modified, may be combined with the notice of hearing referred to in § 401.24 and published accordingly.

§ 401.16 Statement in response.

(a) Except as otherwise provided pursuant to § 401.19, a Government and any interested person, other than the applicant, may present a statement in response to the Commission within thirty days after the filing of an application. A statement in response shall set forth facts and arguments bearing on the subject matter of the application and tending to oppose or support the application, in whole or in part. If it is desired that conditional approval be granted, the statement in response should set forth the particular condition or conditions desired. An address for service of documents should be included in the statement in response.

(b) When a statement in response has been filed, the secretaries shall send a copy forthwith to the applicant and to each Government except the Government which presented the said statement in response. If so directed by the Commission, the secretaries shall inform those who have presented statements in response, of the nature of the total response.

§ 401.17 Statement in reply.

(a) Except as otherwise provided pursuant to § 401.19, the applicant and, if he is a person, the Government which transmitted the application on his behalf, one or both may present a statement or statements in reply to the Commission within thirty days after the time provided for presenting statements in response. A statement in reply shall set forth facts and arguments bearing upon the allegations and arguments contained in the statements in response.

(b) When a statement in reply has been filed, the secretary shall send a copy forthwith to each Government except the Government which presented the said statement in reply, and to all persons who presented statements in response.

§ 401.18 Supplemental or amended applications and statements.

(a) If it appears to the Commission that either an application, a statement in response or a statement in reply is not sufficiently definite and complete, the Commission may require a more definite and complete application, statement in response or statement in reply, as the case may be, to be presented.

(b) Where substantial justice requires it, the Commission with the concurrence of at least four Commissioners may allow the amendment of any application, statement in response, statement in reply and any document or exhibit which has been presented to the Commission.

§ 401.19 Reducing or extending time and dispensing with statements.

In any case where the Commission considers that such action would be in the public interest and not prejudicial to the right of interested persons to be heard in accordance with Article XII of the Treaty, the Commission may reduce or extend the time for the presentation of any paper or the doing of any act required by these rules or may dispense with the presentation of statements in response and statements in reply.

§ 401.20 Interested persons and counsel.

Governments and persons interested in the subject matter of an application, whether in favour of or opposed to it, are entitled to be heard in person or by counsel at any hearing thereof held by the Commission.

§ 401.21 Consultation.

The Commission may meet or consult with the applicant, the Governments and other persons or their counsel at any time regarding the plan of hearing, the mode of conducting the inquiry, the admitting or proof of certain facts or for any other purpose.

§ 401.22 Attendance of witnesses and production of documents.

(a) Requests for the attendance and examination of witnesses and for the production and inspection of books, papers and documents may be issued over the signature of the secretary of the section of the Commission of the country in which the witnesses reside or the books, papers or documents may be, when so authorized by the Chairman of that section.

(b) All applications for subpoena or other process to compel the attendance of witnesses or the production of books, papers and documents before the Commission shall be made to the proper courts of either country, as the case may be, upon the order of the Commission.

§ 401.23 Hearings.

(a) The time and place of the hearing or hearings of an application shall be fixed by the Chairmen of the two sections.

(b) The secretaries shall forthwith give written notice of the time and place of the hearing or hearings to the applicant, the Governments and all persons who have presented statements in response to the Commission. Except as otherwise provided by the Commission, the secretaries shall also cause such notice to be published in the Canada Gazette and the Federal Register and once each week for three successive weeks in two newspapers, published one in each country and circulated in or near the localities which, in the opinion of the Commission, are most likely to be affected by the proposed use, obstruction or diversion of water.

(c) All hearings shall be open to the public.

(d) The applicant, the Governments and persons interested are entitled to present oral and documentary evidence and argument that is relevant and material to any issue that is before the Commission in connection with the application.

(e) The presiding chairman may require that evidence to be under oath.

(f) Witnesses may be examined and cross-examined by the Commissioners and by counsel for the applicant, the Governments and the Commission. With the consent of the presiding chairman, counsel for a person other than the applicant may also examine or cross-examine witnesses.

(g) The Commission may require further evidence to be given and may require printed briefs to be submitted at or subsequent to the hearing.

(h) The Commissioners shall be free to determine the probative value of the evidence submitted to it.

(i) A verbatim transcript of the proceedings at the hearing shall be prepared.

(j) The hearing of the application, when once begun, shall proceed at the times and places determined by the Chairmen of the two sections to ensure the greatest practicable continuity and dispatch of proceedings.

§ 401.24 Expenses of proceedings.

(a) The expenses of those participating in any proceeding under this Subpart B shall be borne by the participants.

(b) The Commission, after due notice to the participant or participants concerned, may require that any unusual cost or expense to the Commission shall be paid by the person on whose behalf or at whose request such unusual cost or expense has been or will be incurred.

§ 401.25 Government brief regarding navigable waters.

When in the opinion of the Commission it is desirable that a decision should

be rendered which affects navigable waters in a manner or to an extent different from that contemplated by the application and plans presented to the Commission, the Commission will, before making a final decision, submit to the Government presenting or transmitting the application a draft of the decision, and such Government may transmit to the Commission a brief or memorandum thereon which will receive due consideration by the Commission before its decision is made final.

Subpart C—References

§ 401.26 Presentation to Commission.

(a) Where a question or matter of difference arising between the two Governments involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other along the common frontier between the United States of America and Canada is to be referred to the Commission under Article IX of the Treaty, the method of bringing such question or matter to the attention of the Commission and invoking its action ordinarily will be as set forth in this section.

(b) Where both Governments have agreed to refer such a question or matter to the Commission, each Government will present to the Commission, at the permanent office in its country, a reference in similar or identical terms setting forth as fully as may be necessary for the information of the Commission the question or matter which it is to examine into and report upon and any restrictions or exceptions which may be imposed upon the Commission with respect thereto.

(c) Where one of the Governments, on its own initiative, has decided to refer such a question or matter to the Commission, it will present a reference to the Commission at the permanent office in its country. All such references should conform, as to their contents, to the requirements of paragraph (b) of this section.

(d) Such drawings, plans of survey and maps as may be necessary to illustrate clearly the question or matter referred should accompany the reference when it is presented to the Commission.

§ 401.27 Notice and publication.

(a) The secretary to whom a reference is presented shall receive and file the same and shall send a copy forthwith to the other secretary for filing in the office of the latter. If the reference is presented by one Government only, the other secretary shall send a copy forthwith to his Government.

(b) Subject to any restrictions or exceptions which may be imposed upon the Commission by the terms of the reference, and unless otherwise provided by the Commission, the secretaries, as soon as practicable after the reference is received, shall cause a notice to be published in the Canada Gazette, the Federal Register and in two newspapers, published one in each country and circulated in or near the localities which, in the opinion of the Commission, are most likely to be interested in the subject

matter of the reference. The notice shall describe the subject matter of the reference in general terms, invite interested persons to inform the Commission of the nature of their interest and state that the Commission will provide convenient opportunity for interested persons to be heard with respect thereto.

§ 401.28 Advisory boards.

(a) The Commission may appoint a board or boards, composed of qualified persons, to conduct on its behalf investigations and studies that may be necessary or desirable and to report to the Commission regarding any questions or matters involved in the subject matter of the reference.

(b) Such board ordinarily will have an equal number of members from each country.

(c) The Commission ordinarily will make copies of the main or final report of such board or a digest thereof available for examination by the Governments and interested persons prior to holding the final hearing or hearings referred to in § 401.29.

§ 401.29 Hearings.

(a) A hearing or hearings may be held whenever in the opinion of the Commission such action would be helpful to the Commission in complying with the terms of a reference. Subject to any restrictions or exceptions which may be imposed by the terms of the reference, a final hearing or hearings shall be held before the Commission reports to Governments in accordance with the terms of the reference.

(b) The time, place and purpose of the hearing or hearings on a reference shall be fixed by the chairmen of the two sections.

(c) The secretaries shall forthwith give written notice of the time, place and purpose of the hearing or hearings to each Government and to persons who have advised the Commission of their interest. Unless otherwise directed by the Commission, the secretaries shall also cause such notice to be published in the Canada Gazette, the Federal Register and once each week for three successive weeks in two newspapers, published one in each country and circulated in or near the localities which, in the opinion of the Commission, are most likely to be interested in the subject matter of the reference.

(d) All hearings shall be open to the public, unless otherwise determined by the Commission.

(e) At a hearing, the Governments and persons interested are entitled to present, in person or by counsel, oral and documentary evidence and argument that is relevant and material to any matter that is within the published purpose of the hearing.

(f) The presiding chairman may require that evidence be under oath.

(g) Witnesses may be examined and cross-examined by the Commissioners and by counsel for the Governments and the Commission. With the consent of the presiding chairman, counsel for any interested person may also examine or cross-examine witnesses.

(h) The Commission may require further evidence to be given and may require printed briefs to be submitted at or subsequent to the hearing.

(i) A verbatim transcript of the proceedings at the hearing shall be prepared.

§ 401.30 Proceedings Under Article X.

When a question or matter of difference arising between the two Governments involving the rights, obligations or interests of either in relation to the other or to their respective inhabitants has been or is to be referred to the Commission for decision under Article X of the Treaty, the Commission, after consultation with the said Governments, will adopt such rules of procedure as may be appropriate to the question or matter referred or to be referred.

Adopted: December 2, 1964.

United States Section:

EUGENE W. WEBER, Acting Chairman.
CHARLES R. ROSS, Commissioner.

Canadian Section:

A. D. P. HEENEY, Chairman.
D. M. STEPHENS, Commissioner.
RENE DUPUIS, Commissioner.

WILLIAM A. BULLARD,
Secretary,
United States Section.
D. G. CHANCE,
Secretary,
Canadian Section.

[F.R. Doc. 65-2583; Filed, Mar. 12, 1965;
8:46 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

Black Rock Canal, N.Y.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.590 governing the use, administration and navigation of Black Rock Canal, N.Y., is hereby amended in its entirety, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 207.590 Black Rock Canal and Lock at Buffalo, N.Y.; use, administration and navigation.

(a) The term "canal" when used in this section will mean all of the Black Rock Waterway, including Black Rock Lock, and all of the lands, piers, buildings, and other appurtenances acquired by letters patent from the State of New York, or constructed for the use of the waterway; the southerly limit thereof being at the southerly end of Bird Island Pier, and the northerly limit being at the downstream end of the guide pier, Black Rock Lock, a length of 3.7 miles.

(b) The canal and all of its appurtenances and the use, administration and navigation thereof shall be in charge of the District Engineer, U.S. Army Engi-