

may, at least 15 days before the date the final determination expires, petition the FAA official who issued the determination to:

(1) Revise the determination based on new facts that change the basis on which it was made; or

(2) Extend its effective period.

(c) The FAA official who issued the determination reviews each petition presented under paragraph (b) of this section, and revises, extends, or affirms the determination as indicated by his findings.

(d) In any case in which a final determination made under this subpart or subpart B or E of this part relates to proposed construction or alteration that may not be started unless the Federal Communications Commission issues an appropriate construction permit, the effective period of each final determination includes—

(1) The time required to apply to the Commission for a construction permit, but not more than 6 months after the effective date of the determination; and

(2) The time necessary for the Commission to process the application except in a case where the Administrator determines a shorter effective period is required by the circumstances.

(e) If the Commission issues a construction permit, the final determination is effective until the date prescribed for completion of the construction. If the Commission refuses to issue a construction permit, the final determination expires on the date of its refusal.

[Doc. No. 1882, 30 FR 1839, Feb. 10, 1965, as amended by Amdt. 77-5, 33 FR 5257, Apr. 2, 1968]

### Subpart E—Rules of Practice for Hearings Under Subpart D

#### § 77.41 Scope.

This subpart applies to hearings held by the FAA under titles I, III, and X of the Federal Aviation Act of 1958 (49 U.S.C. subchapters I, III, and X), on proposed construction or alteration that affects the use of navigable airspace.

#### § 77.43 Nature of hearing.

Sections 4, 5, 7, and 8 of the Administrative Procedure Act (5 U.S.C. 1003, 1004, 1006, and 1007) do not apply to hearings held on proposed construction or alteration to determine its effect on the safety of aircraft and the efficient use of navigable airspace because those hearings are factfinding in nature. As a factfinding procedure, each hearing is nonadversary and there are no formal pleadings or adverse parties.

#### § 77.45 Presiding officer.

(a) If, under § 79.37, the Administrator grants a public hearing on any proposed construction or alteration covered by this part, the Director, Air Traffic Operations Service designates an FAA employee to be the presiding officer at the hearing.

(b) The presiding officer may:

(1) Give notice of the date and location of the hearing and any prehearing conference that may be held;

(2) Administer oaths and affirmations;

(3) Examine witnesses;

(4) Issue subpoenas and take depositions or have them taken;

(5) Obtain, in the form of a public record, all pertinent and relevant facts relating to the subject matter of the hearing;

(6) Rule, with the assistance of the legal officer, upon the admissibility of evidence;

(7) Regulate the course and conduct of the hearing; and

(8) Designate parties to the hearing and revoke those designations.

[Doc. No. 1882, 30 FR 1839, Feb. 10, 1965, as amended by Amdt. 77-11, 54 FR 39292, Sept. 25, 1989]

#### § 77.47 Legal officer.

The Chief Counsel designates a member of his staff to serve as legal officer at each hearing under this subpart. The legal officer may examine witnesses and assist and advise the presiding officer on questions of evidence or other legal questions arising during the hearing.

[Doc. No. 1882, 30 FR 1839, Feb. 10, 1965, as amended at 38 FR 26444, Sept. 17, 1973]