

Authority, the Office of Administrative Law Judges, the General Counsel, and the Regional Offices and the service of documents on other parties.

Dated: May 31, 1996.

For the FLRA.

James H. Adams,

Acting Director, Case Control Office.

[FR Doc. 96-14099 Filed 6-5-96; 8:45 am]

BILLING CODE 6727-01-P

5 CFR Parts 2470, 2471, 2472, and 2473

Federal Service Impasses Panel; General; Procedures of the Panel; Impasses Arising Pursuant to Agency Determinations Not to Establish or to Terminate Flexible or Compressed Work Schedules; Miscellaneous Requirements

AGENCY: Federal Service Impasses Panel, FLRA.

ACTION: Notice of proposed rulemaking with request for comments.

SUMMARY: The Federal Service Impasses Panel proposes to revise its regulations to take advantage of existing technology and to make them more easily understood by agencies, labor organizations, and individuals. The proposed revisions will allow parties to file requests for Panel assistance, and other documents, by facsimile transmission and will generally reorganize and modify those portions of the rules pertaining to filing and service. A proposed new section will establish procedures by which a party to a Panel proceeding may seek to obtain a subpoena. These proposed revisions will make the regulations clearer and more user-friendly and will provide quicker access to the Panel's procedures. By separate notice published today, the Federal Labor Relations Authority is providing interested persons with the opportunity to submit written comments concerning, among other things, contemplated revisions to the FLRA's regulations to permit the filing and/or service of documents by facsimile transmissions.

DATES: Written comments in response to this notice will be considered if received by close of business on July 8, 1996. Extensions of time will not be granted.

ADDRESSES: Mail or deliver written comments to the Federal Service Impasses Panel, 607 14th Street, NW., Suite 220, Washington, D.C. 20424-0001. Copies of all written comments will be available for inspection and photocopying between 8 a.m. and 5

p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Linda A. Lafferty, Executive Director, Federal Service Impasses Panel, 607 14th Street, NW., Suite 220, Washington, D.C. 20424-0001. Telephone (202) 482-6670.

SUPPLEMENTARY INFORMATION: The Federal Service Impasses Panel established an internal work group to study and evaluate its regulations. The following section-by-section analysis reflects proposed revisions to Parts 2470—General; Part 2471—Procedures of the Panel; and Part 2472—Impasses Arising Pursuant to Agency Determinations Not to Establish or to Terminate Flexible or Compressed Work Schedules. Following this analysis, an explanation of proposed Part 2473—Miscellaneous Requirements, which contains a new section on subpoenas, is provided.

Part 2470

Section 2470.1

A new last sentence has been added to reflect the Panel's longstanding policy of encouraging parties to resolve disputes on terms that are mutually agreeable without the need for Panel action.

Part 2471

Section 2471.2

A form is available for use in filing a request for assistance with the Panel, but its use is not required, provided that the request includes all of the information set forth in § 2471.3. This provides a filing party with the choice of using the prepared form or submitting the required information in some other format. The Panel's address and phone number are updated to reflect its current office location.

Section 2471.3

Requiring the filing party to provide the addresses, phone numbers, and facsimile numbers of the parties to a dispute will facilitate communication between the Panel and parties and will result in enhanced customer service. The revision in paragraph (b)(4) reflects developments in FLRA case law, set forth in *Commander, Carswell Air Force Base, Texas and American Federation of Government Employees, Local 1364*, 31 FLRA 620 (1988), which allows the Panel to resolve duty-to-bargain questions under certain circumstances.

Section 2471.4

The Panel's address and phone number are updated to reflect its current office location. The Panel's facsimile

number is provided consistent with the changes described in § 2471.5 which allow filing of requests for assistance, and other documents, by this method.

Section 2471.5

The Panel recognizes that the use of facsimile systems have become more prevalent in both the private and public sectors and that private delivery services are commonly used as an alternative to the United States Postal Service. After careful consideration, it has been determined that allowing the limited use of these methods of communication will provide parties with quicker access to the Panel's services.

Paragraph (a) establishes the requirements for filing and service of requests for Panel assistance and requests for approval of a binding arbitration procedure. Paragraph (a)(1) allows a filing party to submit a request by a variety of methods, including facsimile transmission and private delivery service. A party filing a request by facsimile transmission must submit an original for the Panel's records, but failure to do so shall not affect the validity of the filing, if otherwise proper. Paragraph (a)(2), which establishes service requirements, provides the same variety of methods as paragraph (a)(1), except that the filing party may use facsimile transmission only with the permission of the person receiving the request.

Paragraph (b) establishes the requirements for filing and service of documents other than requests for assistance. Paragraphs (b)(1) and (b)(2) provide for filing and service of documents with the Panel by the same methods established in paragraph (a)(1) and (a)(2) except that advance permission is required before a document other than a request may be filed with the Panel by facsimile transmission.

Paragraph (d) establishes a method for determining the date of service for documents served by private delivery service or by facsimile transmission.

Paragraph (e) establishes a revised format for documents filed with the Panel; it also states affirmatively that nonconforming documents may, at the Panel's discretion, be rejected.

Section 2471.6

Paragraph (a)(2) establishes that when the Panel asserts jurisdiction, it may recommend procedures for impasse resolution and/or directly assist the parties through whatever methods the Panel considers appropriate. The most common procedures used by the Panel are now listed.

Paragraph (b) provides a streamlined approach for handling requests for approval of a binding arbitration procedure. All requests filed under this section will now be approved or disapproved normally within 5 workdays.

Section 2471.7

The amended wording clarifies that a notice of hearing is issued to the parties only when the Panel appoints one or more of its designees to conduct a factfinding hearing. Such a notice will not be issued when a hearing is conducted by a private factfinder.

Section 2471.8

The heading is changed slightly to clarify that the provisions of the section apply to factfinding, and other, hearings.

Section 2471.9

Since the reports and recommendations referred to in § 2471.7, 2471.8, and 2471.9 are issued following a factfinding hearing, the first sentence of paragraph (a) is amended accordingly.

Part 2472

Section 2472.2

Former paragraphs (d) through (n) are renumbered to become new paragraphs (e) through (o). A new paragraph (d) is added which defines “*duly authorized delegatee*” as “an official who has been delegated the authority to act for the head of the agency in the matter concerned.” Since the amended wording of § 2472.4(a)(6) includes this term, its definition is provided in this section for clarity.

New paragraph (j) is amended by eliminating the words “arbitration hearing” from the definition of the term “*hearing*.” Under 5 U.S.C. 6131, only the Panel, acting as a body, is authorized to decide impasses arising from an agency determination not to establish, or to terminate, a flexible or compressed work schedule. Since arbitration is inconsistent with this statutory requirement, it is not an available procedural option. The reference, therefore, is deleted.

Section 2472.3

A form is available for use in filing a request for assistance with the Panel in cases arising under the Federal Employees Flexible and Compressed Work Schedules Act, but its use is not required, provided that the request includes all of the information set forth in § 2472.4. This provides a filing party with the choice of using the prepared form or submitting the required

information in some other format. The Panel’s address and phone number are updated to reflect its current office location.

Section 2472.4

Consistent with the changes to § 2471.3, paragraph (a)(1) requires the filing party to provide the addresses, phone numbers, and facsimile numbers of the parties to a dispute.

The amendment to paragraph (a)(6) reflects the fact that in considering impasses under 5 U.S.C. 6131, the Panel is charged with deciding whether an agency-head finding, that a flexible or compressed work schedule has had, or would have, adverse agency impact, is supported by evidence. This amendment requires the filing party to submit the finding as part of the initial request. In addition, although 5 U.S.C. 6131 identifies “the head of an agency” as the individual responsible for making the finding, it is the Panel’s experience that in most cases, the finding is actually made by some other individual. This being the case, evidence of a specific delegation of authority is required in order to comply with the terms of 5 U.S.C. 6131.

Section 2472.5

These changes are consistent with those set forth in § 2471.4. The Panel’s address and phone number are updated to reflect its current office location. The Panel’s facsimile number is provided consistent with the changes described in new § 2472.6 which allow filing of requests, and other documents, by this method.

Section 2472.6

This section is eliminated because many parties were confused as to their obligations under it. Since new § 2472.7 provides for investigation of requests filed under this part, this section is unnecessary. Former § 2472.7 through 2472.12 are renumbered to become § 2472.6 through 2472.11, respectively.

New § 2472.6 (a) and (b) establish the same methods of filing and completing service as described in § 2471.5 (a) and (b) except that no reference is made to service upon a mediation service, since under this part, mediation is not a prerequisite to seeking Panel assistance. Consistent with the amendments to § 2471.5, paragraph (d) establishes a method for determining the date of service for documents served by private delivery service or by facsimile transmission, and paragraph (e) establishes a revised format for documents filed with the Panel. Paragraph (f) is revised to clarify that a request filed under this part must be

perfected before any Panel action will be taken.

Section 2472.7

Paragraph (b) is revised to set forth a more expansive list of procedures that are used by the Panel when considering impasses filed under this part.

Section 2472.8

Consistent with the amended wording of § 2471.7, this section clarifies that a notice of hearing is issued to the parties only when the Panel appoints one or more of its designees to conduct a factfinding hearing. Such a notice will not be issued when a hearing is conducted by a private factfinder.

Section 2472.10

This section is modified to reflect the fact that reports are issued after factfinding hearings and not after informal conferences. This being the case, the reference to informal conferences is deleted.

Section 2472.11

Paragraph (b) is modified to clarify that if the finding on which an agency determination under 5 U.S.C. 6131(c)(2) or (c)(3) is based is not supported by evidence that the schedule is likely to cause, or has caused, an adverse agency impact, the Panel shall take whatever action is appropriate. This revision clarifies that the Panel has broad discretion in resolving impasses, as described in 5 U.S.C. 7119.

Part 2473

Section 2473.1

This section is added to establish a procedure whereby a party may seek to obtain a subpoena requiring the attendance and testimony of witnesses at a hearing and the production of documentary or other evidence. Paragraph (a) identifies those individuals who may issue a subpoena. Paragraph (b) describes the circumstances where no subpoena is necessary. Paragraph (c) establishes the method and time limits for submitting a request to the Executive Director or appropriate presiding official during a hearing. Paragraph (d) prescribes the contents of the request; sets forth a standard for the granting, or denying, of a request; and establishes service requirements. Paragraph (e) provides a process for challenging a subpoena through a petition to revoke. Paragraph (f) deals with enforcement of a subpoena, and paragraph (g) establishes additional filing and service requirements. Paragraph (h) provides for witness fees and expenses.

List of Subjects

5 CFR Part 2470

Government employees, Labor-management relations.

5 CFR Parts 2471, 2472, and 2473

Administrative practice and procedure, Government employees, Labor-management relations.

For the reasons set forth in the preamble, the Federal Service Impasses Panel proposes to amend 5 CFR Ch. XIV, Parts 2470, 2471, and 2472, and add 5 CFR Ch. XIV, Part 2473, as follows:

PART 2470—GENERAL

1. The authority citation for Part 2470 continues to read as follows:

Authority: 5 U.S.C. 7119, 7134.

2. In § 2470.1, a new last sentence is added to read as follows:

§ 2470.1 Purpose.

* * * It is the policy of the Panel to encourage labor and management to resolve disputes on terms that are mutually agreeable at any stage of the Panel's procedures.

PART 2471—PROCEDURES OF THE PANEL

3. The authority citation for Part 2471 continues to read as follows:

Authority: 5 U.S.C. 7119, 7134.

4. Section 2471.2 is revised to read as follows:

§ 2471.2 Request form.

A form is available for use by the parties in filing a request for consideration of an impasse or approval of a binding arbitration procedure. Copies are available from the Office of the Executive Director, Federal Service Impasses Panel, 607 14th Street, NW., Suite 220, Washington, D.C. 20424-0001. Telephone (202) 482-6670. Use of the form is not required provided that the request includes all of the information set forth in § 2471.3.

5. Section 2471.3 is amended by revising paragraphs (a)(1), (b)(1), and (b)(4) to read as follows:

§ 2471.3 Content of request.

(a) * * *

(1) Identification of the parties and individuals authorized to act on their behalf, including their addresses, telephone numbers, and facsimile numbers;

* * * * *

(b) * * *

(1) Identification of the parties and individuals authorized to act on their

behalf, including their addresses, telephone numbers, and facsimile numbers;

* * * * *

(4) Statement as to whether any of the proposals to be submitted to the arbitrator contain questions concerning the duty to bargain and a statement of each party's position concerning such questions; and

* * * * *

6. Section 2471.4 is revised to read as follows:

§ 2471.4 Where to file.

Requests to the Panel provided for in this part, and inquiries or correspondence on the status of impasses or other related matters, should be addressed to the Executive Director, Federal Service Impasses Panel, 607 14th Street, NW., Suite 220, Washington, D.C. 20424-0001. Telephone (202) 482-6670. Facsimile (202) 482-6674.

7. Section 2471.5 is amended by revising the section heading and paragraphs (a), (b), (d), and (e) to read as follows:

§ 2471.5 Filing and service.

(a) *Filing and service of request.* (1) Any party submitting a request for Panel consideration of an impasse or a request for approval of a binding arbitration procedure shall file an original and one copy with the Panel. A clean copy may be submitted for the original. Requests may be submitted in person or by registered mail, certified mail, regular mail, or private delivery service. Requests may also be accepted by the Panel if transmitted to the facsimile machine of its office. A party submitting a request by facsimile shall also file an original for the Panel's records, but failure to do so shall not affect the validity of the filing by facsimile, if otherwise proper.

(2) The party submitting the request shall serve a copy of such request upon all counsel of record or other designated representative(s) of parties, upon parties not so represented, and upon any mediation service which may have been utilized. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party. Service of a request may be made in person or by registered mail, certified mail, regular mail, or private delivery service. With the permission of the person receiving the request, service may be made by facsimile transmission or by any other agreed-upon method. When the Panel acts on a request from the Federal Mediation and Conciliation Service or acts on a request from the Executive

Director under § 2471.1(a), it will notify the parties to the dispute, their counsel of record, if any, and any mediation service which may have been utilized.

(b) *Filing and service of other documents.* (1) Any party submitting a response to, or other document in connection with, a request for Panel consideration of an impasse or a request for approval of a binding arbitration procedure shall file an original and one copy with the Panel. A clean copy may be submitted for the original. Documents may be submitted to the Panel in person or by registered mail, certified mail, regular mail, or private delivery service. Documents may also be accepted by the Panel if transmitted to the facsimile machine of its office, but only with advance permission, which may be obtained by telephone. A party submitting a document by facsimile shall also file an original for the Panel's records, but failure to do so shall not affect the validity of the submission, if otherwise proper.

(2) The party submitting the document shall serve a copy of such request upon all counsel of record or other designated representative(s) of parties, or upon parties not so represented. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party. Service of a document may be made in person or by registered mail, certified mail, regular mail, or private delivery service. With the permission of the person receiving the document, service may be made by facsimile transmission or by any other agreed-upon method.

* * * * *

(d) The date of service or date served shall be the day when the matter served, if properly addressed, is deposited in the U.S. mail or is delivered in person or is deposited with a private delivery service that will provide a record showing the date the document was tendered to the delivery service. Where service is made by facsimile transmission, the date of service shall be the date on which transmission is received.

(e) Unless otherwise provided by the Panel or its designated representatives, any document or paper filed with the Panel under this section, together with any enclosure filed therewith, shall be typewritten on 8½ x 11 inch plain white paper, shall have margins no less than 1 inch on each side, shall be in typeface no smaller than 10 characters per inch, and shall be numbered consecutively. Nonconforming papers may, at the Panel's discretion, be rejected.

8. Section 2471.6 is amended by revising the section heading and paragraphs (a)(2) and (b) to read as follows:

§ 2471.6 Investigation of request; Panel procedures; approval of binding arbitration.

(a) * * *

(1) * * *

(2) Assert jurisdiction and—

(i) Recommend to the parties procedures for the resolution of the impasse; and/or

(ii) Assist the parties in resolving the impasse through whatever methods and procedures the Panel considers appropriate. The procedures utilized by the Panel may include, but are not limited to: informal conferences with a Panel designee; factfinding (by a Panel designee or a private factfinder); written submissions; show cause orders; oral presentations to the Panel; and arbitration or mediation-arbitration (by a Panel designee or a private arbitrator). Following procedures used by the Panel, it may issue a report to the parties containing recommendations for settlement.

(b) Upon receipt of a request for approval of a binding arbitration procedure, the Panel or its designee will promptly conduct an investigation, consulting when necessary with the parties and with any mediation service utilized. After due consideration, the Panel shall promptly approve or disapprove the request, normally within five (5) workdays.

9. The section heading and the first sentence of § 2471.7 are revised and paragraphs (b) (1) through (6) are redesignated as (a) through (b), respectively. The revisions read as follows:

§ 2471.7 Preliminary factfinding procedures.

When the Panel determines that a factfinding hearing is necessary under § 2471.6, and it appoints one or more of its designees to conduct such hearing, it will issue and serve upon each of the parties a notice of hearing and a notice of prehearing conference, if any.

10. The section heading of § 2471.8 is revised to read as follows:

§ 2471.8 Conduct of factfinding and other hearings; prehearing conferences.

11. Section 2471.9 is amended by revising paragraph (a) to read as follows:

§ 2471.9 Report and recommendations.

(a) When a report is issued after a factfinding hearing is conducted pursuant to §§ 2471.7 and 2471.8, it normally shall be in writing and, when

authorized by the Panel, shall contain recommendations.

PART 2472—IMPASSES ARISING PURSUANT TO AGENCY DETERMINATIONS NOT TO ESTABLISH OR TO TERMINATE FLEXIBLE OR COMPRESSED WORK SCHEDULES

12. The authority citation for Part 2472 is revised to read as follows:

Authority: 5 U.S.C. 6131.

13. In § 2472.2, paragraphs (d) through (n) are redesignated as paragraphs (e) through (o), new paragraph (d) is added, and paragraph (j) is revised to read as follows:

§ 2472.2 Definitions.

(d) The term “*duly authorized delegatee*” means an official who has been delegated the authority to act for the head of the agency in the matter concerned.

(j) The term “*hearing*” means a factfinding hearing or any other hearing procedures deemed necessary to accomplish the purpose of 5 U.S.C. 6131.

14. Section 2472.3 is revised to read as follows:

§ 2472.3 Request for Panel consideration.

Either party, or the parties jointly, may request the Panel to resolve an impasse resulting from an agency determination not to establish or to terminate a flexible or compressed work schedule by filing a request as hereinafter provided. A form is available for use by the parties in filing a request with the Panel. Copies are available from the Office of the Executive Director, Federal Service Impasses Panel, 607 14th Street, NW., Suite 220, Washington, D.C. 20424-0001. Telephone (202) 482-6670. Use of the form is not required provided that the request includes all of the information set forth in § 2472.4.

15. Section 2472.4 is amended by revising paragraphs (a)(1) and (a)(6) to read as follows:

§ 2472.4 Content of request.

(1) Identification of the parties and individuals authorized to act on their behalf, including their addresses, telephone numbers, and facsimile numbers;

(6) A copy of the agency's written determination and the finding on which

the determination is based, including, in a case where the finding is made by a duly authorized delegatee, evidence of a specific delegation of authority to make such a finding; and

16. Section 2472.5 is revised to read as follows:

§ 2472.5 Where to file.

Requests to the Panel provided for in these rules, and inquiries or correspondence on the status of impasses or other related matters, should be directed to the Executive Director, Federal Service Impasses Panel, 607 14th Street, NW., Suite 220, Washington, D.C. 20424-0001. Telephone (202) 482-6670. Facsimile (202) 482-6674.

17. Section 2472.6 is removed and § 2472.7 through 2472.12 are redesignated as § 2472.6 through 2472.11, respectively.

18. Newly designated § 2472.6 is amended by revising the section heading and paragraphs (a), (b), (d), (e), and (f) to read as follows:

§ 2472.6 Filing and service.

(a) *Filing and service of request.* (1) Any party submitting a request for Panel consideration of an impasse filed pursuant to § 2472.3 shall file an original and one copy with the Panel. A clean copy may be submitted for the original. Requests may be submitted in person or by registered mail, certified mail, regular mail, or private delivery service. Requests will also be accepted by the Panel if transmitted to the facsimile machine of its office. A party submitting a request by facsimile shall also file an original for the Panel's records, but failure to do so shall not affect the validity of the filing by facsimile, if otherwise proper.

(2) The party submitting the request shall serve a copy of such request upon all counsel of record or other designated representative(s) of parties, and upon parties not so represented. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party. Service of a request may be made in person or by registered mail, certified mail, regular mail, or private delivery service. With the permission of the person receiving the request, service may be made by facsimile transmission or by any other agreed-upon method.

(b) *Filing and service of other documents.* (1) Any party submitting a response to, or other document in connection with, a request for Panel consideration of an impasse filed pursuant to § 2472.3 shall file an original and one copy with the Panel. A

clean copy may be submitted for the original. Documents may be submitted to the Panel in person or by registered mail, certified mail, regular mail, or private delivery service. Documents may also be accepted by the Panel if transmitted to the facsimile machine of its office, but only with advance permission, which may be obtained by telephone. A party submitting a document by facsimile shall also file an original for the Panel's records, but failure to do so shall not affect the validity of the submission, if otherwise proper.

(2) The party submitting the document shall serve a copy of such request upon all counsel of record or other designated representative(s) of parties, or upon parties not so represented. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party. Service of a document may be made in person or by registered mail, certified mail, regular mail, or private delivery service. With the permission of the person receiving the document, service may be made by facsimile transmission or by any other agreed-upon method.

* * * * *

(d) The date of service or date served shall be the day when the matter served, if properly addressed, is deposited in the U.S. mail, is delivered in person, or is deposited with a private delivery service that will provide a record showing the date the document was tendered to the delivery service. Where service is made by facsimile transmission, the date of service shall be the date on which transmission is received.

(e) Unless otherwise provided by the Panel or its designated representatives, any document or paper filed with the Panel under this part, together with any enclosure filed therewith, shall be typewritten on 8½×11 inch plain white paper, shall have margins no less than 1 inch on each side, shall be in typeface no smaller than 10 characters per inch, and shall be numbered consecutively. Nonconforming papers may, at the Panel's discretion, be rejected.

(f) An impasse arising pursuant to section 6131(c) (2) or (3) of the Act will not be considered to be filed, and no Panel action will be taken, until the party initiating the request has complied with §§ 2472.4, 2472.5, of this section.

19. Newly designated § 2472.7 is amended by revising paragraph (b) to read as follows:

§ 2472.7 Investigation of request; Panel assistance.

* * * * *

(b) The procedures utilized by the Panel shall afford the parties an opportunity to present their positions, including supporting evidence and arguments orally and/or in writing. They include, but are not limited to: informal conferences with a Panel designee; factfinding (by a Panel designee or a private factfinder); written submissions; show cause orders; and oral presentations to the Panel.

20. Newly designated § 2472.8 is revised to read as follows:

§ 2472.8 Preliminary hearing procedures.

When the Panel determines that a hearing shall be held, and it appoints one or more of its designees to conduct such a hearing, it will issue and serve upon each of the parties a notice of hearing and a notice of prehearing conference, if any. The notice will state:

- (a) The names of the parties to the dispute;
- (b) The date, time, place, type, and purpose of the hearing;
- (c) The date, time, place, and purpose of the prehearing conference, if any;
- (d) The name of the designated representative(s) appointed by the Panel;
- (e) The issue(s) to be resolved; and
- (f) The method, if any, by which the hearing shall be transcribed.

21. Newly designated § 2472.10 is revised to read as follows:

§ 2472.10 Reports.

When a report is issued after a hearing conducted pursuant to § 2472.8 and 2472.9, it normally shall be in writing and shall be submitted to the Panel, with a copy to each party, within a period normally not to exceed 30 calendar days after the close of the hearing and receipt of briefs, if any.

22. In newly designated § 2472.11, the introductory text of paragraph (a) and paragraph (b) are revised to read as follows:

§ 2472.11 Final action by the Panel.

(a) After due consideration of the parties' positions, evidence, and arguments, including any report submitted in accordance with § 2472.10, the Panel shall take final action in favor of the agency's determination if:

* * * * *

(b) If the finding on which an agency determination under 5 U.S.C. 6131(c)(2) or (c)(3) is based is not supported by evidence that the schedule is likely to cause or has caused an adverse agency impact, the Panel shall take whatever final action is appropriate.

* * * * *

PART 2473—MISCELLANEOUS REQUIREMENTS

23. Part 2473 is added to read as follows:

Sec.

2473.1 Subpenas.

Authority: 5 U.S.C. 7119, 7134.

§ 2473.1 Subpenas.

(a) Any member of the Panel, the Executive Director, or other person designated by the Panel, may issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence. However, no subpoena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management.

(b) Where the parties are in agreement that the appearance of witnesses or the production of documents is necessary, and such witnesses agree to appear, no such subpoena need be sought.

(c) A request for a subpoena by any person, as defined in 5 U.S.C. 7103(a)(1), shall be in writing and filed with the Executive Director, not less than fifteen (15) days prior to the opening of a hearing, or with the appropriate presiding official(s) during the hearing.

(d) All requests shall name and identify the witnesses or documents sought, and state the reasons therefor. The Panel, Executive Director, or any other person designated by the Panel, as appropriate, shall grant the request upon the determination that the testimony or documents appear to be necessary to the matters under consideration and the request describes with sufficient particularity the documents sought. Service of an approved subpoena is the responsibility of the party on whose behalf the subpoena was issued. The subpoena shall show on its face the name and address of the party on whose behalf the subpoena was issued.

(e) Any person served with a subpoena who does not intend to comply shall within (5) days after the date of service of the subpoena upon such person, petition in writing to revoke the subpoena. A copy of any petition to revoke a subpoena shall be served on the party on whose behalf the subpoena was issued. Such petition to revoke, if made prior to the hearing, and a written statement of service, shall be filed with the Executive Director. A petition to revoke a subpoena filed during the hearing, and a written statement of service shall be filed with

the appropriate presiding official(s). The Executive Director, or the appropriate presiding official(s) will, as a matter of course, cause a copy of the petition to revoke to be served on the party on whose behalf the subpoena was issued, but shall not be deemed to assume responsibility for such service. The Panel, Executive Director, or any other person designated by the Panel, as appropriate, shall revoke the subpoena if the evidence the production of which is required does not relate to any matter under consideration in the proceedings, or the subpoena does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason sufficient in law the subpoena is invalid. The Panel, Executive Director, or any other person designated by the Panel, as appropriate, shall make a simple statement of procedural or other ground for the ruling on the petition to revoke. The petition to revoke, any answer thereto, and any ruling thereon shall not become part of the official record except upon the request of the party aggrieved by the ruling.

(f) Upon the failure of any person to comply with a subpoena issued, upon the request of any party to the proceeding, the Solicitor of the FLRA shall, on behalf of such party, institute proceedings in the appropriate district court for the enforcement thereof, unless, in the judgment of the Solicitor of the FLRA, the enforcement of such subpoena would be inconsistent with law and the policies of the Federal Service Labor-Management Relations Statute. The Solicitor of the FLRA shall not be deemed thereby to have assumed responsibility for the effective prosecution of the same before the court thereafter.

(g) All papers submitted to the Executive Director under this section shall be filed in duplicate, along with a statement of service showing that a copy has been served on the other party to the dispute.

(h)(1) Witnesses (whether appearing voluntarily or under a subpoena) shall be paid the fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States: Provided, that any witness who is employed by the Federal Government shall not be entitled to receive witness fees in addition to compensation received in conjunction with official time granted for such participation, including necessary travel time, as occurs during the employee's regular work hours and when the employee would otherwise be in a work or paid leave status.

(2) Witness fees and mileage allowances shall be paid by the party at whose instance the witnesses appear except when the witness receives compensation in conjunction with official time as described in paragraph (h)(1) of this section.

Dated: May 31, 1996.

By direction of the Panel.

Linda A. Lafferty,

Executive Director, Federal Service Impasses Panel.

[FR Doc. 96-14098 Filed 6-5-96; 8:45 am]

BILLING CODE 6727-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR-96-2]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT:

Mr. D. Michael Smith, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-7470.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on June 3, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Disposition of Petitions

Docket No.: 23755.

Petitioner: Mr. John G. Rutty.

Regulations Affected: 14 CFR 91.131 and 91.205.

Description of Rulechange Sought: To require antiblocking and "stuck" microphone relief circuitry in aircraft voice communication radios employed in certain high-density air traffic areas, referred to as Group I terminal control areas (TCA's), later reclassified as Class B airspace.

Petitioner's Reason for the Request: The petitioner feels antiblocking device (ABD) circuitry would provide significant safety benefits to the public. In addition, the petitioner contends that ABD circuitry would improve communication efficiency and reduce air traffic controller workload; the necessity of "go-arounds," deviations, and delays resulting in less wastage of fuel; and pilot fatigue and frustration caused by blocked messages.

Denial: May 17, 1996.

[FR Doc. 96-14265 Filed 6-5-96; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 95-ASW-07]

Proposed Establishment of Class E Airspace; Sonora, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a Notice of Proposed Rulemaking (NPRM) that proposed to establish the Class E airspace at Canyon Ranch Airport, Sonora, TX. The proposal was to establish the controlled airspace extending upward from 700 feet above the ground (AGL) needed to contain aircraft executing a Very High Frequency Omnidirectional Range (VOR)/Distance Measuring Equipment (DME) standard instrument approach procedure (SIAP) to Runway (RWY) 32. The Class E airspace dimensions described in the NPRM contained a significant error; therefore, the proposal is withdrawn.

DATES: The proposed rule is withdrawn June 6, 1996.

FOR FURTHER INFORMATION CONTACT:

Donald J. Day, Operations Branch, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193-0530; telephone: (817) 222-5593.