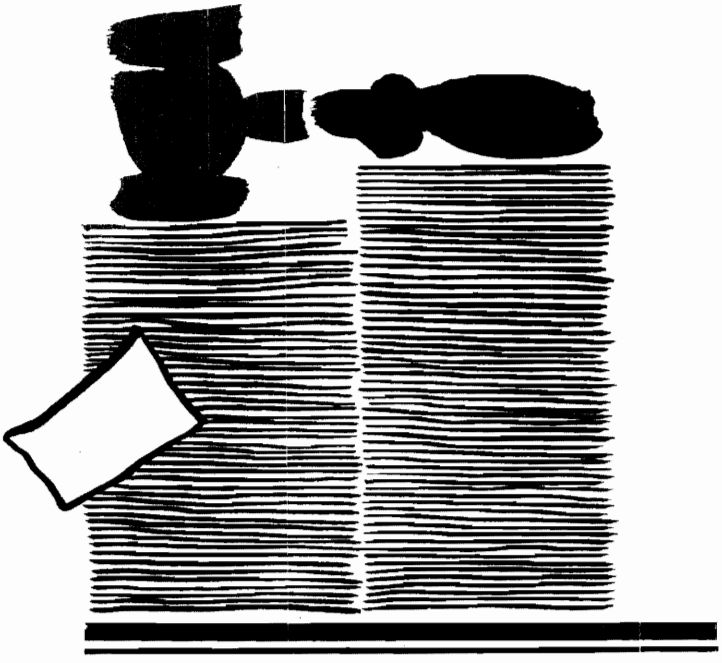

FEDERAL ADMINISTRATIVE LAW JUDGE HEARINGS

Statistical Report for 1975

Uniform Caseload Accounting System
Office of the Chairman
Administrative Conference of the United States

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Chairman's Foreword

This report represents the first fruit of a long and laborious effort by the Office of the Chairman of the Administrative Conference to collect uniform statistics on Federal administrative proceedings. The Uniform Caseload Accounting System was designed under the Chairmanship of my predecessor Antonin Scalia, but it has been one of my firmest goals as Chairman to encourage the fulfillment of his idea. I believe that uniform caseload accounting can provide the agencies and those of us who are interested in the reform of agency procedures a better basis for evaluating the need for reforms.

The statistics presented in this report show the volume of the many kinds of formal proceedings at the various agencies in Fiscal Year 1975, and how long it took each agency to decide its cases. As we refine our system of statistics-gathering for future reports, and as we learn more about the procedural differences among the different types of cases, we can begin to make comparisons among these types of cases and among the agencies. This report does not purport to make comparisons, or identify undue delays, but it has begun to build the foundation we need to do so.

This report is more than simply a compilation of numbers. It also presents a useful inventory of formal adjudications performed by Federal administrative agencies, and an illuminating essay about the important role of the administrative law judge in our government.

I hope that publication of reports on administrative case statistics can be an annual service of the Administrative Conference, although that may depend on the ability of the Conference to increase the allotment of resources to this function. I would invite all users to suggest improvements in these reports.

Robert A. Anthony
Chairman
Administrative Conference of the United States

Acknowledgments

As the staff attorney principally responsible for the publication of this report, I would like to acknowledge responsibility for any errors I have made, either in writing the text or transcribing the numbers.

I would also like to express my gratitude to some people who were of great assistance in the preparation of this report. Chairman Anthony deserves the credit for encouraging the continuance of the system even in the face of other great demands on our limited budget. Research Director David B. H. Martin provided unstinting and thoughtful editorial and personal assistance throughout. Fellow Staff Attorney David Pritzker lent his considerable skills as a mathematician to the project and developed an enviable rapport with the HEW computers in order to provide us with the needed numbers.

Others who provided invaluable assistance at various times were former Staff Attorney William Murphy, at the inception of the project, Dr. Herbert Maisel for sage statistical advice, Susan Herre and Terence Carroll for helping to code the data cards, Betty Palmer for typing, and Peter Masters of the Graphics Department of the General Services Administration for his good-humored magic in turning a messy manuscript into the book you are now reading.

Finally, the most crucial participants of all were the many agency ALJs and docket personnel without whose cooperation this report would not have been possible.

Jeffrey S. Lubbers
Staff Attorney
Administrative Conference of the United States

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PREFACE The Uniform Caseload Accounting System

Each year Federal agencies (including both executive departments and independent agencies) make hundreds of thousands of administrative decisions that directly affect rights and obligations of private persons. The Administrative Procedure Act in many instances requires that agencies hold formal hearings of record before final decisions are reached. The various agencies employ over 800 administrative law judges (ALJs) to conduct such formal proceedings. As the following report shows, formal hearing procedures are employed in an enormously wide range of decisional matters: from simple disciplinary actions against individuals who have abused horses to complicated airline route certification cases. There are great differences, both within and among agencies, in the complexity of issues and the processing time associated with various types of proceedings.

The Uniform Caseload Accounting System is designed to bring together, in one document, significant statistical information about these cases. As an ongoing data-collection project, the system is designed to help the agencies to work for more expeditious disposition of their formal decision-making responsibilities by assisting them in the development of the data base with which to identify areas of avoidable delay.

Statistics on Administrative Proceedings — Historical Background

Extensive statistics on the Federal courts have been systematically collected and disseminated since 1940 in the Annual Reports of the Director of the Administrative Office of the U.S. Courts. The Office's efforts are supervised by the Judicial Conference of the United States, which exercises comprehensive administrative direction over the Federal courts. Moreover, in 1968, the Federal Judicial Center was created to serve as a research arm of the courts, and it makes extensive use of the statistics gathered by the Administrative Office.

The success of the courts' statistical program has led to several efforts to collect similar statistics on administrative proceedings, but these efforts have never achieved the consistency or continuity of the Administrative Office's system. The first continuing compilation was initiated in 1957 by the Office of Administrative Procedure, a unit then existing in the Department of Justice, which undertook a compilation of statistics relating to formal proceedings conducted by ALJs (then called "hearing examiners") in those agencies that regularly employed ALJs. Annual Reports were issued for fiscal years 1957, 1958, and 1959. The 1959 Report stated,

> In the brief experience of the Office of Administrative Procedure its statistics on administrative proceedings have received widespread acceptance and have been an indispensable aid in studying agency process. (page 9).

In 1960, with the change in administrations, President Kennedy named Dean James M. Landis to prepare for him a report on the Federal independent regulatory agencies and their problems. In this report, Dean Landis took note of the increased interest in a permanent conference on administrative procedure modeled after President Eisenhower's Conference on Administrative Procedure (1953-1955). Landis recommended that advocates of a permanent conference (led by Judge E. Barrett Prettyman of the U.S. Court of Appeals for the District of Columbia Circuit) be supported. Dean Landis stated:

> Much can come from this effort, including not merely revisions in our administrative procedures, but also the making of our regulatory agencies into a system just as the Judicial Conference of the United States has made a system of what were once isolated and individual federal courts. . . . for a conference of this type to be effective it is essential that a permanent secretariat be established. . . .*

More specifically he urged that,

> The work and functions now lodged in the Office of Administrative Procedure in the Department of Justice should be transferred to this secretariat for the statistics can there be refined and reworked so as to make them significant to the operations of the conference.*

In response to the Landis Report, President Kennedy in March 1961 issued an Executive order establishing the "Administrative Conference of the United States." It was a temporary conference—its lifespan fixed at 18 months—composed of members from the private sector as well as from the agencies, with a small full-time staff, and funds appropriated by Congress.

Once established, the Conference took over the statistical work started by the Office of Administrative Procedure. Indeed, the Conference's first formal recommendation was to continue this effort. The activity was directed by the Conference's Committee on Statistics and Reports and resulted in the publication of two volumes of statistics for fiscal year 1961, listing the types of formal proceedings conducted by the Federal agencies and providing caseload, backlog, and time-lapse data for these cases. The Conference later compiled the same data (in one volume) for fiscal year 1962.

The 1961 and 1962 reports were more ambitious than the earlier 1957-1959 reports of the Department of Justice. The earlier reports had been limited to cases involving ALJs at those agencies regularly employing them. The Conference reports published information for all proceedings involving oral hearings with verbatim transcripts. Furthermore, the Conference reports contained a computer print-out of raw data on elapsed time for each individual case closed in the year. Although the reports continued the service of cataloguing, citing, and describing the Federal government's formal proceedings, their attempt to present all the raw data for each case may have been too ambitious, because the reports were bulky, lacking in textual aid, and therefore very difficult to read.

Before the temporary Conference disbanded, it adopted a recommendation which urged that the statistics-gathering function performed by the Conference be continued, expanded, and improved upon by the Office of Administrative Procedure or some other office created for the purpose. Further, it recommended that sufficient additional research and study be undertaken to develop meaningful

*Landis, Report on the Regulatory Agencies to the President-Elect, p.73 (Senate Comm. on the Judiciary, Committee Print 1960).

categories of administrative proceedings comparable to those developed by the Administrative Office of the U.S. Courts relating to judicial proceedings. Finally, it called for study of the data-gathering systems used by the various agencies and for consideration of the feasibility of establishing a central statistical data processing system available to all agencies.

After the temporary Conference had disbanded, the Senate Judiciary Subcommittee on Administrative Practice and Procedure, in cooperation with the Office of Administrative Procedure, published one additional report for fiscal year 1963, and held for processing the raw data for the years 1964 and 1965 in anticipation of the organization of the permanent Administrative Conference, which was established by statute in 1964. When the permanent Administrative Conference of the United States (ACUS) was finally organized in January, 1968, the Office of the Chairman compiled the raw data along the lines of the 1961-1962 reports into a massive compendium for 1961-1966. These data were kept on file for the use of the committees and consultants of the Conference, but budget limitations precluded their publication or dissemination. The 1961-1966 compilation suffered the same defects of bulk and inaccessibility which plagued the 1961-1962 reports.

Along with format problems, these statistical efforts suffered from a lack of consistent oversight as they passed from the Department of Justice, to the temporary Conference, to a Congressional subcommittee and then, after a two-year delay, to the permanent Administrative Conference. Because widespread dissemination, or even systematic distribution to the participating agencies, was never undertaken due to budgetary constraints, the utility of the statistics was never appraised on the basis of any comments from the agencies, the bar, the scholarly community, or the public.

In 1969, the Administrative Conference of the U.S. again took up the subject of collection of statistics on administrative proceedings. Under its enabling act, the Conference is specifically empowered to collect and publish such statistics from administrative agencies as it considers useful.* Given the experience of the previous decade, the Conference this time opted for fostering the development of basic statistical data by the agencies themselves. In a formal recommendation (ACUS Rec. 69-6), ACUS urged agencies to maintain statistics that would show:

a) the number and kinds of proceedings that are opened, terminated, and pending during the year;
b) the number of days which elapsed during each significant step of proceedings concluded during the year; and
c) the manner in which such cases were closed.

The effect of this recommendation was to leave the initiative for gathering statistics to the agencies that conducted the administrative proceedings. In 1971, the Office of the Chairman made a general call on agencies to submit their current caseload statistics in order that the figures could be consolidated and published. However, it was determined that there was so little uniformity in the separately developed data, that they could not be presented in any uniform or consistent format. For example, some agencies supplied data on a calendar year basis; others did so on a fiscal year basis. These data were never published.

By 1973 only five agencies were deemed to have met the standards for data collection and publication set by Recommendation 69-6. In that year, the Conference commissioned Norbert Halloran, a management specialist with the Administrative Office of the U.S. Courts, to develop a uniform method of caseload accounting which would not overly burden participating agencies. Mr. Halloran prepared a management study report entitled "Federal Agency Hearings: A Proposed Caseload Accounting System", and by July 1, 1974, the data collection process as envisioned by that report was initiated.

The Uniform Caseload Accounting System

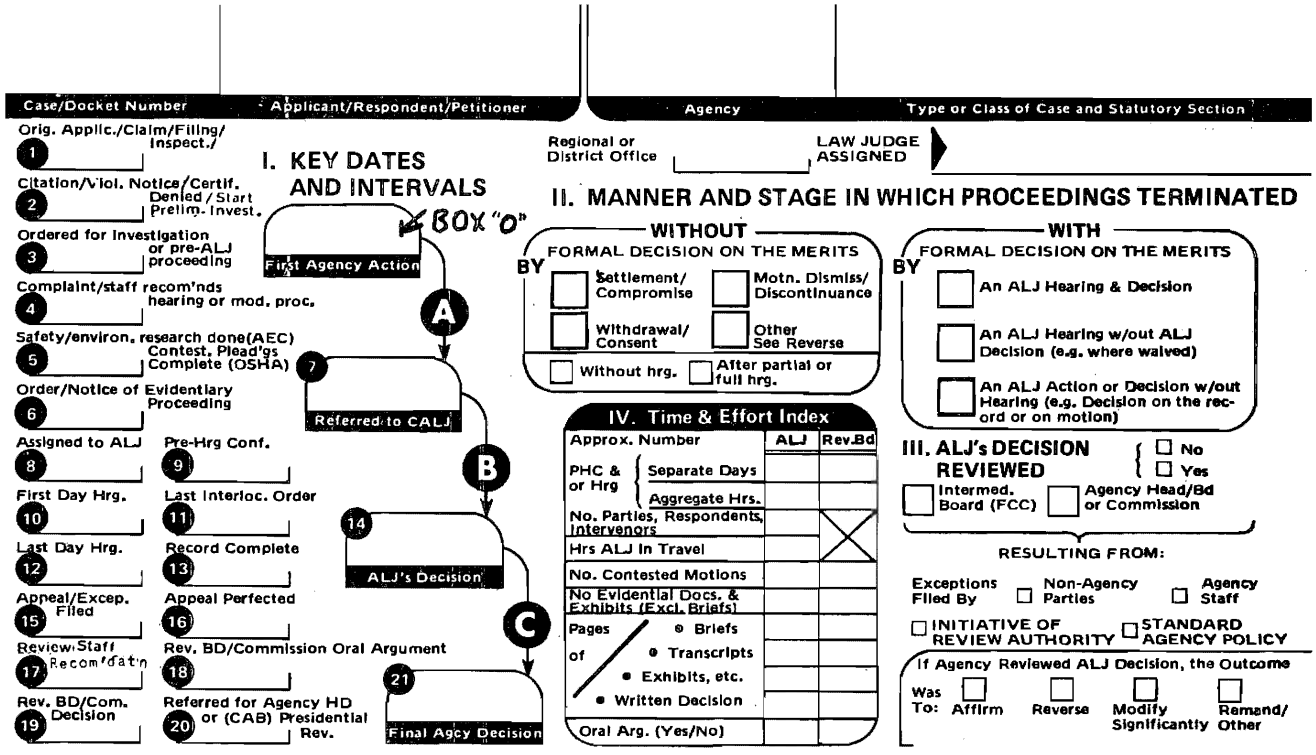
Unlike the data collection efforts of the 1960's, this system is geared to one constant factor—the involvement of an adminitrative law judge. Like the original effort of the Department of Justice in the late 1950's, data are collected only from those agencies which employ at least one ALJ on a permanent basis (23 agencies in fiscal year 1975). Each of those agencies was asked to report on all its decisionmaking proceedings that are characterized by the opportunity for a hearing before an ALJ. Most such proceedings are classified as formal adjudications under the Administrative Procedure Act; a few agencies conduct formal rulemaking proceedings presided over by an ALJ.

The agencies were asked to report on all cases opened, closed, or pending during fiscal year 1975, and to categorize their types of cases in a way that would be meaningful to the agency. For the most part, cases were categorized according to the governing statute, but some agencies differentiated between types of cases according to their procedural characteristics or to the division initiating the case within the agency. There has thus been developed a compilation of formal proceedings classified by agencies for fiscal year 1975. For each category there are provided a thumbnail description of the case type, citations to the governing statutes, and a citation to the applicable agency rules of practice or procedure in the Code of Federal Regulations.

Four agencies (*viz.* the Interstate Commerce Commission, the National Labor Relations Board, the Occupational Safety and Health Review Commission, and the Social Security Administration) supplied pre-tabulated data from their own computer-based case-management systems. The rest provided data on each case by means of a uniform reporting card designed by Mr. Halloran. The card and the reporting arrangements are discussed more fully in Chapter II, and the card is reproduced on the following page.

Tabulations of data taken from these cards, along with the pre-tabulated data submitted by the four agencies previously mentioned, form the basis for the statistics presented in this report. Completeness, accuracy, and timeliness of data-gathering has depended on the interest and cooperation of the ALJs, their staffs, and the agency docket-section personnel who have been completing and sending in the cards. With so many participating agencies and so many varying procedures involved, problems inevitably occurred during the first year of the system's

*5 U.S.C. §574(3)



operation. Those that bear on the statistics presented in this report are described in Chapter II of this report.

Why Collect and Publish These Statistics?

In 1974, when Norbert Halloran designed the Uniform Caseload Accounting System, he proposed that the system be operated for a trial period of from three to five years. Any assessment of the system's utility or even the usefulness of this first report will depend in part on comments from the agencies and from persons interested in agency performance of formal adjudicative functions. Nonetheless, it may be helpful to suggest what we believe to be the potentialities of the system, some of which may be partly realized by the publication of this report, others of which will not be realized until the system is refined, and still others of which will not be realized without an increase in the resources available to the system and a commitment by the participating agencies to give the submission of data for the system a higher priority than they have to date.

The system constitutes a unique source of information on the types, volumes, and processing times of formal adjudications undertaken by agencies and departments of the Federal government. The mere availability of a government-wide inventory of formal adjudications undertaken by agencies and departments of the Federal government provides a reference for those who participate in the quest to improve Federal agency procedures, whether through procedural reform or reorganization. Making such data available in one document should prove helpful to any agency that wishes to learn more about functions of other agencies which are analogous to its own, to the Congress in its capacity as overseer of Federal agencies and the programs they administer, and to the U.S. Civil Service Commission in its role as overseer of the ALJ program. Furthermore, these statistics should prove useful to the Administrative Conference in its mandated role of promoting improvements in administrative procedure. The Conference already has made significant recommendations for procedural improvement in agency formal adjudication (e.g., the increased use of summary decision techniques, pre-trial discovery, subpoena power, intermediate appellate review boards, and discretionary review by the agency). Further development of these statistics should provide necessary data for evaluation of the impact of such recommended procedural improvements.

The most consequential goal for this system rests on a hypothesis advanced by Norbert Halloran in his prospectus for the system to the effect that since caseload accounting has been useful for the Federal judiciary, it

should be no less useful to the administrative judiciary as well.

The system developed by the Administrative Office of the U.S. Courts for collection of court statistics did indeed provide the model for the system now employed by the Administrative Conference. The Federal court statistics are compiled from a stream of individual case-opened and case-closed card reports. (In fiscal year 1975 the number of filings in Federal district court exceeded 160,000 cases.) However, the system has been modified to take account of important differences between court cases and administrative cases. ALJs and Federal court judges operate within substantially different circumstances, and these differences must be taken into account in both the collection of data and the use of the resulting statistics on agency proceedings. The data collection must reflect the entire agency decisional process, not just the formal hearing stage. Any use of the statistics must involve an understanding of the distinct role of the ALJ, not only in comparison to Federal judges, but also in relation to the functioning of the particular agency, as well as an understanding of the procedural distinctiveness of the class of case for which the statistics are given.

In Mr. Halloran's words, "while the civil court case might be considered a one act drama, the administrative case unfolds in three acts":

Act I Administrative actions prior to formal proceedings (the prehearing stage).
This stage is triggered by the agency's first investigative action or by a petitioner's inquiry, application or complaint. It may require extensive legal work or technical research by a field organization, technical bureau, or separate legal or investigatory staff. It ends when the agency—usually the staff of the Board or Commission—formally refers the case to the office of ALJs. Unlike a civil court case, which is under almost complete control of the judge from its inception, the administrative case has been shaped by the agency itself. In some instances, the issues for decision are specified or at least circumscribed, by the agency before the ALJ receives the case.

Act II Formal proceedings (the hearing stage).
In most agencies, once a case is assigned to an ALJ, he or she will bear sole responsibility to rule on preliminary motions, conduct a pre-hearing conference, control the hearing including written and/or oral testimony and cross-examination, review the briefs, and prepare and issue an initial decision in the case along with extensive written findings and conclusions.

Act III Agency review of ALJ decision (the posthearing stage).
This stage begins when the ALJ releases a decision and ends when all agency review functions, possibly including an oral argument before the reviewing authority, are completed and the agency issues its final decision. Review is usually by the Board, Commission or single Administrator that heads the agency, but some agencies delegate some review authority to subpanels of their members or to intermediate review boards or officers. In a few agencies final review authority is delegated to a special review board, e.g., Department of Interior (various Appeals Boards), Social Security Administration (Appeals Council), and Department of Labor (Benefits Review Board).

We do not blithely accept the premise that the uses of caseload accounting in the Federal judiciary can be wholly transferred to the administrative arena, but we do find an encouraging lesson in its successful application as a tool in court administration. Mr. Halloran, in a section of his report headed "Relevance of Court Statistics to Agency Proceedings", outlined three ways that the Federal judiciary employs court statistics:

a) to gauge workload conditions and the currency of dockets in individual courts;

b) to support management decisions relating to new judgeship requests, assignment of visiting judges, opening or closing of court facilities, and court staffing needs; and

c) to provide facts needed to evaluate recommended legislation, procedural changes, and reorganization proposals. . . .

The comprehensive and centralized administrative direction of the court system by the Administrative Office (under the supervision of the Judicial Conference) greatly facilitates the use of such statistics in making management decisions relating to that system. Such uniform, central direction in the management of agency adjudications does not (and perhaps could not) exist. However, even within the decentralized administration of the agency adjudicative sphere, management decisions must be made by individual agencies, by Congress, and by the Civil Service Commission. Procedural innovations must be evaluated and procedural bottlenecks minimized. All of these goals require a greater understanding of caseloads, case processing times, and complexities of the various types or classes of agency adjudications.

Classification and categorization of the agencies' formal proceedings in order to attain some measure of comparability between cases would not be an easy job. But we take encouragement from the fact that the Administrative Office has found a way to make useful generalizations about a variety of types of cases with characteristics as widely varying as those decided by administrative agencies. Its approach was to develop, over the years, a system of "weighting" cases in terms of judicial time required. For example, classes of cases that, through studies of judges' time logs, were found to be of average duration and complexity, such as tax suits and tort claims, were assigned a weight of "one". Antitrust cases, which are normally much more time-consuming, were assigned a weight of 8; social security cases were weighted as .67, and so on. The weightings are periodically revised to ensure that they reflect current time studies. This development of weighted caseload figures is crucial to providing the Administrative Office with a more meaningful picture of calendaring and manpower needs. It also provides the Office with a better framework in which to judge the significance of its elaborate and refined case processing time figures.

Few would argue that the Administrative Office's court statistics have not been a useful tool for those interested in improving the administration of the Federal courts. But the question remains whether a system designed for caseload accounting in the courts can have the same utility

with respect to agency proceedings. The weighting of types of agency adjudications may be much more problematic. The "three act" proceeding increases the number of variables to take account of. And differences in agencies and their procedures may create additional variables not present in the Federal courts where the Federal Rules of Civil Procedure provide a measure of procedural uniformity far exceeding that provided by the Administrative Procedure Act. These variables may render fruitless any attempt to assign meaningful numerical weights to types of agency proceedings—even if that were thought desirable. Nonetheless, some useful measure of comparability between types of agency proceedings is clearly possible and desirable. For example, even if the Department of Agriculture's Horse Protection Act civil penalty case is not at all comparable with a CAB foreign route permit case, it may be quite usefully comparable with an OSHA civil penalty case. As the data collection is completed, techniques should emerge that will enable us to form generalizations about procedures. Through comparative analysis, red flags might be raised with respect to problems of undue delay or inefficient procedures.

Delay and Productivity

It is a truism among lawyers that "justice delayed is justice denied," and delay in the administrative process has been a major concern for a long time. In an essay on the subject in 1971, the then Chairman of the Administrative Conference Roger Cramton, declared that:

> While administrative agencies were created to provide expeditous determinations of matters that courts and legislatures could not effectively handle, a continuing chorus of complaints of delay in the administrative process indicates that the ideal has not yet been achieved.

The chorus continues unabated. Courts have reviewed agency inaction and ordered action. The House Committee on Interstate and Foreign Commerce has issued a report highly critical of delays in a number of Federal agencies, and the Senate Committee on Government Operations established a special subcommittee task force and held a symposium on regulatory delay. And President Ford, in remarks (July 10, 1975) to Chairmen and Members of ten major regulatory agencies exhorted them to "undertake a comprehensive and specific review of all areas where regulatory delays presently occur in order to eliminate any of the impediments to a speedy and an effective process."

No one should expect that addressing the issue of delay in administrative adjudication is an easy thing to do. Hearings take time. They must be fair, and the Administrative Procedure Act's adjudicative procedures are well designed to ensure fairness. But a judgment can be arrived at within each agency—and for different types of cases—as to how long a case should normally take. And a system should be employed to keep track of the progress of cases from initiation to final agency action. When pending cases fail to progress toward completion in accordance with expected timetables, an explanation should be sought. In many instances there will be a reasonable explanation; when there is not, corrective steps should be taken.

This is not just a theoretical ideal. The NLRB's Office of General Counsel already employs a highly effective case-tracking system with well-known goals for the processing of cases in the prehearing stage. It has not only reduced the processing time, but has provided incentives for employees' efficiency and bolstered the agency's ability to back up its claims of high productivity. Other agencies are also developing sophisticated, computer-based case-tracking systems. And such in-house capability will undoubtedly reduce delay in those agencies.

A government-wide compilation of statistics should, in the long run, provide a stimulus and a basis for achieving some measure of comparability between classes of agency cases. Experts in administrative procedure can carefully compare the procedures of different agencies which perform, through adjudication, such similar functions as disciplinary proceedings, ratemaking, civil penalty assessments, permit revocations, merger approvals, applications for entry into regulated industry, construction permit applications, or claims for statutory benefits. Of course, some classes of cases would defy aggregation, but some bases for comparison are sure attainable. Once the cataloguing is accomplished, elapsed time statistics would become more meaningful, and a refinement of such statistics to make them illuminate other intermediate steps of the case would be worthwhile. After all this, the goal would still be a modest one: to identify dissimilarities in elapsed time of identical stages in similar cases. Where found, a red flag would be raised, bottlenecks could be sought out and eliminated, and procedural recommendations would have an empirical base. This effort can complement, facilitate, and be assisted by the agencies' development of their own in-house case-tracking systems and internal case-processing guidelines. In time, procedures for agency adjudications could be standardized to a greater extent, budget and manpower decisions could be made more intelligently, and undue administrative delay could be reduced.

It has been said that, "There are three kinds of lies: lies, damned lies, and statistics." Prompted by this aphorism, we wish to emphasize the limitations of this report after dwelling at such length on its potential.

One basic caveat is that the report deals only with quantity, not quality. Also, its scope is, at this stage, intentionally quite narrow. It includes information only on those administrative adjudications involving administrative law judges in those agencies which employ ALJs on a permanent basis. Agencies which occasionally borrow ALJs from other agencies are not yet included. Nor are a large number of administrative adjudications, including those by the Veterans Administration and Immigration and Naturalization Service which have most of the attributes of a formal hearing, but are not presided over by ALJs.

Furthermore, even within the intended scope of this report the results of our first data collection are in some respects incomplete (as explained in Chapter II). For this reason we have not analyzed the meaning of these statistics—we have merely attempted to present them in a fair, informative, and readable fashion in as full a context as possible in these circumstances.

We hope that this first report, limited though it may be, will not only be useful in and of itself, but will also stimulate comments, suggestions, and questions that will make our future reports even more useful to the long-range goals of achieving some measure of comparability of cases and of alerting agency management to situations of undue delay.

In closing this preface we would cite a cautiously optimistic statement by Chief Justice Harlan Fiske Stone, made as a law professor speaking about the goals of judicial statistics:

> The statistical method of dealing with social problems often cannot be relied upon as a mathematical demonstration leading to specific conclusions, but it may be used to indicate tendencies, to mark out the boundaries of a problem, and to point the directions to be given to a particular investigation of a nonstatistical character.

It is in that spirit that we publish this report.

Please address all comments, suggestions, corrections, criticisms, or inquiries about this report to:

Administrative Conference of the United States
"Uniform Caseload Accounting System"
2120 L Street, N.W. Suite 500
Washington, D.C. 20037

CHAPTER I The Administrative Law Judge*

As explained in the Preface, the statistics compiled in this report pertain to the conduct of formal administrative proceedings characterized by a quasi-judicial hearing before an Administrative Law Judge (ALJ) appointed under 5 U.S.C. §3105.[1] Users of the report may find it helpful to know something about Administrative Law Judges, what the ALJ's role is in these adjudications, how the ALJ is selected, and what issues involving the ALJ are of interest to those concerned with the fairness and efficiency of administrative law.

The ALJ is the central figure in formal administrative adjudication. There were approximately 800[2] ALJs employed by 28[3] Federal agencies as of December 31, 1975. One indication of the importance of ALJs as lawmakers and law appliers is suggested by comparing their number to the less-than-500 United States district court judges who preside over the nation's entire Federal civil and criminal trial docket.[4]

ALJs are employed by Executive departments (e.g., Agriculture, Interior, Labor, etc.) and independent agencies[5] (e.g., Federal Trade Commission, Interstate Commerce Commission, National Transportation Safety Board, etc.) to conduct hearings and make decisions in proceedings in which administrative determinations must be based on the record of a trial-type hearing. An ALJ's decision may be, and often is, the final decision of the agency without further proceedings if there is no appeal to, or review by motion of, the agency.[6] A mere listing of some of the types of matters acted on by ALJs shows how important they are to our daily lives and to the national economy: licenses and route certificates for transportation by air, rail, motor vehicle or ship; licenses for radio and television broadcasting; rates for postal, gas, electrical, communications and transportation services; compliance with Federal standards relating to interstate trade, labor-management relations, advertising, communications, food and drugs, banking, corporate mergers, and antitrust; regulations on health and safety in mining, transportation, and industry; regulation of trading in securities, commodities, and futures; adjudication of claims relating to social security benefits, worker's compensation, consumer products safety, international trade, mining, and many other matters.

When compared to the role of judges of the Federal courts, the role of ALJs in our governmental system is less visible, and one would guess, less well understood. The Federal judge is, after all, the personification of the Judicial branch of the government, a robed authority figure who can demand and receive respect and obeisance even from Presidents. Federal judges are guaranteed life tenure by the Constitution; there is little reason to question their independence. The significance of their decisions which are regularly published and widely accessible, is clearly comprehensible within the context of the familiar three-tier structure of the Federal court system (i.e., district courts, courts of appeals, and the Supreme Court). ALJs, on the other hand, in spite of being called judges and functioning as such, are subject to doubts about their independence due in part to their employment status as agency personnel. Furthermore, few agencies systematically publish decisions of their ALJs, and the significance of an ALJ's "decision" as a determinant of his agency's decision or final action varies markedly from agency to agency.

The position of administrative law judge (formerly called "hearing examiner"[7]) did not even exist until the Administrative Procedure Act (APA) was enacted in 1946. Prior to the APA,[8] there were no reliable safeguards to ensure the objectivity and judicial capability of presiding officers in formal administrative proceedings. Ordinarily these officers were subordinate employees chosen by the agencies, and the power of the agencies to control and influence such personnel made questionable any agency contention that its proceedings assured fundamental fairness. Furthermore, the role of the presiding officer in an agency's decisional process was often unclear; many agencies would ignore the officers' decisions without giving reasons, and enter their own *de novo* decisions. The APA was designed to correct these conditions. Reshaping the role of the "hearing examiner" was a crucial pre-condition to both of these basic reforms.

I. The ALJ's Role Under the Administrative Procedure Act

Despite the wide variety of types of cases heard by ALJs throughout the government, the functions of the ALJ are substantially the same in most cases. The ALJ has the following normal duties, grounded in his powers specified in the APA:[9]

*Prepared by Jeffrey S. Lubbers, Staff Attorney, Office of the Chairman, Administrative Conference of the United States (October, 1976). The paper represents only the analysis of the author and has not been reviewed or approved by the Administrative Conference of the United States or by any of its standing committees.

[1] 5 U.S.C. §3105 was originally the first sentence of section 11 of the Administrative Procedure Act (APA), 5 U.S.C. §551 *et seq.* The great majority of proceedings presided over by an ALJ are adjudications as defined by the APA (5 U.S.C. §§554, 556, 557). However a few formal rulemaking proceedings (5 U.S.C. §§553(c), 556, 557) are included due to the assignment of an ALJ as presiding officer.

[2] Figure supplied by Charles Dullea, Director, Office of Administrative Law Judges, U.S. Civil Service Commission, February, 1976. As of September, 1975 there were approximately 26 women, 16 black males, 10 persons of Spanish surname, 2 persons of Oriental ancestry and 2 American Indians.

[3] This includes the 23 agencies included in the report plus 5 additional ones which began employing ALJs in fiscal year 1976: Commodities Futures Trading Commission, Drug Enforcement Administration (Department of Justice), Food and Drug Administration (Department of HEW), Department of HUD, and U.S. International Trade Commission.

[4] As of June 30, 1975, there were 400 authorized federal district court judgeships—387 filled, 13 vacancies and 102 senior district court judges. Administrative Office of U.S. Courts, 1975 Ann. Report, p. I-2.

[5] The term "agency" as used in this chapter includes Executive departments, agencies within such departments, (e.g., Social Security Administration) and independent agencies.

[6] 5 U.S.C. §557(b).

[7] The APA uses the term "hearing examiner", but after a long campaign by the examiners, the title was changed to Administrative Law Judge by the Civil Service Commission on August 19, 1972. For a recounting of the campaign, *see* Cramton, *A Title Change for Federal Hearing Examiners? "A Rose by Any Other Name . . ."* 40 Geo. Wash. L. Rev. 918 (1972).

[8] The following discussion is derived from Macy, *The APA and the Hearing Examiners: Products of a Visible Political Society*, 27 Fed. Bar J. 351, 355 (1967).

[9] 5 U.S.C. §556(c). For a comprehensive look at the duties of an ALJ *see* Ruhlen, *Manual for Administrative Law Judges* (Administrative Conference of U.S., 1974), and Zwerdling, *Reflections on the Role of an Administrative Law Judge*, 25 Admin. L. Rev. 9 (1973).

— Administer oaths and affirmations.

— Issue subpoenas authorized by law.

— Rule upon offers of proof and receive relevant evidence.

— Take or cause the taking of depositions.

— Regulate the course of hearings.

— Hold conferences for the settlement or simplification of the issues by consent of the parties.

— Dispose of procedural requests or similar matters.

— Question witnesses as necessary or desirable.

— Consider the facts in the record, arguments or contentions made, or questions resolved.

— Determine credibility of witnesses and make findings of fact and conclusions of law.

— Make decisions on the basis of reliable, probative, and substantial evidence on the record.

— Take any other actions authorized by agency rule that is consistent with the provisions of the APA.

Not only does the APA specify the authority of ALJs as presiding officers, it also attempts to insure their impartiality and independence. A chief effect of the Act was to lodge in the Civil Service Commission exclusive authority for the initial examination and certification for selection of ALJs; the determination of applicable pay scales, and action on agency initiatives to terminate appointments of ALJs. The Act requires that the ALJ's functions (as well as those of other agency decision-makers) be conducted in an impartial manner.[10] Moreover, if a disqualification petition is filed against an ALJ in any case, the agency must determine that issue on the record, and as part of the decision in that case.[11] The Act also prescribes that an ALJ may not be responsible to, or subject to supervision by, anyone performing investigative or prosecutorial functions for an agency.[12] This "separation of functions" requirement is designed to prevent the investigative or prosecutorial arm of an agency from controlling a hearing or influencing the ALJ. Finally, to insure that the ALJ is well insulated from improper agency pressures and controls, the APA contains two other provisions designed to make the ALJ at least semi-independent of the employing agency: ALJs are to be assigned to their cases in rotation so far as practicable; and they may not perform duties inconsistent with their role as ALJs.[13] They receive their pay as prescribed by the Civil Service Commission independently of agency recommendations or ratings,[14] and are removable by the agency only after good cause is established before the Commission after opportunity for hearing.[15]

[10] 5 U.S.C. §556(b).

[11] *Id.*

[12] 5 U.S.C. §554(d).

[13] 5 U.S.C. §3105.

[14] 5 U.S.C. §5362.

[15] 5 U.S.C. §7521, 5 C.F.R. §930.221 (hearings).

II. Selection and Appointment of ALJs

Since the passage of the Administrative Procedure Act, the U.S. Civil Service Commission has been exclusively responsible for the initial examination, certification for selection, and compensation of ALJs. Exercising these responsibilities has not been an easy task. The story of the controversy that surrounded the Commission's early attempts to administer the examination and selection of qualified ALJs and the maintenance of an eligibility roster is an interesting one, but it is too lengthy to be retold here.[16] What is of more immediate interest is how the current and future members of the corps of ALJs attained or will attain their positions.

There are several important interrelated facets of the selection and appointment process. The Civil Service Commission, through its Office of Administrative Law Judges administers the recruitment, evaluation, and selection of those eligible to be appointed as ALJs. The Commission has determined the minimum level of qualifying experience which an individual must have to be eligible. In addition the Commission conducts interviews, administers a test of writing ability, evaluates the qualifying experience of all applicants who meet the minimum experience requirements, and scores each of them on a scale of 100 points. Those that score 80 points or above become "eligibles" and are ranked (highest scores at the top) on registers maintained by the Commission from which the agencies make their appointments. The Commission maintains two registers; one at the GS-16 grade level, the other at GS-15. This is done because the Commission has created ALJ positions for different agencies at both of these levels. ALJ positions in a majority of those agencies which employ ALJs (including most of the major agencies engaged in economic regulation) are at the GS-16 grade level.[17] The positions in the remaining six agencies (including the Social Security Administration which employs over half of all ALJs) are at the GS-15 level.[18]

Before considering the entire selection and appointment process in more detail, it is necessary to note the importance of two complicating factors. The first such factor results from the applicability of the Veterans Preference Act[19] to the process. This Act (applicable to all

[16] The definitive account, with rich Civil Service Commission documentation, is found in Macy, *supra* note 8 at page 363-378. Mr. Macy was then the Chairman of the Commission.

[17] One constraint on the number of GS-16 ALJ positions authorized by the Commission is that the number of "supergrade" positions (i.e., GS-16, GS-17 and GS-18 positions) in the Federal Government is fixed by statute. See 5 U.S.C.A. §5108(a) (1976 Supplement), authorizing the Commission, at its discretion, to establish 2,754 supergrade positions (with certain exceptions). Congress has also reserved, exclusively for ALJ appointments, 240 positions at the GS-16 level and 9 positions at the GS-17 level, and has given the Commission discretion to fill them. Under this scheme the Commission's Office of ALJs has allocated all 249 of the reserved positions and as of the end of 1976 had also been authorized by the Commission's Bureau of Executive Management to allocate approximately 100 additional GS-16 ALJ positions from the general pool of 2,754 supergrade positions.

[18] The other 5 agencies that employ ALJs classified (by the Commission) at GS-15 are the Bureau of Alcohol, Tobacco and Firearms, the Drug Enforcement Administration, the Department of HUD, the U.S. Coast Guard and the U.S. International Trade Commission. In addition, the Environmental Protection Agency and the Department of Labor employ both GS-15s and GS-16s. Chief ALJs at agencies with more than 10 ALJs are classified at GS-17.

[19] Veterans Preference Act of 1944, as amended, 5 U.S.C. §§2108, 3309, 3317, 3318.

competitive Civil Service jobs in the Federal government) provides that veterans of the armed services shall receive preference points in addition to their scored rating. This, as will be shown, tends markedly to enhance the ranking of veterans on both the GS-15 and GS-16 ALJ registers in relation to non-veterans. The second complicating factor is the Commission's policy of permitting agencies to appoint eligibles who are not at the top of the register if the eligible possesses requisite specialized experience. Most of the agencies employing GS-16 ALJs utilize this procedure, known as "selective certification," and its impact on the appointment of GS-16 ALJs is therefore crucial.

a. Evaluation by the Office of ALJs

The Commission has set forth the minimum qualifying experience which must be possessed by an applicant as well as the general rating factors considered by the Office of ALJs in the determination of his or her eligibility and score.[20]

In order to qualify as an ALJ, the applicant must be an attorney and have seven or more years of "qualifying experience", at least two of which must be within the seven-year period immediately preceding the date of his application. Qualifying experience means primarily (1) judicial experience; (2) the preparation, trial, hearing or review of administrative law cases at the Federal, state, or local level; or (3) the preparation, trial or appeal of cases in courts of unlimited or original jurisdiction.[21]

The ALJ applicant must consent to having inquiries (referred to by the Commission as "vouchers") sent to individuals having personal knowledge of the applicant's experience, professional abilities, and qualifications (e.g., supervisors, judges, law partners, co-counsel and opposing counsel). The applicant also must demonstrate writing ability by preparing, under Civil Service Commission supervision, a sample opinion which is examined for clarity, conciseness and legal soundness. Finally, the applicant must participate in an oral interview before a special panel composed of an official of the Civil Service Commission, a practicing attorney, and an official of an administrative agency.[22]

To become an eligible, and be placed on either of the GS-15 or GS-16 register, an applicant must score at least 80 points on a scale of 100 in the final grading of his applications. Applications are first screened to determine whether the applicant has the requisite minimal qualifying experience. Only those that do are graded. The applicant's qualifying experience may be scored up to 60 points based upon the level of difficulty, complexity, responsibility and importance of at least one year of his experience. This score is computed by the Office of ALJs from an internal manual it has assembled over the years containing numerical scores for all anticipated types of qualifying experience. The computation is also affected by the Civil Service rating sought by the applicant; his experience will probably be assigned fewer points if he applies for eligibility at GS-16 than if he seeks eligibility at GS-15.

In addition to a score for qualifying experience, the applicant is assigned up to 40 points based upon the evaluations of his professional qualifications contained in his vouchers. The staff of the Office of ALJs scores the evaluations on a specially designed "factor rating sheet," giving most weight to evaluations in vouchers submitted by individuals in the best position to evaluate the applicant objectively. Applicants who have scored at least 80 points on the basis of their combined scores for qualifying experience and evaluations are rated as tentatively eligible and are asked to prepare a sample opinion and to appear before the special interviewing panel. After the panel completes the interview and reviews the writing sample, it may recommend an adjustment of the tentative eligibility rating score. The Director of the Office of ALJs may, in his discretion, accept, reject, or modify the recommendation. It is estimated by the Director that about 72 percent of all applicants are rated ineligible. Approximately 32 percent of all applicants lack one or more of the minimum experience requirements, about 36 percent fail to establish tentative eligibility by scoring above 79 points after the first two ratings are totaled, and 4 percent have their score lowered below 80 after evaluation by the special panel.[23]

Individuals determined eligible for listing on either of the two ALJ registers are ranked in order of their scores with the highest scorers at the top of the list, and appointments are made by the individual agencies from these registers. However, the agencies' appointment power is restricted by a statutory requirement known as the "rule of three" which is applicable to all competitive Civil Service jobs in the Federal government. Under this requirement, when an agency requests a list of eligibles, the Commission must certify enough names from the top of the register to permit the agency to consider at least three names per appointment to each vacancy. The agency is then obliged to make its selection from those three who have the highest scores and are actually available for appointment.[24] As will be shown, the Veterans Preference Act tends to make the "rule of three" even more restrictive on agency choice. However, the operation of the Commission's selective certification policy effectively removes the restrictiveness with respect to most appointments from the GS-16 register.

b. Veterans Preference

As explained above, those eligible for appointment as ALJs are ranked on the two registers maintained by the Civil Service Commission in order of their scores.

[20] U.S. Civil Service Commission Announcement No. 318, reissued October 1973. This 21-page pamphlet announces the examinations for ALJ positions and is available from the U.S. Civil Service Commission, Office of ALJs.

[21] The element of general trial experience liberalized the prior standard and was adopted in response to a recommendation by the Administrative Conference, ACUS Recommendation 69-9, 1 C.F.R. §305.69-9. There is an additional requirement that at least two years of general qualifying experience be shown to be "in the field of administrative law or in the actual preparation and trial of cases . . . or the preparation and presentation of appeals therefrom, or in the hearing of such cases." *See* pp. 4-8 of Announcement 318. What this adds to the basic requirement of seven years qualifying experience is not apparent.

[22] The attorney is usually, but not always nominated by the Administrative Law Section of the A.B.A. The agency official is generally a Chief ALJ but sometimes a board member, commissioner, or general counsel. Interview with Charles Dullea, Director of Office of ALJ's, February, 1976.

[23] *Id.* It is interesting to note that the Commission's rating process received its first court challenge in March of 1973. The complainant alleged that the Commission's failure to find him qualified was arbitrary, capricious and discriminatory. The district court entered judgment for the Commission and the 7th Circuit, in an unpublished order, affirmed. *Bromberg v. U.S. Civil Service Commission*, No. 75-1485 (7th Cir., Submitted December 19, 1975).

[24] 5 U.S.C. §§3317, 3318.

However, the impact of the Veterans Preference Act on register-rankings is crucial. The Act provides that an eligible applicant (an applicant with an earned score of 80 or more) who meets certain requirements as a wartime veteran of the armed services is entitled to 5 (10 in the case of disabled veterans) additional points above his scored rating.[25] Since there is only a 20-point spread on scores among all ALJ eligibles (from 80 to 100), the addition of 5 to 10 veterans preference points to any score can change by many places an eligible's ranking on the register. Statistics compiled in February, 1974 by the Office of ALJs show that of the top 60 eligibles on the GS-15 register, 9 were 10-point veterans, 42 were 5-point veterans, and only 9 had no veteran status. (Of the remaining 98 eligibles on the register, 45 were 5-point veterans and 53 were non-veterans). The pattern was similar on the GS-16 register (although the importance of the rankings of this register is lessened considerably by selective certification) where 58 of the 177 eligibles were non-veterans, but only 15 of those were in the top 100.[26]

The Veterans Preference Act also affects the operation of the "rule of three" due to its prohibition against an agency's passing over an eligible who has veteran preference to select a non-preference eligible.[27] This means that the agency will have no choice as to whom it will appoint among the eligibles certified by the Commission in instances where the first ranked eligible of those certified to the agency by the Commission has veterans preference and the remainder do not; the agency must select the veteran.

The impact of veterans preference on the register-rankings combined with the "rule of three" has led to criticism of the ALJ selection system as keeping many outstanding candidates, especially women, at the bottom of the register and as discouraging others from even applying.[28] The Administrative Conference has recommended that both the extra points and the selection preference requirement for veterans be repealed with respect to the certification and selection of ALJs, and that agencies be permitted to appoint an ALJ from among the highest ten ranked eligibles on the register at the time of selection.[29]

Whether or not the veterans preference has really prevented well qualified non-veterans from being appointed or has discouraged them from applying is a question that may deserve renewed study. It may be that the problem, if there is one, is in practice limited to the operation of the GS-15 register due to the overriding influence of selective certification on the operation of the GS-16 register.

[25] 5 U.S.C. §2108.

[26] The statistics are found in the report of a subcommittee of the La Macchia Committee (discussed in the text at page). Report of Subcommittee on Recruitment, Qualifications, Certification, and Appointment, February 26, 1974, pp. 47-48. (Appendix to Committee report.)

[27] 5 U.S.C. §3318(b).

[28] Report of Subcommittee on Recruitment, Qualifications, Certification and Appointment; *supra* note 26 at pp. 49-50, 65. The full Committee did not accept the Subcommittee's recommendation that the Veterans Preference Act on selection of ALJs in Park, *Report of the Committee on Personnel in Support of [Administrative Conference of U.S. Recommendation 69-9]*, 1 ACUS Reports 381, 404-408, (1969).

[29] ACUS Recommendation 69-9(A)(4) ("Recruitment and Selection of Hearing Examiners . . ."), 1 CFR §305.69-9(A) (4). In August, 1976, the American Bar Association's House of Delegates adopted a resolution recommending that ALJs be exempted from the provisions of the Veterans Preference Act.

c. Selective Certification

As intimated above, many agencies have sought to avoid the restrictions on their appointment of ALJs through the procedure of "selective certification." Using this process, an agency, upon a showing of necessity and with the prior approval of the Commission, is permitted to appoint specially certified eligibles without regard to their ranking in relation to other eligibles on the register who lack the special certification. For example, the Federal Communications Commission (FCC) has arranged with the Civil Service Commission for special certification of eligibles who can show:

> [t]wo years of experience in the preparation, presentation, or hearing of formal cases, or in making decisions on the basis of the record of such hearings, originating before governmental regulatory bodies at the Federal, State, or local level, *in the field of communications law*. (emphasis added)[30]

Suppose that four individuals on the GS-16 register were certified as having these special qualifications and their rankings on the register were 15, 31, 68, and 95, respectively. When the FCC wished to appoint an ALJ, the Civil Service Commission would send it a list containing the names of the top three selectively certified eligibles (numbers 15, 31, and 68). The FCC could then choose from among those three, although the Veterans Preference Act's prohibition against passing over a veteran to select a non-veteran would still apply. Without selective certification, if the FCC were limited to picking new appointees from the top of the register, those ranked 15, 31, and 68 could not be considered, and the agency might not be able to consider for appointment an eligible possessing special qualifications for the particular position.

The result of this selective certification procedure is to establish, in effect, separate registers for those eligibles who have specialized experience. Announcement No. 318[31] lists the following agencies as utilizing selective certification for appointments from the GS-16 register: Department of Agriculture, Civil Aeronautics Board, Federal Communications Commission, Federal Maritime Commission, Federal Power Commission, Interstate Commerce Commission, Department of Labor,[32] National Labor Relations Board, and Securities and Exchange Commission. Only three agencies utilize selective certification for appointment from the GS-15 register: Bureau of Alcohol, Tobacco and Firearms, Social Security Administration (positions in Puerto Rico only) and U.S. Coast Guard. The possible benefits of selective certification to the agencies that have arranged for it are obvious, and those agencies have in fact utilized it extensively. A study made for the Civil Service Commission in 1974 reported that "approximately 82 percent of the ALJs in the agencies using selective certification attained their positions through its use."[33] In 1975, there were 20

[30] U.S. Civil Service Commission, Announcement 318 (*see* note 20, *supra*), at p. 19. The special qualifications for all agencies utilizing selective certification are set forth in the Announcement.

[31] *See* note 20, *supra*.

[32] The Department of Labor, has been permitted to utilize selective certification since the revision of Announcement 318 (GS-16 ALJs only).

[33] La Macchia Committee Report ("Report of the Committee on the Study of the Utilization of Administrative Law Judges"), *see* note 26, *supra*, July 30, 1974, p. 12.

appointments from the GS-16 register; 14 of these were selective certified.[34]

The practice of selective certification has been the subject of criticism on the grounds that it severely limits opportunities for generalist applicants and that it leads to "inbreeding" among an agency's ALJs through biasing the selection process in favor of the agency's own staff attorneys who are most likely to meet the specialized experience criteria.[35] A study done for the Administrative Conference in 1969 reported that in the preceding 5-year period, 52 of 66 ALJs appointed by the agencies utilizing selective certification had been previously employed on the staffs of those agencies.[36] There is no reason to think that the effect is less prevalent today.

Although attorneys in private practice have the same opportunity to be specially certified as do agency staff attorneys, it appears that private attorneys with specialized expertise in law practice within areas of ALJ selective certification have little interest in forsaking their practice to become ALJs. The percentage of private attorneys on the GS-16 register as a whole has grown in recent years, due it is suspected, to the 1970 expansion of qualifying experience to include trial experience gained in general law practice,[37] but very few private attorneys listed on the register are specially certified. In February, 1976 there were 130 eligibles on the GS-16 register; 42 were private attorneys and only 3 were specially certified.[38]

It seems clear that selective certification represents a response by the Civil Service Commission to agencies' complaints about the restrictions on their power to appoint ALJs with particularized expertise. The policy does strike a sort of balance with the restrictiveness of the applicable provisions of the Veterans Preference Act and the "rule of three", but whether it strikes an optimum balance, whether it enhances the quality or productivity of the ALJs, and whether it unduly discriminates against "generalist" eligibles remain much debated questions. The agencies utilizing selective certification generally favor its continuation, generalist eligibles oppose it, and others have urged its modification.

The Administrative Conference believes that the objective of selective certification could be achieved without closing the door to highly-qualified generalists by changing the process of ALJ certification and selection. Under its recommendation: eligibles would be awarded extra rating points for specialized experience of the kind now recognized for selective certification; a pool of the ten, rather than three, highest ranking eligibles on the register would be certified for agency selection; and, by amendment of the Veterans Preference Act, the agency would be free to select any eligible in the certified pool even if there were a higher-rated veteran in the pool.[39]

The range of choice for agencies in selecting ALJs depends in part on the overall composition of the registers of eligibles. This in turn depends in part on recruitment of applicants. As mentioned, fewer private attorneys tend to apply than do Federal agency lawyers. One can only assume that the limited salary potential for ALJs is a major factor in this. ALJs' salaries like those of other top governmental officers are limited by a statutory ceiling. As of October, 1975 a GS-15's salary ranged from $31,309 to the ceiling of $37,800 and a GS-16's ranged from $36,338 to $37,800.[40] Apparently this salary level was not high enough to attract many specialized practitioners from the private bar. Indeed the Director of the Office of ALJs has expressed the opinion that ALJ service has been gradually losing its appeal to specially qualified agency staff attorneys in relation to the more lucrative lure of private practice.[41] The Office of ALJs has the responsibility for recruitment as well as examination and selection, and can therefore tailor its recruitment efforts according to the agencies' needs and the interests of practicing attorneys. For the most part, the Office has effected its recruitment through wide dissemination of Announcement No. 318, correspondence with bar associations and law schools, press releases, and speeches by the Director.[42] However, this recruitment effort has largely been limited to general recruitment, i.e., solicitation of applications for positions on the general registers. (Most of the effort in recent years has been directed to attracting applicants for GS-15 positions to meet the burgeoning needs of the Social Security Administration.[43]) Because the Office does not wish to favor one agency over another in its recruitment activities, it has refrained from recruiting those with specialized experience, leaving that task to the agencies. Unfortunately, though not surprisingly, few agencies have responded by organizing recruitment efforts aimed at attorneys outside their own legal staffs.[44]

III. When Should/Must ALJs Preside?

Administrative law judges play a special role in the administrative process. Generally speaking, their function under the Administrative Procedure Act is to preside over proceedings which are to be conducted in a manner resembling a trial, i.e., according to the procedures (or equivalents thereto) required by Section 556 or 557 of the Act. However, despite this general framework provided by the APA, the Act does not provide a simple answer to the question of when an ALJ is to preside.

A preliminary question that must be answered is whether a particular proceeding is intended to be a "trial-type" proceeding (sometimes called a "formal" or "APA" pro-

[34]Information obtained from CSC, Office of ALJs, February, 1976.

[35]Report of Subcommittee on Recruitment, Qualifications, Certification and Appointment; *supra* note 26 at p. 37. *See generally*, Miller, *The Vice of Selective Certification in the Appointment of Hearing Examiners*, 20 Admin. L. Rev. 477 (1968).

[36]Park, *supra* note 21, at p. 396.

[37]See note 20, *supra*, and accompanying text. On July 1, 1967, only 20 percent of the attorneys on that register were in private practice. See Miller, *supra* note 33 at pp. 478-479, n. 1. By January 1, 1974 that figure had risen to 34 percent. Report of Subcommittee on Recruitment, Qualifications, Certification and Appointment, *supra* note 26 at p. 42.

[38]Information obtained from Office of ALJs, February, 1976.

[39]ACUS Recommendation 69-9(A)(2); 1 CFR §305.69-9(A)(2).

[40]E.O. 11883, October 6, 1975, 40 F.R. 47091. *See* 5 U.S.C.A. §5332 (1976 supplement).

[41]Report of Subcommittee on Recruitment, Qualifications, Certification and Appointment, *supra* note 26 at p. 28.

[42]*Id.* at pages 3-4.

[43]*Id.* at page 5.

[44]*Id.* at pages 4, 14.

ceeding) governed by the procedures of Section 556 and 557 (or their equivalent). If not, then an ALJ is not required and probably not needed; if so, then the question still remains—whether an ALJ shall preside.

The preliminary question, whether a particular type of agency proceeding is governed by the APA's formal adjudicative procedures, is usually answerable by reference to the particular statutory language involved. If the underlying statute provides for a "hearing," or more explicitly, for a "hearing on the record," this means that the APA's adjudicative procedures must be followed.[45]

In such instances, the APA does provide guidance as to who is to preside over the hearing. Section 556(b) provides that the presiding officer shall be "(1) the agency; (2) one or more members of the body which comprises the agency; or (3) one or more hearing examiners [ALJs] appointed under Section 3105 of this title."[46] This provision means that unless the agency itself or a member of the agency (i.e., the Board, Commission or Administrator heading the agency) presides over the hearing, the case must be heard by an ALJ. The provision gives the agency discretion to hear selected cases or types of cases itself rather than delegating the responsibility to ALJs. This discretion is seldom used, and the effectiveness of its use as a management procedure can only be evaluated on an agency-by-agency basis. Of course, as explained previously (see p. *supra*) agencies are allotted ALJ positions by the Civil Service Commission, and where a proceeding is clearly an "APA proceeding," the Commission will normally, upon request by the agency, without question allot what it considers to be a sufficient number of ALJ positions to handle the proceedings. Disputes between the agency and the Commission would likely only concern the sufficiency of the number.

It is the next sentence of Section 556(b) which gives rise to problems of interpretation and thus occasionally causes disputes between the Commission and agencies, engenders litigation, and clouds the preceding discussion. This sentence disclaims any intent to "supersede the conduct of specified classes of proceedings, in whole or in part, by or before . . . *other employees* specially provided for or designated under statute." (Emphasis added.)[47] Thus, where a statute, other than the APA, arguably provides for or allows the utilization of "other employees" as presiding officers, a dispute may arise as to who should preside—ALJs or "other employees." When Congress has not been explicit about who shall preside, the agency is left to determine who will preside. If the agency decides to utilize ALJs, then it must secure the cooperation of the Civil Service Commission to obtain a requisite number of ALJs. As will be shown below, this cooperation, for various reasons, is not always forthcoming. If the agency decides to use "other employees," that decision may be challenged by litigants who may argue that Congress intended, or that due process requires, that the proceeding be presided over by an ALJ whose independence from agency control is assured by the APA.

Sometimes Congress addresses the question of whether ALJs must preside over hearings, but seldom have statutes dealt with the issue conclusively. An early example of inconclusive explicitness concerns Indian probate determinations made by hearing officers employed by the Department of the Interior. Although the Department has construed the governing statute's[48] requirement of notice and hearing to require a full adjudicatory hearing,[49] Congress, beginning 1954, began attaching a section to the Department's appropriations act providing that "hearing officers appointed for Indian probate work need not be appointed pursuant to the Administrative Procedure Act, as amended."[50] Thus, the Department was explicitly permitted to use non-ALJs as hearing officers. This is what, in fact, the Department has done, but the potential for disagreement among the Civil Service Commission, the Department, and litigants before the Department about the appropriateness of using ALJs remains, due to the inconclusiveness of the statutory language.

An example of what statutory indefiniteness (however explicit) can lead to is the brouhaha that was caused by a provision in the recent Supplemental Security Income (SSI) Amendments (Title XVI) to the Social Security Act.[51] (The new Title XVI transferred from the states to the Federal Social Security Administration primary responsibility for welfare aid to the aged, blind, and disabled.) Although hearings necessary in the Social Security Retirement and Disability (Title II) and Medicare (Title XVIII) programs are subject to APA requirements and are presided over by ALJs, in the SSI program Congress provided that "to the extent the Secretary [of Health, Education, and Welfare] finds it will promote the objectives of this title, qualified persons may be appointed as hearing examiners . . . without meeting the specific standards prescribed for hearing examiners [by the APA]."[52] The Secretary proposed to employ ALJs appointed under the APA as presiding officers in SSI cases.

The Civil Service Commission initially took the position that the new SSI presiding officers were not to be ALJs, arguing that Congress had intended to authorize only the use of HEW staff attorney-claims examiners as presiding officers. The Commission further argued that the nature of SSI cases required "relatively low level employees", and that to make these officers ALJs under the APA "would ultimately lead to the dimunution" of the effective operation of APA-ALJ provisions in "those major economic agencies dealing with highly litigious, complex

[45]This "black letter law" does not, however, always provide the right answer. In an adjudicative context, the Supreme Court has ruled that due process of law may require that a statute which said nothing about a hearing be interpreted as requiring a hearing with a determination on the record, *Wong Yang Sung* v. *McGrath*, 339 U.S. 33 (1950) (Construing the Immigration Act). On the other hand, in the context of national rate setting (technically "rulemaking") the Court has twice ruled that the requirement of a "hearing" in the underlying statute could mean an informal rulemaking proceeding unless the statute "prescribes explicitly" that the hearing be "on the record." *United States* v. *Allegheny-Ludlum Steel Corp.*, 406 U.S. 742 (1972); *United States* v. *Florida East Coast R. Co.*, 410 U.S. 224 (1973). These cases have been read to extend only to rulemaking situations, thus the *McGrath* holding is still seen as good law with respect to adjudicative situations. *See* Davis, "Administrative Law of the Seventies" Section 6.04-1.

[46]5 U.S.C. §556(b).

[47]*Ibid.*

[48]25 U.S.C. §372.

[49]43 C.F.R. §4.200 *et seq.*

[50]25 U.S.C. §372-1. In 1967 Congress made this proviso permanent. 25 U.S.C.A. §372-1 (1976 Supplement), Pub. L. 90-28, June 24, 1967.

[51]Pub. L. 92-603, 42 U.S.C. §1381 *et seq.*

[52]42 U.S.C. §1383(d) (2).

and pervasive issues" for which the APA-ALJ system was primarily designed.[53] This position was challenged by the Secretary of Health, Education, and Welfare who urged that the Commission classify these claims examiners as ALJs, establish positions for them at GS-13 and GS-14 levels, and follow full APA procedures in selecting and controlling them.[54] The Chairman of the Commission agreed to do this,[55] but after receiving letters of protest from ALJ organizations[56] decided to ask for review of his decision by the full Commission. The Commission reiterated its initial position, arguing that it was consonant with Congressional intent[57] and therefore required as a matter of law. The SSI program was then staffed with claims examiners to preside over any necessary formal hearings.

Subsequently it became evident that the Commission was mistaken when Congress amended Title XVI, and the Senate Finance Committee's report delivered a mild rebuke to the Civil Service Commission.[58] The amendment explicitly provides that SSI proceedings be conducted according to APA formal hearing procedures presided over by APA-ALJs and constituted the staff attorneys originally hired as SSI claims examiners to conduct these APA hearings in SSI cases (and on Social Security Retirement, Disability, and Medicare claims as well). The amendment also explicitly makes these examiners ALJs until the end of 1978. The accompanying Senate report recites an expectation that the approximately 200 SSI claims examiners will be employed at GS-14 as temporary ALJs and will acquire sufficient adjudicative experience by the end of 1978 "to meet the experience requirement for appointment as regular ALJs."[59] The dispute about SSI ALJs represents not only a clash of philosophy about the need for formality (symbolized by the presence of an "APA-ALJ") in mass benefit claims adjudication, but also the sensitivity of ALJs as a group to a perceived dilution of their special status by the addition of hundreds of "lower-level" claims adjudicators to their corps. The merits of this particular dispute are beyond the scope of this discussion, but it does serve as an example of a controversy brought on by Congressional ambiguity. Other similar areas of uncertainty over the need for an ALJ as presiding officer have included the National Pollution Discharge Elimination System (NPDES) permit proceedings under the Federal Water Pollution Control Act amendments of 1972 administered by the Environmental Protection Agency,[60] and the proceedings under the Black Lung Benefits Act of 1972, administered by the Social Security Administration initially, then transferred to the Department of Labor.[61]

Such uncertainty would not occur if Congress would use greater explicitness in its procedural legislation. Congress should consistently specify whether or not it intends the proceedings in question to be subject to Sections 556 and 557 of the APA and conducted by ALJs appointed under Section 3105. If this were done, interagency squabbles would be minimized, dilatory litigation would be forestalled, and lobbying and political pressures would be confined to the legislative process.[62]

IV. The Future of the ALJ's Role

Thirty years after the passage of the Administrative Procedure Act the Administrative Law Judge is a strong and flourishing institution. Both the number of judges and the number of agencies using them has been growing yearly. Their status and functions have been enhanced by a long

[53]Letter from Anthony Mondello, General Counsel, Civil Service Commission to Robert G. Dixon, Asst. Attorney General, Office of Legal Counsel, July 10, 1973, p. 6-7. As cited by Rosenblum, *infra* note 63 at page 85.

[54]Letter from Caspar W. Weinberger, Secretary of HEW to Robert E. Hampton, Chairman CSC, October 12, 1973. As cited by Rosenblum, *infra* note 63 at page 106-108.

[55]Letter from Robert E. Hampton, Chairman CSC to Caspar W. Weinberger, Secretary HEW, October 30, 1973. As cited by Rosenblum, *infra* note 63. at page 109.

[56]Letter from Arthur A. Gladstone, Chairman, Conference of ALJs, November 12, 1973; letter from FALJC, November 16, 1973; letter from Stanley N. Ohlbaum, Chairman, Committee of ALJs, Federal Bar Association, November 16, 1973. All letters were to Chairman Hampton. As cited by Rosenblum, *infra* note 63 at page 109.

[57]Letters from Robert E. Hampton, Chairman CSC to Caspar W. Weinberger, Secretary HEW, December 14, 1973. As cited by Rosenblum, *infra* note 63 at page 110.

[58]P.L. 94-209, 89 Stat. 1135 (1976). The Senate Report (No. 94-550) at page 5 states: "The performance of the Civil Service Commission Office of Administrative Law Judges in overruling the administering agency (HEW) in its legal opinion that SSI was under the APA does not reflect the will of Congress."

[59]Senate Report 94-550, p. 5.

[60]33 U.S.C.A. §1341 (1976 Supplement). These cases involve permits for discharge of pollution. Federal permits are issued until applicable state NPDES plans are approved. The statute requires a "public hearing" prior to the issuance, denial, or modification of a permit in certain circumstances. The EPA, in its rules of practice, 40 C.F.R. §175, *et seq.*, has provided for an adjudicatory hearing upon request of any person, whenever the Regional Administration (RA) finds that the request sets forth questions of fact. These hearings have in practice been presided over by ALJs although the rules permit the RA to appoint other presiding officers. However the ALJs do not make initial decisions but instead certify the record to the RA for initial decision. Recently EPA Administrator Train ruled that the rendering of an initial decision by an ALJ was not required, 6 Env. Rep. 1699, (January 30, 1976).

[61]30 U.S.C.A. §901 *et seq.* (1976 Supplement). The sections of the Act relating to claims filed after July 1, 1973 to be processed by the Department of Labor provided that the procedures of the Longshoremen's Act of 1927, as amended (33 U.S.C. §901 *et. seq.*) be applicable to the Department of Labor's determination of black lung claims as well, 30 U.S.C.A. §925(a) (4), 932(a). In 1972, just after the Black Lung Benefits Act was passed, Congress amended the Longshoremen's Act (PL 92-576) and in so doing amended the latter Act to provide that hearings be conducted by administrative law judges, 33 U.S.C.A. §919 (1976 Supplement). After the amendments, the meaning of the cross-reference in the Black Lung Benefits Act became a subject of dispute with respect to whether ALJs were to be required in black lung cases as well. By regulation, the Secretary of Labor has provided that hearings under the Act be conducted by departmental hearing officers rather than by ALJs. 20 C.F.R. §§715.101(a) (27), 720.201(c), 725.402(c). The Civil Service Commission has consistently opposed the Department's entreaties to classify these examiners as ALJs and even presuaded President Ford to veto a bill containing a rider which would have reclassified these examiners as GS-16 ALJs on the grounds that the "fiat" was contrary to merit selection of ALJs and would over-classify those positions in relation to Social Security ALJs. [Farm Labor Contractors Registration Act Amendments of 1974, H.R. 13342, *see* 32 Congressional Record 3044, 3047-8 (November 2, 1974)]. The Department of Labor's own Benefit Review Board ruled that hearings under the Act must be conducted by ALJs and concluded that the Department's regulations were contrary to law, *Fields* v. *A.K.P. Coal Company*, BRB No. 75-155, February 26, 1976. The practical result of this decision was to render the black lung judges inactive, to cause the assignment of some cases to cases to regular Department of Labor ALJs and to generally slow down the hearings process until the matter can be worked out with the Civil Service Commission. Recently Congress has sought to break the logjam by enacting a joint reduction which provides that "qualified individuals" could hear and determine such claims regardless of whether that individual is an ALJ. H.R. 1118 was approved by the President on October 15, 1976, as Public Law 94-504. The law does not, however, resolve any legal challenges to Department procedures which were made prior to its enactment.

[62]Of course disputes could still arise between the agencies and the Commission over use of ALJs in non-APA proceedings. But at least the issue of Congressional intent would not be a stumbling block.

series of decisions of federal courts reviewing administrative agency decision-making.[63] And they themselves have organized an effective professional association—the Federal Administrative Law Judges Conference (FALJC).[64] Nevertheless questions about the recruitment, selection, utilization, independence, and even the competence of the ALJ are still being asked.

The Civil Service Commission has recently established a two-stage advisory process to address these questions. The first stage was commenced in June, 1973, by a study group composed of six Chief ALJs and five ALJs under the direction of Philip La Macchia, then the Deputy General Counsel of the Civil Service Commission. The "La Macchia Committee" was given a broad mandate to make findings pertaining to the overall effectiveness of the ALJ program. The Committee submitted its report to the Commission on July 30, 1974, and it is currently being reviewed by a "second-level" committee, composed of agency representatives and others concerned with the administrative process which will make recommendations based upon the La Macchia Committee's findings.[65]

The La Macchia Committee gave extensive consideration to the possible need for revision of the veterans preference system, the "rule of three," and selective certification. With respect to these three issues the Committee concluded as follows: (1) that the law regarding veterans preference is "generally acceptable to all interest groups";[66] (2) that Congressional action to change the "rule of three" to a "rule of 10 or 15" for selection of ALJs would be desirable;[67] and (3) that each agency should be required to request special approval and justify its request each time it proposes to appoint an ALJ on a selective basis.[68] The Committee also urged that agencies support the Commission's recruitment efforts and that such efforts be "organized and continuous."[69] With respect to utilization of ALJs, the Committee called for greater Congressional explicitness and, as a means of encouraging it, urged that the APA be amended "to provide that no future statute or Executive Order which provides for a hearing shall be deemed to require the use of ALJs absent explicit language therein that the proceedings in question are to be subject to Sections 556 and 557 of the APA in all respects and conducted by ALJs appointed under Section 3105."[70]

The Committee also reviewed a proposal made by the Federal Administrative Law Judges Conference that ALJs be removed from the agencies and organized into a self-administered, and unified corps which would be called the Administrative Judiciary.[71] The FALJC believes that creation of such a separate organization, independent of the agencies, would increase overall efficiency of the ALJ function and would eliminate the public identification of ALJs with particular agencies. Most agencies opposed the proposal on the ground that it would hinder the development of specialized subject-matter expertise.[72] To this contention the FALJC replied that the expertise could be assured by having special divisions within the proposed organization to deal with such subject areas as transportation, labor relations, and consumer protection.[73] The La Macchia Committee urged that a professional management analysis of the feasibility and the public benefit consequences of the FALJC proposal be undertaken and that the second-level panel consider it.[74]

Finally, there remains the irrepressible question of whether one can evaluate ALJs' performance. As we have cautioned in the preface to this Report, such a task should not be undertaken lightly. Some would say that since it cannot be done objectively, it should never be attempted. Certainly, the La Macchia Committee's recent survey of private practitioners and government attorneys about the overall quality of ALJs' initial decisions and the performance of ALJs as to the time taken to write those decisions produced nothing conclusive. The results of this poll were mixed, with a majority of government attorneys and a minority of private practitioners finding the quality of initial decisions to be good or superior and a slight majority of both groups finding the time performance to be good or superior.[75] More sophisticated surveys or evaluative questionnaires, as employed by numerous state bar associations with respect to state judges,[76] could be used. However, systematic evaluation of the work product of ALJs as a corps, by agency, or by individual judge is problematic due to the potential conflict with ALJ independence. Agency ratings of ALJs cannot be taken into account by the Civil Service Commission in compensation, and the "good cause" test for removal of an ALJ has rarely been invoked. (Only four ALJs in the history of the corps have been formally charged and only two removed.)[77]

[63] *See* Macy, *supra* note 8 at page 380-382. For a more recent comprehensive discussion *see* Rosenblum, *The Administrative Law Judge in the Administrative Process: Interrelations of Case Law with Statutory and Pragmatic Factors in Determining ALJ Roles*, Subcomm. on Social Security of the House Comm. on Ways and Means, 94th Cong., 1st Sess., Recent Studies Relevant to the Disability Hearings and Appeals Crisis 171-245 (Comm. Print December 20, 1975).

[64] The FALJC is the only independent association of ALJs. The ABA's Section of Judicial Administration has organized a Conference of ALJ's (CALJ), the Federal Bar Association has a Committee of ALJs, and the numerous ALJs in the Department of HEW have formed their own Association of ALJs.

[65] Use of a "second level" committee to review the findings of its predecessor was intended from the start. The successor committee, known officially as the "Advisory Committee on Administrative Law Judges," held its first meeting on September 17, 1976, (*See* 41 Fed. Reg. 36682.) Its Charter extends its life for two years, during which time the Committee will be meeting regularly. Early meetings indicate that the Committee does not feel bound by the findings of the La Macchia Committee in making its recommendations to the Commission. Minutes of Committee meetings may be obtained from the Office of General Counsel, Civil Service Commission, 1900 E Street, N.W., Washington, D.C. 20415.

[66] La Macchia Committee Report, *supra* note 33. Finding I (3), p. 14, 62.

[67] *Id.* Finding I (8), p. 15, 62.

[68] *Id.* Finding I (6), p. 14, 62.

[69] *Id.* Finding I (6), p. 15, 63.

[70] *Id.* Finding VIII (1), p. 56, 67-8.

[71] Statement and Recommendations of the FALJC to the U.S. Civil Service Commission, December, 1973, p. 4-19. (Appendix to the La Macchia Report).

[72] La Macchia Committee Report, *supra* note 33 at page 45.

[73] *Id.*

[74] *Id.* Finding IV (5), p. 47, 66.

[75] Replies were received from 54 private practitioners and 134 government attorneys. La Macchia Committee Report p. 34-37.

[76] *See* Philip, *How Bar Associations Evaluate Sitting Judges*, Institute for Judicial Administration, 1976.

[77] Information obtained from Charles Dullea, Director of Office of ALJs, February, 1976.

However, one of the premises of the Uniform Caseload Accounting System is that, given enough data and with careful determination, over a period of several years, of what similarities and differences exist among the various types of formal administrative cases processed, some method of evaluation of ALJ performance may be feasible and useful. A subcommittee of the La Macchia Committee concluded that every administrative agency should "enforce a program requiring reasonable and realistic levels of performance in terms of work produced and time expended" by its employees, including ALJs.[78] The subcommittee went on to urge that data be collected and case classification be begun. Publication by the Administrative Conference of the first report of the Uniform Caseload Accounting System will be a first step in that direction.

[78]"Production and Elapsed Time in the Utilization of Administrative Law Judges", April 19, 1974, p. 3. (Appendix to La Macchia Committee Report).

Appendix A:
Number of Administrative Law Judges serving, by Agency, as of July 1, 1975.[a]

Agency or Department	Number
Department of Agriculture	5
Bureau of Alcohol, Tobacco and Firearms (Dept. of Treasury)	1
Civil Aeronautics Board	13
Consumer Product Safety Commission	1
Drug Enforcement Administration (Dept. of Justice)	1
Environmental Protection Agency	6
Federal Communications Commission	13
Federal Maritime Commission	7
Federal Power Commission	17
Federal Trade Commission	12
Department of Housing and Urban Development	1
Department of the Interior	21[b]
Interstate Commerce Commission	58
Department of Labor	33
Maritime Administration (Dept. of Commerce)	2
National Labor Relations Board	75
National Transportation Safety Board	6
Nuclear Regulatory Commission	1
Occupational Safety and Health Review Commission	41
Postal Rate Commission	1
Securities and Exchange Commission	10
Social Security Administration (Dept. of HEW)	438[c]
U.S. Civil Service Commission	1
U.S. Coast Guard (Dept. of Transportation)	13
U.S. Postal Service	3
(Total)	780

[a]Supplied by Office of Administrative Law Judges, Civil Service Commission.

[b]Does not include 11 GS-14 "Indian probate judges."

[c]Does not include 96 GS-14 "black lung judges" who were designated temporary ALJs, most of whom ultimately qualified as GS-15 Social Security ALJs as the black lung cases were gradually transferred to the Department of Labor.

Appendix B

Selected Bibliography: Materials on Administrative Law Judges

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CHAPTER II Fiscal Year 1975 Statistics

This report contains caseload and case-processing statistics for every Federal agency and department (hereinafter referred to as "agency") which employed its own administrative law judge (ALJ) in fiscal year 1975. Eighteen agencies filled out and submitted cards* provided to them by ACUS for every case that was closed by that agency during the year. Due to an unusually heavy caseload, one other agency (the Department of Interior) submitted cards for only a small sample of its closed cases. The information contained on the completed cards submitted by these 19 reporting agencies was then tabulated for presentation in this report. Four agencies which were already collecting and tabulating statistical information similar to that sought by the ACUS cards submitted their statistics in pretabulated form, and these are presented in a separate section of this report.

THE REPORTING SYSTEM

Each of the 19 reporting agencies was provided with blank cards and instructions on how to complete them. They were told that whenever a proceeding reaches the stage of referral to the agency's office of ALJs (usually the Chief ALJ's office), a "case-opened" card is to be completed and held for forwarding to ACUS at the end of that quarter. (This means that cases terminated before referral to the office of ALJs are not "counted" by the system.) When the case is opened, a separate "case-closed" card is also started, to be filled in as the case proceeds to termination. When the agency terminates the case by whatever manner (as long as the termination represents final agency action and occurs at some stage after referral to the office of ALJs), the "case-closed" card is to be completely filled in and forwarded to ACUS at the end of that quarter. Additionally, each agency submits a caseload inventory form every quarter, broken down by tape of case, summarizing the number of cases opened and closed in that quarter as well as giving figures for the pending caseload.

The "case-closed" cards are designed to provide key facts about each proceeding without unduly burdening the agency with record-keeping chores. Four main categories of information are obtained from the cards:

a. **Key Dates and Intervals** — Dates of occurrence of key steps in the proceeding—from the earliest agency action to final agency decision. From these dates are derived the times consumed by each of three basic stages in the case: the time elapsed in the agency's handling of the case before it is referred to the office of ALJs; the time elapsed while the case is in the custody of the ALJ; and the time elapsed during the agency's review of the ALJ's decision.

b. **Manner and Stage in which Proceedings Terminated** — The manner in which a case is terminated: by a decision on the merits after a full hearing; or by settlement, withdrawal, or dismissal—and whether before a hearing or after a partial or full hearing.

c. **ALJ's Decision Reviewed** — Whether or not the initial decision is reviewed by the agency, and if so, the outcome of the review.

d. **Time and Effort Index** — Indications of the complexity of the case such as the number of days and hours of hearings; the number of motions, parties, evidentiary documents; and the number of pages of briefs, transcripts, exhibits and the written decision.

The following discussion provides more details about the information sought with respect to the above categories, the instructions to the agencies and problems encountered in the data collection, processing, and presentation.

a) Key Dates and Intervals

The reporting card provides boxes, numbered 1 to 21, for recording the dates of as many as 21 procedural steps in the life of an administrative case. There are 7 steps for each of the three basic stages of each case: the prehearing, hearing and posthearing stages.

i) The Prehearing Stage

A case may begin in several different ways, depending on the type of case, and the particular agency's case initiation procedures. As stated above, we deem a case to be opened when it is referred to the Chief ALJ's office. That date is to be entered in Box 7. At that point we ask the agency to determine the dates of earlier agency action and enter them in Boxes 1-6. If the case was begun by an application, a private complaint, a petition, or a preliminary determination of violation made at an inspection, the applicable date of that event is to be entered in Box 1. If the application or petition is denied or if the private complaint or agency inspection has led to a preliminary investigation or to a citation or notice of violation, then the date of denial, order of preliminary investigation or notice of violation is entered in Box 2. In some types of cases, the origination of the case occurs with an event that is more appropriately entered in Box 2, and Box 1 is left blank. Boxes 3 through 6 are provided for recording dates of other procedural steps a case may go through prior to referral to the ALJ for hearing. These steps include a formal order of investigation, a formal complaint, a staff recommendation of hearing, completion of an environmental impact statement, and issuance of a formal order or notice of hearing. Not all cases go through the same prehearing steps. As we learn more about the various types of cases and the multifarious prehearing steps, we will be able to refine our data collection for this stage. In this first report our more limited objective is to present some idea of how long the prehearing stage takes for the various casetypes.

We have asked that the first date filled in on the card (be it in Box 1, Box 2, or Box 3) also be entered in a separate Box 0 marked "first agency action." The interval between this first date in Box 0 and the date in Box 7 is the time span for the prehearing stage of a case. We have found that the prehearing phase of a case presents one of our most difficult data-gathering problems. It is often difficult for an agency to pin down the exact date that a case originates, especially if the first action in the case occurs in

*A copy of the card used for reporting closed cases in FY 1975 ("ACUS 3") is reproduced on page 3. It has since been slightly revised.

a field office. Thus, although we have asked the agencies to record in Box 0 the date of its earliest action in a case, sometimes a later date has been entered into Box 0. This would, of course, cause the prehearing stage to appear less time-consuming than it actually was. We have pointed out instances of this deficiency where they are known to us, but we ask the reader to bear in mind that there may be other instances, unknown to us, where the prehearing interval, as recorded, is misleadingly short.

ii) The Hearing Stage

The hearing stage encompasses the period during which the ALJ has control of the case. Boxes 8-13 are provided for recording dates of procedural events during the hearing stage (assignment to individual ALJ, pre-hearing conference, first and last days of hearing, and the closing of the record). Box 14 is for the date the ALJ's decision or order is released. Because agency records of the dates entered in Boxes 7 and 14 are relatively certain and reliably retrievable, the elapsed-time statistics computed for the hearing stage would appear to be more accurate than those for the prehearing stage.

iii) The Posthearing Stage

The posthearing stage begins when the ALJ's decision or order is released. The case then may or may not be reviewed by the agency head (i.e., a full board or commission, or panel thereof, or an individual administrator). Review procedures vary almost as widely as prehearing procedures. In some agencies review by the agency is within the discretion of the agency and is infrequent. In others, appeal may be had by right and review is frequent. In some, review is mandatory. Boxes 15 to 20 are provided for recording dates of procedural events during the posthearing stage. These include the filing of an appeal from, or exceptions to, the ALJ's decision, perfecting the appeal, recommendation by review staff, and oral argument. The date of final agency decision is to be entered in Box 21. Where review of an ALJ's decision has occurred, its completion should be recorded as the date when the agency's decision is released for publication. (Any waiting period that may be required before the decision has legal finality is not to be included.) Where there is no review on the merits, the agency, in effect, adopts the ALJ's decision as its own. This is usually done by an order issued after a short period of time has elapsed (e.g., after a 30-day time limit on appeals has expired). We have had some difficulty achieving consistency in the completion of this portion of the card in cases where there was no review by the agency. Although in some instances the short time span for the agency's order-issuing process was properly reflected, sometimes Box 21 was left blank and sometimes the date in Box 14 (ALJ's decision) was entered in Box 21 as well. We wanted to make sure that we could obtain information about posthearing time span for those cases which *were* reviewed. Therefore, before calculating the elapsed time between dates 14 and 21, we divided the cases into two groups: those reviewed and all other cases. The first group included only the cases on which the "yes review" box was checked. The latter group included those cards on which the "no review" box was checked *and* those on which neither the "yes" nor the "no" box in the review section of the card was checked. (We suspect that most of this group were not reviewed.) Thus, those cases which we know were reviewed are isolated from the rest.

iv) Total Elapsed Time

Finally, we present the total time elapsed from start to finish (0-21) in a case. Again we have separated the cases into the same two groups used to isolate out those cases that were reviewed. Of course, the informational deficiencies relative to the prehearing stage, noted above, may affect the validity of the total elapsed time data. We expect that in future years these problems will be ironed out, but we hope this initial report provides a useful though limited (and sometimes flawed) picture of how long administrative agency cases take.

b) Manner and Stage in which Proceedings Terminated

There are important variables affecting the duration of a case in the manner and stage of its termination. Termination of a case can be with or without a formal decision on the merits. The portion of the card entitled "Manner and Stage in which Proceedings Terminated" calls for data accordingly. For a case terminated without a formal decision on the merits, one of the following four boxes is to be checked to indicate the procedure by which termination occurred:

SETTLEMENT/COMPROMISE: Where all parties agree on a settlement of all issues and this terminates the proceeding.

WITHDRAWAL/CONSENT: Where parties or respondents, usually in an enforcement type proceeding, accept the agency's demands in sufficient degree to permit withdrawal of the formal complaint and/or issuance of a consent order.

MOTION TO DISMISS/DISCONTINUANCE: Where proceedings terminate for jurisdictional or procedural reasons, insufficient statutory basis for the action, or failure of the moving parties or the agency adequately to support an application, petition, complaint, etc. Also included in this box are those cases in which the action ends by the parties' or the agency's discontinuing it or being granted a motion to dismiss.

OTHER: For any termination without formal decision which does not fit the above categories.

These four categories of termination procedure are neither as precise nor as illuminating (in the contex of a particular proceeding) as one might like. Only by knowing the nature of the case can the significance of the manner of termination be fully grasped. For instance, a dismissal of an enforcement proceeding means the agency's case has been dismissed. Dismissal of an application for a permit means that the private applicant has lost his case. We have tried to describe each casetype in such a way that the manner of termination is meaningful, although we have not compiled statistics on which party prevailed in cases.

If a case fell into one of the four categories of termination without a decision on the merits, we asked the agency also to note whether the termination was without a hearing or whether it occurred after a partial or full hearing.

For cases terminated with a decision on the merits, one of the following three boxes was to be checked to indicate the manner of decision:

AN ALJ HEARING & DECISION: The standard initial decision by the ALJ.

AN ALJ HEARING WITHOUT ALJ DECISION: Where the agency's procedural rules permit the parties to waive the ALJ's decision and move directly for a final decision by the agency. Also included are cases in which the ALJ does not make a decision but merely certifies the record to the agency for decision.

AN ALJ ACTION OR DECISION WITHOUT HEARING: Where the agency's procedural rules permit an ALJ to render a decision on the basis of the submitted record, without hearing.

It should be apparent that we are able to determine how many cases went to at least partial hearing. Furthermore, by isolating different combinations of manner and stage of termination along with the presence or absence of review by the agency, it may be possible to draw more refined conclusions about elapsed time. For example, if an agency's 20 enforcement cases took an average of 300 days from start to finish, more detailed analysis might show that this average includes 15 ALJ hearings and decisions averaging 375 days, and 5 dismissals without hearings averaging 75 days. The numbers may seldom be that dramatic, but we have tried to shed as much light as we can on the significance of averages.

c) Review of ALJ Decision

For cases terminated with a decision on the merits, we asked the agencies to record whether or not the ALJ's decision was reviewed by the agency. We also asked for the outcome of agency review: whether the ALJ's decision was affirmed, reversed, modified significantly, or remanded. The card also sought information about how agency review was initiated [i.e., whether by exceptions of agency staff or of non-agency (private) parties, and whether the review was standard agency policy or was at the initiative of the review authority]. However, our instructions turned out to be confusing to the agencies, and the data we did receive on this query are omitted from this report.

d) Time and Effort at the Hearing Stage

Where a partial or full hearing was held in a case we asked the agency to fill in a series of boxes ("Time and Effort Index") intended to show the time and effort expended by the ALJ, and meant to give a rough indication of the complexity of the case. The entries are as follows:

1) PREHEARING & HEARING (SEPARATE DAYS): The number of days on which any portion of a prehearing conference or hearing took place, including conferences and evidentiary hearings relating to substantive motions and interlocutory appeals.

2) PREHEARING & HEARING (ACTUAL HOURS): The approximate total number of hours devoted to all activities referred to in number 1 above.

3) NUMBER OF PARTIES & INTERVENORS: The approximate number of separate parties, claimants, respondents, intervenors, petitioners, companies, etc. (including the agency as a party) who appeared in the proceedings.

4) HOURS OF ALJ TRAVEL: The approximate number of hours, including evenings and week-end hours, the ALJ was required to spend in travel to and from hearings and conferences for any part of the proceedings. [Note—the instructions for this box were imprecise, and we are not confident about the accuracy and consistency of these entries. There does not seem to be, among the agencies, a uniform definition of "travel status".]

5) NUMBER OF CONTESTED MOTIONS: The number of motions handled by the ALJ which either were contested or involved substantive rather than minor procedural or administrative matters.

6) NUMBER OF EVIDENTIARY DOCUMENTS (EXCLUDING BRIEFS & TRANSCRIPTS): The aggregate number of separate documents comprising the record (e.g., exhibits, interrogatories, depositions, and other discovery documents and pre-trial memoranda).

7) NUMBER PAGES BRIEFS: Approximate number of pages of counsels' briefs.

8) NUMBER PAGES TRANSCRIPTS: Approximate number of pages of transcripts.

9) NUMBER PAGES EXHIBITS: Approximate number of pages of exhibits and other evidential documents.

10) NUMBER PAGES WRITTEN OPINION: Approximate number of pages of ALJ's written opinion.

11) ORAL ARGUMENT: Was there oral argument before the ALJ?

DATA PROCESSING

The completed cards were forwarded to ACUS on a quarterly basis. We have relied entirely on the reporting agencies for the accuracy of their entries. For the initial year of the ACUS Uniform Caseload Accounting System we made no attempt to verify whether or not the agencies were correctly reporting the dates and other information about each case. We did examine each card for legibility, and to see whether the information entered on the card was entered in the proper place, but only in rare instances did we return the cards to the agency for further completion. One reason for the incompleteness of a large portion of the cards was that it took some agencies one or two quarters to gear up their data-collection procedures. Furthermore, many of the cases that were terminated in FY 1975 had been in the pipeline for over a year and some agencies found it difficult or impossible to retrieve information on the earlier stages of the cases. Finally, some agencies said that they could not provide us with certain categories of information. For example, the Federal Power Commission declined to fill in several entries in the time and effort index because its Chief ALJ felt the information was too difficult to gather. We hope that agencies will supply more completely the information requested as they become more familiar with the system, as their own data-collection procedures are regularized, as our instructions become precise, and as the processing of their older cases is completed.

The cards were then coded and edited manually by ACUS staff in preparation for transforming the data to magnetic tape. Each agency was assigned a two-digit code and each type of case also assigned a two-digit code. Cards were then coded by agency and type of case. For example, the Department of Agriculture's Horse Protection Act cases are coded "10-25." Each agency was asked to categorize

its formal cases, using some functional characteristic as a guide. Thus, cases were categorized by governing statute (e.g., "Horse Protection Act" cases), by subject matter (e.g., CAB "Merger and Agreements" cases), or by agency organizational structure (e.g., FTC "Bureau of Consumer Protection" cases). A coding structure for all categories of cases ("casetypes") was created although not all of them gave rise to closed cases in FY 1975.

Some editing for accuracy was performed manually. Each card was checked for general legibility. The dates were examined to make sure they were written numerically as a string of double digits for day, month, and year. In those few cases where only the month and year were given, the entry was filled out by arbitrarily making the day the 15th (e.g., 01/74 = 01/15/74). The entry in Box 0 was checked to make sure that it was the same as the earliest date recorded. The four key dates (Boxes 0, 7, 14, 21) were checked to make sure they were in proper chronological order. The manner of termination of proceedings was checked to make sure that there was an entry for either the "with" or "without" formal decision on the merits and not for both. Finally, the time and effort entries were checked. All fractions were rounded off to the next higher whole number and the zeros entered in these boxes were analyzed. Our guiding principle, aside from the exception noted below, was that if there was no hearing in the case, the time and effort boxes should have been left blank—so any zeros entered into the boxes in such cases were converted to blanks. In this way, the averages obtained for time and effort were not misleadingly lowered by the inclusion of zeros from nonhearing cases. However, if, as occurred occasionally, a non-hearing card did contain some entries (other than zero) in this part of the card, those numbers were retained. (Several of the entries, such as the number of parties, motions, or pages of decision could legitimately be recorded in a nonhearing case and were therefore retained for averaging purposes.) If there was a hearing or partial hearing in a case, we retained all entries (including zeros) and left the blanks blank.

The coded cards were then keyed directly onto magnetic tape with independent verification. They were then subjected to a machine edit which checked that the agency and case codes matched an agency and case code on the master list, and checked that all the dates conformed to the standard date format (i.e., months were numbered 01 through 12; days were numbered 01 through 31). Some consistency checks were performed to insure that mutually exclusive entries were not made in the manner and stage of termination and review segments of the data. This machine-editing procedure (which we feel can be tightened somewhat in future years by use of more consistency checks) screened 119 errors out of the 3223 cards processed. About half of the errors proved to be key-taping errors. The errors were corrected, the data re-keyed onto tape, re-edited, and merged into the file of cases for which no error had been detected. This process created a master file, on tape, of all the information from all the cards. The programs for creation of the master file were written by a programmer employed by the (U.S.) General Services Administration. After creation of the master file on tape, additional processing was performed by an attorney on our staff with the assistance of the Department of HEW's Data Management Center, using the Statistical Package for the Social Sciences (SPSS) on an IBM 370 System.

THE STATISTICS

a) Caseload Statistics

Part A presents the caseload statistics by type of case within each agency. Caseloads are reported to us on a quarterly basis on inventory sheets submitted along with the completed cards. In this report we report the number of cases pending in each category at the beginning of FY 1975, the quarterly total of new cases referred to the Chief ALJ's office, and the quarterly total of cases closed by final agency action. We also give the total of pending cases at the end of FY 1975. Along with each casetype we provide a capsule description of the casetype as well as citations to the governing statutory provisions in the U.S. Code and to the applicable rules of practice provisions in the Code of Federal Regulations. The caseload statistics are taken from the inventory sheets submitted by the agencies and the year's total of closed cases should theoretically match the number of "case-closed cards" processed for that casetype. In some instances, however, the number of closed cases on the inventory sheet differs from the number of case-closed cards submitted. Although we did not try to reconcile these discrepancies (most of which are minor), it would appear that they resulted from the agencies' occasional failure to submit a card for every closed case.

b) Data on Closed Cases

Part B presents a tabulation of data on closed cases for each casetype. Of the 123 casetypes reported to us by the 19 agencies, 92 were represented by at least one closed case. Tabulations are presented for most* of these 92 casetypes as follows:

1) TOTAL NUMBER OF CASES TERMINATED IN FY 1975: The total number of closed cases corresponds to the number of cards processed. (As explained above, the number should be approximately the same as the number in Part I taken from the inventory sheet.)

2) ELAPSED TIME DATA: In this report we present statistics on the time intervals for the three principal stages of a case, i.e., prehearing, hearing, and posthearing, as well as the total elapsed time from opening to termination of a case. Although some information was collected with respect to intermediate dates within those principal stages, we did not feel that the information was sufficiently useful to warrant inclusion in this first report. For each of the three stages we present the average number of days, taking as the universe of cases all those cases within that casetype which have reported a date in both the first and last boxes for the interval of a stage. The number of cases is denoted by "N". For example, although casetype 28-15 (FTC Bureau of Competition cases) reports 13 closed cases, only 10 of those cases report a date in both Box 0 and Box 7; the number of cases ("N") in the prehearing stage would thus be 10 and the average would be derived from only the 10 cases. Also

*Only one casetype of the Interior Department is included, and none of the FCC's are included. Although both of these agencies provided us with correct quarterly caseload totals for all of their respective casetypes, the FCC's reporting cards were found to have been incorrectly filled out too late for the inclusion of corrected tabulations in this report. The Interior Department, due to an unusually heavy caseload submitted only a sample of civil penalty case cards (which was tabulated and is included), but did not submit cards on their other casetypes.

given is the median elapsed time, that is, an elapsed time such that 50 percent of the cases have an elapsed time less than or equal to it. For example, the median prehearing time for casetype 28-15 is 779 days; this means that half of the cases have elapsed times at or below 779 days. (Medians were calculated by SPSS using a method that assumes that the data were arranged in a grouped frequency distribution. This accounts for fractional parts of days in the computation of medians.) Additionally, we provide the minimum and maximum elapsed times for each interval.

Use of the median, maximum and minimum will provide the reader with some idea of the range of responses, which the average by itself will not give. Note that the post-hearing stage (as well as the total time) is divided into cases reviewed by the agency and all other cases. This was done for the reasons stated previously (*supra*. p. 18). Where we have additional information which sheds light on the averages (see p. 19 , *supra*), that information appears in the "notes and comments" section following the tabulation.

3) MANNER OF TERMINATION: The number of cases is given for each type of termination.

4) AGENCY REVIEW: The number of ALJ decisions reviewed are reported along with the outcomes. The sum of the numbers of yes and no responses should equal the total number of decisions on the merits, but much of the data is missing in this section.

5) TIME AND EFFORT AT HEARING STAGE: We first indicate how many of the total cases in that casetype were heard or partially heard by the ALJ. This is the number of cases for which time and effort data should be present. As will be seen, in this report a relatively high percentage of these data is missing for many casetypes and the significance of averages, medians, minima and maxima should be discounted accordingly. As with the elapsed-time data, where an agency did not submit complete data on all cases, "N" represents the number of cases for which information *was* received. The eleven subcategories in the time and effort index are explained at page 19, *supra*.

We strongly emphasize that any user of the data presented in this report should remember that the number of cases closed within some of the casetypes is quite small, since we have included reports on all casetypes with at least one closed case. Especially great care must be observed in drawing any conclusions from the statistics that are presented for such casetypes. For example, in the casetype, SEC Notices and Exemption (1934 Act), only two cases were closed. The average total elapsed time for these two cases was 294.5 days, but since the two cases had elapsed times of 2 and 587 days respectively, the average for this casetype lacks significance.

CHAPTER III The Statistics

Part A "Quarterly Caseload Tables"

Agency Caseloads — FY 1975

Agencies and departments are all those which employed at least one full-time ALJ.

NEW CASES — Formal proceedings (including a few formal rulemakings) referred to the office of ALJs during FY 75, regardless of whether the case actually went to hearing. Cases disposed of prior to referral to the office of ALJs are not counted.

CLOSED CASES — Cases in which final agency action was taken during FY 75.

PENDING — Number of cases which have reached the stage of referral to the office of ALJs, but remain in the pipeline pending final agency action at close of FY 75.

Figures from ICC, NLRB, OSHRC, and SSA provided by the agency in pretabulated form. All other figures compiled are from quarterly inventory statements.

Agency	New Cases	Terminated	Pending
Agriculture	251	191	118
AT&F	61	41	44
CAB	79	74	97
CPSC	3	0	4
EPA	242	85	350
FCC	172	131	192
FMC	57	53	100
FPC	267	174	390
FTC	61	41	112
Interior	4,353	9,782	6,019
ICC	1,313	1,154	1,259
Labor[a]	1,134	884	783
NLRB	3,345	3,469[b]	1,380[c]
NTSB	577	665	335
NRC	39	27	95
OSHRC	2,513	2,513	1,557
PRC	1	0	3
SEC	77	114	117
SSA	102,045	96,000[d]	87,787
USCSC	5	10	1
USCG	538[e]	553	159
USPS	160	127	105
Total	**117,293**	**116,088**	**101,007**

[a]Does not include Black Lung cases which were not heard by ALJs.

[b]Approximately equivalent to case closing figures for other agencies, although the NLRB does not consider some cases closed until Federal court action is final.

[c]Figures compiled by adding cases pending before ALJs (919) to cases pending before the Board (461).

[d]Impossible to ascertain a comparative figure. We know the number of cases disposed of by ALJs and by the Appeals Council but we do not know how many cases were terminated (were unappealed) at the ALJ level. In FY 1975 there were 99,869 dispositions by ALJs and 33,383 new cases at the Appeals level. Therefore, a very rough estimate is that about two-thirds of all ALJ dispositions are final agency action. Therefore we can arrive at an equally rough estimate of SSA terminations by adding 66,500 to the 29,447 Appeals Council termination to arrive at approximately 96,000. None of the SSA totals include Supplemental Security Income cases because ALJs were not deciding them. (In FY 1975 there were 52,900 new SSI cases, 36,029 pending SSI cases.)

[e]This total was arrived at by adding three correct quarterly reports of new cases with one estimated quarter. The estimate was arrived at by averaging the other three quarters.

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Department of Agriculture

NOTE: On June 6, 1976 the Department proposed Uniform Rules of Practice to cover all formal adjudicatory proceedings replacing the separate rules of practice listed below for each class of proceeding, 41 *Fed. Reg.* 24385.

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Packers and Stockyards Act Disciplinary Proceedings	1	22	38	34	26
7 USC 204, 213(b)	2	26	31	25	32
9 CFR 202	3	32	32	29	35
Disciplinary proceeding against stockyard owner, market agency or dealer as defined in the Act, resulting in cease and desist order and suspension of registration for unfair, discriminatory, or deceptive practices in connection with the marketing of livestock.	4	35	30	21	44
			131	**109**	
Commodity Exchange Act Disciplinary Proceedings	1	18	5	4	19
7 USC 6g, 9	2	19	3	4	18
[Cases transferred to Commodity Futures Trading Commission, effective October, 1975. See 7 USC 4(a), 18, 21 (1975 Supplement)]	3	18	2	1	19
	4	19	0	5	14
			10	**14**	
Disciplinary proceeding resulting in suspension or revocation of registration of floor broker or futures commission merchant and denial of trading privileges for violations of the Act including manipulation of prices and cornering the market.					
Perishable Agricultural Commodities Act Disciplinary Proceedings	1	8	6	4	10
7 USC 499h(a)(b)(c), 499i	2	10	10	9	11
7 CFR 47	3	11	6	2	15
Disciplinary proceeding against licensed produce dealer, broker, or commission merchant resulting in license suspension or revocation or the publication of an adverse finding for violation of the recordkeeping or fair trade provisions of the Act.	4	15	14	7	22
			36	**22**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Department of Agriculture (cont'd)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Horse Protection Act 15 USC 1825 9 CFR 12	1	0	5	2	3
	2	3	6	4	5
Civil penalty proceeding against any person charged with violation of the Act or regulations thereunder concerning the soring of horses or the exhibition of sored horses.	3	5	5	2	8
	4	8	6	4	10
			22	**12**	
Laboratory Animal Welfare Act Disciplinary Proceedings 7 USC 2149, 2150 9 CFR 4	1	0	4	3	1
	2	1	4	2	3
	3	3	2	2	3
Disciplinary proceeding against persons engaged in the sale of animals for pet or research purposes or against research facilities resulting in cease and desist orders and suspension or revocation of licenses of sellers and facilities licensed under the Act for violation of humane standards.	4	3	8	2	9
			18	**9**	
Denial or Withdrawal of Voluntary Inspection and Grading Service 7 USC 1622, 1624 7 CFR 50	1	1	0	0	1
	2	1	0	0	1
	3	1	1	1	1
Proceeding to determine whether applicants for such service or persons having such service have violated regulations and whether such service should therefore be denied or withdrawn.	4	1	1	0	2
			2	**1**	

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Marketing Orders (under Agricultural Marketing Agreement Act)	1	0	3	0	3
7 USC 608c(3) and (17)	2	3	5	5	3
Rulemaking proceeding for the promulgation of regulations governing the handling of milk, fruits, vegetables and other commodities in regional marketing areas. Marketing orders regulate handling in such forms as classification and minimum pricing of milk, grade and size restrictions, and volume control.	3	3	9	5	7
	4	7	3	5	5
			20	**15**	
Petitions for Relief from Marketing Orders (Agriculture Marketing Agreement Act)	1	6	3	0	9
7 USC 608c (15)(A)	2	9	0	3	6
7 CFR 900.50–900.71	3	6	1	1	6
Adjudication whereby a handler regulated by a marketing order may contest the validity of such order, the act pursuant to which the order is promulgated, or any obligation imposed upon the handler by such order as "not in accordance with law."	4	6	3	1	8
			7	**5**	
Personnel Appeals	1	4	1	0	5
See 7 CFR 0.735 et seq.	2	5	1	2	4
Departmental personnel appeals heard by ALJs on ad hoc basis.	3	4	0	0	4
	4	4	0	0	4
			2	**2**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Department of Agriculture (cont'd)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Federal Meat Inspection Act 21 USC 601 et seq. 9 CFR 335	1	0	0	0	0
	2	0	2	0	2
Proceedings to determine whether applicants for meat inspection service or persons having such service have violated the conditions for such service, and whether such service should therefore be denied or withdrawn.	3	2	0	0	2
	4	2	0	1	1
			2	**1***	
Grain Standards Licensing 7 USC 85, 86, 87e 7 CFR 26.2001 et seq.	1	0	0	0	0
	2	0	0	0	0
Proceeding to challenge revocation, suspension, or refusal to renew a license to perform inspections or to challenge refusal of official inspection service. (Not subject to APA unless respondent so requests.)	3	0	1	0	1
	4	1	0	1	0
			1	**1**	

Other adjudicatory proceedings administered by the USDA as of FY 1975. (No cases reported.)

1) Egg Products Inspection Act, Section 18 (21 USC 1047).
2) Federal Seed Act, Section 409 (7 USC 1599).
3) Poultry Products Inspection Act, Sections 6, 7, 8(d) and 18 (21 USC 455, 456, 457(d), 467).
4) U.S. Warehouse Act, Sections 12, 25 (7 USC 246, 253).
5) Virus-Serum Toxin Act (21 USC 156).

*No card submitted.

QUARTERLY CASELOAD INVENTORY
(FISCAL YEAR 1975)

Bureau of Alcohol, Tobacco and Firearms (Department of Treasury)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Federal Alcohol Administration Act Permit Cases	1	11	11	6	16
27 USC 204 (	2	16	7	6	17
27 CFR 200 et seq.	3	17	11	9	19
Proceeding whereby an applicant for a basic permit to import, sell, or distill alcoholic beverages may challenge a threatened denial of his application or whereby a holder of a basic permit may challenge a threatened suspension or revocation of the permit.	4	19	25	10	34
			47	**31**	
Internal Revenue Code Permit Cases	1	2	0	0	2
26 USC 5271					
27 CFR 200 et seq.	2	2	0	0	2
Proceeding whereby an applicant for a permit to use denatured distilled spirits (industrial use) may challenge a threatened denial of his application or whereby a holder of such a permit may challenge a threatened suspension or revocation of the permit.	3	2	2	1	3
	4	3	0	0	3
			2	**1**	
Firearms License	1	1	0	0	1
18 USC 923					
27 CFR 200 et seq.	2	1	0	0	1
Proceeding whereby an applicant for a license to import, manufacture, or deal in firearms or ammunition may challenge the denial of his application or whereby a licensee may challenge a revocation of such license.	3	1	0	1	0
	4	0	1	0	1
			1	**1**	
Director of Practice	1	3	3	3	3
31 USC 1026					
31 CFR 10	2	3	2	0	5
Proceedings to suspend or disbar an attorney, accountant, or enrolled agent from practice before the IRS because of violation of the rules of practice.	3	5	2	3	4
	4	4	4	2	6
			11	**8**	

QUARTERLY CASELOAD INVENTORY
(FISCAL YEAR 1975)

Civil Aeronautics Board

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Routes and Licenses	1	21	6	1	26
49 USC 1371					
14 CFR 302 et seq.	2	26	5	6	25
Applications for certificate of public convenience and necessity. Certification	3	25	3	0	28
is necessary before new or modified air service is allowed.	4	28	4	3	29
			18	**10**	
Foreign Permit	1	30	13	14	29
49 USC 1372					
14 CFR 302 et seq.	2	29	2	5	26
Each foreign air carrier operating to the U.S. must have a foreign air carrier per-	3	26	15	13	28
mit which can be granted only after notice and hearing and a finding that the ser-	4	28	9	8	29
vice is in the public interest.			**39**	**40**	
Mergers and Agreements	1	18	3	2	19
49 USC 1378, 1379, 1382					
14 CFR 302 et seq.	2	19	1	1	19
Includes a variety of proceedings, the most important of which is the determina-	3	19	0	3	16
tion whether to approve the mergers of two carriers or the acquisition of control by	4	16	1	1	16
one of the other.			**5**	**7**	

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Commercial Rates	1	16	3	4	15
49 USC 1373					
14 CFR 302 et seq.	2	15	0	4	11
Includes all proceedings with respect to rates charged by the carriers for air transportation of persons and cargo.	3	11	1	1	11
	4	11	3	0	14
			7	**9**	
Mail and Government Rates	1	1	0	0	1
49 USC 1376					
14 CFR 302 et seq.	2	1	1	0	2
Proceedings to determine the rate to be paid by the U.S. Postal Service for the transportation of mail, and in the case of subsidy carriers, the amount of subsidy required.	3	2	0	0	2
	4	2	1	0	3
			2	**0**	
Enforcement	1	6	1	2	5
49 USC 1471, 1482(a)(b)(f)					
14 CFR 302 et seq.	2	5	4	1	8
Adversary proceedings involving violations of the Act or the Board's regulations.	3	8	2	3	7
	4	7	1	2	6
			8	**8**	

QUARTERLY CASELOAD INVENTORY
(FISCAL YEAR 1975)

Consumer Product Safety Commission

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Promulgation of Consumer Product Safety Rules	1	0	1	0	1
15 USC 2058 16 CFR 1105	2	1	0	0	1
	3	1	0	0	1
Informal rulemaking proceeding (with oral presentations) to promulgate consumer product safety rules (including the banning of hazardous products) proposed by the Commission or other offeror.	4	1	0	0	1
			1	**0**	
Enforcement	1	1	0	0	1
15 USC 2069 See interim rules, 16 CFR 1025, 39 Fed Reg 26848	2	1	0	0	1
	3	1	1	0	2
Proceeding to determine whether a civil penalty should be assessed against the respondent for knowingly acting in violation of the statute or safety standards promulgated under the statute.	4	2	1	0	3
			2	**0**	

QUARTERLY CASELOAD INVENTORY
(FISCAL YEAR 1975)

Environmental Protection Agency

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Federal Insecticide, Fungicide and Rodenticide Act — Civil Penalty Cases	1	24	15	8	31
7 USC 136 *l*(a)	2	31	23	25	29
40 CFR 168	3	29	26	17	38
Civil penalty proceeding to determine whether any pesticide registrant, commercial applicator, wholesaler, dealer, retailer or other distributor of pesticides has violated the Act, and if so the amount of penalty to be assessed.	4	38	34	19	53
			98	**69**	
National Pollution Discharge Elimination System — Permit Cases	1	215	13	4	224
33 USC 1342	2	224	31	4	251
40 CFR 125	3	251	53	0	304
Proceeding whereby any person may challenge the factual basis for the Regional Administrator's proposed issuance, denial, or modification of a permit to discharge pollutants into a navigable waters. (ALJ does not make initial decision, but only certifies the record to the Administrator.)	4	304	44	2	346
			141	**10**	
Pesticide Registration Denials and Cancellations	1	8	0	1	7
7 USC 136(a), (d)	2	7	1	3	5
40 CFR 164	3	5	1	0	4
Proceeding whereby an applicant for registration of a pesticide may challenge the Administrator's notice of denial of the application or whereby a registrant may challenge the Administrator's notice of intent to cancel or change the classification because of its adverse effect on the environment.	4	4	0	1	3
			2	**5**	

QUARTERLY CASELOAD INVENTORY
(FISCAL YEAR 1975)

Environmental Protection Agency (cont'd)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Pesticide Registration Suspensions	1	0	1	0	1
7 USC 136(d) 40 CFR 164.120-123	2	1	0	1	0
Expedited proceeding whereby a pesticide registrant may challenge the Administrator's determination that in order to prevent an imminent health hazard, immediate supervision of the registration is warranted.	3	0	0	0	0
	4	0	0	0	0
			1	**1**	
Food, Drug and Cosmetic Act Tolerance Proceedings	1	1	0	0	1
21 USC 346a(d) 40 CFR 180.7	2	1	0	0	1
Proceeding whereby any adversely affected person may challenge a proposed regulation establishing a tolerance level or exemption for a particular pesticide chemical.	3	1	0	0	1
	4	1	0	0	1
			0	**0**	

Federal Communications Commission

Categories of Formal Adjudicatory Hearings Held by the FCC

I. BROADCAST (AM, FM, TV) includes the following types of formal hearings required under title III of the Act.

1) **Applications for construction permits and station licences,** 47 U.S.C. 309(e). Proceeding to consider those applications for construction permits, station licenses, or modifications or renewals thereof, which the Commission has designated for hearing because it was unable to find that the public interest, convenience and necessity will be served by the granting of such application. No application may be denied without opportunity for hearing. The Commission is more likely to designate an application for hearing if a petition to deny is filed under 309(d). If there are competitive applicants a comparative hearing must be held.

2) **Transfers of control** 47 U.S.C. 310(b). Proceeding to consider those applications for assignment of or transfer of control of a permit or license, which the Commission has designated for hearing because it was unable to find that the public interest, convenience and necessity will be served thereby.

3) **Revocations and cease and desist orders** 47 U.S.C. 312(c). Proceeding to require a licensee or permittee to show cause why an order of revocation of the license or permit or an order to cease and desist from certain activity should not issue. (See 47 CFR 1.91).

4) **Modifications of licenses and permits** 47 U.S.C. 316. If Commission determines on its own motion that a station license or construction permit should be modified, the holder is permitted to show cause by public hearing why such modification should not issue. (See 47 CFR 1.87) The Commission may also levy civil money penalities for violations if notice of apparent liability is included in the show cause order, 47 U.S.C. 503.

II. CATV

5) **Authorizations of various types** 47 CFR 76.7. Evidentiary hearings when required by the Commission to consider petitions by a cable tv system for special relief from any of the provisions in the rules relating to such systems. Such hearing may also be required when a system's application for a certificate of compliance (required to begin operations) is opposed. (See 47 CFR 76.27).

6) **Cease and desist orders.** Pursuant to 47 U.S.C. 312(b). (See #3 above.)

III. SAFETY AND SPECIAL RADIO (Primarily two-way radio. Licensees include police, fire and public safety radio services, non-Federal governmental, industry, land transportation services, and private citizens.)

7) **Applications for licenses and permits, renewals, modifications, revocations, and cease and desist orders.** Any Title III case pertaining to safety and special service radio.

8) **Suspension of operator licenses** 47 U.S.C. 303(m). Proceeding whereby a holder of any operator license may challenge a proposed order of suspension of that license. (See 47 CFR 1.85).

IV. COMMON CARRIER (Includes the various wire, radio and communications satellite services offered for hire. Communications satellite regulation is pursuant to the Communications Satellite Act of 1962.)

9) **Applications for licenses and permits, renewals, modifications, revocations and cease and desist orders.** Any Title III cases pertaining to public communications by common carrier. [For applications involving communications satellites see 47 U.S.C. 721(c)(7)]

10) **Rates and Practices** 47 U.S.C. 204. Proceeding initiated by complaint or upon Commission's own motion to consider the lawfulness of any new charge, (or practice affecting such charge) filed by a carrier (with temporary suspension for up to three months pending the proceeding). [For rates and practices involving communications satellites see 47 U.S.C. 721(c)(5)]

11) **Reparations** 47 U.S.C. 208. Proceeding to hear complaint by any person claiming to be injured by action of carrier in violation of the Act, and to determine whether any party complainant is entitled to damages.

12) **Extension of facilities** 47 U.S.C. 214(d). Whenever a carrier seeks a certificate enabling it to extend or abandon service or facilities the Commission, proceeding upon complaint or upon its own motion may after hearings require the carrier to comply with any terms and conditions attached to such certificate. [For communication satellites see 47 U.S.C. 721(c) (3) and (4)]

MOST FREQUENT TYPES OF HEARINGS:

Those cases which most frequently reach the hearing stage are:

Broadcast (AM, FM, TV) Applications for construction permits and/or applications for renewal of station licenses.

CATV Applications for waiver of CATV rules.

S&SRS Revocations and cease and desist orders.

CC Divided among Title II (rates, facilities) and Title III cases (primarily applications) involving domestic carriers, international carriers and satellite carriers.

QUARTERLY CASELOAD INVENTORY
(FISCAL YEAR 1975)

Federal Communications Commission

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
AM	1	47	2	5	44
	2	44	5	0	49
	3	49	5	7	47
	4	40	18	8	57
			30	**20**	
FM	1	40	9	7	42
	2	42	12	7	47
	3	47	11	15	43
	4	43	17	11	49
			49	**40**	
CATV	1	6	1	4	3
	2	3	1	2	2
	3	2	1	2	1
	4	1	7	2	6
			10	**10**	
CC	1	19	4	4	19
	2	19	9	2	26
	3	26	6	5	27
	4	27	7	3	31
			26	**14**	

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
S&SRS	1	13	10	11	12
	2	12	7	5	14
	3	14	14	8	20
	4	20	13	9	24
			44	**33**	
TV	1	26	7	2	31
	2	31	0	4	27
	3	27	2	2	27
	4	27	4	6	25
			13	**14**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Federal Maritime Commission

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Complaint Proceedings (Reparations) 46 USC 821 46 CFR 502	1	37	9	1	45
	2	45	3	4	44
Determination upon formal complaint whether any rate, fare, charge, rule, regulation, or practice of common carriers by water or others subject to the Act is lawful or unlawful, and if found unlawful, whether the payment of a reparation to the complainant should be directed.	3	44	4	10	38
	4	38	6	4	40
			22	**19**	
Investigation and Suspension of Proposed Rates (etc.) 46 USC 845 46 CFR 502	1	27	3	2	28
	2	28	2	3	27
Proceedings to investigate and determine the lawfulness of new or changed, rates, fares, charges, regulations or practices contained in any schedule filed by a carrier engaged in domestic off-shore trade. Filings may be suspended up to four months during pendency of hearing.	3	27	1	10	18
	4	18	5	3	20
			11	**18**	
Freight Forwarder Licensing 46 USC 841b 46 CFR 502	1	2	1	0	3
	2	3	1	2	2
Determination whether applicant for a forwarder's license meets the Act's qualifications or whether an existing forwarder no longer does.	3	2	0	1	1
	4	1	2	0	3
			4	**3**	

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Agreements 46 USC 814 46 CFR 502	1	19	4	2	21
	2	21	4	3	22
Determination whether any agreement between common carriers, terminal operators, freight forwarders or others subject to the Act or the Commission's regulations should be approved, modified, or cancelled.	3	22	0	2	20
	4	20	0	1	19
			8	**8**	
Discriminatory Practice (Civil Penalty) 46 USC 815 46 CFR 502	1	7	0	1	6
	2	6	1	0	7
Proceeding to determine whether a civil penalty should be assessed for discriminatory action by common carriers and other persons subject to the Act.	3	7	1	0	8
	4	8	0	0	8
			2	**1**	
Special Docket Proceedings 46 USC 817(b)(3) 46 CFR 502	1	4	2	1	5
	2	5	0	2	3
Applications by common carrier for permission to waive the collection of undercharges or to refund any portion of freight charges on the grounds of clerical or administrative error, where no discrimination will result.	3	3	5	1	7
	4	7	3	0	10
			10	**4**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Federal Power Commission

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Pipeline Certificate Cases 15 USC 717f(c) 18 CFR 1, 2.62	1	22	15	4	33
	2	33	7	4	36
Proceeding upon application by natural gas companies for certificates of public convenience and necessity for construction or extension of facilities, and rendering of service.	3	36	15	11	40
	4	40	14	6	48
			51	**25**	
Pipeline Abandonment Cases 15 USC 717f(b) 18 CFR 1	1	3	0	1	2
	2	2	3	0	5
Proceeding upon application by natural gas companies for Commission approval to abandon all or any portion of its facilities or any service rendered by such facilities.	3	5	7	1	11
	4	11	3	1	13
			13	**3**	
Pipeline Importation Cases 15 USC 717b 18 CFR 1	1	6	1	1	6
	2	6	2	0	8
Proceeding upon application seeking authority to import natural gas into the United States and seeking a certificate to construct necessary facilities.	3	8	0	2	6
	4	6	0	0	6
			3	**3**	

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Natural Gas Company Exemption Cases	1	1	0	0	1
15 USC 717(c)					
18 CFR 1	2	1	0	0	1
Application for exemption from FPC regulation on the grounds that natural gas is received by such applicant from another person within or at the boundary of a state and that the gas so received is ultimately consumed in such state.	3	1	0	0	1
	4	1	0	0	1
			0	**0**	
Show Cause Investigation (Natural Gas Act)	1	1	0	0	1
15 USC 717m	2	1	0	0	1
18 CFR 1	3	1	0	0	1
Proceeding to require a respondent to show cause why it should not be charged with a violation of the Act or any rule, regulation or order thereunder.	4	1	0	0	1
			0	**0**	
Pipeline Rate Cases	1	58	6	6	58
15 USC 717c(e)					
18 CFR 1, 2.59	2	58	9	3	64
Proceeding to determine the lawfulness of changes in rates, charges, classifications or services filed by natural gas companies and suspended pending hearing; investigations initiated by complaint or on Commission's motion to determine the justness and reasonableness of rates or charges.	3	64	8	4	68
	4	68	21	3	86
			34	**16**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Federal Power Commission (cont'd)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Pipeline Curtailment Cases	1	18	1	1	18
15 USC 717c, 717d					
18 CFR 1	2	18	4	2	20
Proceeding to determine whether a natural gas company's plan to curtail service to certain of its customers in the event of shortage is unduly discriminatory and to determine whether the Commission's remedial plan is just and reasonable [Section 717d]. Curtailment plans when filed as a proposed tariff amendment by the company may also be challenged under procedures used in pipeline rate cases [717c].	3	20	7	0	27
	4	27	10	2	35
			22	**5**	
Pipeline Emergency Curtailment Relief Cases	1	20	2	3	19
15 USC 717f(c)	2	19	12	12	19
18 CFR 1	3	19	5	6	18
Proceedings to consider a petition filed by a distributor or user of natural gas to restore service or enjoin curtailment of service on a temporary, emergency basis.	4	18	4	3	19
			23	**24**	
Producer Optional Procedure Certificate Cases	1	24	0	8	16
15 USC 717c, f	2	16	0	6	10
18 CFR 1	3	10	0	1	9
Proceedings upon application by producer (i.e., producers or sellers of natural gas in interstate commerce by means other than through pipelines) for certificates of public convenience and necessity for any service with respect to the transportation of natural gas in interstate commerce.	4	9	1	1	9
			1	**16**	

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Producer Special Rate Relief Cases 15 USC 717c 18 CFR 1, 2.56a(g)	1	18	8	3	23
	2	23	7	12	18
Proceeding to consider a petition filed by a seller seeking, due to unusual production circumstances, to charge a rate in excess of the adjusted national rate set for the sale of natural gas in interstate commerce.	3	18	6	4	20
	4	20	2	8	14
			23	**27**	
Producer Abandonment Cases 15 USC 717f(b) 18 CFR 1	1	6	0	1	5
	2	5	0	2	3
Proceeding upon application by a producer for Commission approval to abandon all or any portion of its facilities or any service rendered by such facilities.	3	3	0	0	3
	4	3	3	1	5
			3	**4**	
Producer Limited Term Certificate Cases 15 USC 717f 18 CFR 1	1	14	0	0	14
	2	14	0	0	14
Proceeding upon application by a producer (in the event of an emergency) for temporary authorization to initiate the sale or transportation of natural gas in interstate commerce pending final Commission action.	3	14	3	1	16
	4	16	0	0	16
			3	**1**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Federal Power Commission (cont'd)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Electric Rate Cases	1	75	29	17	87
16 USC 824d(e)					
18 CFR 1	2	87	22	6	103
Proceeding to determine the lawfulness of	3	103	13	10	106
changes in rates, charges, classification or services filed by electric utility companies	4	106	18	15	109
and suspended pending hearing. Investigation by the Commission, on own motion or after complaint, to determine the justness and reasonableness of rates or charges.			**82**	**48**	
Accounting Procedure Cases	1	2	0	1	1
15 USC 717g					
18 CFR 1	2	1	0	0	1
Proceeding to determine by order the ac-	3	1	0	0	1
counts in which particular outlays or receipts by a company shall be entered,	4	1	0	0	1
charged, or credited, when such entry is challenged by the Commission.			**0**	**1**	
Electric Antitrust Cases	1	1	0	0	1
16 USC 824b					
18 CFR 1	2	1	0	0	1
Proceedings upon applications to acquire,	3	1	0	0	1
merge or consolidate electric power facilities.	4	1	0	0	1
			0	**0**	
Licensed Project Cases	1	18	2	0	20
16 USC 797(e)					
18 CFR 1	2	20	4	0	24
Applications for license (and amend-	3	24	2	0	26
ments thereto) to construct and maintain or operate hydro-electric projects	4	26	1	1	26
affecting federal lands and/or navigable waters.			**9**	**1**	

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Freedom of Information Act Determination	1	0	0	0	0
5 USC 552	2	0	1	0	1
Proceeding to determine whether to disclose information in the custody of the Commission according to the Act. The Act applies to all Federal agencies. Such proceedings normally do not involve formal hearings.	3	1	0	1	0
	4	0	0	0	0
			1	**1**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Federal Trade Commission

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Bureau of Consumer Protection Cases	1	49	15	7	57
15 USC 45	2	57	6	5	58
16 CFR 3	3	58	14	9	63
Proceeding to determine, after complaint is issued by the Commission, whether advertising is false or misleading or whether an act, practice or method of competition in commerce is unfair or deceptive. Remedy sought is cease and desist order.	4	63	12	9	66
			47	**30**	

The basis for the FTC's consumer protection jurisdiction is found in section 5 of the FTC Act (15 USC 45) which prohibits unfair or deceptive acts or practices in commerce. However other, more specific statutes serve to bring specific trade practices within the ambit of section 5. These statutes include:

Export Trade Act, 15 USC 64, 65
Wool Products Labeling Act, 15 USC 68
Fur Products Labeling Act, 15 USC 69a, 69f
Textile Fiber Products Identification Act, 15 USC 70a, 70e
Fair Packaging and Labeling Act, 15 USC 1456
Truth in Lending Act, 15 USC 1607(c)
Fair Credit Reporting Act, 15 USC 1681s
Equal Credit Opportunity Act, 15 USC 1691c(c)

Bureau of Competition Cases	1	43	5	2	46
15 USC 13, 14, 18, 19, 45	2	46	2	5	43
16 CFR 3	3	43	3	1	45
Proceeding to determine, after complaint is issued by the Commission, whether a practice or method of competition is a restraint of trade under the Clayton Act or FTC Act. Remedy sought is cease and desist order and/or civil penalty.	4	45	4	3	46
			14	**11**	

The basis for the FTC's antitrust jurisdiction is found in section 5 of the FTC Act (15 USC 45) along with the following more specific sections of the Clayton Act:

Section 2, 15 USC 13 (price discrimination) (as amended by the Robinson-Patman Act)
Section 3, 15 USC 14 (exclusive dealing)
Section 7, 15 USC 18 (anti-competitive mergers)
Section 8, 15 USC 19 (interlocking directorates)

The Sherman Act (15 USC 1–7) is largely subsumed by the above corresponding provisions of the FTC and Clayton Acts.

QUARTERLY CASELOAD INVENTORY
(FISCAL YEAR 1975)

Department of the Interior

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Coal Mine Health and Safety Act Civil Penalty Cases	1	10,642	2,805	2,125	11,322
30 USC 819	2	11,322	5	2,066	9,261
43 CFR 4.540	3	9,261	532	1,881	7,912
Proceedings to determine whether a mine operator or miner has violated a mandatory health and safety standard and if so, the amount of penalty to to be assessed.	4	7,912	411	3,034	5,289
			3,753	**9,106**	
Review of Orders of Withdrawal and Notices of Violation	1	387	67	68	386
30 USC 815	2	386	58	102	342
43 CFR 4.530	3	342	68	71	339
Proceeding whereby a mine operator or a representative of miners in any mine, affected by an order to withdraw all persons from the mine for violation of safety standards may be heard to challenge such order or the modification or termination thereof.	4	339	59	78	320
			252	**319**	
Petition for Modification of the Application of Safety Standards	1	184	50	23	211
30 USC 861(c)	2	211	27	49	189
43 CFR 4.550	3	189	23	59	153
Proceeding initiated by a mine operator or representative of miners to hear petition for modification of the application of any mandatory safety standard.	4	153	37	47	143
			137	**178**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Department of the Interior (cont'd)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Applications for Compensation 30 USC 820(a) 43 CFR 4.560	1	1	1	1	1
	2	1	1	1	1
Applications for compensation initiated by a miner (or his representative) who is idled by an order of withdrawal or who claims he was not withdrawn due to the operator's non-compliance with an order to do so.	3	1	5	0	6
	4	6	2	1	7
			9	**3**	
Review of Discrimination 30 USC 820(b) 43 CFR 4.560	1	3	1	0	4
	2	4	0	0	4
Applications initiated by a miner (or his representative) who claims that the invocation of his rights under the Act led to his discharge or to discriminatory treatment against him.	3	4	1	0	5
	4	5	4	2	7
			6	**2**	
Applications for Temporary Relief 30 USC 815(d) 43 CFR 4.570	1	0	0	0	0
	2	0	0	0	0
Application for temporary relief pending the Secretary's review of orders of withdrawal and notices of violation.	3	0	0	0	0
	4	0	0	0	0
			0	**0**	

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Investigations Pursuant to Section 104(h)	1	0	0	0	0
30 USC 814h	2	0	0	0	0
43 CFR 4.520	3	0	0	0	0
Proceeding initiated by the Secretary to investigate a finding by his delegate that imminent danger due to non-abatable violations exist in a particular mine and proceedings to determine whether, after withdrawal, such conditions have in fact abated.	4	0	0	0	0
			0	**0**	
Mineral Patent Applications	1	25	1	0	26
30 USC 29					
43 CFR 4.450, 3860	2	26	0	4	22
Application to acquire a patent (fee simple title) to land claimed and located for suspected mineral deposits. In order to gain a patent (often practically unnecessary) a locator must demonstrate a discovery of minerals and that he has invested at least $500 in the development of the claim.	3	22	1	0	23
	4	23	2	1	24
			4	**5**	
Mineral Adverse Proceedings	1	122	11	8	125
30 USC 22					
43 CFR 4.450, 3871	2	125	12	20	117
Proceeding to determine the validity of a located but contested mining claim. Issues involve who claimed the land first, whether the claim was properly recorded, who discovered minerals first and whether the initial claim has lapsed for failure to develop the claim. The Government often initiates the contest in order to clear the way for withdrawing the land from the operation of mining laws (e.g., to establish a National Park).	3	117	8	14	111
	4	111	22	9	124
			53	**51**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Department of the Interior (cont'd)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Surface Resources Act 30 USC 613 43 CFR 4.450	1	3	0	0	3
	2	3	0	3	0
Proceedings to determine the validity of unpatented mining claims, located prior to July 23, 1955, for the purpose of establishing authority of the United States to manage the surface resources on the claims.	3	0	2	0	2
	4	2	0	0	2
			2	**3**	
Multiple Mineral Development 30 USC 521 et seq. 43 CFR 4.450	1	1	0	0	1
	2	1	3	0	4
Proceeding to determine the validity of unpatented mining claims located prior to 1954 for the purpose of establishing the authority of the locator to control certain leasable minerals. If the claim is found to have been invalid, the right to control and lease the leasable minerals reverts to the Government.	3	4	0	0	4
	4	4	0	3	1
			3	**3**	
Rights Restoration Act 30 USC 621 43 CFR 4.450	1	15	7	11	11
	2	11	0	1	10
Proceedings to determine with respect to placer mining claims located on powersites whether placer mining should be prohibited, permitted without restriction, or permitted subject to restoration of surface.	3	10	7	6	11
	4	11	6	0	17
			20	**18**	

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Homestead	1	4	0	1	3
43 USC 185					
43 CFR 4.450	2	3	0	1	2
Proceedings by Government or private	3	2	1	1	2
party to determine the validity of					
entry under the Homestead law.	4	2	0	0	2
			1	**3**	
Desert Land	1	9	0	1	8
43 USC 321 et seq.					
43 CFR 4.450	2	8	0	2	6
Proceedings by Government or private	3	6	0	3	3
party to determine the validity of					
entry under the Desert Land law.	4	3	0	0	3
			0	**6**	
Grazing (Appeals)	1	35	2	9	28
43 USC 315h					
43 CFR 4.470, 4115	2	28	1	7	22
Appeals by applicants for, or holders	3	22	26	4	44
of, grazing permits or licenses issued					
under the Act for grazing privileges	4	44	14	15	43
on the public domain.					
			43	**35**	
Grazing (Enforcement)	1	1	3	0	4
43 USC 315h					
	2	4	0	3	1
Proceedings against grazing permittees					
or licensees for violations of the	3	1	2	0	3
terms of their permits or licenses or					
regulations governing grazing on the	4	3	4	2	5
public domain.					
			9	**5**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Department of the Interior (cont'd)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Discretionary Hearings 43 CFR 1851	1	3	1	1	3
	2	3	2	2	3
	3	3	6	0	9
	4	9	4	0	13
			13	**3**	
Private Contest 43 USC 2, 1201	1	1	0	0	1
	2	1	0	0	1
Proceedings whereby a person who claims title to or interest in public lands adverse to any other person so claiming, may seek to have the latter's claim invalidated for any reason not shown by the records of the Bureau of Land Management.	3	1	0	0	1
	4	1	0	1	0
			0	**1**	
Endangered Species Act 16 USC 1540 50 CFR 11	1	6	8	3	11
	2	11	4	8	7
Civil penalty proceeding to determine whether the respondent has knowingly violated any provision of the Act or of any permit or regulation issued thereunder, and if so, the amount of the penalty.	3	7	1	2	6
	4	6	8	1	13
			21	**14**	
Miscellaneous Hearings	1	6	4	4	6
Environmental analyses, various public hearings.	2	6	13	5	14
	3	14	5	17	2
	4	2	5	1	6
			27	**27**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Interstate Commerce Commission

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Investigation of Existing Rates (etc.) (Excluding Motor Carrier Cases) 49 USC 13a, 15(6), 906, 1004, 1006 49 CFR 1100 et seq.	1–2*	115	32	55	92
	3	92	13	7	98
	4	98	16	20	94
Formal investigations and complaints relating to the determination of the lawfulness of existing rates, fares, regulations and practices of rail, water, and freight forwarder carriers.			**61**	**82**	
Investigation of Existing Rates (etc.) (Motor Carriers) 49 USC 15(6), 304(a) 49 CFR 1100 et seq.	1–2	43	19	30	32
	3	32	12	2	42
	4	42	9	16	35
Formal investigations and complaints relating to the determination of the lawfulness of existing rates, fares, regulations and practices of motor carriers.			**40**	**48**	
Investigation and Suspension of Proposed Rates (etc.) (Excluding Motor Carrier Cases) 49 USC 15(7), 907(d)–(g), 1006(e) 49 CFR 1100 et seq.	1–2	15	5	4	16
	3	16	4	5	15
	4	15	1	1	15
Proceedings to investigate and determine the lawfulness of rates, fares, regulations, and practices proposed by rail, water, and freight forwarder carriers.			**10**	**10**	

*For all ICC case categories, the caseload figures for quarters 1 and 2 are aggregated.

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Interstate Commerce Commission (cont'd)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Investigation and Suspension of Proposed Rates (etc.) (Motor Carrier)	1–2	4	6	6	4
49 USC 316(g), 318(c)	3	4	2	1	5
49 CFR 1100 et. seq.	4	5	0	0	5
Proceedings to investigate and determine the lawfulness of rates, fares, regulations and practices proposed by motor carriers.			**8**	**7**	
Finance Docket (Excluding Motor Carrier Cases)	1–2	143	21	27	137
49 USC 1(18), 5(2), 5(7), 20a(6)	3	137	8	12	133
49 CFR 1100 et seq.	4	133	2	69	66
Proceedings to determine whether or not to approve certain financial transactions (mergers, consolidations, issuance of securities, rail abandonments, etc.) by rail, water, and freight forwarder carriers.			**31**	**108**	
Finance Docket (Motor Carrier)	1–2	136	50	47	139
49 USC 5(2), 5(7), 310	3	139	25	28	136
49 CFR 1100 et seq.	4	136	16	22	130
Proceedings to determine whether or not to approve certain financial transactions (merger, consolidation, etc.) by motor carriers.			**91**	**97**	
Section 5(a) Applications (Motor Carrier)	1–2	3	1	2	2
49 USC 5(b)	3	2	1	1	2
49 CFR 1100 et seq.	4	2	0	0	2
Applications by motor carriers under section 5(a) of the Act, seeking Commission approval (and consequent antitrust immunity) of agreements between or among two or more carriers involving joint rates, etc.			**2**	**3**	

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Ex Parte Proceedings (Any change of codified regulations)	1–2	7	2	1	8
	3	8	0	1	7
Investigations of broad scope and rule-making proceedings undertaken by the Commission on its own initiative.	4	7	1	1	7
			3	**3**	
Fourth Section Applications 49 USC 4(1)	1–2	3	3	1	5
49 CFR 1100 et seq.	3	5	0	1	4
Applications by any common carrier seeking authority to charge less for through shipments than the sum of charges to all intermediate points.	4	4	0	0	4
			3	**2**	
Released Rates 49 USC 20(11)	1–2	3	1	0	4
49 CFR 1100 et seq.	3	4	0	1	3
Proceedings to authorize or order a common carrier to establish or revise limitations of liability as to damage to shipper's property or rates charged the shipper in return for carrier's acceptance of greater liability.	4	3	0	1	2
			1	**2**	
Operating Authority Applications (Motor Carrier) 49 USC 306-309	1–2	545	378	328	595
49 CFR 1100 et seq.	3	595	277	196	676
Applications by motor carriers for operating authority.	4	676	347	199	824
			1002	**723**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Interstate Commerce Commission (cont'd)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Operating Authority Applications (Water Carrier)	1–2	8	2	2	8
49 USC 909	3	8	3	2	9
49 CFR 1100 et seq.	4	9	0	0	9
Applications by water carriers for operating authority.			**5**	**4**	
Operating Authority Applications (Freight Forwarder)	1–2	4	4	3	5
49 USC 1010	3	5	2	1	6
49 CFR 1100 et seq.	4	6	2	2	6
Applications by freight forwarders for operating authority.			**8**	**6**	
Operating Authority Complaints (Motor Carriers)	1–2	67	23	27	63
49 USC 204(c), 216(e)(f), 217, 218(b)	3	63	11	15	59
49 CFR 1100 et seq.	4	59	12	13	58
Proceeding to determine whether as charged in a complaint, a motor carrier has operated in violation of the Act or regulations or authority granted thereunder, and if so, what action should be taken.			**46**	**55**	
Operating Authority Complaints (Freight Forwarder)	1–2	4	2	2	4
49 USC 1006	3	4	0	1	3
49 CFR 1100 et seq.	4	3	0	1	2
Proceeding to determine whether as charged in a complaint, a freight forwarder has operated in violation of the Act or regulations or authority, and if so, what action should be taken.			**2**	**4**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Department of Labor

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Public Contracts Act 41 USC 35-45 41 CFR 50-203	1	3	0	1	2
	2	2	0	1	1
Proceedings to determine (1) whether as charged in the complaint, the provisions of the Act and regulations and orders issued thereunder have been breached in the performance of contracts covered by the Act, (2) the responsible parties, (3) liquidated damages, if any, owed to the US, and (4) whether the responsible parties should be relieved from the ineligible list provision of the Act.	3	1	1	1	1
	4	1	1	1	1
			2	**4**	
Service Contracts Act 41 USC 351 et seq. 29 CFR 4.10	1	57	97	20	134
	2	134	26	8	152
Proceedings to determine (1) whether as charged in the complaint, the provision of the Act (extending protection to service employees of federal contractors) and regulations and orders thereunder have been breached in the performance of contracts covered by the Act, (2) the responsible parties and, (3) damages or sanctions if any.	3	152	15	38	129
	4	129	30	17	142
			168	**83**	
Executive Order 11491 See 29 CFR 201-206	1	94	42	37	99
	2	99	44	39	104
Proceedings to administer the scheme of labor-management relations in the federal service. Hearings conducted by ALJs may occur in unfair labor practice proceedings, certain representation proceedings (most are heard by non-ALJs), proceedings to enforce standards of conduct by unions vis a vis members, and proceedings to resolve factual disputes over the coverage of grievance or arbitration agreements.	3	104	38	26	116
	4	116	56	47	125
			180	**149**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Department of Labor (cont'd)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Fair Labor Standards Act of 1938 (Rulemaking Proceedings)	1	7	3	1	9
29 USC 201-219	2	9	1	0	10
29 CFR 541	3	10	0	8	2
Rulemaking proceedings in which hearings are held upon changes in the Regulations defining executive, administrative, and professional employees exempt under Section 13(a) of the Act. [29 USC 213(a)]	4	2	0	2	0
			4	**11**	
Office of Federal Contract Compliance Cases	1	2	7	2	7
Executive Order 11246	2	7	0	3	4
See 41 CFR 60-1.26, 60-30	3	4	2	1	5
Proceedings to determine whether, as charged in the complaint, a government contractor or subcontractor has violated the regulations prohibiting discriminatory hiring, and if so what sanction should be imposed.	4	5	0	1	4
			9	**7**	
OSHA-Rulemaking Proceedings	1	9	8	4	13
29 USC 655	2	13	8	3	18
29 CFR 1911 et seq.	3	18	3	0	21
Rulemaking proceedings presided over by ALJs, to hear testimony regarding a proposed occupational safety and health standard. The ALJ certifies the record of the proceeding to the Assistant Secretary.	4	21	2	17	6
			21	**24**	

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Longshoreman and Harbor Workers Compensation Act (and related acts) (Including District of Columbia Workman's Compensation Act)	1	358	160	131	387
33 USC 901 et seq.	2	387	146	128	405
36 D.C. Code 501 et seq.	3	405	182	135	452
20 CFR 702	4	452	229	209	472
Formal adjudications to adjudge controverted claims for compensation under the above acts.			**717**	**603**	
Davis Bacon Act	1	2	2	1	3
40 USC 276a et seq.					
29 CFR 1.10	2	3	0	0	3
Most proceedings to determine the prevailing wage rates to be paid to laborers and mechanics engaged in Government contract work do not require a hearing. Sometimes, however, a hearing on the record is deemed necessary to determine a dispute over what the prevailing rate actually is concerning a particular class of workers.	3	3	1	0	4
	4	4	28	1	31
			31	**2**	
Miscellaneous Hearings	1	1	1	0	2
	2	2	0	0	2
	3	2	0	0	2
	4	2	1	1	2
			2	**1**	

QUARTERLY CASELOAD INVENTORY
(FISCAL YEAR 1975)

Maritime Administration (Department of Commerce)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Application for Operating Differential Subsidy, Merchant Marine Act	1	6	2	1	7
46 USC 1175(c)	2	7	1	0	8
46 CFR 201 et seq.	3	8	2	1	9
Applications by shipping company for subsidy or amendment to existing subsidy contract (enabling it to operate high cost American flag vessels on competitive basis with lower cost foreign flag vessels). Proceeding is to determine whether existing service by American flag vessels is inadequate and whether additional operations are in the public interest.	4	9	0	2	7
			5	**4**	
Tentative Operating-Differential Subsidy Rates, Merchant Marine Act	1	3	0	0	3
46 USC 1176(1)	2	3	0	0	3
46 CFR 201 et seq.	3	3	0	0	3
Proceeding to determine amount of subsidy to be paid to shipping company where such readjustment cannot be reached by mutual agreement.	4	3	0	0	3
			0	**0**	

Note: National Labor Relations Board caseload inventory presented at pages 254-256.

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

National Transportation Safety Board

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Safety and Medical Enforcement Cases, Federal Aviation Act	1	423	154	131	446
49 USC 1422, 1429	2	446	145	184	407
49 CFR 821 (See 40 Fed. Reg. 30243)	3	407	136	175	368
Proceeding whereby an applicant for an airman certificate may challenge a denial of his application or whereby a holder of an airman certificate (or any other certificate issued by the FAA Administrator) may challenge the Administrator's amendment, modification, suspension, or revocation of such certificate.	4	368	142	175	335
			577	**665**	

Nuclear Regulatory Commission

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Construction Permit Reviews (Safety)	1	18	9	0	27
42 USC 2133, 2239	2	27	6	2	31
10 CFR 2 et seq. (See especially Appendix A to Part 2)	3	31	1	2	30
Applications for construction permit to construct a nuclear power plant or related facilities. Adjudicative hearings are presided over by a 3-member Atomic Safety and Licensing Board. (This board is appointed by the Chairman of the Atomic Safety and Licensing Board Panel. One of the three must be "qualified in the conduct of administrative proceedings" 42 USC 2241. He need not be an ALJ, even though the NRC does employ a Chief Administrative Law Judge. The other two members of the Board are generally chosen for their technical expertise. The Board member acting as presiding officer has all the powers normally given to an ALJ in adjudicatory proceedings.) These hearings may be "split" into safety and environment components or they may be "combined," depending upon when the	4	30	1	1	30
			17	**5**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Nuclear Regulatory Commission (cont'd)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
staff is able to complete its final safety and environmental analysis. (Combined hearings are held when the two staff documents are issued within one month of each other, otherwise the hearings are split.) Under 42 USC 2135(c) an interested party may also request that the application be reviewed for inconsistency with the federal antitrust laws. Such a request is forwarded to the Attorney General who may recommend that a separate hearing be held on this question (with the Attorney General or his designee having the right to participate as a party). After a construction permit has been issued, and the construction has been substantially completed in conformance with such permit, the applicant must obtain an operating license. This may result in additional hearings to consider safety or environmental issues which relate to the operating of the plant.					
Construction Permit Reviews (Environmental) 42 USC 2133, 2239	1	18	9	0	27
	2	27	6	2	31
	3	31	1	2	30
	4	30	1	0	31
			17	**4**	
Construction Permit Reviews (Combined Safety and Environmental) 42 USC 2133, 2239	1	13	2	1	14
	2	14	0	2	12
	3	12	0	2	10
	4	10	0	1	9
			2	**6**	

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Cases Pending at End of Quarter
Operating License Reviews 42 USC 2134(b), 2239	1	11	1	1	11
	2	11	1	1	11
	3	11	0	0	11
	4	11	0	0	11
			2	**2**	
Antitrust Reviews 42 USC 2135(c)	1	7	0	1	6
	2	6	0	0	6
	3	6	0	1	5
	4	5	0	2	3
			0	**4**	
Miscellaneous Hearings	1	16	0	0	16
[Includes environmental hearings held on already operating plants, show cause proceedings (drastic flaw in application; applicant must show cause why hearing should be continued, etc.).]	2	16	1	1	16
	3	16	0	5	11
	4	11	0	0	11
			1	**6**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Occupational Safety and Health Review Commission

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Occupational Safety and Health Act Enforcement Cases	1	1,562	557	578	1,541
29 USC 659 29 CFR 2200	2	1,541	526	581	1,496
	3	1,496	654	650	1,500
Proceedings whereby an employer may contest a citation or proposed civil penalty assessment charging him with a violation of the Act, or any standard, rule, or order promulgated thereunder, or whereby an affected employee or representative may contest the citation's prescribed period for abatement of the violation.	4	1,500	766	704	1,562
			2,513	**2,513**	

QUARTERLY CASELOAD INVENTORY
(FISCAL YEAR 1975)

Postal Rate Commission

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Mail Classification Cases	1	1	0	0	1
39 USCA 3623 (1976 Supp.)					
39 CFR 3001 et seq.	2	1	0	0	1
Proceeding, initiated on own motion, or by a request from the Postal Service, to receive information enabling the Commission to recommend a decision to the Service on the establishment of a mail classification system in accordance with the factors set forth in the Act.	3	1	0	0	1
	4	1	0	0	1
			0	**0**	
Mail Rate Cases	1	1	0	0	1
39 USCA 3622 (1976 Supp.)					
39 CFR 3001 et seq.	2	1	0	0	1
Proceeding, initiated by a request from the Postal Service, to receive information enabling the Commission to recommend a decision to the Service on changes in postage rates or fees in accordance with the factors set forth in the Act.	3	1	0	0	1
	4	1	0	0	1
			0	**0**	
Change in Nature of Services	1	0	0	0	0
39 USCA 3661 (1976 Supp.)					
39 CFR 3001 et seq.	2	0	0	0	0
Proceeding, initiated by a request from the Postal Service, to receive information enabling the Commission to give the Service an advisory opinion on a suggested change in the nature of postal services.	3	0	0	0	0
	4	0	1	0	1
			1	**0**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Securities and Exchange Commission

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Stop Orders (1933 Act) 15 USC 77h 17 CFR 201 et seq.	1	1	0	0	1
	2	1	0	0	1
Proceeding to determine whether a registration statement with respect to an offering of securities is false and misleading so as to warrant the issuance of an order suspending its effectiveness until it is amended in accordance with such order.	3	1	0	0	1
	4	1	0	0	1
			0	**0**	
Notices/Exemptions (1933 Act) 15 USC 77c 17 CFR 201 et seq.	1	0	0	0	0
	2	0	0	0	0
Proceeding upon application for an order exempting any class of securities from the enforcement of the provisions of the 1933 Act by reason of the small amount involved or the limited nature of the public offering.	3	0	0	0	0
	4	0	1	0	1
			1	**0**	
Regulation A Suspensions (1933 Act) 15 USC 77c(b) 17 CFR 230.261	1	12	3	4	11
	2	11	2	5	8
Proceeding to determine whether the terms and conditions of the exemption from the registration provisions of the 1933 Act and Regulation A thereunder for offerings not exceeding $300,000 have been satisfied.	3	8	3	1	10
	4	10	0	3	7
			8	**13**	
Broker/Dealer (1934 Act) 15 USC 78o(b) 17 CFR 201 et seq.	1	111	19	24	106
	2	106	8	12	102
Proceeding to determine whether to deny, postpone, suspend or revoke the registration of a broker and dealer in securities.	3	102	9	10	101
	4	101	13	31	83
			49	**77**	

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Notices/Exemptions (1934 Act) 15 USC 78(h)	1	1	1	1	1
	2	1	0	0	1
Proceeding upon application by an interested person for an order exempting in whole or in part any issuer, class of issuer, or officer of such issuer from registration, reporting or proxy regulation requirements imposed by the 1934 Act.	3	1	0	0	1
	4	1	5	0	6
			6	**1**	
Public Utility Regulation Exemption (1935 Act) 15 USC 79f(b) 17 CFR 201 et seq.	1	7	0	1	6
	2	6	0	0	6
	3	6	0	1	5
Proceeding upon application for an order exempting certain issuances and sales of securities by utility holding companies from the registration requirements of the 1935 Act by reason of state authorization of the transaction when done solely for the purpose of financing an appropriate type of subsidiary company.	4	5	0	0	5
			0	**2**	
Investment Adviser (1940 Act) 15 USC 80b-3(e) 17 CFR 201 et seq.	1	7	0	4	3
	2	3	1	2	2
Proceeding to determine whether to revoke or suspend the registration of an investment adviser.	3	2	0	1	1
	4	1	2	1	2
			3	**8**	

QUARTERLY CASELOAD INVENTORY (FISCAL YEAR 1975)

Securities and Exchange Commission (cont'd)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Investment Company (1940 Act) 15 USC 80a-6(c) 17 CFR 201 et seq.	1	5	1	1	5
	2	5	1	2	4
Proceeding to determine whether to exempt any person, security, or transaction from one or more provisions of the Investment Company Act of 1940.	3	4	0	0	4
	4	4	0	0	4
			2	**3**	
Rules of Practice 17 CFR 201.2(e)	1	9	0	6	4
	2	4	4	0	8
Proceeding to determine whether to deny a person, temporarily or permanently, the privilege of appearing or practicing before the Commission.	3	8	3	4	7
	4	7	1	0	8
			8	**10**	

Note: Social Security Administration (Dept. of H.E.W.) caseload inventory presented at pages 258-272.

QUARTERLY CASELOAD INVENTORY
(FISCAL YEAR 1975)

U.S. Civil Service Commission

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Hatch Political Activities Act 5 USC 1502 5 CFR 151 et seq.	1	6	5	1	10
	2	10	0	4	6
Proceedings upon complaint to determine whether a state or local government employee engaged in prohibited political activity.	3	6	0	4	2
	4	2	0	1	1
			5	**10**	

Note:

Chief Judge John J. McCarthy, the Commission's only ALJ, reports in a letter to ACUS (12/4/75) that his caseload of Hatch Political Activities cases has been dwindling. He has, in fiscal year 1975, presided over other proceedings during this period and he furnished the following information. (With the exception of the HUD cases, none of these proceedings are subject to the APA, although in all of them the parties have the right to appear with counsel at a personal hearing where witnesses are subject to cross examination, and a written decision which sets forth findings and conclusions based on the record is issued. No other data were submitted on these cases, except that HUD will be submitting data on its cases starting in FY 1976, as it now employs its own ALJ.)

	Pending 7/1/74	Received during FY '75	Closed during FY '75	Pending 6/30/75
(1) Disciplinary actions under section 5.4 of the civil service rules involving violations of the laws, rules, executive orders or regulations administered by the Civil Service Commission. 5 CFR 5.4; ad hoc procedures adopted by the Commission.	16	2	6	12
(2) Political activity of Federal employees subject to the restrictions of the Hatch Political Activities Act. 5 CFR Part 733; 5 U.S.C. 7324-7327.	0	1	1	0
(3) Complaints of discrimination by employees of the Civil Service Commission appeals system. 5 CFR 300.101 et seq.	0	1	1	0
(4) Cases of other agencies temporarily understaffed or without Administrative Law Judges. (Subject to APA): HUD — Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq.; 24 CFR Part 1700.	0	11	4	7

Also, Judge McCarthy reports that he would be responsible for holding hearings and issuing decisions in the following types of cases, but that no such cases were opened, closed, or pending in FY 1975.

(1) Proposed actions affecting tenure of Administrative Law Judges. 5 U.S.C. 7521; 5 CFR 930.221-.234 (Subject to APA)

(2) Forfeiture of civil service annuities. 5 U.S.C. 8311-22; 5 CFR Part 831, Subpart K (Subject to APA)

(3) Representation and unfair labor practices proceedings under §6(e) of Executive Order 11491 as amended. 5 CFR Part 711;29 CFR Ch. II (Non-APA)

(4) Disciplinary actions for arbitrary withholding of data requested under Freedom of Information Act. 5 U.S.C. 552(a)(4)(F); 5 CFR Part 294.1201-.1207 (Non-APA)

(5) Disciplinary actions against employees of the Commission's appeals system. CSC Personnel Manual Ch. 772(Non-APA)

QUARTERLY CASELOAD INVENTORY
(FISCAL YEAR 1975)

U.S. Coast Guard (Department of Transportation)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
License Revocation and Suspension Cases					
46 USC 239, 239b [defined 46 CFR 5.05–20] Rules of Practice 46 CFR 5.20 et seq. Disciplinary proceedings to determine whether seamen aboard U.S. vessels have committed acts of misconduct, negligence, incompetence or involving narcotics and if so whether his marine license, certificate or documents should be suspended or revoked.					
Misconduct	1	X	71	46	25 + X
(*Note:* For all U.S. Coast Guard cases, X = total cases pending at beginning of first quarter. This figure was unavailable at that time but was added to the new cases total in the second quarter.)	2	25 + X	144 – X	82	87
	3	87	105	79	113
	4	113	87	112	88
			407 – X	**319**	
Negligence of Duty	1	X	34	25	9 + X
	2	9 + X	98 – X	55	52
	3	52	49	44	57
	4	57	32	48	41
			213 – X	**172**	

QUARTERLY CASELOAD INVENTORY
(FISCAL YEAR 1975)

U.S. Coast Guard (cont'd)

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
Incompetence	1	X	0	0	X
	2	X	1 – X	0	1
	3	1	0	0	1
	4	1	1	1	1
			2 – X	**1**	
Violations of Law or Regulations	1	X	2	0	2 + X
	2	2 + X	4 – X	2	4
	3	4	4	4	4
	4	4	3	3	4
			13 – X	**9**	
Conviction for Narcotics Violations (or use of or addiction to narcotics)	1	X	4	3	1 + X
	2	1 + X	9 – X	6	4
	3	4	9	4	9
	4	9	12	8	13
			34 – X	**21**	
Multiple Charges	1	X	—	—	2 – X
	2	2 + X	18 – X	8	12
	3	12	11	11	12
	4	12	12	12	12
			41 – X	**31**	

QUARTERLY CASELOAD INVENTORY
(FISCAL YEAR 1975)

U.S. Postal Service

CLASS OF PROCEEDING	Quarter	Total Cases Pending at Start of Quarter	New Cases Referred to Office of ALJs	Cases Terminated by Agency	Total Pending at End of Quarter
False Representation	1	36	27	19	44
39 USCA 3005 (1976 Supp.)					
39 CFR 952	2	44	17	16	45
Proceeding to determine whether the respondent is obtaining money and property through the mails by means of false or fraudulent representation, and if so whether use of mails in connection with his specific enterprise should be denied.	3	45	32	26	51
	4	51	32	40	43
			108	**101**	
Lottery Cases	1	0	1	0	1
39 USCA 3005 (1976 Supp.)					
39 CFR 952	2	1	0	1	0
Similar to False Representation cases, except involving lotteries.	3	0	0	0	0
	4	0	0	0	0
			1	**1**	
Second Class Mail Privileges	1	36	10	11	35
39 USCA 4351-4356 (1976 Supp.)					
39 CFR 954	2	35	7	3	39
Proceeding to determine whether a publisher is eligible to obtain or retain second-class mailing privileges for his publication.	3	39	20	5	54
	4	54	13	6	61
			50	**25**	
Lockbox Cases	1	0	0	0	0
39 USCA 401 (1976 Supp.)					
39 CFR 958	2	0	0	0	0
Proceedings to challenge the refusal of Post Office to rent or renew Post Office boxes.	3	0	0	0	0
	4	0	1	0	1
			1	**0**	

PART B

"Data on Closed Cases"*

**Note:* This Part contains information on all casetypes in which at least one closed case was reported in FY 1975. In some instances the number of case-closed cards submitted was slightly at variance with the number of cases reported as closed on the agency's caseload inventory forms. (See Chapter III, Part A.)

Federal Communications Commission (FCC).

After the case-closed cards submitted for fiscal year 1975 were tabulated, it was determined that the cards had been incorrectly completed. The FCC did provide us with corrected caseload totals (See Part A, p. 33), but the tabulations made from the cards could not be corrected without much additional work by the FCC and without reopening our data-processing effort. Therefore, we have decided not to present any tabulations for the FCC for fiscal year 1975.

Department of Interior

The Department's Office of Hearings and Appeals provided us with caseload information for other types of proceedings (see Part A, p.45), but did not provide sufficient case-by-case information on these cases to warrant publication.

(There were 17 other categories of cases listed in the Department's caseload inventories, for which at least one case was reported closed in fiscal 1975, with a total of 671 cases reported closed in those categories. Only 13 case-closed cards were submitted.)

Agency: Dept. of Agriculture

Casetype: Packers and Stockyards Act
Disciplinary Proceedings

Total Number of Case-Closed Cards Submitted: 108

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Formal complaint to arrival of case in CALJ's office.

[N = 108]	(avg)	83.8	(min)	14
	(med)	69.5	(max)	260

B) **Hearing Stage** Arrival of case in CALJ's office to release of ALJ's decision or order.

[N = 108]	(avg)	42.9	(min)	0
	(med)	6.7	(max)	558

C) **Posthearing Stage** Release of ALJ's decision or order to review (if any) by Judicial Officer.

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 107]	(2) *All Other Cases*			
	(avg)	4.6	(min)	0
	(med)	0.1	(max)	46

D) **Total Time**

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 107]	(2) *All Other Cases*			
	(avg)	130.2	(min)	19
	(med)	95.0	(max)	588

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	95 [a]
Dismissal	1
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	3 [c]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	9 [b]

III) AGENCY REVIEW

A) *Yes:* 0
No: 79

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

[a] *Consents:* A respondent may consent to an order any time after the complaint, whether before or during a hearing. Such an order is not appealable and there is no elapsed time in the post-hearing stage.

[b] *Defaults:* If the respondent fails to file an answer, the complainant may file a motion for a proposed decision, and the respondent is given 20 days to object. The ALJ has 30 days after the motion is served to issue a decision which is appealable.

[c] Average elapsed time in the hearing stage: 357 days [N = 3].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 6]

A) **Prehearing & Hrg.** (separate days)

[N = 5]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

B) **Prehearing & Hrg.** (actual hours)

[N = 5]	(avg)	5.2	(min)	0
	(med)	5.8	(max)	8

C) **No. of Parties & intervenors**

[N = 83]	(avg)	2.0	(min)	1
	(med)	2.0	(max)	4

D) **Hours of ALJ Travel**

[N = 6]	(avg)	36.7	(min)	0
	(med)	42.0	(max)	60

E) **No. of Contested Motions**

[N = 3]	(avg)	0	(min)	0
	(med)	0	(max)	0

F) **No. of Evid. Docs.** (excl Briefs)

[N = 5]	(avg)	14.6	(min)	0
	(med)	11.0	(max)	39

G) **No. Pages Briefs**

[N = 4]	(avg)	6.2	(min)	0
	(med)	1.5	(max)	14

H) **No. Pages Transcripts**

[N = 5]	(avg)	71.4	(min)	0
	(med)	96.0	(max)	135

I) **No. Pages Exhibits**

[N = 4]	(avg)	47.5	(min)	0
	(med)	16.5	(max)	157

J) **No. Pages Written Opinion**

[N = 70]	(avg)	5.2	(min)	3
	(med)	4.6	(max)	14

K) **Oral Argument**

[N = 2]	Yes	0
	No	2

Notes and Comments:

(Administered by the Packers and Stockyards Administration.)

Procedures: The proceeding is instituted by an informal complaint filed by any interested person. If after investigation, the Administrator finds an apparent violation, he may attempt an informal adjustment. (*None of the elapsed time taken by the foregoing is reflected in our statistics.*) If there is no adjustment, the Administrator files a formal complaint, which the respondent has 20 days to answer. Appeals to the Secretary may be had within 30 days of service of decision.

It is apparent that consent and default judgments predominate (104 of 108 cases). Few hearings or partial hearings are held.

Agency: Dept. of Agriculture

Casetype: Commodity Exchange Act
Disciplinary Proceeding

Total Number of Case-Closed Cards Submitted: 15

I) ELAPSED TIME DATA (in days) (Same procedures as in Packers and Stockyard Cases.)

A) **Prehearing Stage**

[N = 14]	(avg)	68.1	(min)	6
	(med)	45.5	(max)	291

B) **Hearing Stage**

[N = 11]	(avg)	234.8	(min)	86
	(med)	179.0	(max)	584

C) **Posthearing Stage**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	26.0	(min)	26
(med)	26.0	(max)	26

[N = 8] (2) *All Other Cases*

(avg)	6.8	(min)	0
(med)	3.9	(max)	54

D) **Total Time**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	503.0	(min)	503
(med)	503.0	(max)	503

[N = 11] (2) *All Other Cases*

(avg)	395.7	(min)	140
(med)	253.0	(max)	1025

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	7 [a]
Dismissal	0
Other	4 [c]

B) **On Merits:**

ALJ Hrg. & Decision	3 [d]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	1 [b]

III) AGENCY REVIEW

A) *Yes:* 1
No: 6

B) **Results of Review**

Affirm:	0	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a] *Consents* (See Packers and Stockyard Cases).

[b] *Defaults* (See Packers and Stockyard Cases).

[c] *Other:* Transferral to Commodity Futures Trading Commission, which was given jurisdiction of these cases during FY 1975.

[d] Average elapsed time in the hearing stage: 408.3 days [N = 3].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 5]

A) **Prehearing & Hrg.** (separate days)

[N = 5]	(avg)	3.8	(min)	1
	(med)	3.0	(max)	9

B) **Prehearing & Hrg.** (actual hours)

[N = 4]	(avg)	34.8	(min)	3
	(med)	20.0	(max)	96

C) **No. of Parties & Intervenors**

[N = 11]	(avg)	1.9	(min)	1
	(med)	1.9	(max)	3

D) **Hours of ALJ Travel**

[N = 5]	(avg)	26.4	(min)	10
	(med)	15.0	(max)	60

E) **No. of Contested Motions**

[N = 2]	(avg)	0	(min)	0
	(med)	0	(max)	0

F) **No. of Evid. Docs.** (excl Briefs)

[N = 3]	(avg)	15.0	(min)	0
	(med)	13.0	(max)	32

G) **No. Pages Briefs**

[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0

H) **No. Pages Transcripts**

[N = 3]	(avg)	412.7	(min)	4
	(med)	554.0	(max)	680

I) **No. Pages Exhibits**

[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0

J) **No. Pages Written Opinion**

[N = 6]	(avg)	17.5	(min)	4
	(med)	6.5	(max)	59

K) **Oral Argument**

[N = 1]	Yes	0
	No	1

Notes and Comments:

(In FY 1975, administered by the Commodity Exchange Authority.)

These cases are being taken over by the Commodity Futures Trading Commission, a new independent agency with its own staff of ALJs.

Agency: Dept. of Agriculture

Casetype: Perishable Agricultural Commodities Act Disciplinary Proceeding

Total Number of Case-Closed Cards Submitted: 22

I) ELAPSED TIME DATA (in days) (Same procedures as in Packers and Stockyards Cases)

A) **Prehearing Stage**

[N = 18]	(avg)	60.4	(min)	0
	(med)	68.0	(max)	139

B) **Hearing Stage**

[N = 22]	(avg)	66.8	(min)	1
	(med)	8.0	(max)	418

C) **Posthearing Stage**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 21] (2) *All Other Cases*

(avg)	16.0	(min)	0
(med)	0.4	(max)	53

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 17] (2) *All Other Cases*

(avg)	138.9	(min)	1
(med)	129.0	(max)	499

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	12[a]
Dismissal	1
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	2[c]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	7[b]

III) AGENCY REVIEW

A) *Yes:* 1
No: 14

B) **Results of Review**

Affirm:	0	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a] *Consents* (See Packers and Stockyards cases).

[b] *Defaults* See Packers and Stockyards cases).

[c] Average elapsed time in the hearing stage: 411.5 days [N = 2].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 3]

A) **Prehearing & Hrg.** (separate days)

[N = 4]	(avg)	1.5	(min)	1
	(med)	1.3	(max)	3

B) **Prehearing & Hrg.** (actual hours)

[N = 1]	(avg)	8.0	(min)	8
	(med)	8.0	(max)	8

C) **No. of Parties & Intervenors**

[N = 13]	(avg)	1.6	(min)	1
	(med)	1.7	(max)	2

D) **Hours of ALJ Travel**

[N = 4]	(avg)	44.5	(min)	16
	(med)	36.0	(max)	72

E) **No. of Contested Motions**

[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0

F) **No. of Evid. Docs.** (excl Briefs)

[N = 2]	(avg)	17.0	(min)	6
	(med)	17.0	(max)	28

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 3]	(avg)	236.3	(min)	5
	(med)	94.0	(max)	610

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 13]	(avg)	5.4	(min)	3
	(med)	3.4	(max)	27

K) **Oral Argument**

[N = 1]	Yes	0
	No	1

Notes and Comments:

(Administered by the Agricultural Marketing Service.)

Consent and default judgments predominate (19 of 22 cases). Few hearings or partial hearings are held.

Agency: Dept. of Agriculture

Casetype: Horse Protection Act

Total Number of Case-Closed Cards Submitted: 12

I) ELAPSED TIME DATA (in days) (Procedures generally the same as in Packers and Stockyards Cases)

A) **Prehearing Stage**

[N = 11]	(avg)	98.1	(min)	2
	(med)	76.0	(max)	218

B) **Hearing Stage**

[N = 11]	(avg)	40.7	(min)	1
	(med)	9.5	(max)	255

C) **Posthearing Stage**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 9] (2) *All Other Cases*

(avg)	9.0	(min)	0
(med)	0.1	(max)	41

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 8] (2) *All Other Cases*

(avg)	150.4	(min)	69
(med)	131.0	(max)	257

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	8 [a]
Dismissal	1
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	2 [b]

III) AGENCY REVIEW

A) *Yes:* 0
No: 6

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

[a] *Consents* (See Packers and Stockyards cases).

[b] *Defaults* (See Packers and Stockyards cases).
[For one case, the manner of termination was not reported.]

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 1]

A) **Prehearing & Hrg.** (separate days)

[N = 1]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 6]	(avg)	1.7	(min)	1
	(med)	1.8	(max)	2

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 1]	(avg)	5.0	(min)	5
	(med)	5.0	(max)	5

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 9]	(avg)	3.4	(min)	3
	(med)	3.4	(max)	4

K) **Oral Argument**

[N = 0]	Yes	—
	No	—

Notes and Comments:

(Administered by the Animal and Plant Health Inspection Service.)

Consent and default judgments predominate (10 of 12 cases). Few hearings or partial hearings are held.

Procedures are generally the same as in Packers and Stockyards cases except that the respondent has 10 days to answer the complaint instead of 20.

Agency: Dept. of Agriculture

Casetype: Laboratory Animal Welfare Act
Disciplinary Procedures

Total Number of Case-Closed Cards Submitted: 9

I) ELAPSED TIME DATA (in days) (Procedures generally the same as in Packers and Stockyards Cases)

A) **Prehearing Stage**

[N = 9]	(avg)	97.7	(min)	45
	(med)	101.0	(max)	179

B) **Hearing Stage**

[N = 9]	(avg)	21.7	(min)	0
	(med)	4.0	(max)	123

C) **Posthearing Stage**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 9] (2) *All Other Cases*

(avg)	0	(min)	0
(med)	0	(max)	0

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 9] (2) *All Other Cases*

(avg)	119.3	(min)	55
(med)	129.0	(max)	182

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	9 [a]
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 6

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

[a] *Consents* (See Packers and Stockyards cases).

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 0]

A) **Prehearing & Hrg.** (separate days)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 6]	(avg)	1.8	(min)	1
	(med)	1.8	(max)	3

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 7]	(avg)	4.4	(min)	3
	(med)	4.0	(max)	8

K) **Oral Argument**

[N = 0]	Yes	—
	No	—

Notes and Comments:

(Administered by the Agricultural Research Service.)

In FY 1975, all cases were terminated by consent judgments.

Procedures generally the same as in Packers and Stockyards cases except the respondent has 15 days instead of 20 to answer the complaint.

Agency: Dept. of Agriculture

Casetype: Denial or Withdrawal of Voluntary Inspection and Grading Service

Total Number of Case-Closed Cards Submitted: 1

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Notice of violation to hearing.

[N = 1]	(avg)	43.0	(min)	43
	(med)	43.0	(max)	43

B) **Hearing Stage** Hearing to recommended findings by ALJ.

[N = 1]	(avg)	243.0	(min)	243
	(med)	243.0	(max)	243

C) **Posthearing Stage**

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 1]	(2) *All Other Cases*			
	(avg)	11.0	(min)	11
	(med)	11.0	(max)	11

D) **Total Time**

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 1]	(2) *All Other Cases*			
	(avg)	297.0	(min)	297
	(med)	297.0	(max)	297

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	1[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 0

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

[a]This is anomalous in view of the procedures explained below. Probably should be "ALJ hrg. w/o Decision."

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 1]

A) **Prehearing & Hrg.** (separate days)

[N = 1]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 1]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

D) **Hours of ALJ Travel**

[N = 1]	(avg)	78.0	(min)	78
	(med)	78.0	(max)	78

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 1]	(avg)	9.0	(min)	9
	(med)	9.0	(max)	9

K) **Oral Argument**

[N = 0]

Yes	—
No	—

Notes and Comments:

(Administered by the Consumer and Marketing Service.)

Procedures: The director of the applicable division of the Service initiates the proceeding by filing a notice of violation, giving the respondent not less than 10 days to answer. The proceeding is held before the Administrator of the Service or his delegate, unless the respondent requests a hearing before an ALJ. The ALJ makes recommended findings of fact and conclusions, but no recommended order. Exceptions may be filed and the Administrator then makes the final decision and order.

Agency: Dept. of Agriculture

Casetype: Marketing Orders (Rulemaking Proceedings under Agricultural Marketing Agreement Act)

Total Number of Case-Closed Cards Submitted: 15

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** (See Comments, below.)

[N = 14]	(avg)	0.6	(min)	0
	(med)	0.3	(max)	9

B) **Hearing Stage** Assignment to ALJ to ALJ's certification of the transcript.

[N = 12]	(avg)	83.0	(min)	33
	(med)	67.5	(max)	127

C) **Posthearing Stage**

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 0]	(2) *All Other Cases*			
	(avg)	—	(min)	—
	(med)	—	(max)	—

D) **Total Time**

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 0]	(2) *All Other Cases*			
	(avg)	—	(min)	—
	(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	15 [a]
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 0

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

[a]See Comments, below.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 15]

A) **Prehearing & Hrg.** (separate days)

[N = 14]	(avg)	2.6	(min)	0
	(med)	2.1	(max)	8

B) **Prehearing & Hrg.** (actual hours)

[N = 13]	(avg)	20.8	(min)	0
	(med)	11.8	(max)	72

C) **No. of Parties & Intervenors**

[N = 9]	(avg)	1.8	(min)	0
	(med)	1.9	(max)	2

D) **Hours of ALJ Travel**

[N = 14]	(avg)	37.4	(min)	0
	(med)	34.0	(max)	80

E) **No. of Contested Motions**

[N = 5]	(avg)	0	(min)	0
	(med)	0	(max)	0

F) **No. of Evid. Docs.** (excl Briefs)

[N = 9]	(avg)	6.6	(min)	0
	(med)	8.0	(max)	16

G) **No. Pages Briefs**

[N = 3]	(avg)	0	(min)	0
	(med)	0	(max)	0

H) **No. Pages Transcripts**

[N = 14]	(avg)	387.7	(min)	0
	(med)	210.0	(max)	1401

I) **No. Pages Exhibits**

[N = 10]	(avg)	26.8	(min)	0
	(med)	22.0	(max)	65

J) **No. Pages Written Opinion**

[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0

K) **Oral Argument**

[N = 10]	Yes	5
	No	5

Notes and Comments:

(Administered by the Agricultural Marketing Service.)

Procedures: A marketing order or agreement may be proposed by the Secretary or any other person. The proceeding is formally instituted by filing a notice of hearing with the clerk and publishing it in the Federal Register. Such notice must ordinarily precede the hearing date by at least 15 days. The ALJ conducts the hearing but has no power to make an initial decision; he only certifies the transcript to the Administrator who makes the recommended decision. This decision is published in the Federal Register and after a comment period the Secretary makes the final decision.

The only valid information we have pertains to the hearing (ALJ) stage of the case.

Agency: Dept. of Agriculture

Casetype: Petitions for Relief from Marketing Orders

Total Number of Case-Closed Cards Submitted: 5

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Date of petition to referred to CALJ.

[N = 5]	(avg)	52.0	(min)	13
	(med)	31.8	(max)	157

B) **Hearing Stage** Referred to ALJ to date of ALJ decision.

[N = 4]	(avg)	473.0	(min)	8
	(med)	494.5	(max)	895

C) **Posthearing Stage**

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 1]	(2) *All Other Cases*			
	(avg)	95.0	(min)	95
	(med)	95.0	(max)	95

D) **Total Time**

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 2]	(2) *All Other Cases*			
	(avg)	442.5	(min)	327
	(med)	442.5	(max)	558

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	1
Dismissal	1
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	3 [a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 1
No: 3

B) **Results of Review**

Affirm:	1	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a] Average elapsed time in the hearing stage: 628 days [N = 3].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 3]

A) **Prehearing & Hrg.** (separate days)

[N = 3]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

B) **Prehearing & Hrg.** (actual hours)

[N = 3]	(avg)	6.0	(min)	5
	(med)	5.8	(max)	8

C) **No. of Parties & Intervenors**

[N = 3]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2

D) **Hours of ALJ Travel**

[N = 3]	(avg)	39.3	(min)	8
	(med)	50.0	(max)	60

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 1]	(avg)	7.0	(min)	7
	(med)	7.0	(max)	7

G) **No. Pages Briefs**

[N = 3]	(avg)	106.3	(min)	33
	(med)	63.0	(max)	223

H) **No. Pages Transcripts**

[N = 3]	(avg)	126.3	(min)	69
	(med)	107.0	(max)	203

I) **No. Pages Exhibits**

[N = 2]	(avg)	13.5	(min)	8
	(med)	13.5	(max)	19

J) **No. Pages Written Opinion**

[N = 3]	(avg)	49.3	(min)	9
	(med)	47.0	(max)	92

K) **Oral Argument**

[N = 2]	Yes	2
	No	0

Notes and Comments:

(Administered by the Agricultural Marketing Service.)

Procedures: The proceeding is commenced with a petition for relief filed with the hearing clerk. The Administrator, as respondent, may within 30 days file a motion to dismiss or an answer. If the motion to dismiss is denied, the Administrator has 15 days to answer. The ALJ rules on any such motion, holds necessary hearings and makes an initial decision. Appeal is to the Secretary.

Agency: Dept. of Agriculture

Casetype: Personnel Appeals

Total Number of Case-Closed Cards Submitted: 2

I) ELAPSED TIME DATA (in days) (See Comments, below.)

A) **Prehearing Stage**

[N = 2]	(avg)	0	(min)	0
	(med)	0	(max)	0

B) **Hearing Stage**

[N = 2]	(avg)	129.0	(min)	57
	(med)	129.0	(max)	201

C) **Posthearing Stage**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	22.0	(min)	22
(med)	22.0	(max)	22

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	79.0	(min)	79
(med)	79.0	(max)	79

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	2
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 2
No: 0

B) **Results of Review**

Affirm:	1	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 2]

A) **Prehearing & Hrg.** (separate days)

[N = 1]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

B) **Prehearing & Hrg.** (actual hours)

[N = 1]	(avg)	8.0	(min)	8
	(med)	8.0	(max)	8

C) **No. of Parties & Intervenors**

[N = 2]	(avg)	1.5	(min)	2
	(med)	1.5	(max)	2

D) **Hours of ALJ Travel**

[N = 2]	(avg)	51.0	(min)	42
	(med)	51.0	(max)	60

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 1]	(avg)	3.0	(min)	3
	(med)	3.0	(max)	3

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 1]	(avg)	198.0	(min)	198
	(med)	198.0	(max)	198

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 2]	(avg)	11.0	(min)	10
	(med)	11.0	(max)	12

K) **Oral Argument**

[N = 1]	Yes	1
	No	0

Notes and Comments:

Occasionally the Department's ALJs are called upon to hear agency personnel disputes. No specific information is known with respect to the procedural distinctiveness of these proceedings.

Agency: Dept. of Agriculture

Casetype: Grain Standards Licensing

Total Number of Case-Closed Cards Submitted: 1

I) ELAPSED TIME DATA (in days) (See Comments, below.)

A) **Prehearing Stage**

[N = 1]	(avg)	160.0	(min)	160
	(med)	160.0	(max)	160

B) **Hearing Stage**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **Posthearing Stage**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 1] (2) *All Other Cases*

(avg)	259.0	(min)	259
(med)	259.0	(max)	259

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	1
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 0

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 0]

A) **Prehearing & Hrg.** (separate days)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

K) **Oral Argument**

[N = 0]	Yes	—
	No	—

Notes and Comments:

(Administered by the Agricultural Marketing Service.)

Proceedings under the U.S. Grain Standards Act are not subject to the Administrative Procedure Act, and are not heard by ALJs unless so requested by the respondent.

Agency: Bureau of Alcohol, Tobacco & Firearms (ATF)

Casetype: Federal Alcohol Administration Act Permit Cases

Total Number of Case-Closed Cards Submitted: 31

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Date of application or show cause order to referral to CALJ.

[N = 27]	(avg)	18.5	(min)	0
	(med)	0.3	(max)	267

B) **Hearing Stage** Referral to CALJ to ALJ decision.

[N = 27]	(avg)	150.7	(min)	4
	(med)	78.0	(max)	703

C) **Posthearing Stage**

[N = 1] (1) *Cases Reviewed by Agency* Review is by the Division (ATF) Director.

(avg)	24.0	(min)	24
(med)	24.0	(max)	24

[N = 27] (2) *All Other Cases*

(avg)	7.4	(min)	0
(med)	6.0	(max)	41

D) **Total Time**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	518.0	(min)	518
(med)	518.0	(max)	518

[N = 27] (2) *All Other Cases*

(avg)	191.4	(min)	21
(med)	107.0	(max)	703

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	12 [a]
Other	1

B) **On Merits:**

ALJ Hrg. & Decision	4 [c]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	14 [b]

III) AGENCY REVIEW

A) *Yes:* 1
No: 3

B) **Results of Review**

Affirm:	1	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a] Occurs when an applicant or respondent (in show cause cases) makes an offer of settlement. If the agency accepts the offer the ALJ orders a dismissal of the case. (See 27 CFR 200.36.)

[b] Occurs in show cause cases where the respondent permittee waives the hearing. (See 27 CFR 200.71.)

[c] Average elapsed time in the hearing stage: 158 days [N = 4].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 5]

A) **Prehearing & Hrg.** (separate days)				
[N = 6]	(avg)	1.7	(min)	0
	(med)	1.2	(max)	4
B) **Prehearing & Hrg.** (actual hours)				
[N = 4]	(avg)	61.2	(min)	0
	(med)	6.5	(max)	232
C) **No. of Parties & Intervenors**				
[N = 8]	(avg)	2.5	(min)	1
	(med)	1.9	(max)	8
D) **Hours of ALJ Travel**				
[N = 7]	(avg)	6.4	(min)	0
	(med)	7.0	(max)	14
E) **No. of Contested Motions**				
[N = 6]	(avg)	5.3	(min)	0
	(med)	3.2	(max)	32
F) **No. of Evid. Docs.** (excl Briefs)				
[N = 9]	(avg)	9.9	(min)	1
	(med)	9.0	(max)	27
G) **No. Pages Briefs**				
[N = 8]	(avg)	9.0	(min)	0
	(med)	2.3	(max)	58
H) **No. Pages Transcripts**				
[N = 9]	(avg)	114.9	(min)	0
	(med)	63.0	(max)	534
I) **No. Pages Exhibits**				
[N = 9]	(avg)	246.6	(min)	0
	(med)	13.0	(max)	2040
J) **No. Pages Written Opinion**				
[N = 13]	(avg)	4.3	(min)	0
	(med)	2.8	(max)	11
K) **Oral Argument**				
[N = 9]	Yes	4		
	No	5		

Notes and Comments:

These cases are of two basic types: (a) Applications for permits, where one of the 7 regional directors has filed a "notice of contemplated disapproval" and (b) "show cause cases," where the regional director finds a violation and issues a citation ordering the permittee to show cause why his permit should not be suspended, revoked or annulled. In application cases the prehearing stage begins with the date of application; in show cause cases it begins with the date of the show cause order. (The investigative time is not captured.) Also, in show cause cases, the ALJ makes the initial decision, while in applications, the judge only makes a recommended decision which is acted upon by the assistant regional commissioner who makes the initial decision. Petitions for review may be filed by the applicant or respondent or by the assistant regional commissioner in show cause cases within 15 days of the initial decision. Review is by the Director, A, T & F Division. However the applicant or respondent may opt for direct review of *either* the initial decision or the Director's decision in the U.S. Court of Appeals. (We have no data on these appeals.)

The hearing stage was much shorter in those cases where the hearing was waived. The average hearing time for those cases was only 58.7 days [N = 13], as compared to 236.2 days for all other cases [N = 14].

Agency: ATF

Casetype: Internal Revenue Code Permit Cases

Total Number of Case-Closed Cards Submitted: 1

I) ELAPSED TIME DATA (in days) (Same procedures as in F.A.A.A. Permit cases.)

A) **Prehearing Stage**

[N = 1]	(avg)	48.0	(min)	48
	(med)	48.0	(max)	48

B) **Hearing Stage**

[N = 1]	(avg)	186.0	(min)	186
	(med)	186.0	(max)	186

C) **Posthearing Stage**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	53.0	(min)	53
(med)	53.0	(max)	53

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	287.0	(min)	287
(med)	287.0	(max)	287

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	1
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 1
No: 0

B) **Results of Review**

Affirm:	1	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 1]

A) **Prehearing & Hrg.** (separate days)

[N = 1]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

B) **Prehearing & Hrg.** (actual hours)

[N = 1]	(avg)	7.0	(min)	7
	(med)	7.0	(max)	7

C) **No. of Parties & Intervenors**

[N = 1]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2

D) **Hours of ALJ Travel**

[N = 1]	(avg)	14.0	(min)	14
	(med)	14.0	(max)	14

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 1]	(avg)	12.0	(min)	12
	(med)	12.0	(max)	12

G) **No. Pages Briefs**

[N = 1]	(avg)	64.0	(min)	64
	(med)	64.0	(max)	64

H) **No. Pages Transcripts**

[N = 1]	(avg)	259.0	(min)	259
	(med)	259.0	(max)	259

I) **No. Pages Exhibits**

[N = 1]	(avg)	82.0	(min)	82
	(med)	82.0	(max)	82

J) **No. Pages Written Opinion**

[N = 1]	(avg)	10.0	(min)	10
	(med)	10.0	(max)	10

K) **Oral Argument**

[N = 1]	Yes	1
	No	0

Notes and Comments:

Same procedures as in the much more frequent Federal Alcohol Administration Act permit cases.

Agency: ATF

Casetype: Firearms License

Total Number of Case-Closed Cards Submitted: 1

I) ELAPSED TIME DATA (in days) (Same procedures as in F.A.A.A. Permit cases.)

A) **Prehearing Stage**

[N = 1]	(avg)	236.0	(min)	236
	(med)	236.0	(max)	236

B) **Hearing Stage**

[N = 1]	(avg)	172.0	(min)	172
	(med)	172.0	(max)	172

C) **Posthearing Stage**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 1] (2) *All Other Cases*

(avg)	66.0	(min)	66
(med)	66.0	(max)	66

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 1] (2) *All Other Cases*

(avg)	474.0	(min)	474
(med)	474.0	(max)	474

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	1
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 0

B) **Results of Review**

Affirm:	1	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 1]

A) **Prehearing & Hrg.** (separate days)

[N = 1]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

B) **Prehearing & Hrg.** (actual hours)

[N = 1]	(avg)	6.0	(min)	6
	(med)	6.0	(max)	6

C) **No. of Parties & Intervenors**

[N = 1]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

D) **Hours of ALJ Travel**

[N = 1]	(avg)	24.0	(min)	24
	(med)	24.0	(min)	24

E) **No. of Contested Motions**

[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0

F) **No. of Evid. Docs.** (excl Briefs)

[N = 1]	(avg)	16.0	(min)	16
	(med)	16.0	(max)	16

G) **No. Pages Briefs**

[N = 1]	(avg)	21.0	(min)	21
	(med)	21.0	(max)	21

H) **No. Pages Transcripts**

[N = 1]	(avg)	122.0	(min)	122
	(med)	122.0	(max)	122

I) **No. Pages Exhibits**

[N = 1]	(avg)	23.0	(min)	23
	(med)	23.0	(max)	23

J) **No. Pages Written Opinion**

[N = 1]	(avg)	13.0	(min)	13
	(med)	13.0	(max)	13

K) **Oral Argument**

[N = 1]	Yes	1
	No	0

Notes and Comments:

Same procedures as in the much more frequent Federal Alcohol Administration Act permit cases.

Agency: ATF

Casetype: Director of Practice

Total Number of Case-Closed Cards Submitted: 8

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Date complaint is signed to date ALJ is assigned.

[N = 8]	(avg)	56.8	(min)	49
	(med)	51.3	(max)	72

B) **Hearing Stage** Date ALJ is assigned to date of initial decision

[N = 8]	(avg)	111.1	(min)	40
	(med)	76.5	(max	199

C) **Posthearing Stage**

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 7]	(2) *All Other Cases*			
	(avg)	42.4	(min	0
	(med)	30.0	(max)	174

D) **Total Time**

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 7]	(2) *All Other Cases*			
	(avg)	218.3	(min)	110
	(med)	188.0	(max)	375

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	3
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	5[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 7

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

[a]Average elapsed time in the hearing stage: 146 days [N = 5].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 5]

A) **Prehearing & Hrg.** (separate days)

[N = 5]	(avg)	2.4	(min	1
	(med)	1.9	(max)	8

B) **Prehearing & Hrg.** (actual hours)

[N = 2]	(avg)	36.0	(min)	2
	(med)	36.0	(max)	70

C) **No. of Parties & Intervenors**

[N = 4]	(avg)	1.5	(min)	1
	(med)	1.5	(max)	2

D) **Hours of ALJ Travel**

[N = 4]	(avg)	8.0	(min)	2
	(med)	7.0	(max)	16

E) **No. of Contested Motions**

[N = 3]	(avg)	0.7	(min)	0
	(med)	0.5	(max)	2

F) **No. of Evid. Docs.** (excl Briefs)

[N = 4]	(avg)	11.3	(min)	9
	(med)	10.5	(max)	15

G) **No. Pages Briefs**

[N = 5]	(avg)	39.8	(min)	5
	(med)	30.0	(max)	94

H) **No. Pages Transcripts**

[N = 5]	(avg)	64.0	(min)	12
	(med)	73.0	(max)	90

I) **No. Pages Exhibits**

[N = 5]	(avg)	45.4	(min)	11
	(med)	18.0	(max)	120

J) **No. Pages Written Opinion**

[N = 5]	(avg)	11.8	(min)	5
	(med)	13.0	(max)	18

K) **Oral Argument**

[N = 5]	Yes	5
	No	0

Notes and Comments:

Procedures: The prehearing stage begins on the date the complaint is signed by the Director of Practice. The ALJ is assigned and has the authority to make an initial decision. The Director or the respondent (attorney, accountant or enrolled agent) may appeal to the Secretary of the Treasury or the Secretary may review on his own motion. If no review, the ALJ's decision becomes final in 30 days.

Agency: CAB

Casetype: Routes and Licenses

Total Number of Case-Closed Cards Submitted: 9

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Date of filing of application to referral to CALJ.

[N = 9]	(avg)	179.2	(min)	87
	(med)	150.0	(max)	346

B) **Hearing Stage** Referred to CALJ to ALJ's decision or order.

[N = 9]	(avg)	299.2	(min)	138
	(med)	279.0	(max)	684

C) **Posthearing Stage** ALJ's decision or order to final decision by Board.

[N = 5]	(1) *Cases Reviewed by Agency*				
		(avg)	244.2	(min)	173
		(med)	202.0	(max)	442
[N = 2]	(2) *All Other Cases*				
		(avg)	29.5	(min)	29
		(med)	29.5	(max)	30

D) **Total Time**

[N = 5]	(1) *Cases Reviewed by Agency*				
		(avg)	747.6	(min	638
		(med)	762.0	(max)	827
[N = 2]	(2) *All Other Cases*				
		(avg)	361.5	(min)	327
		(med)	361.5	(max)	396

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	1
Dismissal	1
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	7 [a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 5
No: 2

B) **Results of Review**

Affirm:	3	*Modify:*	2
Reverse:	0	*Remand/Other:*	0

[a]Average elapsed time in the hearing stage: 267.3 days [N = 7].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 7]

A) **Prehearing & Hrg.** (separate days)

[N = 7]	(avg)	3.1	(min)	3
	(med)	3.1	(max)	4

B) **Prehearing & Hrg.** (actual hours)

[N = 2]	(avg)	17.0	(min)	15
	(med)	17.0	(max)	19

C) **No. of Parties & Intervenors**

[N = 6]	(avg)	5.2	(min)	4
	(med)	5.5	(max)	6

D) **Hours of ALJ Travel**

[N = 6]	(avg)	20.0	(min)	7
	(med)	7.5	(max)	81

E) **No. of Contested Motions**

[N = 2]	(avg)	0.5	(min)	0
	(med)	0.5	(max)	1

F) **No. of Evid. Docs.** (excl Briefs)

[N = 7]	(avg)	45.6	(min)	17
	(med)	45.0	(max)	95

G) **No. Pages Briefs**

[N = 7]	(avg)	107.9	(min)	47
	(med)	130.3	(max)	147

H) **No. Pages Transcripts**

[N = 7]	(avg)	374.1	(min)	316
	(med)	357.0	(max)	451

I) **No. Pages Exhibits**

[N = 7]	(avg)	387.4	(min)	302
	(med)	363.3	(max)	500

J) **No. Pages Written Opinion**

[N = 7]	(avg)	56.3	(min)	40
	(med)	57.0	(max)	70

K) **Oral Argument**

[N = 7]	Yes	3
	No	4

Notes and Comments:

Procedures: The prehearing stage begins when the application for authority is filed by the carrier (if consolidations occur, the earliest date is used). The staff then recommends a formal proceeding be begun by issuance of a formal order of investigation by the Board. At that point the case is referred to the CALJ. After the decision is made, exceptions may be filed. The reviewing staff makes a recommendation to the Board. Oral argument may be had before the Board. The Board then decides the case and gives instructions to its opinion writing staff which transmits the draft opinion for final Board decision.

Agency: CAB

Casetype: Foreign Permit

Total Number of Case-Closed Cards Submitted: 28

I) ELAPSED TIME DATA (in days) (Same procedure, generally, as in Routes and Licenses cases.)

A) **Prehearing Stage**

[N = 27]	(avg)	138.8	(min)	1
	(med)	57.0	(max)	1042

B) **Hearing Stage**

[N = 27]	(avg)	86.6	(min)	24
	(med)	62.0	(max)	461

C) **Posthearing Stage**

[N = 22] (1) *Cases Reviewed by Agency*

(avg)	156.5	(min)	47
(med)	137.3	(max)	470

[N = 3] (2) *All Other Cases*

(avg)	290.0	(min)	33
(med)	249.0	(max)	588

D) **Total Time**

[N = 71] (1) *Cases Reviewed by Agency*

(avg)	407.7	(min)	96
(med)	325.0	(max)	1202

[N = 4] (2) *All Other Cases*

(avg)	340.0	(min)	68
(med)	117.5	(max)	781

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	1
Dismissal	3
Other	1

B) **On Merits:**

ALJ Hrg. & Decision	23[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 22
No: 0

B) **Results of Review**

Affirm:	21	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a]Average elapsed time in the hearing stage: 87 days [N = 23].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 26]

A) **Prehearing & Hrg.** (separate days)

[N = 26]	(avg)	1.4	(min)	1
	(med)	1.2	(max)	4

B) **Prehearing & Hrg.** (actual hours)

[N = 20]	(avg)	16.6	(min)	1
	(med)	4.5	(max)	100

C) **No. of Parties & Intervenors**

[N = 26]	(avg)	4.9	(min)	2
	(med)	4.0	(max)	9

D) **Hours of ALJ Travel**

[N = 19]	(avg)	0	(min)	0
	(med)	0	(max)	0

E) **No. of Contested Motions**

[N = 19]	(avg)	0.2	(min)	0
	(med)	0.1	(max)	1

F) **No. of Evid. Docs.** (excl Briefs)

[N = 25]	(avg)	12.4	(min)	1
	(med)	9.8	(max)	47

G) **No. Pages Briefs**

[N = 24]	(avg)	24.0	(min)	0
	(med)	0.9	(max)	106

H) **No. Pages Transcripts**

[N = 26]	(avg)	46.6	(min)	5
	(med)	18.5	(max)	178

I) **No. Pages Exhibits**

[N = 26]	(avg)	129.0	(min)	24
	(med)	62.5	(max)	1200

J) **No. Pages Written Opinion**

[N = 25]	(avg)	25.7	(min)	7
	(med)	25.0	(max)	38

K) **Oral Argument**

[N = 24]	Yes	0
	No	24

Notes and Comments:

Procedures: Generally the same as Routes and Licenses cases, except that the case is usually set for hearing without a formal Board order. Also there is an additional step in the review process because the Board's decision must be ratified by the President. This time is reflected in the post-hearing elapsed time.

Agency: CAB

Casetype: Mergers and Agreements

Total Number of Case-Closed Cards Submitted: 5

I) ELAPSED TIME DATA (in days) (Same procedures, generally, as Routes and Licenses cases.)

A) **Prehearing Stage**

[N = 5]	(avg)	196.2	(min)	60
	(med)	119.0	(max)	504

B) **Hearing Stage**

[N = 5]	(avg)	334.2	(min)	220
	(med)	241.0	(max)	523

C) **Posthearing Stage**

[N = 5] (1) *Cases Reviewed by Agency*

(avg)	574.0	(min)	311
(med)	589.0	(max)	1014

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 5] (1) *Cases Reviewed by Agency*

(avg)	1104.4	(min)	843
(med)	949.0	(max)	1755

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	5
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 5
No: 0

B) **Results of Review**

Affirm:	5	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 5]

A) **Prehearing & Hrg.** (separate days)

[N = 5]	(avg)	4.0	(min)	2
	(med)	4.0	(max)	7

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 5]	(avg)	11.4	(min)	5
	(med)	12.0	(max)	22

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 5]	(avg)	30.4	(min)	3
	(med)	24.0	(max)	63

G) **No. Pages Briefs**

[N = 5]	(avg)	92.6	(min)	34
	(med)	50.0	(max)	173

H) **No. Pages Transcripts**

[N = 5]	(avg)	347.4	(min)	36
	(med)	402.0	(max)	771

I) **No. Pages Exhibits**

[N = 5]	(avg)	318.6	(min)	205
	(med)	300.0	(max)	475

J) **No. Pages Written Opinion**

[N = 5]	(avg)	24.6	(min)	12
	(med)	25.0	(max)	38

K) **Oral Argument**

[N = 5]	Yes	3
	No	2

Notes and Comments:

Procedures Generally the same as Routes and Licenses cases except that the case is usually set for hearing without a formal Board order.

Note that all 5 cases reported went to a full hearing with Board review.

Agency: CAB

Casetype: Commercial Rates

Total Number of Case-Closed Cards Submitted: 9

I) ELAPSED TIME DATA (in days) (Same procedures, generally, as Routes and Licenses cases. See Comments, below.)

A) **Prehearing Stage**

[N = 5]	(avg)	51.4	(min)	24
	(med)	44.0	(max)	85

B) **Hearing Stage**

[N = 9]	(avg)	170.3	(min)	36
	(med)	68.0	(max)	448

C) **Posthearing Stage**

[N = 3]	(1) *Cases Reviewed by Agency*				
		(avg)	967.7	(min)	291
		(med)	526.0	(max)	2086
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

D) **Total Time**

[N = 3]	(1) *Cases Reviewed by Agency*				
		(avg)	1366.7	(min)	518
		(med)	1015.0	(max)	2567
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	6
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	3 [a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 3
No: 0

b) **Results of Review**

Affirm:	2	*Modify:*	1
Reverse:	0	*Remand/Other:*	0

[a] Average elapsed time in the hearing stage: 351.7 days [N = 3].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 3]

A) Prehearing & Hrg. (separate days)

[N = 7]	(avg)	4.3	(min)	1
	(med)	1.8	(max)	11

B) Prehearing & Hrg. (actual hours)

[N = 4]	(avg)	31.5	(min)	6
	(med)	9.0	(max)	56

C) No. of Parties & Intervenors

[N = 9]	(avg)	11.0	(min)	2
	(med)	6.0	(max)	37

D) Hours of ALJ Travel

[N = 2]	(avg)	0	(min)	0
	(med)	0	(max)	0

E) No. of Contested Motions

[N = 1]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2

F) No. of Evid. Docs. (excl Briefs)

[N = 6]	(avg)	33.8	(min)	2
	(med)	9.5	(max)	95

G) No. Pages Briefs

[N = 3]	(avg)	361.7	(min)	200
	(med)	370.0	(max)	515

H) No. Pages Transcripts

[N = 3]	(avg)	1147.3	(min)	620
	(med)	1191.0	(max)	1631

I) No. Pages Exhibits

[N = 5]	(avg)	175.4	(min)	2
	(med)	17.2	(max)	825

J) No. Pages Written Opinion

[N = 7]	(avg)	28.4	(min)	1
	(med)	6.0	(max)	75

K) Oral Argument

[N = 3]	Yes	1
	No	2

Notes and Comments:

Procedures: The prehearing stage begins when the tariff is filed. The staff begins its investigation promptly because the Board must make its initial order allowing or suspending the tariff within 30 days. Most cases are disposed of by negotiations during informal conference proceedings. Only those for which the Board has ordered a hearing are reflected in these statistics.

Note: The hearing stage was markedly shorter in those cases terminated by a withdrawal (79.7 days, N = 6) than in those which resulted in an ALJ decision after a full hearing (351.7 days, N= 3).

Agency: CAB

Casetype: Enforcement

Total Number of Case-Closed Cards Submitted: 6

I) ELAPSED TIME DATA (in days) (Same procedures, generally, as Routes and Licenses cases. See Comments, below.)

A) **Prehearing Stage**

[N = 6]	(avg)	515.8	(min)	56
	(med)	188.0	(max)	2134

B) **Hearing Stage**

[N = 3]	(avg)	125.0	(min)	42
	(med)	157.0	(max)	176

C) **Posthearing Stage**

[N = 2] (1) *Cases Reviewed by Agency*

(avg)	330.0	(min)	190
(med)	330.0	(max)	470

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 2] (1) *Cases Reviewed by Agency*

(avg)	1650.5	(min)	801
(med)	1650.5	(max)	2500

[N = 3] (2) *All Other Cases*

(avg)	263.7	(min)	131
(med)	274.0	(max)	386

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	4
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	2[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 2
No: 0

B) **Results of Review**

Affirm:	2	*Modify*	0
Reverse:	0	*Remand/Other:*	0

[a]Average elapsed time in the hearing stage: 166.5 days [N = 2].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 2]

A) **Prehearing & Hrg.** (separate days)

[N = 2]	(avg)	4.0	(min)	2
	(med)	4.0	(max)	6

B) **Prehearing & Hrg.** (actual hours)

[N = 2]	(avg)	6.0	(min)	4
	(med)	6.0	(max)	8

C) **No. of Parties & Intervenors**

[N = 4]	(avg)	3.0	(min)	2
	(med)	2.5	(max)	5

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 1]	(avg)	4.0	(min)	4
	(med)	4.0	(max)	4

F) **No. of Evid. Docs.** (excl Briefs)

[N = 3]	(avg)	36.0	(min)	11
	(med)	40.0	(max)	57

G) **No. Pages Briefs**

[N = 2]	(avg)	118.5	(min)	85
	(med)	118.5	(max)	152

H) **No. Pages Transcripts**

[N = 2]	(avg)	728.0	(min)	349
	(med)	728.0	(max)	1107

I) **No. Pages Exhibits**

[N = 2]	(avg)	245.5	(min)	116
	(med)	245.5	(max)	375

J) **No. Pages Written Opinion**

[N = 2]	(avg)	35.5	(min)	27
	(med)	35.5	(max)	44

K) **Oral Argument**

[N = 2]	Yes	0
	No	2

Notes and Comments:

Procedures: The prehearing stage begins when the staff determines that a complaint (filed either by the Board or a third party) is worthy of investigation. If, during the investigatory stage the case is not dismissed or settled, the Board, pursuant to a staff recommendation, issues notice of hearing. Only those cases for which the Board has ordered a hearing are reflected in these statistics.

Agency: EPA

Casetype: Civil Penalty Cases (Federal Insecticide, Fungicide and Rodenticide Act)

Total Number of Case-Closed Cards Submitted: 69

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Date of inspection to arrival of case in CALJ's office.

[N = 69]	(avg)	251.2	(min)	9
	(med)	247.0	(max)	644

B) **Hearing Stage** Arrival of case in CALJ's office to ALJ's initial decision.

[N = 4]	(avg)	233.2	(min)	180
	(med)	195.0	(max)	329

C) **Posthearing Stage** ALJ's decision to the date the ALJ's unappealed decision becomes final or the date of the RA's final order.

[N = 1]	(1) *Cases Reviewed by Agency*				
		(avg)	76.0	(min)	76
		(med)	76.0	(max)	76
[N = 3]	(2) *All Other Cases*				
		(avg)	88.3	(min)	56
		(med)	98.0	(max)	111

D) **Total Time**

[N = 1]	(1) *Cases Reviewed by Agency*				
		(avg)	607.0	(min)	607
		(med)	607.0	(max)	607
[N = 68]	(2) *All Other Cases*				
		(avg)	364.7	(min)	73
		(med)	351.5	(max)	843

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	58
Withdrawal/Consent	4 [a]
Dismissal	3 [b]
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	4 [c]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 1
No: 3

B) **Results of Review**

Affirm:	1	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a] Complainant withdraws complaint.

[b] Complaint dismissed.

[c] Average elapsed time in the hearing stage: 233.2 days [N = 4].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 5]

A) Prehearing & Hrg. (separate days)

[N = 49]	(avg)	1.1	(min)	1
	(med)	1.1	(max)	3

B) Prehearing & Hrg. (actual hours)

[N = 4]	(avg)	9.8	(min)	5
	(med)	9.5	(max)	15

C) No. of Parties & Intervenors

[N = 59]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	3

D) Hours of ALJ Travel

[N = 5]	(avg)	7.6	(min)	5
	(med)	7.0	(max)	10

E) No. of Contested Motions

[N = 4]	(avg)	0.8	(min)	0
	(med)	0.5	(max)	2

F) No. of Evid. Docs. (excl Briefs)

[N = 4]	(avg)	13.0	(min)	3
	(med)	9.0	(max)	31

G) No. Pages Briefs

[N = 4]	(avg)	39.2	(min)	16
	(med)	37.0	(max)	67

H) No. Pages Transcripts

[N = 4]	(avg)	122.8	(min)	66
	(med)	81.0	(max)	231

I) No. Pages Exhibits

[N = 4]	(avg)	102.0	(min)	8
	(med)	50.0	(max)	300

J) No. Pages Written Opinion

[N = 4]	(avg)	13.8	(min)	10
	(med)	11.5	(max)	18

K) Oral Argument

[N = 5]	Yes	1
	No	4

Notes and Comments:

Procedures: These cases begin when a routine inspection turns up a possible violation. A probable-cause inspection may sometimes be held, and a decision is made by the Regional Administrator's (RA's) staff to proceed or close out the case. If a complaint is issued, the answer must be filed with the Regional Hearing Clerk within 20 days and a hearing requested. Failure to answer results in a default judgment (not counted in our statistics). Upon the filing of an answer, the clerk refers the proceeding to the CALJ, who assigns it to the ALJ. The ALJ, after "consideration of the convenience of the parties," serves a notice of hearing which shall be held in the respondent's vicinity. Informal conferences and settlements are encouraged, and, if a settlement occurs after referral to the CALJ, the agreement is sent directly to the RA for his final order. The ALJ may order a pre-hearing conference and may issue an accelerated decision at any time which is otherwise treated like an initial decision.

At the close of the hearing, each party has 20 days after the filing of the transcript to serve proposed findings and conclusions and a proposed order. Ten days are allowed for reply. The ALJ, "as soon as practicable," shall then file his initial decision with the RA, and it becomes final unless within 20 days any party files exception with the Regional Hearing Clerk. Ten days are permitted for reply. Review may be by the RA's own motion. "As soon as practicable," the RA shall make the final order.

Note Few of those cases referred to the CALJ are actually heard. Most are settled.

Agency: EPA

Casetype: National Pollution Discharge Elimination System Permits

Total Number of Case-Closed Cards Submitted: 10

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Date of application to arrival of case in CALJ's office.

[N = 9]	(avg)	507.3	(min)	13
	(med)	297.0	(max)	1168

B) **Hearing Stage** Arrival of case in CALJ's office to ALJ's certification of record.

[N = 4]	(avg)	132.2	(min)	60
	(med)	87.0	(max)	251

C) **Posthearing Stage** Certification of record to date of RA's unappealed decision or to date of Administrator's decision, if appealed.

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 4]	(2) *All Other Cases*			
	(avg)	5.5	(min)	0
	(med)	5.0	(max)	12

D) **Total Time**

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 9]	(2) *All Other Cases*			
	(avg)	665.0	(min)	109
	(med)	473.0	(max)	1361

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	9
Withdrawal/Consent	1
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 0

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 5]

A) Prehearing & Hrg. (separate days)				
[N = 8]	(avg)	3.4	(min)	1
	(med)	1.3	(max)	18
B) Prehearing & Hrg. (actual hours)				
[N = 5]	(avg)	24.4	(min)	2
	(med)	3.0	(max)	108
C) No. of Parties & Intervenors				
[N = 9]	(avg)	3.3	(min)	2
	(med)	3.0	(max)	7
D) Hours of ALJ Travel				
[N = 6]	(avg)	19.7	(min)	0
	(med)	6.0	(max)	72
E) No. of Contested Motions				
[N = 4]	(avg)	0.5	(min)	0
	(med)	0.5	(max)	1
F) No. of Evid. Docs. (excl Briefs)				
[N = 3]	(avg)	4.0	(min)	3
	(med)	4.0	(max)	5
G) No. Pages Briefs				
[N = 3]	(avg)	7.3	(min)	0
	(med)	8.0	(max)	14
H) No. Pages Transcripts				
[N = 3]	(avg)	4.3	(min)	0
	(med)	3.2	(max)	13
I) No. Pages Exhibits				
[N = 3]	(avg)	22.3	(min)	14
	(med)	22.0	(max)	31
J) No. Pages Written Opinion				
[N = 2]	(avg)	0	(min)	0
	(med)	0	(max)	0
K) Oral Argument				
[N = 3]	Yes	0		
	No	3		

Notes and Comments:

Procedures: Applications for permits are filed with the Regional Administrator (RA) who may request further information or site visit access within 60 days. The RA's staff then formulates tentative determinations with respect to the application. Public notice of the proposed issuance, denial or modification of every permit shall be circulated, with 30 days allotted for public comments. If the RA determines that significant public interest exists in the proposed permit, he must hold a public (non-adjudicatory) hearing. Within 30 days after the date of public notice of the proposed issuance, denial or modification of a permit, the RA shall make his proposal. This determination shall be final unless within 10 days of receipt of the determination from the RA any person shall request an adjudicatory hearing. The RA shall grant such a request within 10 days and assign it for hearing if he finds that it has been properly filed and sets forth material and relevant issues of *fact*. (Questions of law which emerge during the adjudication are referred to and decided by, within 20 days, the Assistant Administrator for Enforcement and the General Counsel.) If he does this, his previous determination is stayed and he shall issue public notice of an adjudicatory hearing. Additional parties may be joined within 30 days. [Note: The question of whether the proceeding is governed by the APA, and whether the "presiding officer" *must* be an ALJ is in limbo. Practically, however, it has been treated as an APA proceeding, and ALJ's have always presided (although they lack the power to make initial decisions), and we will continue to include these proceedings in our Uniform Caseload Accounting System.]

Within 10 days after completion of testimony, or 5 days from the receipt of proposed findings and conclusions, whichever is later (or later, if the parties agree), the ALJ must certify the record to the RA for an initial decision.

Within 20 days, the RA, or his designee renders an initial decision. (Usually an Office of General Counsel attorney is designated. Since a staff attorney in Enforcement handles the case, the OGC staff is thought to sufficiently objective to make the decision.) The initial decision of the RA is final unless within 10 days any party shall have appealed to the Administrator. Such review is discretionary and may be ordered *sua sponte*. The Administrator should decide "promptly" whether or not to review. If review is ordered, 30 days is permitted for filing of briefs and 30 more for reply briefs. Oral argument is permitted only in the Administrator's discretion. There is no time limit on the Administrator's review.

Agency: EPA

Casetype: Pesticide Registration Denials and Cancellations

Total Number of Case-Closed Cards Submitted: 6

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Acknowledgment of application or initiation of investigation (cancellation cases) to referral to CALJ.

[N = 6]	(avg)	696.7	(min)	132
	(med)	224.0	(max)	2769

B) **Hearing Stage** Referral to CALJ to ALJ's initial decision.

[N = 6]	(avg)	1068.5	(min)	50
	(med)	1009.0	(max)	1636

C) **Posthearing Stage** Initial decision to Administrator's final order or decision.

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 6]	(2) *All Other Cases*			
	(avg)	20.7	(min)	0
	(med)	29.0	(max)	34

D) **Total Time**

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 6]	(2) *All Other Cases*			
	(avg)	1785.8	(min)	182
	(med)	1831	(max)	3353

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	1
Withdrawal/Consent	1
Dismissal	3
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	1[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 5

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

[a]Average elapsed time in the hearing stage: 552 days [N = 1].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 5]

A) Prehearing & Hrg. (separate days)				
[N = 5]	(avg)	32.0	(min)	1
	(med)	2.0	(max)	153
B) Prehearing & Hrg. (actual hours)				
[N = 5]	(avg)	190.4	(min)	2
	(med)	10.0	(max)	920
C) No. of Parties & Intervenors				
[N = 6]	(avg)	11.2	(min)	2
	(med)	2.2	(max)	56
D) Hours of ALJ Travel				
[N = 1]	(avg)	53.0	(min)	53
	(med)	53.0	(max)	53
E) No. of Contested Motions				
[N = 1]	(avg)	32.0	(min)	32
	(med)	32.0	(max)	32
F) No. of Evid. Docs. (excl Briefs)				
[N = 2]	(avg)	53.5	(min)	18
	(med)	53.5	(max)	89
G) No. Pages Briefs				
[N = 2]	(avg)	278.5	(min)	49
	(med)	278.5	(max)	513
H) No. Pages Transcripts				
[N = 2]	(avg)	12,186.0	(min)	156
	(med)	12,186.0	(max)	24,216
I) No. Pages Exhibits				
[N = 2]	(avg)	6068.0	(min)	136
	(med)	6068.0	(max)	12,000
J) No. Pages Written Opinion				
[N = 6]	(avg)	4.0	(min)	1
	(med)	1.5	(max)	15
K) Oral Argument				
[N = 1]	Yes	0		
	No	1		

Notes and Comments:

Procedures: These cases include denials of registration, cancellation of registration and changes of registration. Suspension cases (because of the expedited nature of the procedures) are treated separately.

Applications for registration are acknowledged by the Agency. The Agency will approve or deny all applications "as expeditiously as possible," and "where practicable within 90 days after date of receipt." If the Administrator denies registration, he will notify the applicant by letter and give reasons with suggested corrected action. The applicant has 30 days to take the specified corrected action or petition for withdrawal of the application. If the application fails to remedy the deficiency of his application, or if the Administrator denies the petition for withdrawal, the Administrator publishes a notice of denial in the Federal Register. Within 30 days following publication, the applicant or any interested party with the written authorization of the applicant may request a hearing. A hearing may also ensue if the Administrator issues a notice of intent to hold a hearing to determine whether or not the registration of a pesticide should be cancelled or its classification changed. When the Administrator does this, interested persons may participate in the hearing by filing within 30 days. At the time the hearing is requested in application cases, or notice of intent to hold a hearing is issued in cancellation cases, the case is referred by the hearing clerk to the CALJ who refers the case to himself or another ALJ.

Prehearing conferences are usually held. Within 20 days after the last evidence is taken in the hearing, each party may file proposed findings and conclusions, and a brief in support thereof. Ten days are allowed for a reply brief, but these times may be extended by the ALJ. The ALJ is to prepare an initial decision within 25 days after the close of the hearing. The ALJ may "render an accelerated decision" in favor of the Agency (Assistant Administrator of the Office of Hazardous Materials Control) at any time (dismissal). Within 20 days after the ALJ's initial decision or dismissal, any party may file exceptions. Seven days are allowed for responses. If no exceptions are filed within 30 days, the Administrator has 10 days to decline review or issue an order of review. The Administrator has 90 days to issue his final decision.

Agency: EPA

Casetype: Pesticide Registration Suspensions

Total Number of Case-Closed Cards Submitted: 1

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Date investigation is begun to date of appointment of presiding officer.

[N = 1]	(avg)	144.0	(min)	144
	(med)	144.0	(max)	144

B) **Hearing Stage** Date of appointment of presiding officer to date of issuance of recommendation.

[N = 1]	(avg)	45.0	(min)	45
	(med)	45.0	(max)	45

C) **Posthearing Stage** Date of recommendation to date of Administrator's final decision.

[N = 1]	(1) *Cases Reviewed by Agency*				
		(avg)	11.0	(min)	11
		(med)	11.0	(max)	11
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

D) **Total Time**

[N = 1]	(1) *Cases Reviewed by Agency*				
		(avg)	200.0	(min)	200
		(med)	200.0	(max)	200
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	1[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 1
No: 0

B) **Results of Review**

Affirm:	1	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a]This case was in fact heard by an ALJ.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 1]

A) **Prehearing & Hrg.** (separate days)

[N = 1]	(avg)	19.0	(min)	19
	(med)	19.0	(max)	19

B) **Prehearing & Hrg.** (actual hours)

[N = 1]	(avg)	110.0	(min)	110
	(med)	110.0	(max)	110

C) **No. of Parties & Intervenors**

[N = 1]	(avg)	28.0	(min)	28
	(med)	28.0	(max)	28

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 1]	(avg)	8.0	(min)	8
	(med)	8.0	(max)	8

F) **No. of Evid. Docs.** (excl Briefs)

[N = 1]	(avg)	45.0	(min)	45
	(med)	45.0	(max)	45

G) **No. Pages Briefs**

[N = 1]	(avg)	1000.0	(min)	1000
	(med)	1000.0	(max)	1000

H) **No. Pages Transcripts**

[N = 1]	(avg)	13,783.0	(min)	13,783
	(med)	13,783.0	(max)	13,783

I) **No. Pages Exhibits**

[N = 1]	(avg)	10,000.0	(min)	10,000
	(med)	10,000.0	(max)	10,000

J) **No. Pages Written Opinion**

[N = 1]	(avg)	109.0	(min)	109
	(med)	109.0	(max)	109

K) **Oral Argument**

[N = 1]	Yes	0
	No	1

Notes and Comments:

Procedures: The Administrator, during a cancellation proceeding may determine that an immediate suspension of registration is necessary to prevent an imminent hazard. If so, he shall serve notice of his intention to suspend on the registrant. When such notice is made, a registrant must file a request for a hearing within 5 days. The presiding officer is appointed by the Administrator and *need not be an ALJ.* This hearing is held to determine only whether an imminent hazard exists and commences within 5 days of the request unless both parties agree otherwise. Notice shall be published as soon as possible within 5 days and any interested parties may move to intervene within 5 days. The parties may propose findings, conclusions and a supporting brief within 4 days of the close of evidence taking. Within 10 days the presiding officer submits his recommended findings, conclusion, and reasons to the Administrator. The parties have 2 days to submit exceptions and briefs and the Administrator shall issue his final decision within 7 days.

Note: Pages of briefs, transcripts, exhibits include pages incorporated by reference from cancellation proceeding.

Agency FMC

Casetype: Complaint Proceedings (Reparations)

Total Number of Case-Closed Cards Submitted: 20

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Filing of complaint to referral to CALJ (almost immediately referred.)

[N = 19]	(avg)	1.6	(min)	0
	(med)	1.2	(max)	7

B) **Hearing Stage** Referral to CALJ to ALJ's initial decision.

[N = 16]	(avg)	299.3	(min)	22
	(med)	196.5	(max)	961

C) **Posthearing Stage** ALJ's decision to Commission's final decision.

[N = 10]	(1) *Cases Reviewed by Agency*				
		(avg)	197.0	(min)	30
		(med)	81.5	(max)	532
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

D) **Total Time**

[N = 10]	(1) *Cases Reviewed by Agency*				
		(avg)	524.5	(min)	81
		(med)	472.0	(max)	1451
[N = 1]	(2) *All Other Cases*				
		(avg)	419.0	(min)	419
		(med)	419.0	(max)	419

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	2
Withdrawal/Consent	2
Dismissal	6
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	2 [a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	8 [b]

III) AGENCY REVIEW

A) *Yes:* 10
No: 7

B) **Results of Review**

Affirm:	9	*Modify:*	0
Reverse:	1	*Remand/Other:*	0

[a] The hearing stage was much longer for these two cases (average was 883.5 days).

[b] "Shortened procedure." By consent of the parties, with consent of the ALJ, the proceeding can be conducted without oral hearing. (See 46 CFR § 502.181). The average elapsed time in the hearing stage for these 8 shortened procedure cases was 186.1 days.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 6]

A) **Prehearing & Hrg.** (separate days)

[N = 6]	(avg)	2.2	(min)	1
	(med)	2.0	(max)	4

B) **Prehearing & Hrg.** (actual hours)

[N = 6]	(avg)	5.8	(min)	1
	(med)	4.7	(max)	16

C) **No. of Parties & Intervenors**

[N = 20]	(avg)	4.9	(min)	2
	(med)	2.3	(max)	23

D) **Hours of ALJ Travel**

[N = 2]	(avg)	0	(min)	0
	(med)	0	(max)	0

E) **No. of Contested Motions**

[N = 10]	(avg)	4.6	(min)	1
	(med)	2.0	(max)	18

F) **No. of Evid. Docs.** (excl Briefs)

[N = 6]	(avg)	30.0	(min)	1
	(med)	8.5	(max)	89

G) **No. Pages Briefs**

[N = 7]	(avg)	51.7	(min)	0
	(med)	40.0	(max)	155

H) **No. Pages Transcripts**

[N = 6]	(avg)	153.8	(min)	40
	(med)	104.0	(max)	457

I) **No. Pages Exhibits**

[N = 3]	(avg)	853.3	(min)	117
	(med)	200.0	(max)	2243

J) **No. Pages Written Opinion**

[N = 9]	(avg)	10.2	(min)	0
	(med)	0	(max)	0

E) **No. of Contested Motions**

[N = 10]	(avg)	4.6	(min)	1
	(med)	2.0	(max)	18

F) **No. of Evid. Docs.** (excl Briefs)

[N = 6]	(avg)	30.0	(min)	1
	(med)	8.5	(max)	89

G) **No. Pages Briefs**

[N = 7]	(avg)	51.7	(min)	0
	(med)	40.0	(max)	155

H) **No. Pages Transcripts**

[N = 6]	(avg)	153.8	(min)	40
	(med)	104.0	(max)	457

I) **No. Pages Exhibits**

[N = 3]	(avg)	853.3	(min)	117
	(med)	200.0	(max)	2243

J) **No. Pages Written Opinion**

[N = 9]	(avg)	10.2	(min)	0
	(med)	8.7	(max)	38

Agency: FMC

Casetype: Investigation and Suspension of Proposed Rates

Total Number of Case-Closed Cards Submitted: 15

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Date notice is received of rate change to date of referral to CALJ.

[N = 12]	(avg)	31.6	(min)	0
	(med)	28.5	(max)	85

B) **Hearing Stage** Referral to CALJ to issuance of ALJ's decision.

[N = 14]	(avg)	746.8	(min)	43
	(med)	521.5	(max)	1918

C) **Posthearing Stage** ALJ's decision to Commission's final decision.

[N = 3]	(1) *Cases Reviewed by Agency*				
		(avg)	348.7	(min)	28
		(med)	367.0	(max)	651
[N = 1]	(2) *All Other Cases*				
		(avg)	0	(min)	0
		(med)	0	(max)	0

D) **Total Time**

[N = 2]	(1) *Cases Reviewed by Agency*				
		(avg)	1000.0	(min)	569
		(med)	1000.0	(max)	1431
[N = 1]	(2) *All Other Cases*				
		(avg)	287.0	(min)	287
		(med)	287.0	(max)	287

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	11
Other	1

B) **On Merits:**

ALJ Hrg. & Decision	3[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 3
No: 10

B) **Results of Review**

Affirm:	2	*Modify:*	0
Reverse:	0	*Remand/Other:*	1

[a]Elapsed time in the hearing stage: 577 days [N = 3].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 11]

A) Prehearing & Hrg. (separate days)				
[N = 11]	(avg)	2.4	(min)	1
	(med)	2.0	(max)	5
B) Prehearing & Hrg. (actual hours)				
[N = 11]	(avg)	8.4	(min)	1
	(med)	4.8	(max)	28
C) No. of Parties & Intervenors				
[N = 15]	(avg)	9.4	(min)	2
	(med)	5.8	(max)	35
D) Hours of ALJ Travel				
[N = 4]	(avg)	24.0	(min)	0
	(med)	16.0	(max)	96
E) No. of Contested Motions				
[N = 15]	(avg)	3.4	(min)	0
	(med)	2.9	(max)	8
F) No. of Evid. Docs. (excl Briefs)				
[N = 10]	(avg)	15.2	(min)	1
	(med)	11.5	(max)	39
G) No. Pages Briefs				
[N = 4]	(avg)	97.8	(min)	0
	(med)	70.5	(max)	213
H) No. Pages Transcripts				
[N = 9]	(avg)	213.6	(min)	12
	(med)	71.0	(max)	798
I) No. Pages Exhibits				
[N = 5]	(avg)	406.6	(min)	4
	(med)	203.0	(max)	1426
J) No. Pages Written Opinion				
[N = 4]	(avg)	19.0	(min)	0
	(med)	17.5	(max)	30
K) Oral Argument				
[N = 4]	Yes	0		
	No	4		

Notes and Comments:

Procedures: The prehearing stage is begun by the carrier's filing of the rate which gives the Commission notice of the rate change. The Commission may then order a preliminary investigation and, where warranted, issue a formal order of investigation at which point the case is referred to the CALJ's office. Intervention by interested parties is common. The posthearing stage is as described in the complaint proceedings.

Note: Dismissals resulted in more elapsed time in the hearing stage (704.5 days, N = 10) than the 3 cases heard and decided by ALJ's (577.0 days).

Agency: FMC

Casetype: Freight Forwarder Licensing

Total Number of Case-Closed Cards Submitted: 3

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Date of complaint or application to referral to CALJ.

[N = 2]	(avg)	192.0	(min)	0
	(med)	192.0	(max)	384

B) **Hearing Stage** Referral to CALJ to ALJ's decision

[N = 3]	(avg)	117.0	(min)	83
	(med)	128.0	(max)	140

C) **Posthearing Stage** ALJ's decision to Commission's final decision.

[N = 2]	(1) *Cases Reviewed by Agency*				
		(avg)	141.0	(min)	98
		(med)	141.0	(max)	184
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

D) **Total Time**

[N = 1]	(1) *Cases Reviewed by Agency*				
		(avg)	312.0	(min)	312
		(med)	312.0	(max)	312
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	1
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	2

III) AGENCY REVIEW

A) *Yes:* 2
No: 1

B) **Results of Review**

Affirm:	2	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 1]

A) **Prehearing & Hrg.** (separate days)

[N = 1]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

B) **Prehearing & Hrg.** (actual hours)

[N = 1]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

C) **No. of Parties & Intervenors**

[N = 3]	(avg)	2.3	(min)	2
	(med)	2.2	(max)	3

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 1]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2

F) **No. of Evid. Docs.** (excl Briefs)

[N = 2]	(avg)	12.5	(min)	2
	(med)	12.5	(max)	23

G) **No. Pages Briefs**

[N = 1]	(avg)	34.0	(min)	34
	(med)	34.0	(max)	34

H) **No. Pages Transcripts**

[N = 1]	(avg)	7.0	(min)	7
	(med)	7.0	(max)	7

I) **No. Pages Exhibits**

[N = 1]	(avg)	342.0	(min)	342
	(med)	342.0	(max)	342

J) **No. Pages Written Opinion**

[N = 2]	(avg)	13.0	(min)	3
	(med)	13.0	(max)	23

K) **Oral Argument**

[N = 2]	Yes	0
	No	2

Notes and Comments:

Procedures These cases may arise two ways. A complaint may be filed against an existing license holder by another party or by the Commission on its own motion, and suspension or revocation hearing ensues. (Procedures similar to complaint cases.) Secondly, an applicant may apply for a license (or an existing licensee may apply for an amendment). If the application is denied, a hearing might result. (Procedures similar to rate cases.)

Agency: FMC

Casetype: Agreements

Total Number of Case-Closed Cards Submitted: 11

I) ELAPSED TIME DATA (in days) (Same procedures as in Freight Forwarder Licensing cases.)

A) **Prehearing Stage**

[N = 10]	(avg)	172.2	(min)	0
	(med)	12.0	(max)	721

B) **Hearing Stage**

[N = 7]	(avg)	317.1	(min)	69
	(med)	278.0	(max)	719

C) **Posthearing Stage**

[N = 4]	(1) *Cases Reviewed by Agency*				
		(avg)	155.5	(min)	41
		(med)	62.0	(max)	337
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

D) **Total Time**

[N = 4]	(1) *Cases Reviewed by Agency*				
		(avg)	722.2	(min)	452
		(med)	474.5	(max)	1210
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	1
Dismissal	7
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	3[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 5
No: 0

B) **Results of Review**

Affirm:	3	*Modify:*	1
Reverse:	0	*Remand/Other:*	1

[a]Average elapsed time in the hearing stage: 361 days [N = 3].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 9]

A) **Prehearing & Hrg.** (separate days)

[N = 9]	(avg)	3.9	(min)	1
	(med)	1.8	(max)	17

B) **Prehearing & Hrg.** (actual hours)

[N = 9]	(avg)	18.2	(min)	1
	(med)	2.2	(max)	102

C) **No. of Parties & Intervenors**

[N = 11]	(avg)	13.0	(min)	3
	(med)	12.8	(max)	28

D) **Hours of ALJ Travel**

[N = 2]	(avg)	30.0	(min)	0
	(med)	30.0	(max)	60

E) **No. of Contested Motions**

[N = 10]	(avg)	3.1	(min)	1
	(med)	2.5	(max)	9

F) **No. of Evid. Docs.** (excl Briefs)

[N = 10]	(avg)	9.2	(min)	0
	(med)	1.5	(max)	49

G) **No. Pages Briefs**

[N = 4]	(avg)	220.8	(min)	0
	(med)	158.5	(max)	375

H) **No. Pages Transcripts**

[N = 9]	(avg)	404.7	(min)	0
	(med)	38.0	(max)	2611

I) **No. Pages Exhibits**

[N = 5]	(avg)	214.8	(min)	0
	(med)	6.0	(max)	1018

J) **No. Pages Written Opinion**

[N = 4]	(avg)	25.5	(min)	0
	(med)	17.5	(max)	49

K) **Oral Argument**

[N = 5]	Yes	1
	No	4

Notes and Comments:

Similar to Freight Forwarder licensing procedures in that the hearing may result from a complaint/revocation procedure or an application/denial procedure.

Agency: FMC

Casetype: Discriminatory Practice (Civil Penalty)

Total Number of Case-Closed Cards Submitted: 1

I) ELAPSED TIME DATA (in days) (Same procedures as Complaint Proceedings)

A) **Prehearing Stage**

[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0

B) **Hearing Stage**

[N = 1]	(avg)	742.0	(min)	742
	(med)	742.0	(max)	742

C) **Posthearing Stage**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	243.0	(min)	243
(med)	243.0	(max)	243

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	985.0	(min)	985
(med)	985.0	(max)	985

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	1
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 1
No: 0

B) **Results of Review**

Affirm:	1	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 1]

A) **Prehearing & Hrg.** (separate days)

[N = 1]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

B) **Prehearing & Hrg.** (actual hours)

[N = 1]	(avg)	5.0	(min)	5
	(med)	5.0	(max)	5

C) **No. of Parties & Intervenors**

[N = 1]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2

D) **Hours of ALJ Travel**

[N = 1]	(avg)	4.0	(min)	4
	(med)	4.0	(max)	4

E) **No. of Contested Motions**

[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0

F) **No. of Evid. Docs.** (excl Briefs)

[N = 1]	(avg)	10.0	(min)	10
	(med)	10.0	(max)	10

G) **No. Pages Briefs**

[N = 1]	(avg)	150.0	(min)	150
	(med)	150.0	(max)	150

H) **No. Pages Transcripts**

[N = 1]	(avg)	125.0	(min)	125
	(med)	125.0	(max)	125

I) **No. Pages Exhibits**

[N = 1]	(avg)	30.0	(min)	30
	(med)	30.0	(max)	30

J) **No. Pages Written Opinion**

[N = 1]	(avg)	14.0	(min)	14
	(med)	14.0	(max)	14

K) **Oral Argument**

[N = 1]	Yes	0
	No	1

Agency: FMC

Casetype: Special Docket Proceedings

Total Number of Case-Closed Cards Submitted: 4

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Filing of application to referral to CALJ.

[N = 4]	(avg)	1.5	(min)	0
	(med)	0.5	(max)	5

B) **Hearing Stage** Referral to CALJ to ALJ's initial decision.

[N = 3]	(avg)	40.3	(min)	30
	(med)	47.0	(max)	49

C) **Posthearing Stage** ALJ's decision to Commission's final decision.

[N = 3] (1) *Cases Reviewed by Agency*

(avg)	87.7	(min)	27
(med)	93.0	(max)	143

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 3] (1) *Cases Reviewed by Agency*

(avg)	130.0	(min)	57
(med)	147.0	(max)	186

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	1
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	3

III) AGENCY REVIEW

A) *Yes:* 3
No: 0

B) **Results of Review**

Affirm:	2	*Modify:*	0
Reverse:	1	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 0]

A) **Prehearing & Hrg.** (separate days)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 4]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(min)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 2]	(avg)	4.0	(min)	3
	(med)	4.0	(max)	5

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 1]	(avg)	5.0	(min)	5
	(med)	5.0	(min)	5

J) **No. Pages Written Opinion**

[N = 3]	(avg)	4.3	(min)	3
	(med)	4.5	(max)	5

K) **Oral Argument**

[N = 2]	Yes	0
	No	2

Notes and Comments:

Procedures: Applications for permission to refund an overcharge or waive the collection of an undercharge must be filed with the Commission. Such an application is occasionally opposed by other shippers and if denied, is referred to the CALJ's office. Formal proceedings, including hearings, need not be held, and the case is most often decided on the basis of written submissions.

The case is initiated by the filing of an application and the case is almost immediately referred to the CALJ's office.

Agency: FPC

Casetype: Pipeline Certificate Cases

Total Number of Case-Closed Cards Submitted: 25

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Preearing Stage** Date of application to date of first order setting case for hearing.

[N = 23]	(avg)	154.4	(min)	0
	(med)	144.0	(max)	591

B) **Hearing Stage** Date of hearing order to date of ALJ's decision.

[N = 11]	(avg)	246.1	(min)	53
	(med)	208.0	(max)	539

C) **Posthearing Stage** Date of ALJ's decision to date of Commission's final order or decision.

[N = 11]	(1) *Cases Reviewed by Agency*			
	(avg)	220.7	(min)	108
	(med)	170.0	(max)	680
[N = 0]	(2) *All Other Cases*			
	(avg)	—	(min)	—
	(med)	—	(max)	—

D) Total Time

[N = 10]	(1) *Cases Reviewed by Agency*			
	(avg)	664.0	(min)	356
	(med)	516.5	(max)	1406
[N = 13]	(2) *All Other Cases*			
	(avg)	203.4	(min)	21
	(med)	168.0	(max)	712

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	2
Withdrawal/Consent	10
Dismissal	1
Other	1[b]

B) **On Merits:**[a]

ALJ Hrg. & Decision	10[c]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	1

III) AGENCY REVIEW

A) *Yes:* 11
No: 0

B) **Results of Review**

Affirm:	9	*Modify:*	1
Reverse:	0	*Remand/Other:*	0

[a]Only these 11 cases are included in the above elapsed time statistics for the hearing stage and posthearing stage.

[b]Commission ordered relief granted after hearing set, but before ALJ decision.

[c]Elapsed time in the hearing stage: 265.4 days [N = 10].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 12]

A) Prehearing & Hrg. (separate days)				
[N = 12]	(avg)	4.6	(min)	1
	(med)	2.2	(max)	20
B) Prehearing & Hrg. (actual hours)				
[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—
C) No. of Parties & Intervenors				
[N = 11]	(avg)	11.1	(min)	4
	(med)	6.2	(max)	34
D) Hours of ALJ Travel				
[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—
E) No. of Contested Motions				
[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—
F) No. of Evid. Docs. (excl Briefs)				
[N = 10]	(avg)	16.9	(min)	2
	(med)	14.5	(max)	43
G) No. Pages Briefs				
[N = 10]	(avg)	107.2	(min)	4
	(med)	60.5	(max)	439
H) No. Pages Transcripts				
[N = 12]	(avg)	620.6	(min)	28
	(med)	215.0	(max)	3185
I) No. Pages Exhibits				
[N = 0]	(avg)	—	(min)	8
	(med)	—	(max)	—
J) No. Pages Written Opinion				
[N = 11]	(avg)	18.8	(min)	2
	(med)	13.0	(max)	50
K) Oral Argument				
[N = 12]	Yes	0		
	No	12		

Notes and Comments:

Procedures: The prehearing stage begins when the company files an application for relief (in this case a certificate). The appropriate bureau (in this case the Bureau of Natural Gas) assigns the case to a member of the staff who may recommend that a hearing be held. When the case is ordered for hearing, the case is referred to the CALJ's office. There is sometimes a delay before the case is assigned to an individual ALJ. Due to frequent postponements, often requested by staff, and then always granted, the CALJ waits until one week before the prehearing conference is scheduled to assign the case. In the meantime, all preliminary motions are handled by the Secretary to the FPC.

After the ALJ has written the initial decision, briefs on exceptions are due in 30 days, unless the time is extended or shortened by order of the Commission, and briefs opposing exceptions are normally due 20 days after that.

Note: For all of its casetypes, the FPC did not provide "Time and Effort" data for categories B, D, E, and I because of the CALJ's opinion that such information was too difficult to obtain and of limited utility.

Agency: FPC

Casetype: Pipeline Abandonment Cases

Total Number of Case-Closed Cards Submitted: 6

I) ELAPSED TIME DATA (in days) (Same general procedures as in Pipeline Certificate cases.)

A) **Prehearing Stage**

[N = 6]	(avg)	206.2	(min)	48
	(med)	185.0	(max)	444

B) **Hearing Stage**

[N = 1]	(avg)	157.0	(min)	157[a]
	(med)	157.0	(max)	157

C) **Posthearing Stage**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	182.0	(min)	182[a]
(med)	182.0	(max)	182

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	8

D) **Total Time**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	514.0	(min)	514[a]
(med)	514.0	(max)	514

[N = 5] (2) *All Other Cases*

(avg)	305.2	(min)	160
(med)	226.0	(max)	468

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	3
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	1
ALJ Hrg. w/o Decision	1
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 1
No: 0

B) **Results of Review**

Affirm:	1	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a]This case was heard and decided by an ALJ, and reviewed by the Commission.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 2]

A) **Prehearing & Hrg.** (separate days)

[N = 2]	(avg)	1.5	(min)	1
	(med)	1.5	(max)	2

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 2]	(avg)	3.5	(min)	3
	(med)	3.5	(max)	4

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 1]	(avg)	10.0	(min)	10
	(med)	10.0	(max)	10

G) **No. Pages Briefs**

[N = 1]	(avg)	11.0	(min)	11
	(med)	11.0	(max)	11

H) **No. Pages Transcripts**

[N = 2]	(avg)	153.5	(min)	73
	(med)	153.5	(max)	234

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 1]	(avg)	7.0	(min)	7
	(med)	7.0	(max)	7

K) **Oral Argument**

[N = 2]	Yes	0
	No	2

Notes and Comments:

Staff may have to produce NEPA statement in the prehearing stage of these cases. Otherwise, same procedures as in Pipeline Certificate cases.

Agency: FPC

Casetype: Pipeline Importation Cases

Total Number of Case-Closed Cards Submitted: 3

I) ELAPSED TIME DATA (in days) (Same procedure as in Pipeline Certificate cases.)

A) **Prehearing Stage**

[N = 3]	(avg)	130.3	(min)	94
	(med)	119.0	(max)	178

B) **Hearing Stage**

[N = 3]	(avg)	169.7	(min)	60
	(med)	158.0	(max)	291

C) **Posthearing Stage**

[N = 3] (1) *Cases Reviewed by Agency*

(avg)	67.0	(min)	43
(med)	64.0	(max)	94

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 3] (1) *Cases Reviewed by Agency*

(avg)	367.0	(min)	197
(med)	430.0	(max)	474

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	3
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 3
No: 0

B) **Results of Review**

Affirm:	3	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

/) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 3]

A) **Prehearing & Hrg.** (separate days)

[N = 3]	(avg)	2.0	(min)	1
	(med)	1.8	(max)	4

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 3]	(avg)	6.3	(min)	5
	(med)	6.0	(max)	8

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 3]	(avg)	16.0	(min)	9
	(med)	13.0	(max)	26

G) **No. Pages Briefs**

[N = 3]	(avg)	98.7	(min)	67
	(med)	98.0	(max)	131

H) **No. Pages Transcripts**

[N = 3]	(avg)	276.0	(min)	175
	(med)	274.0	(max)	379

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 3]	(avg)	18.3	(min)	16
	(med)	18.0	(max)	21

K) **Oral Argument**

[N = 3]	Yes	1
	No	2

Agency: FPC

Casetype: Pipeline Rate Cases

Total Number of Case-Closed Cards Submitted: 16

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage**

[N = 16]	(avg)	104.2	(min)	28
	(med)	44.5	(max)	553

B) **Hearing Stage**

[N = 5]	(avg)	589.8	(min)	249[a]
	(med)	571.0	(max)	856

C) **Posthearing Stage**

[N = 5]	(1) *Cases Reviewed by Agency*				
		(avg)	265.8	(min)	41[b]
		(med)	252.0	(max)	496
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

D) **Total Time**

[N = 5]	(1) *Cases Reviewed by Agency*				
		(avg)	995.4	(min)	579[a]
		(med)	854.0	(max)	1352
[N = 11]	(2) *All Other Cases*				
		(avg)	540.2	(min)	214
		(med)	472.0	(max)	1505

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	9
Withdrawal/Consent	0
Dismissal	0
Other	2[b]

B) **On Merits:**

ALJ Hrg. & Decision	5
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 5
No: 0

B) **Results of Review**

Affirm:	5	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a]All 5 cases were heard and decided by an ALJ with review by the Commission.

[b]Commission ordered relief granted after hearing set, but before ALJ decision.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 13]

A) **Prehearing & Hrg.** (separate days)

[N = 13]	(avg)	3.9	(min)	1
	(med)	2.4	(max)	11

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(avg)	—	(min)	—

C) **No. of Parties & Intervenors**

[N = 9]	(avg)	14.8	(min)	2
	(med)	11.0	(max)	34

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 8]	(avg)	46.0	(min)	13
	(med)	28.0	(max)	93

G) **No. Pages Briefs**

[N = 5]	(avg)	193.8	(min)	62
	(med)	205.0	(max)	397

H) **No. Pages Transcripts**

[N = 12]	(avg)	448.7	(min)	28
	(med)	199.0	(max)	1851

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 5]	(avg)	44.2	(min)	9
	(med)	25.0	(max)	100

K) **Oral Argument**

[N = 11]	Yes	0
	No	11

Notes and Comments:

Procedures: Same general procedures as in Pipeline Certificate cases except that the case is initiated by the filing of a rate by a gas company. An investigation may be initiated by a third-party complaint or by the Commission on its own motion. The rate may then be suspended pending a hearing.

Agency: FPC

Casetype: Pipeline Curtailment Cases

Total Number of Case-Closed Cards Submitted: 5

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage**

[N = 5]	(avg)	56.2	(min)	39
	(med)	45.0	(max)	102

B) **Hearing Stage**

[N = 3]	(avg)	75.0	(min)	46[a]
	(med)	63.0	(max)	116

C) **Posthearing Stage**

[N = 3] (1) *Cases Reviewed by Agency*

(avg)	84.3	(min)	41[a]
(med)	73.5	(max)	171

[N = 0] (2) All Other Cases

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 3] (1) *Cases Reviewed by Agency*

(avg)	226.3	(min)	132[a]
(med)	158.0	(max)	389

[N = 2] (2) *All Other Cases*

(avg)	228.5	(min)	64
(avg)	228.5	(max)	393

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	1
Withdrawal/Consent	1
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	3
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 3

B) **Results of Review**

Affirm:	3	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a]All 3 cases were heard and decided by ALJ's and reviewed by the Commission.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 5]

A) **Prehearing & Hrg.** (separate days)

[N = 5]	(avg)	8.4	(min)	1
	(med)	5.0	(max)	18

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 4]	(avg)	16.5	(min)	4
	(med)	10.0	(max)	38

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 3]	(avg)	6.3	(min)	2
	(med)	6.0	(max)	11

G) **No. Pages Briefs**

[N = 1]	(avg)	51	(min)	51
	(med)	51	(max)	51

H) **No. Pages Transcripts**

[N = 5]	(avg)	1151.4	(min)	80
	(med)	687.0	(max)	2955

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 3]	(avg)	61.3	(min)	3
	(med)	6.0	(max)	175

K) **Oral Argument**

[N = 4]	Yes	1
	No	3

Notes and Comments:

Procedures: The case may be initiated by the filing of the company's curtailment plan in which case the procedures are similar to the pipeline certificate cases. Or when such plans are filed as a proposed tariff amendment, it may be challenged under procedure used in the pipeline rate cases. A NEPA statement may be required in prehearing stage.

Agency: FPC

Casetype: Pipeline Emergency Curtailment Relief Cases

Total Number of Case-Closed Cards Submitted: 24

I) ELAPSED TIME DATA (in days) (Same general procedures as in Pipeline Certificates cases.)

A) **Prehearing Stage**

[N = 24]	(avg)	43.2	(min)	0
	(med)	34.5	(max)	274

B) **Hearing Stage**

[N = 13]	(avg)	143.9	(min)	63[a]
	(med)	140.0	(max)	302

C) **Posthearing Stage**

[N = 13]	(1) *Cases Reviewed by Agency*				
		(avg)	134.5	(min)	24[a]
		(med)	119.0	(max)	285
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

D) **Total Time**

[N = 13]	(1) *Cases Reviewed by Agency*				
		(avg)	288.6	(min)	98[a]
		(med)	313.0	(max)	390
[N = 11]	(2) *All Other Cases*				
		(avg)	86.4	(min)	22
		(med)	83.0	(max)	210

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	2
Withdrawal/Consent	7
Dismissal	1
Other	1[b]

B) **On Merits:**

ALJ Hrg. & Decision	13
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 13
No: 0

B) **Results of Review**

Affirm:	12	*Modify:*	0
Reverse:	0	*Remand/Other:*	1

[a]All 13 cases were heard and decided by ALJ's and reviewed by the Commission.

[b]Commission ordered relief granted after hearing set, but before ALJ decision.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 15]

A) **Prehearing & Hrg.** (separate days)

[N = 15]	(avg)	2.1	(min)	1
	(med)	1.4	(max)	6

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 14]	(avg)	8.9	(min)	4
	(med)	7.5	(max)	17

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 14]	(avg)	12.1	(min)	0
	(med)	7.5	(max)	57

G) **No. Pages Briefs**

[N = 12]	(avg)	105.4	(min)	20
	(med)	54.5	(max)	303

H) **No. Pages Transcripts**

[N = 15]	(avg)	325.2	(min)	18
	(med)	212.0	(max)	1180

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 13]	(avg)	15.2	(min)	6
	(med)	13.0	(max)	40

K) **Oral Argument**

[N = 14]	Yes	1
	No	13

Notes and Comments:

The proceeding is initiated by the filing of a petition for relief by the distributor or user of the natural gas.

Agency: FPC

Casetype: Producer Optional Procedure Certificate Cases

Total Number of Case-Closed Cards Submitted: 15

I) ELAPSED TIME DATA (in days) (Procedures same as in Pipeline Certificate cases.)

A) **Prehearing Stage**

[N = 12]	(avg)	146.4	(min)	43
	(med)	112.5	(min)	518

B) **Hearing Stage**

[N = 5]	(avg)	122.8	(min)	40[a]
	(med)	88.0	(max)	325

C) **Posthearing Stage**

[N = 4] (1) *Cases Reviewed by Agency*

(avg)	315.5	(min)	144[a]
(med)	345.0	(max)	415

[N = 1] (2) *All Other Cases*

(avg)	46.0	(min)	46
(med)	46.0	(max)	46

D) **Total Time**

[N = 3] (1) *Cases Reviewed by Agency*

(avg)	585.7	(min)	525[a]
(med)	573.0	(max)	659

[N = 9] (2) *All Other Cases*

(avg)	337.7	(min)	113
(med)	253.0	(max)	824

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	3
Withdrawal/Consent	4
Dismissal	0
Other	2[b]

B) **On Merits:**

ALJ Hrg. & Decision	5
ALJ Hrg. w/o Decision	1
ALJ Decision w/o hrg.	0

III) AGENCY REVIEW

A) *Yes:* 4
No: 0

B) **Results of Review**

Affirm:	2	*Modify:*	0
Reverse:	0	*Remand/Other:*	2

[a]All cases that were heard and decided by an ALJ.

[b]Commission ordered relief granted after hearing set, but before ALJ decision.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 9]

A) **Prehearing & Hrg.** (separate days)

[N = 9]	(avg)	2.3	(min)	1
	(med	2.1	(max)	4

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 8]	(avg)	6.1	(min)	2
	(med)	4.2	(max)	16

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 6]	(avg)	11.2	(min)	0
	(med)	6.0	(max)	23

G) **No. Pages Briefs**

[N = 5]	(avg)	67.0	(min)	44
	(med)	70.0	(max)	91

H) **No. Pages Transcripts**

[N = 9]	(avg)	225.7	(min)	8
	(med)	147.0	(max)	617

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 5]	(avg)	21.8	(min)	5
	(med)	21.0	(max)	38

K) **Oral Argument**

[N = 9]	Yes	0
	No	9

Agency: FPC

Casetype: Producer Special Rate Relief Cases

Total Number of Case-Closed Cards Submitted: 27

I) ELAPSED TIME DATA (in days) (Procedures same as in Pipeline Certificate cases.)

A) **Prehearing Stage**

[N = 25]	(avg)	134.4	(min)	25
	(med)	107.0	(max)	603

B) **Hearing Stage**

[N = 7]	(avg)	254.6	(min)	127
	(med)	155.0	(max)	542

C) **Posthearing Stage**

[N = 6] (1) *Cases Reviewed by Agency*

(avg)	138.5	(min)	43
(med)	154.5	(max)	190

[N = 1] (2) *All Other Cases*

(avg)	381.0	(min)	381
(med)	381.0	(max)	381

D) **Total Time**

[N = 6] (1) *Cases Reviewed by Agency*

(avg)	595.2	(min)	239
(med)	432.0	(max)	1335

[N = 19] (2) *All Other Cases*

(avg)	277.9	(min)	69
(med)	211.0	(max)	887

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	7
Withdrawal/Consent	9
Dismissal	0
Other	3[b]

B) **On Merits:**

ALJ Hrg. & Decision	7
ALJ Hrg. w/o Decision	1
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 6
No: 0

B) **Results of Review**

Affirm:	4	*Modify:*	1
Reverse:	0	*Remand/Other:*	3

[a]All cases that were heard and decided by an ALJ.

[b]Commission ordered relief granted after hearing set, but before ALJ decision.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 19]

A) **Prehearing & Hrg.** (separate days)

[N = 19]	(avg)	1.9	(min)	1
	(med)	1.7	(max)	4

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 16]	(avg)	4.3	(min)	0
	(med)	3.1	(max)	13

D) **Hours of ALJ Travel**

[N = 2]	(avg)	0	(min)	0
	(med)	0	(max)	0

E) **No. of Contested Motions**

[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0

F) **No. of Evid. Docs.** (excl Briefs)

[N = 10]	(avg)	8.6	(min)	0
	(med)	9.5	(max)	25

G) **No. Pages Briefs**

[N = 8]	(avg)	249.1	(min)	0
	(med)	39.5	(max)	1222

H) **No. Pages Transcripts**

[N = 17]	(avg)	129.8	(min)	11
	(med)	86.0	(max)	482

I) **No. Pages Exhibits**

[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0

J) **No. Pages Written Opinion**

[N = 8]	(avg)	10.6	(min)	5
	(med)	9.0	(max)	26

K) **Oral Argument**

[N = 17]	Yes	0
	No	17

Agency: FPC

Casetype: Producer Abandonment cases

Total Number of Case-Closed Cards Submitted: 1

I) ELAPSED TIME DATA (in days) (Procedures same as in Pipeline Certificate cases.)

A) **Prehearing Stage**

[N = 1]	(avg)	313.0	(min)	313
	(med)	313.0	(max)	313

B) **Hearing Stage**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **Posthearing Stage**

[N =] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N =] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N =] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 0] (2) *All Other Cases*

(avg)	455.0	(min)	455
(med)	455.0	(max)	455

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	1
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 0

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 1]

A) **Prehearing & Hrg.** (separate days)

[N = 1]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 1]	(avg)	3.0	(min)	3
	(med)	3.0	(max)	3

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 1]	(avg)	7.0	(min)	7
	(med)	7.0	(max)	7

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 1]	(avg)	99.0	(min)	99
	(med)	99.0	(max)	99

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

K) **Oral Argument**

[N = 1]	Yes	0
	No	1

Agency: FPC

Casetype: Producer Limited Term Certificate cases

Total Number of Case-Closed Cards Submitted: 2

I) ELAPSED TIME DATA (in days) (Procedures same as in Pipeline Certificate cases.)

A) **Prehearing Stage**

[N = 2]	(avg)	126.0	(min)	67
	(med)	126.0	(max)	185

B) **Hearing Stage**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **Posthearing Stage**

[N = 0]	(1) *Cases Reviewed by Agency*				
		(avg)	—	(min)	—
		(med)	—	(max)	—
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

D) **Total Time**

[N = 0]	(2) *Cases Reviewed by Agency*				
		(avg)	—	(min)	—
		(med)	—	(max)	—
[N = 2]	(2) *All Other Cases*				
		(avg)	169.5	(min)	100
		(med)	169.5	(max)	239

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	2
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 0

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 0]

A) **Prehearing & Hrg.** (separate days)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

K) **Oral Argument**

[N = 0]	Yes	—
	No	—

Agency: FPC

Casetype: Electric Rate Cases

Total Number of Case-Closed Cards Submitted: 48

I) ELAPSED TIME DATA (in days) (Same general procedures as in Pipeline Rate cases.)

A) **Prehearing Stage**

[N = 48]	(avg)	117.4	(min)	0
	(med)	60.1	(max)	774

B) **Hearing Stage**

[N = 12]	(avg)	501.2	(min)	119[a]
	(med)	449.0	(max)	1176

C) **Posthearing Stage**

[N = 12] (1) *Cases Reviewed by Agency*

(avg)	301.0	(min)	37[a]
(med)	168.5	(max)	834

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 12] (1) *Cases Reviewed by Agency*

(avg)	918.5	(min)	156[a]
(med)	725.0	(max)	2613

[N = 36] (2) *All Other Cases*

(avg)	455.5	(min)	70
(med)	383.5	(max)	1084

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	23
Withdrawal/Consent	3
Dismissal	0[b]
Other	9

B) **On Merits:**

ALJ Hrg. & Decision	12
ALJ Hrg. w/o Decision	1
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 12
No: 0

B) **Results of Review**

Affirm:	10	*Modify:*	1
Reverse:	0	*Remand/Other:*	1

[a]All 12 cases were heard and decided by an ALJ and reviewed by the Commission.

[b]Commission ordered relief granted after hearing set, but before ALJ decision.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 28]

A) **Prehearing & Hrg.** (separate days)

[N = 26]	(avg)	6.9	(min)	0
	(med)	2.5	(max)	73

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 20]	(avg)	5.1	(min)	2
	(med)	4.8	(max)	10

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 18]	(avg)	24.1	(min)	3
	(med)	19.5	(max)	75

G) **No. Pages Briefs**

[N = 12]	(avg)	2045.9	(min)	0
	(med)	111.0	(max)	22,123

H) **No. Pages Transcripts**

[N = 26]	(avg)	775.2	(min)	0
	(med)	265.5	(max)	7144

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	8

J) **No. Pages Written Opinion**

[N = 12]	(avg)	30.3	(min)	4
	(med)	13.5	(max)	192

K) **Oral Argument**

[N = 24]	Yes	1
	No	23

Notes and Comments:

Investigated by the Bureau of Power. Otherwise same as a Pipeline Rate case.

Agency: FPC

Casetype: Accounting Procedure Cases

Total Number of Case-Closed Cards Submitted: 1

I) ELAPSED TIME DATA (in days) (Same general procedures as in rate cases.)

A) **Prehearing Stage**

[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0

B) **Hearing Stage**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **Posthearing Stage**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 1] (2) *All Other Cases*

(avg)	250.0	(min)	250
(med)	250.0	(max)	250

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	1
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 0

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 0]

A) **Prehearing & Hrg.** (separate days)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

K) **Oral Argument**

[N = 0]	Yes	—
	No	—

Notes and Comments:

Case is initiated when the Commission challenges a company's accounting practices. Procedures are otherwise similar to rate cases.

Agency: FPC

Casetype: Licensed Project Cases

Total Number of Case-Closed Cards Submitted: 1

I) ELAPSED TIME DATA (in days) (Same general procedures as in Pipeline Certificate cases.)

A) **Prehearing Stage**

[N = 1]	(avg)	240.0	(min)	240
	(med)	240.0	(max)	240

B) **Hearing Stage**

[N = 1]	(avg)	457.0	(min)	457
	(med)	457.0	(max)	457

C) **Posthearing Stage**

[N = 1]	(1) *Cases Reviewed by Agency*				
		(avg)	165.0	(min)	165
		(med)	165.0	(max)	165
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

D) **Total Time**

[N = 1]	(1) *Cases Reviewed by Agency*				
		(avg)	862.0	(min)	862
		(med)	862.0	(max)	862
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	1
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 1
No: 0

B) **Results of Review**

Affirm:	1	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 1]

A) **Prehearing & Hrg.** (separate days)

[N = 1]	(avg)	3.0	(min)	3
	(med)	3.0	(max)	3

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 1]	(avg)	4.0	(min)	4
	(med)	4.0	(max)	4

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 1]	(avg)	17.0	(min)	17
	(med)	17.0	(max)	17

G) **No. Pages Briefs**

[N = 1]	(avg)	36.0	(min)	36
	(med)	36.0	(max)	36

H) **No. Pages Transcripts**

[N = 1]	(avg)	350.0	(min)	350
	(med)	350.0	(max)	350

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 1]	(avg)	9.0	(min)	9
	(med)	9.0	(max)	9

K) **Oral Argument**

[N = 1]	Yes	0
	No	1

Notes and Comments:

Same procedures as in Pipeline Certificate cases except handled by Bureau of Power. NEPA statement may be required in prehearing stage.

Agency: FPC

Casetype: Freedom of Information Act Determinations

Total Number of Case-Closed Cards Submitted: 1

I) ELAPSED TIME DATA (in days) (See Comments, below.)

A) **Prehearing Stage**

[N = 1]	(avg)	48.0	(min)	48
	(med)	48.0	(max)	48

B) **Hearing Stage**

[N = 1]	(avg)	39.0	(min)	39
	(med)	39.0	(max)	39

C) **Posthearing Stage**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	52.0	(min)	52
(med)	52.0	(max)	52

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	139.0	(min)	139
(med)	139.0	(max)	139

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	1
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 1
No: 0

B) **Results of Review**

Affirm:	0	*Modify:*	0
Reverse:	1	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 1)

A) **Prehearing & Hrg.** (separate days)

[N = 1]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 1]	(avg)	3.0	(min)	3
	(med)	3.0	(max)	3

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 1]	(avg)	11.0	(min)	11
	(med)	11.0	(max)	11

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 1]	(avg)	174.0	(min)	174
	(med)	174.0	(max)	174

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 1]	(avg)	10.0	(min)	10
	(med)	10.0	(max)	10

K) **Oral Argument**

[N = 1]	Yes	1
	No	0

Notes and Comments:

CALJ assigned to render initial decision on FOIA request for FPC documents. Such determinations are normally made informally, without ALJ involvement.

Agency: FTC

Casetype: Bureau of Consumer Protection Cases

Total Number of Case-Closed Cards Submitted: 28

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Order of formal investigation to issuance of complaint.

[N = 28]	(avg)	627.8	(min)	71
	(med)	405.0	(max)	2392

B) **Hearing Stage** Issuance of complaint to date of ALJ's decision.

[N = 28]	(avg)	333.1	(min)	55
	(med)	283.5	(max)	847

C) **Posthearing Stage** ALJ's decision to date of Commission's Order.

[N = 21] (1) *Cases Reviewed by Agency*

(avg)	195.6	(min)	33
(med)	162.0	(max)	580

[N = 7] (2) *All Other Cases*

(avg)	213.1	(min)	43[a]
(med)	187.0	(max)	465

D) **Total Time**

[N = 21] (1) *Cases Reviewed by Agency*

(avg)	1220.0	(min)	618
(med)	952.0	(max)	3132

[N = 7] (2) *All Other Cases*

(avg)	983.5	(min)	440[a]
(med)	821.0	(max)	1798

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	11[b]
Dismissal	1[c]
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	14[e]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	2[d]

III) AGENCY REVIEW

A) *Yes:* 28
No: 0

B) **Results of Review**

Affirm:	15	*Modify:*	0[f]
Reverse:	2	*Remand/Other:*	11

[a] It was later determined that these 7 cases were "withdrawals" which are in fact reviewed by the Commission. The effect of withdrawing or dismissing a case is to shorten the hearing stage. The 12 such cases averaged 212 days, compared to the 16 cases decided on the merits which averaged 424 days. However there was no real difference between these two groupings of cases in the posthearing stage; each averaged about 200 days for Commission review.

[b] *Withdrawal:* Often a joint motion to withdraw the matter from adjudication is made to effect a settlement or to seek a consent order. In such a case, the ALJ ordinarily will certify the motion and the Commission will order the matter withdrawn (ending the separation of functions requirement) and then will issue the final order and decision. The question at that point is whether the settlement is in the public interest.

[c] *Dismissals:* The Commission may dismiss an action outright in rare instances (e.g. death of respondent, district court litigation).

[d] *ALJ Decision w/o Hearing:* Occasionally the ALJ may decide a case in which the only question remaining is one of law. The hearing may be waived.

[e] Average elapsed time in the hearing stage: 465.4 days [N = 14].

[f] These 11 were motions to withdraw, certified by the ALJ and granted by the Commission.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 22]

A) **Prehearing & Hrg.** (separate days)

[N = 22]	(avg)	9.9	(min)	1
	(med)	6.8	(max)	44

B) **Prehearing & Hrg.** (actual hours)

[N = 22]	(avg)	76.7[g]	(min)	2
	(med)	55.0	(max)	352

C) **No. of Parties & Intervenors**

[N = 28]	(avg)	3.0	(min)	1
	(med)	2.1	(max)	16

D) **Hours of ALJ Travel**

[N = 16]	(avg)	9.8	(min)	0
	(med)	4.0	(max)	36

E) **No. of Contested Motions**

[N = 19]	(avg)	4.5	(min)	0
	(med)	4.7	(max)	14

F) **No. of Evid. Docs.** (excl Briefs)

[N = 13]	(avg)	47.8	(min)	1
	(med)	49.0	(max)	87

G) **No. Pages Briefs**

[N = 11]	(avg)	197.4	(min)	30
	(med)	97.0	(max)	602

H) **No. Pages Transcripts**

[N = 19]	(avg)	1009.9	(min)	8
	(med)	418	(max)	6526

I) **No. Pages Exhibits**

[N = 7]	(avg)	938.4	(min)	12
	(med)	328.0	(max)	3500

J) **No. Pages Written Opinion**

[N = 18]	(avg)	40.7	(min)	3
	(med)	38.0	(max)	90

K) **Oral Argument**

[N = 14]	Yes	5
	No	9

[g] Information submitted by the Chief ALJ shows that the total amount of hours spent on each case by the ALJ was about 5 times the amount of hours spent in the hearing and prehearing.

Notes and Comments:

Procedures: The prehearing stage begins when the head of the particular enforcement office signs the order of formal investigation. The case is then assigned a seven-digit number. The staff then may send a memorandum to the Commission urging that a complaint be issued. If the complaint issues, it is printed, docketed with a four-digit number and sent to the CALJ's office about a week after issuance. It is assigned to the ALJ immediately. By regulation, the ALJ's decision ordinarily must be filed within 90 days of completion of the reception of evidence. The loser has 10 days to file a notice of intention to appeal to the Commission, but the Commission may review the case on its own motion. The briefing periods are 30 days + 30 days (reply) + 7 days (supplemental). Oral argument before the Commission may be held.

Agency: FTC

Casetype: Bureau of Competition Cases

Total Number of Case-Closed Cards Submitted: 13

I) ELAPSED TIME DATA (in days) (Procedures same as in Bureau of Consumer Protection cases.)

A) **Prehearing Stage**

[N = 10]	(avg)	973.2	(min)	56
	(med)	779.0	(max)	1998

B) **Hearing Stage**

[N = 12]	(avg)	526.0	(min)	72
	(med)	428.0	(max)	968

C) **Posthearing Stage**

[N = 10] (1) *Cases Reviewed by Agency*

(avg)	287.3	(min)	116
(med)	213	(max)	714

[N = 2] (2) *All Other Cases*

(avg)	254.0	(min)	159[a]
(med)	254.0	(max)	349

D) **Total Time**

[N = 8] (1) *Cases Reviewed by Agency*

(avg)	1845.6	(min)	476
(med)	2121.5	(max)	2999

[N = 2] (2) *All Other Cases*

(avg)	1574.5	(min)	627[a]
(med)	1574.5	(max)	2522

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	7[b]
Dismissal	1[c]
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	5[d]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

[a]It was later determined that these 2 cases were "withdrawals" which are in fact reviewed by the Commission. The effect of withdrawing or dismissing a case is to shorten the hearing stage. Such cases averaged 440 days compared to the 5 cases decided on the merits which averaged 646 days. Also, unlike in the Bureau of Consumer Protection cases, the posthearing stage was also shortened in withdrawal situations, averaging 190 days for Commission review, compared to 411 days for the 5 cases decided on the merits.

[b]See explanation in Bureau of Consumer Protection cases.

[c]See explanation in Bureau of Consumer Protection cases.

[d]See explanation in Bureau of Consumer Protection cases.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 42]

A) **Prehearing & Hrg.** (separate days)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 36]	(avg)	130.8	(min)	4
	(med)	75.5	(max)	745

I) **No. Pages Exhibits**

[N = 14]	(avg)	16.7	(min)	0
	(med)	6.5	(max)	58

J) **No. Pages Written Opinion**

[N = 112]	(avg)	7.8	(min)	2
	(med)	5.7	(max)	44

K) **Oral Argument**

[N = 0]	Yes	—
	No	—

Notes and Comments:

[a]Includes one remand and seven motions to withdraw, certified by the ALJ and granted by the Commission.

[b]Information submitted by the Chief ALJ shows that the total amount of hours spend on each case by the ALJ was about 5 times the amount of hours spent in the hearing and prehearing.

Procedures: Same as in Bureau of Consumer Protection cases.

Agency: Dept. of Interior

Casetype: Coal Mine Health and Safety Act Civil Penalty Cases

Total Number of Case-Closed Cards Submitted: 364 (Sample of 9106)*

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** No data available for this stage.

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

B) **Hearing Stage** MESA's complaint filed to date of ALJ's initial decision.

[N = 364]	(avg)	296.6	(min)	22
	(med)	276.5	(max)	1113

C) **Posthearing Stage**

[N = 0]	(1) *Cases Reviewed by Agency*				
		(avg)	—	(min)	—
		(med)	—	(max)	—
[N = 361]	(2) *All Other Cases*				
		(avg)	5.8	(min)	0
		(med)	0.03	(max)	535

D) **Total Time**

[N = 0]	(1) *Cases Reviewed by Agency*				
		(avg)	—	(min)	—
		(med)	—	(max)	—
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	34[a]
Withdrawal/Consent	10[b]
Dismissal	206[c]
Other	1

B) **On Merits:**

ALJ Hrg. & Decision	39[e]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	74[d]

III) AGENCY REVIEW

A) *Yes:* ?
No: ?

B) **Results of Review**

Affirm:	—	*Modify*	—
Reverse:	—	*Remand/Other*	—

*Due to the extremely heavy volume of these cases (caused by the lifting of an injunction against the Department in a NEPA suit), we agreed to the submission of data on every 25th case that was terminated. The total terminations for FY 1975 was 9,106.

[a]MESA settles with respondent.

[b]MESA withdraws complaint.

[c]MESA's complaint dismissed.

[d]ALJ makes initial decision assessing penalty without hearing (usually where respondent is held in default).

[e]Average elapsed time in the hearing stage: 414 days [N = 39].

III) AGENCY REVIEW

A) *Yes:* 13
No: 0

B) **Results of Review**

Affirm:	3	*Modify:*	0
Reverse:	1	*Remand/Other:*	8[e]

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 12]

A) **Prehearing & Hrg.** (separate days)

[N = 12]	(avg)	18.5	(min)	1
	(med)	4.5	(max)	79

B) **Prehearing & Hrg.** (actual hours)

[N = 12]	(avg)	148.0[f]	(min)	8
	(med)	36.0	(max)	632

C) **No. of Parties & Intervenors**

[N = 12]	(avg)	3.4	(min)	1
	(med)	1.9	(max)	20

D) **Hours of ALJ Travel**

[N = 9]	(avg)	13.6	(min)	0
	(med)	2.4	(max)	60

E) **No. of Contested Motions**

[N = 10]	(avg)	7.5	(min)	1
	(med)	6.0	(max)	25

F) **No. of Evid. Docs.** (excl Briefs)

[N = 5]	(avg)	26.6	(min)	2
	(med)	23.0	(max)	64

G) **No. Pages Briefs**

[N = 4]	(avg)	133.8	(min)	0
	(med)	89.2	(max)	535

H) **No. Pages Transcripts**

[N = 11]	(avg)	2100.5	(min)	53
	(med)	813.0	(max)	10,708

I) **No. Pages Exhibits**

[N = 3]	(avg)	274.0	(min)	0
	(med)	72.0	(max)	750

J) **No. Pages Written Opinion**

[N = 7]	(avg)	90.3	(min)	0
	(med)	57.0	(max)	407

K) **Oral Argument**

[N = 8]	Yes	2
	No	6

Notes and Comments:

Procedures: These cases are initiated by the Mining Enforcement and Safety Administration (MESA) by filing a complaint with the Office of Hearings and Appeals. The respondent has 30 days after service to answer and request a hearing. If the respondent fails to file a timely answer or fails to respond to a prehearing order the OHA issues an order to show cause why the respondent should not be held in default. If such an order is not satisfied, the hearing is deemed waived and the penalty may be assessed. After service of the ALJ's initial decision, the losing party may file a notice of appeal to the Board of Mine Operations Appeals within 20 days. Twenty days are allowed for briefing and reply briefing.

Note: The information received on these cases is obviously incomplete. The OHA could not supply any information about the prehearing stage, i.e., the time when MESA was preparing its petition.

The elapsed time in the hearing stage must be broken down by manner of termination. The 39 cases which involved ALJ hearings and decisions averaged 414 days. The 74 cases involving ALJ decisions w/o a hearing averaged 325 days. The 206 dismissals averaged 248 days. It is possible that the number of dismissals might be higher than normal in relation to other types of terminations due to the perceived need to clear a heavy backlog of cases.

The posthearing stage statistics are not reliable. The number of cases appealed to the Board is unknown.

Agency: Dept. of Labor

Casetype: Public Contracts Act

Total Number of Case-Closed Cards Submitted: 3

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Report of violation filed to referral to CALJ.

[N = 1]	(avg)	48.0	(min)	48
	(med)	48.0	(max)	48

B) **Hearing Stage** Referral to CALJ to ALJ's decision.

[N = 3]	(avg)	419.7	(min)	489
	(med)	419.7	(max)	672

C) **Posthearing Stage** ALJ's decision to decision by reviewing Administrator.

[N = 1]	(1) *Cases Reviewed by Agency*				
		(avg)	162.0	(min)	162
		(med)	162.0	(max)	162
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

D) **Total Time**

[N = 0]	(1) *Cases Reviewed by Agency*				
		(avg)	—	(min)	—
		(med)	—	(max)	—
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	1
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	2[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 1
No: 1

B) **Results of Review**

Affirm:	1	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a]Elapsed time in the hearing stage: 580.5 days [N = 2].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 2]

A) **Prehearing & Hrg.** (separate days)

[N = 2]	(avg)	4.5	(min)	3
	(med)	4.5	(max)	6

B) **Prehearing & Hrg.** (actual hours)

[N = 1]	(avg)	45	(min)	45
	(med)	45	(max)	45

C) **No. of Parties & Intervenors**

[N = 2]	(avg)	2.5	(min)	2
	(med)	2.5	(max)	3

D) **Hours of ALJ Travel**

[N = 2]	(avg)	0	(min)	0
	(med)	0	(max)	0

E) **No. of Contested Motions**

[N = 2]	(avg)	5.5	(min)	5
	(med)	5.5	(max)	6

F) **No. of Evid. Docs.** (excl Briefs)

[N = 2]	(avg)	18.0	(min)	17
	(med)	18.0	(max)	19

G) **No. Pages Briefs**

[N = 2]	(avg)	61.0	(min)	22
	(med)	61.0	(max)	100

H) **No. Pages Transcripts**

[N = 2]	(avg)	768	(min)	31
	(med)	768	(max)	1505

I) **No. Pages Exhibits**

[N = 2]	(avg)	121.5	(min)	58
	(med)	121.5	(max)	185

J) **No. Pages Written Opinion**

[N = 2]	(avg)	58.0	(min)	11
	(med)	58.0	(max)	105

K) **Oral Argument**

[N = 2]	Yes	1
	No	1

Notes and Comments:

Procedures: The case is initiated by the filing of a report of a breach of contract or violation of the Act with the Department. The Deputy Solicitor may issue and serve a formal complaint on the respondent, which the respondent has 20 days to answer. After the ALJ issues his initial decision or order, any interested party may file a petition for review and accompanying briefs with the CALJ within 20 days. The petition is heard by the Administrator for Workplace Standards who may deny review or review the case on the merits.

Agency: Dept. of Labor

Casetype: Service Contracts Act

Total Number of Case-Closed Cards Submitted: 35

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Issuance of complaint to referral to CALJ.

[N = 4]	(avg)	117.2	(min)	0
	(med)	5.5	(max)	458

B) **Hearing Stage** Referral to CALJ to ALJ's decision.

[N = 34]	(avg)	188.2	(min)	62
	(med)	159.5	(max)	484

C) **Posthearing Stage** ALJ's decision to decision by reviewing Administrator.

[N = 2] (1) *Cases Reviewed by Agency*

(avg)	173.5	(min)	99
(med)	173.5	(max)	248

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	3
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	24[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	8

III) AGENCY REVIEW

A) *Yes:* 5
No: 27

B) **Results of Review**

Affirm:	3	*Modify:*	0
Reverse:	0	*Remand/Other:*	2

[a]Average elapsed time in the hearing stage: 200.6 days [N = 23].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 24]

A) **Prehearing & Hrg.** (separate days)

[N = 24]	(avg)	1.4	(min)	1
	(med)	1.3	(max)	3

B) **Prehearing & Hrg.** (actual hours)

[N = 19]	(avg)	6.7	(min)	1
	(med)	4.2	(max)	16

C) **No. of Parties & Intervenors**

[N = 20]	(avg)	6.6	(min)	1
	(med)	5.5	(max)	16

D) **Hours of ALJ Travel**

[N = 20]	(avg)	14.8	(min)	2
	(med)	14.5	(max)	51

E) **No. of Contested Motions**

[N = 11]	(avg)	3.5	(min)	0
	(med)	2.8	(max)	10

F) **No. of Evid. Docs.** (excl Briefs)

[N = 15]	(avg)	5.3	(min)	0
	(med)	3.7	(max)	19

G) **No. Pages Briefs**

[N = 18]	(avg)	22.1	(min)	0
	(med)	12.5	(max)	75

H) **No. Pages Transcripts**

[N = 24]	(avg)	141.7	(min)	8
	(med)	65.5	(max)	411

I) **No. Pages Exhibits**

[N = 22]	(avg)	46.4	(min)	2
	(med)	18.5	(max)	517

J) **No. Pages Written Opinion**

[N = 30]	(avg)	9.8	(min)	3
	(med)	8.2	(max)	23

K) **Oral Argument**

[N = 24]	Yes	16
	No	8

Notes and Comments:

Procedures: The proceeding is initiated by the issuance of a complaint by the Deputy Solicitor which is served on the respondent. (In most of these cases data for the prehearing stage are incomplete.) The case is referred to an ALJ, but the hearing may be deferred to permit consent negotiations to take place. After all evidence has been received, the parties have 10 days to file proposed findings and conclusions along with a brief. After the initial decision, aggrieved parties have 20 days to file exceptions thereto. Appeal is had to the Administrator of the Wage and Hour Division (or his representative) who must make a decision.

Agency: Dept. of Labor

Casetype: Executive Order 11491 Proceedings

Total Number of Case-Closed Cards Submitted: 106

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Issuance of complaint to referral to CALJ.

[N = 39]	(avg)	105.3	(min)	12
	(med)	75.8	(max)	305

B) **Hearing Stage** Referral to CALJ to issuance of ALJ's recommended decision.

[N = 105]	(avg)	171.9	(min)	14
	(med)	132.0	(max)	659

C) **Posthearing Stage**

[N = 53]	(1) *Cases Reviewed by Agency*				
		(avg)	143.9	(min)	33
		(med)	120.0	(max)	680
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

D) **Total Time**

[N = 18]	(1) *Cases Reviewed by Agency*				
		(avg)	399.7	(min)	142
		(med)	344.0	(max)	946
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	16
Withdrawal/Consent	35
Dismissal	0
Other	1

B) **On Merits:**

ALJ Hrg. & Decision	54[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 53
No: 1

B) **Results of Review**

Affirm:	46	*Modify:*	4
Reverse:	2	*Remand/Other:*	1

[a]Average elapsed time in the hearing stage: 234.1 days [N = 54].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 66]

A) Prehearing & Hrg. (separate days)				
[N = 65]	(avg)	1.7	(min)	0
	(med)	1.3	(max)	7
B) Prehearing & Hrg. (actual hours)				
[N = 39]	(avg)	8.1	(min)	0
	(med)	4.4	(max)	58
C) No. of Parties & Intervenors				
[N = 39]	(avg)	3.7	(min)	2
	(med)	2.8	(max)	16
D) Hours of ALJ Travel				
[N = 39]	(avg)	9.2	(min)	0
	(med)	9.9	(max)	19
E) No. of Contested Motions				
[N = 29]	(avg)	1.0	(min)	0
	(med)	0.2	(max)	14
F) No. of Evid. Docs. (excl Briefs)				
[N = 30]	(avg)	7.6	(min)	0
	(med)	0.5	(max)	44
G) No. Pages Briefs				
[N = 34]	(avg)	1143.6	(min)	0
	(med)	17.5	(max)	38,116
H) No. Pages Transcripts				
[N = 66]	(avg)	226.5	(min)	0
	(med)	138.5	(max)	1307
I) No. Pages Exhibits				
[N = 51]	(avg)	42.3	(min)	0
	(med)	15.7	(max)	300
J) No. Pages Written Opinion				
[N = 59]	(avg)	13.3	(min)	0
	(med)	12.0	(max)	44
K) Oral Argument				
[N = 59]	Yes	41		
	No	18		

Notes and Comments:

Procedures: Most cases are similar to NLRB unfair labor practice cases. The prehearing stage is initiated by a complaint filed with the Assistant Secretary. A response by the respondent is due within 15 days. The Area Director conducts an investigation of the charges. Unless the parties stipulate that the Assistant Secretary may decide the case without a hearing (not counted by our statistics), the case is sent to the Assistant Regional Director who may take one of several actions including issue a notice of hearing. A case set for hearing is transferred to the CALJ's office and the ALJ is designated. Briefs may be filed within 7 days of the close of the hearing. The ALJ shall then "expeditiously" prepare his report and "recommended decision" which is forwarded to the Assistant Secretary for his review, whether or not exceptions are filed.

In representation proceedings, most hearings, when necessary, are conducted by non-ALJ "hearing examiners." However, in two circumstances, ALJs preside: when hearings are required to resolve substantial factual issues raised by a petition for "determination of eligibility for national consultation rights" [§202.3(e)], or when an agency head determines that the internal security of the agency is endangered [§202.8(a)(2)]. In these proceedings, the above procedures are generally applicable as well, except that the ALJ does not make a recommended decision, but only certifies the record to the Assistant Secretary.

Similarly when employees file complaints against the union (under part 204), resulting hearings are presided over by ALJs. Similar procedures are used.

Part 205 provides for hearings to resolve factual questions arising when an application for a decision by the Assistant Secretary concerning a question of coverage of existing grievance or arbitration agreements. The above procedures are followed.

Comments: The elapsed time in the hearing stage varies according to the manner of termination as follows (overall average 171.9 days):

Settlement	115.7 days [N = 16]
Withdrawal of complaint	102.0 days [N = 34]
ALJ hrg. and decision	234.1 days [N = 54]

Agency: Dept. of Labor

Casetype: Fair Labor Standards Act of 1938
Rulemaking Proceedings

Total Number of Case-Closed Cards Submitted: 3

I) ELAPSED TIME DATA (in days)

A) **Prehearing Stage** No information available.

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

B) **Hearing Stage** Referral to ALJ to issuance of ALJ's certification of the record.

[N = 3]	(avg)	147.0	(min)	77
	(med)	80.0	(max)	284

C) **Posthearing Stage** ALJ's certification of the record to issuance of regulations.

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 2] (2) *All Other Cases*

(avg)	134.0	(min)	91
(med)	134.0	(max)	177

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	1
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	2
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 0

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 2]

A) **Prehearing & Hrg.** (separate days)

[N = 2]	(avg)	3.0	(min)	1
	(med)	3.0	(max)	5

B) **Prehearing & Hrg.** (actual hours)

[N = 2]	(avg)	19.5	(min)	7
	(med)	19.5	(max)	32

C) **No. of Parties & Intervenors**

[N = 2]	(avg)	11.0	(min)	10
	(med)	11.0	(max)	12

D) **Hours of ALJ Travel**

[N = 2]	(avg)	0	(min)	0
	(med)	0	(max)	0

E) **No. of Contested Motions**

[N = 2]	(avg)	0	(min)	0
	(med)	0	(max)	0

F) **No. of Evid. Docs.** (excl Briefs)

[N = 2]	(avg)	0	(min)	0
	(med)	0	(max)	0

G) **No. Pages Briefs**

[N = 2]	(avg)	0	(min)	0
	(med)	0	(max)	0

H) **No. Pages Transcripts**

[N = 2]	(avg)	390.0	(min)	185
	(med)	390.0	(max)	595

I) **No. Pages Exhibits**

[N = 2]	(avg)	115.0	(min)	8
	(med)	115.0	(max)	222

J) **No. Pages Written Opinion**

[N = 2]	(avg)	0	(min)	0
	(med)	0	(max)	0

K) **Oral Argument**

[N = 2]	Yes	2
	No	0

Notes and Comments:

These are rulemaking proceedings which sometimes require an evidentiary hearing, presided over by an ALJ.

Agency: Dept. of Labor

Casetype: Office of Federal Contract Compliance Cases

Total Number of Case-Closed Cards Submitted: 4

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** (No information available.)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

B) **Hearing Stage** Referral to CALJ to ALJ's decision.

[N = 4]	(avg)	87.5	(min)	41
	(med)	70.5	(max)	168

C) **Posthearing Stage** ALJ's decision to Secretary's final decision.

[N = 3]	(1) *Cases Reviewed by Agency*			
	(avg)	37.0	(min)	35
	(med)	37.2	(max)	38
[N = 1]	(2) *All Other Cases*			
	(avg)	226.0	(min)	226
	(med)	226.0	(max)	226

D) **Total Time**

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 0]	(2) *All Other Cases*			
	(avg)	—	(min)	—
	(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	3[a]
ALJ Hrg. w/o Decision	1
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 3
No: 0

B) **Results of Review**

Affirm:	3	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a]Average elapsed time in hearing stage: 83.3 days [N = 3].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 4]

A) **Prehearing & Hrg.** (separate days)				
[N = 1]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2
B) **Prehearing & Hrg.** (actual hours)				
[N = 1]	(avg)	9.0	(min)	9
	(med)	9.0	(max)	9
C) **No. of Parties & Intervenors**				
[N = 1]	(avg)	10.0	(min)	10
	(med)	10.0	(max)	10
D) **Hours of ALJ Travel**				
[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0
E) **No. of Contested Motions**				
[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0
F) **No. of Evid. Docs.** (excl Briefs)				
[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0
G) **No. Pages Briefs**				
[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0
H) **No. Pages Transcripts**				
[N = 4]	(avg)	237.5	(min)	77
	(med)	247.0	(max)	379
I) **No. Pages Exhibits**				
[N = 2]	(avg)	45.0	(min)	23
	(med)	45.0	(max)	67
J) **No. Pages Written Opinion**				
[N = 4]	(avg)	8.0	(min)	0
	(med)	10.0	(max)	12
K) **Oral Argument**				
[N = 4]	Yes	4		
	No	0		

Notes and Comments:

Procedures: The cases are initiated by complaints filed by employees or applicants for employment and should be filed not later than 180 days from the alleged discrimination. Complaints may be filed with the Director of the OFCC or with the contracting agency. The Director shall then designate a compliance agency (usually the contracting agency) to investigate each complaint filed and to report its findings. If further investigation is not deemed necessary, and if a found violation has not been resolved by informal means, the Director or the agency with the approval of the Director shall afford the contractor a hearing. Notice is sent to the contractor. The ALJ is appointed by either the Secretary of Labor or other agency head. A labor union may become a party if its contract is an issue. The contractor has 14 days to file an answer. Within 20 days after receipt of the transcript of the testimony given at the hearing, each party may file a brief with the ALJ. Within 20 days the ALJ shall make his recommended decision to the Secretary. Each party has 14 days to file exceptions. (If the hearing was conducted by another agency, the hearing officer makes recommendations to the agency head who decides whether or not to invoke sanctions, subject to the approval of the Director.) (The 4 cases reported above all involve DOL ALJs.)

Agency: Dept. of Labor

Casetype: OSHA - Rulemaking Proceedings

Total Number of Case-Closed Cards Submitted: 13

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Publication of proposal in Federal Register to referral to CALJ.

[N = 7]	(avg)	28.3	(min)	0
	(med)	35.0	(max)	77[a]

B) **Hearing Stage** Referral to CALJ to certification of the record.

[N = 13]	(avg)	144.1	(min)	40
	(med)	140.0	(max)	360

C) **Posthearing Stage** (No information available)

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 0]	(2) *All Other Cases*			
	(avg)	—	(min)	—
	(med)	—	(max)	—

D) **Total Time**

[N = 0]	(1) *Cases Reviewed by Agency*			
	(avg)	—	(min)	—
	(med)	—	(max)	—
[N = 0]	(2) *All Other Cases*			
	(avg)	—	(min)	—
	(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	4
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	9
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 0

B) **Results of Review**

Affirm:	0	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a]This period seems too short to be correct, unless the proceeding is referred to the CALJ's office during the comment period. See notes and comments, below.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 9]

A) Prehearing & Hrg. (separate days)

[N = 6]	(avg)	1.3	(min)	1
	(med)	1.2	(max)	2

B) Prehearing & Hrg. (actual hours)

[N = 6]	(avg)	10.0	(min)	4
	(med)	9.0	(max)	18

C) No. of Parties & Intervenors

[N = 6]	(avg)	7.2	(min)	4
	(med)	6.5	(max)	10

D) Hours of ALJ Travel

[N = 6]	(avg)	8.2	(min)	0
	(med)	8.5	(max)	15

E) No. of Contested Motions

[N = 6]	(avg)	0.8	(min)	0
	(med)	0.5	(max)	5

F) No. of Evid. Docs. (excl Briefs)

[N = 6]	(avg)	8.2	(min)	0
	(med)	4.9	(max)	49

G) No. Pages Briefs

[N = 6]	(avg)	0	(min)	0
	(med)	0	(max)	0

H) No. Pages Transcripts

[N = 9]	(avg)	488.7	(min)	180
	(med)	289.0	(max)	1979

I) No. Pages Exhibits

[N = 8]	(avg)	1300.8	(min)	20
	(med)	65.0	(max)	10,000

J) No. Pages Written Opinion

[N = 6]	(avg)	0	(min)	0
	(med)	0	(max)	0

K) Oral Argument

[N = 7]	Yes	2
	No	5

Notes and Comments:

Comment: These proceedings, although presided over by ALJs, are rulemaking rather than adjudications.

Procedures: The proceedings really commence when the Assistant Secretary of Occupational Safety and Health begins consultations with an advisory committee to seek its recommendations as to the formulation of the proposed rule. (This period is not counted in our statistics, but rules provide that it should not exceed 270 days.) Within 60 days, the Assistant Secretary must then publish notice of proposed rulemaking in the Federal Register. Thirty days are allowed for comment, and a hearing is held at least 10 days after the close of the comment period. The ALJ presides over the hearing, allowing cross-examination on "crucial issues," but makes no initial decision. He certifies the record to the Assistant Secretary who has 60 days to make the final determination to promulgate or not promulgate the rule.

Agency: Dept. of Labor

Casetype: Longshoremen's & Harbor Workers' Compensation Act (and related acts)

Total Number of Case-Closed Cards Submitted: 481

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** District Office's response to referral to CALJ.

[N = 270]	(avg)	308.1	(min)	4
	(med)	176.5	(max)	3256

B) **Hearing Stage** Referral to CALJ to ALJ's decision.

[N = 477]	(avg)	160.5	(min)	2
	(med)	133.0	(max)	584

C) **Posthearing Stage** ALJ's decision to Benefit Review Board's decision.

[N = 76] (1) *Cases Reviewed by Agency*

(avg)	180.7	(min)	30
(med)	189.5	(max)	300

[N = 16] (2) *All Other Cases*

(avg)	145.1	(min)	60
(med)	123.5	(max)	278

D) **Total Time**

[N = 39] (1) *Cases Reviewed by Agency*

(avg)	750.6	(min)	231
(med)	579.0	(max)	3911

[N = 11] (2) *All Other Cases*

(avg)	840.9	(min)	347
(med)	645.0	(max)	2421

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	246
Withdrawal/Consent	28
Dismissal	4
Other	18 [a]

B) **On Merits:**

ALJ Hrg. & Decision	174 [b]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	11

III) AGENCY REVIEW

A) *Yes:* 76
No: 83

B) **Results of Review**

Affirm:	40	*Modify:*	2
Reverse:	2	*Remand/Other:*	33

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 254]

A) **Prehearing & Hrg.** (separate days)

[N = 212]	(avg)	1.3	(min)	0
	(med)	1.1	(max)	3

[a] Remanded to deputy commissioner after referral to CALJ's office.

[b] Average elapsed time in the hearing stage: 245.4 days [N = 174].

B) **Prehearing & Hrg.** (actual hours)

[N = 159]	(avg)	4.7	(min)	0
	(med)	2.8	(max)	25

C) **No. of Parties & Intervenors**

[N = 187]	(avg)	2.9	(min)	1
	(med)	2.7	(max)	7

D) **Hours of ALJ Travel**

[N = 169]	(avg)	7.2	(min)	0
	(med)	4.9	(max)	72

E) **No. of Contested Motions**

[N = 115]	(avg)	1.0	(min)	0
	(med)	0.2	(max)	17

F) **No. of Evid. Docs.** (excl Briefs)

[N = 116]	(avg)	6.6	(min)	0
	(med)	1.3	(max)	51

G) **No. Pages Briefs**

[N = 135]	(avg)	15.7	(min)	0
	(med)	10.8	(max)	269

H) **No. Pages Transcripts**

[N = 256]	(avg)	107.2	(min)	0
	(med)	77.5	(max)	641

I) **No. Pages Exhibits**

[N = 147]	(avg)	41.5	(min)	0
	(med)	10.7	(max)	607

J) **No. Pages Written Opinion**

[N = 202]	(avg)	8.7	(min)	0
	(med)	8.0	(max)	42

K) **Oral Argument**

[N = 211]	Yes	100
	No	111

Notes and Comments:

Procedures: The employer is required to file a report within 10 days after he learns of a covered employee's injury or death. The claimant is supposed to file notice of injury or death with the district's deputy commissioner as well as with the employer within 30 days, however, failure to give such notice does not ordinarily bar the claim absent prejudice.

Claims for compensation must normally be filed with the deputy commissioner within one year of the awareness of injury. Within 10 days after this filing, the deputy commissioner gives written notice to the employer. The employer then has 14 days to controvert the claim. (The claim might not be controverted in which case it becomes due with a penalty if payment is not made within 14 days.) Alternatively, the claim may be withdrawn by the claimant. Once the claim is controverted, however, or the claimant contests an action by the employer, the adjudication process begins. Section 702.301 states that the vast majority of such controversion or contesting results from misunderstandings or clerical errors, easily rectified by an informal conference. If the conference terminates the dispute, no case is recorded. If the parties fail to reach agreement during the conference, the deputy commissioner shall prepare a memo containing his recommendations to the parties who shall have 14 days to agree or disagree. If they disagree, and a hearing is requested, the case is transferred to the CALJ's office. (The prehearing stage begins when the District Office responds to a claim by one of three actions: serving the claim on the employer, notifying the claimant that the employer controverts the right to compensation (sometimes happens prior to claimant's claim), or scheduling a conference (if neither of the first two actions trigger the proceeding and the claimant contests some action by the employer with respect to a claim that is being paid).

The ALJ has 20 days after the close of the hearing to prepare a final decision and compensation order which shall become effective unless appealed within 30 days. A notice of appeal is filed with the deputy commissioner within 30 days of the filing of the decision, and, after the Benefits Review Board acknowledges the notice of appeal, the appellant has 30 days to file the petition for appeal. (Benefits Review Board procedures are set forth in 20 CFR 802.) If the employer balks at payment, the applicant has to seek a supplementary compensation order and then seek federal district court enforcement under 33 USC 918. For our purposes, however, the Board's decision is final agency action.

Comments: The elapsed time in the hearing stage varies according to the manner of termination as follows (overall average 160.5 days):

hearing and decision	245.4 days (N = 172)
decision w/o hearing	165.2 days (N = 11)
withdrawal (w/o hearing)	84.2 days (N = 21)
withdrawal (partial hrg.)	127.1 days (N = 7)
settlement (w/o hearing)	103.8 days (N = 175)
settlement (partial hrg.)	142.1 days (N = 68)
dismissals	123.8 days (N = 4)

Agency: Dept. of Labor

Casetype: Davis Bacon Act

Total Number of Case-Closed Cards Submitted: 1

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Administrator directs hearing to referral to CALJ.

[N = 1]	(avg)	4.0	(min)	4
	(med)	4.0	(max)	4

B) **Hearing Stage** Referral to CALJ to ALJ's decision.

[N = 1]	(avg)	237.0	Pmin)	237
	(med)	237.0	(max)	237

C) **Posthearing Stage**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	1
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 0

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 0]

A) **Prehearing & Hrg.** (separate days)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

K) **Oral Argument**

[N = 0]	Yes	—
	No	—

Notes and Comments:

Procedures: The Act confers upon the Secretary the authority to determine prevailing minimum wages and fringe benefits to laborers and mechanics engaged in government construction contract work. General wage determinations must be published in the Federal Register; determinations made for application si specific projects do not. Such determinations may be made on the basis of information obtained and compiled from various voluntary submissions, see 29 CFR 1.3. A field survey may be deemed necessary, 29 CFR 1.9. And whenever the Administrator (of the Wage and Hour Division) "deems it necessary because of insufficiency of information or impracticality of a field survey or both, he may direct a hearing be held." The CALJ designates an ALJ to proceed to the project area and conduct necessary hearings—29 CFR 1.10. Prehearing conferences are provided. The ALJ is empowered to draft a proposed decision and any interested persons may file exceptions within 5 days. The Administrator shall rule upon any exceptions filed and shall make a determination as to the prevailing wage rates. A further appeal may be taken to the Wage Appeals Board which has the discretion to review such a determination.

Agency: Dept. of Labor

Casetype: Miscellaneous Hearings

Total Number of Case-Closed Cards Submitted: 1

I) ELAPSED TIME DATA (in days)

A) **Prehearing Stage**

[N = 1]	(avg)	34.0	(min)	34
	(med)	34.0	(max)	34

B) **Hearing Stage**

[N = 1]	(avg)	221.0	(min)	221
	(med)	221.0	(max)	221

C) **Posthearing Stage**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	54.0	(min)	54
(med)	54.0	(max)	54

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	309.0	(min)	309
(med)	309.0	(max)	309

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	8
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	1
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 1
No: 0

B) **Results of Review**

Affirm:	1	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 1]

A) **Prehearing & Hrg.** (separate days)

[N = 1]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2

B) **Prehearing & Hrg.** (actual hours)

[N = 1]	(avg)	16.0	(min)	16
	(med)	16.0	(max)	16

C) **No. of Parties & Intervenors**

[N = 1]	(avg)	8.0	(min)	8
	(med)	8.0	(max)	8

D) **Hours of ALJ Travel**

[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0

E) **No. of Contested Motions**

[N = 1]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2

F) **No. of Evid. Docs.** (excl Briefs)

[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0

G) **No. Pages Briefs**

[N = 1]	(avg)	95.0	(min)	95
	(med)	95.0	(max)	95

H) **No. Pages Transcripts**

[N = 1]	(avg)	664.0	(min)	664
	(med)	664.0	(max)	664

I) **No. Pages Exhibits**

[N = 1]	(avg)	27.0	(min)	27
	(med)	27.0	(max)	27

J) **No. Pages Written Opinion**

[N = 1]	(avg)	17.0	(min)	17
	(med)	17.0	(max)	17

K) **Oral Argument**

[N = 1]	Yes	1
	No	0

Notes and Comments:

Comment: Information regarding procedures used in this case is unavailable.

Agency: Maritime Admin.

Casetype: Application for Operating Differential Subsidy (Merchant Marine Act)

Total Number of Case-Closed Cards Submitted: 4

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Date of application to referral to CALJ.

[N = 4]	(avg)	142.2	(min)	78
	(med)	154.5	(max)	172

B) **Hearing Stage** Referral to CALJ to ALJ's decision.

[N = 2]	(avg)	389.0	(min)	178[a]
	(med)	389.0	(max)	600

C) **Posthearing Stage** ALJ's decision to Administration's final decision.

[N = 2] (1) *Cases Reviewed by Agency*

(avg)	213.5	(min)	104[a]
(med)	213.5	(max)	323

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 2] (1) *Cases Reviewed by Agency*

(avg)	725.0	(min)	449[a]
(med)	725.0	(max)	1001

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	2
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	2
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 2
No: 0

B) **Results of Review**

Affirm:	1	*Modify:*	1
Reverse:	0	*Remand/Other:*	0

[a]These 2 cases were heard and decided by an ALJ and reviewed by the Administration.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 2]

A) **Prehearing & Hrg.** (separate days)

[N = 2]	(avg)	4.0	(min)	2
	(med)	4.0	(max)	6

B) **Prehearing & Hrg.** (actual hours)

[N = 2]	(avg)	18.5	(min)	5
	(med)	18.5	(max)	32

C) **No. of Parties & Intervenors**

[N = 4]	(avg)	2.8	(min)	2
	(med)	2.5	(max)	4

D) **Hours of ALJ Travel**

[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0

E) **No. of Contested Motions**

[N = 2]	(avg)	5.0	(min)	4
	(med)	5.0	(max)	6

F) **No. of Evid. Docs.** (excl Briefs)

[N = 4]	(avg)	16.8	(min)	2
	(med)	3.5	(max)	47

G) **No. Pages Briefs**

[N = 1]	(avg)	188.0	(min)	188
	(med)	188.0	(max)	188

H) **No. Pages Transcripts**

[N = 2]	(avg)	377.0	(min)	225
	(med)	377.0	(max)	529

I) **No. Pages Exhibits**

[N = 2]	(avg)	412.5	(min)	225
	(med)	412.5	(max)	600

J) **No. Pages Written Opinion**

[N = 2]	(avg)	31.5	(min)	24
	(med)	31.5	(max)	39

K) **Oral Argument**

[N = 2]	Yes	2
	No	0

Notes and Comments:

Procedures: The prehearing stage is begun when the shipping company submits its application for a subsidy. If the application concerns service already served by citizens of the United States, a hearing must be held on the adequacy of existing service and on the public interest in allowing additional service. Notice of the hearing is published in the Federal Register. An ALJ is designated and after receiving evidence makes an initial decision. Within 20 days after the service of the decision, any party may file exceptions and a brief in support. The Administration may review on its own motion within 30 days. Oral argument is within the Administration's discretion.

Agency: NTSB

Casetype: Medical Enforcement Cases
(Federal Aviation Act, Section 602)

Total Number of Case-Closed Cards Submitted: 221*

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Date of airman's petition to referral to CALJ.

[N = 221]	(avg)	9.4	(min)	0
	(med)	0.1	(max)	560

B) **Hearing Stage** Referral to CALJ to ALJ's decision.

[N = 220]	(avg)	327.7	(min)	1
	(med)	261.5	(max)	1185

C) **Posthearing Stage** ALJ's decision to Board's decision.

[N = 19] (1) *Cases Reviewed by Agency*

(avg)	210.4	(min)	41
(med)	217.3	(max)	389

[N = 201] (2) *All Other Cases*

(avg)	1.2	(min)	0
(med)	0.6	(max)	245

D) **Total Time**

[N = 20] (1) *Cases Reviewed by Agency*

(avg)	552.4	(min)	294
(med)	473.5	(max)	1246

[N = 201] (2) *All Other Cases*

(avg)	332.9	(min)	1
(med)	279.0	(max)	1185

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	56
Withdrawal/Consent	42
Dismissal	18
Other	20

B) **On Merits:**

ALJ Hrg. & Decision	69
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	1

III) AGENCY REVIEW

A) *Yes:* 20
No: 72

B) **Results of Review**

Affirm:	4	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

*For the sake of this analysis, NTSB cases were separated into safety and medical enforcement cases. A total of 590 case reports were submitted to us, although the NTSB reported that 665 cases were, in fact, terminated in FY 1975.

Settlements: Where the parties reach a settlement or the FAA decides to issue a certificate while the airman's petition is pending before the Board. The average elapsed time in the hearing stage for the settlements was 234.4 days (N = 55).

Withdrawals: Where the airman withdraws his petition. The average elapsed time in the hearing stage for the withdrawals was 327.8 days (N = 40).

Dismissals: Where the ALJ grants the FAA's motion to dismiss a petition. Such an order is appealable. The average elapsed time in the hearing stage for the dismissals was 315.6 days (N = 18).

Other: Includes cases where the Chief ALJ determines that the airman has abandoned his petition, cases where the airman dies during the pendency of the case, or where the case was mistakenly accepted for hearing. The average elapsed time for these 20 cases was 471.6 (N = 20).

ALJ Hrg. & Decision: The average elapsed time in the hearing stage for those cases heard and decided by an ALJ was 359.5 days (N = 68).

Note: For 15 cases, the termination was missing.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 68]

A) **Prehearing & Hrg.** (separate days)

[N = 18]	(avg)	1.2	(min)	1
	(med)	1.1	(max)	3

B) **Prehearing & Hrg.** (actual hours)

[N = 19]	(avg)	4.7	(min)	1
	(med)	4.0	(max)	10

C) **No. of Parties & Intervenors**

[N = 16]	(avg)	1.9	(min)	1
	(med)	2.0	(max)	2

D) **Hours of ALJ Travel**

[N = 16]	(avg)	4.6	(min)	0
	(med)	4.3	(max)	8

E) **No. of Contested Motions**

[N = 12]	(avg)	0.7	(min)	0
	(med)	0.2	(max)	4

F) **No. of Evid. Docs.** (excl Briefs)

[N = 14]	(avg)	3.4	(min)	0
	(med)	2.1	(max)	11

G) **No. Pages Briefs**

[N = 9]	(avg)	0	(min)	0
	(med)	0	(max)	0

H) **No. Pages Transcripts**

[N = 18]	(avg)	83.7	(min)	0
	(med)	60.5	(max)	292

I) **No. Pages Exhibits**

[N = 14]	(avg)	14.5	(min)	0
	(med)	2.2	(max)	82

J) **No. Pages Written Opinion**

[N = 7]	(avg)	5.4	(min)	0
	(med)	2.7	(max)	26

K) **Oral Argument**

[N = 28]	Yes	13
	No	15

Notes and Comments:

Procedures: These cases are initiated by airmen who are challenging the action of the Federal Aviation Administrator who has denied an application for the issuance or renewal of an airman's certificate. The airman has 60 days to petition for review before the NTSB.

The prehearing stage is initiated by the filing of such a petition. Ordinarily the case is referred to the CALJ's office the same day. The Administrator has 20 days to answer. The ALJ conducts the hearing and makes the initial decision either in writing or orally. (If oral, a copy is immediately excerpted from the transcript.) Parties may file a notice of appeal within 10 days or the Board may review on its own motion within 20 days. (Those cases not reviewed generally do not reflect this elapsed time in the posthearing stage.) Appeal briefs must be filed within 30 days of service of a written decision or 40 days of an oral decision. Reply briefs must be filed within 30 days of the appeal brief.

In rare cases, an expedited "emergency" proceeding is held. It is not known how many of the above were included.

Comment: A contributing factor to the relatively lengthy hearing stage is the practice of the NTSB's ALJs of delaying the hearing until the airman's pending waiver petition to the FAA, if any, is acted upon by the FAA. Such petitions are frequent, but are rarely granted, and the hearings are delayed for months. Notice the shorter elapsed time in the NTSB's Safety Enforcement cases wherein there is no such practice.

Agency: NTSB

Casetype: Safety Enforcement Cases
(Federal Aviation Act, Section 609)

Total Number of Case-Closed Cards Submitted: 369*

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Date letter received from airman to referral to CALJ.

[N = 367]	(avg)	6.3	(min)	0
	(med)	0.1	(max)	365

B) **Hearing Stage** Referral to CALJ to ALJ's decision.

[N = 360]	(avg)	179.5	(min)	5
	(med)	154.3	(max)	1540

C) **Posthearing Stage** ALJ's decision to Board's decision.

[N = 65]	(1) *Cases Reviewed by Agency*			
	(avg)	151.4	(min)	0
	(med)	140.0	(max)	406
[N = 296]	(2) *All Other Cases*			
	(avg)	1.7	(min)	0
	(med)	0.02	(max)	365

D) **Total Time**

[N = 65]	(1) *Cases Reviewed by Agency*			
	(avg)	363.2	(min)	57
	(med)	337.0	(max)	773
[N = 296]	(2) *All Other Cases*			
	(avg)	174.6	(min)	5
	(med)	154.3	(max)	1540

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	53
Withdrawal/Consent	65
Dismissal	12
Other	7

B) **On Merits:**

ALJ Hrg. & Decision	213
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	3

*For the sake of this analysis, NTSB cases were separated into safety and medical enforcement cases. A total of 590 case reports were submitted to us, although the NTSB reported that 665 cases were, in fact, terminated in FY 1975.

Settlements: Where the parties reach a settlement or the FAA decides to grant an exemption [pursuant to 49 U.S.C. 1421(c)] while the airman's appeal is pending before the Board. The average elapsed time in the hearing stage for the settlements was 185.4 days (N = 51).

Withdrawals: Where the airman withdraws his appeal or the FAA withdraws its order of suspension or revocation. The average elapsed time in the hearing stage for the withdrawals was 134.1 days (N = 55).

Dismissals: Where the ALJ grants the airman's motion to dismiss the complaint, or the FAA's motion to dismiss the appeal. Such an order is appealable. The average elapsed time in the hearing stage for the dismissals was 325.8 days (N = 11).

Other: Includes cases where the Chief ALJ determines that the airman has abandoned his appeal, cases where the airman dies during the pendency of the case, or cases that were mistakenly accepted for hearing. The average elapsed time for these 7 cases was 150.3 days.

ALJ Hrg. & Decision: The average elapsed time in the hearing stage for the cases heard and decided by an ALJ was 181.2 days (N = 212).

Note: For 16 cases the termination was missing.

III) AGENCY REVIEW

A) *Yes:* 65
No: 194

B) **Results of Review**

Affirm:	16	*Modify:*	1
Reverse:	2	*Remand/Other:*	1

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 223]

A) **Prehearing & Hrg.** (separate days)

[N = 63]	(avg)	1.3	(min)	1
	(med)	1.1	(max)	12

B) **Prehearing & Hrg.** (actual hours)

[N = 71]	(avg)	5.9	(min)	1
	(med)	4.7	(max)	72

C) **No. of Parties & Intervenors**

[N = 65]	(avg)	2.0	(min)	1
	(med)	2.0	(max)	3

D) **Hours of ALJ Travel**

[N = 74]	(avg)	4.7	(min)	1
	(med)	4.1	(max)	11

E) **No. of Contested Motions**

[N = 53]	(avg)	1.0	(min)	0
	(med)	0.4	(max)	10

F) **No. of Evid. Docs.** (excl Briefs)

[N = 58]	(avg)	6.1	(min)	0
	(med)	4.1	(max)	23

G) **No. Pages Briefs**

[N = 40]	(avg)	0.02	(min)	0
	(med)	0.01	(max)	1

H) **No. Pages Transcripts**

[N = 80]	(avg)	118.7	(min)	6
	(med)	72.5	(max)	1814

I) **No. Pages Exhibits**

[N = 68]	(avg)	6.5	(min)	0
	(med)	3.1	(max)	60

J) **No. Pages Written Opinion**

[N = 13]	(avg)	3.1	(min)	0
	(med)	0.6	(max)	15

K) **Oral Argument**

[N = 81]	Yes	61
	No	20

Notes and Comments:

Procedures: After an investigation by the Federal Aviation Administrator, the Administrator may issue an order modifying, suspending or revoking an airman's certificate. The airman has 20 days after service to file an appeal with the NTSB.

The prehearing stage is initiated by the filing of such a petition. Ordinarily the case is referred to the CALJ's office the same day. The administrator then formally files the complaint with the Board within 5 days (the airman has 20 days from service to file his answer).

The rest of the procedure is as described in Medical Enforcement cases.

Agency: NRC

Casetype: Construction Permit Reviews (Safety)

Total Number of Case-Closed Cards Submitted: 5

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Date of applicant's "tender" to notice of hearing.

[N = 5]	(avg)	130.4	(min)	58
	(med)	136.0	(max)	196

B) **Hearing Stage** Notice of hearing to Licensing Board's decision.

[N = 5]	(avg)	488.8	(min)	433
	(med)	497.0	(max)	571

C) **Posthearing Stage** Licensing Board's decision to Appeal Board's decision.

[N = 5] (1) *Cases Reviewed by Agency*

(avg)	61.4	(min)	21
(med)	45.0	(max)	132

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 5] (1) *Cases Reviewed by Agency*

(avg)	680.6	(min)	687.0
(med)	609.0	(max)	741.0

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0

B) **On Merits:**

ALJ Hrg. & Decision	5
ALJ Hrg. w/o Decision	0

[N = 5] (1) *Cases Reviewed by Agency*

(avg)	61.4	(min)	21
(med)	45.0	(max)	132

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 5] (1) *Cases Reviewed by Agency*

(avg)	680.6	(min)	687.0
(med)	609.0	(max)	741.0

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0

B) **On Merits:**

ALJ Hrg. & Decision	5
ALJ Hrg. w/o Decision	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 5]

A) **Prehearing & Hrg.** (separate days)

[N = 5]	(avg)	2.6	(min)	1
	(med)	2.8	(max)	4

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 5]	(avg)	3.0	(min)	2
	(med)	3.0	(max)	4

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 4]	(avg)	0	(min)	0
	(med)	0	(max)	0

F) **No. of Evid. Docs.** (excl Briefs)

[N = 4]	(avg)	19.2	(min)	5
	(med)	17.5	(max)	37

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 1]	(avg)	1308.0	(min)	1308
	(med)	1308.0	(max)	1308

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

K) **Oral Argument**

[N = 3]	Yes	0
	No	3

Notes and Comments:

Procedures: The prehearing stage begins when the applicant "tenders" his "preliminary safety analysis report." When the staff deems this preliminary submission to be adequate to start a review, the case is docketed. The applicant may be asked to submit more information, however, to facilitate the staff's review. All applications are noticed in the Federal Register and they are also served on appropriate local officials, the U.S. Attorney General, and the Advisory Committee on Reactor Safeguards for its independent (advisory) evaluation of the safety aspects. When the review is completed, the commission issues its "Supplemental Safety Evaluation."

Notice of hearing is published in the Federal Register and an Atomic Safety Licensing Board (three members, chaired by a lawyer-member) is normally assigned to preside. Prehearing conferences are very important in narrowing the issues for hearing. The hearing is adjudicatory in nature.

After reviewing the filings and the testimony, the Board makes its initial decision which may be appealed to the Atomic Safety and Licensing Appeal Board within 7 days. Briefs and reply briefs are due within 15 and 20 days respectively. (The Commission itself has the authority to review an Appeal Board decision, but only on its own motion; petitions for review are not entertained.) It is assumed (but not known) that none of the above cases involved this extra review step.

Note: See the description of NRC cases in the caseload tables (Part A, p. 59), for an explanation of the different type of licensing proceedings.

Agency: NRC

Casetype: Construction Permit Reviews (Environmental)

Total Number of Case-Closed Cards Submitted: 4

I) ELAPSED TIME DATA (in days) (Procedures similar to Construction Permit Reviews (Safety).)

A) **Prehearing Stage**

[N = 4]	(avg)	148.5	(min)	81
	(med)	143.5	(max)	196

B) **Hearing Stage**

[N = 4]	(avg)	387.0	(min)	344
	(med)	390.0	(max)	424

C) **Posthearing Stage**

[N = 4] (1) *Cases Reviewed by Agency*

(avg)	143.5	(min)	129
(med)	130.5	(max)	181

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 4] (1) *Cases Reviewed by Agency*

(avg)	679.0	(min)	609
(med)	676.0	(max)	741

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	4
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 4
No: 0

B) **Results of Review**

Affirm:	4	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 4]

A) **Prehearing & Hrg.** (separate days)

[N = 4]	(avg)	4.2	(min)	3
	(med)	4.5	(max)	5

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 4]	(avg)	3.0	(min)	2
	(med)	3.0	(max)	4

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 3]	(avg)	3.0	(min)	0
	(med)	2.0	(max)	7

F) **No. of Evid. Docs.** (excl Briefs)

[N = 2]	(avg)	11.0	(min)	8
	(med)	11.0	(max)	14

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

K) **Oral Argument**

[N = 2]	Yes	0
	No	2

Notes and Comments:

The procedures are as described in the safety cases except that the initiating "tender" is of an "environmental report." At the end of the prehearing review process, the Commission issues its "Final Environmental Statement."

Agency: NRC

Casetype: Construction Permit Reviews
(Combined Safety and Environmental)

Total Number of Case-Closed Cards Submitted: 6

I) ELAPSED TIME DATA (in days) (Procedures similar to Construction Permit Reviews (Safety).)

A) **Prehearing Stage**

[N = 6]	(avg)	420.2	(min)	129
	(med)	395.5	(max)	664

B) **Hearing Stage**

[N = 6]	(avg)	669.5	(min)	444
	(med)	641.5	(max)	926

C) **Posthearing Stage**

[N = 6]	(1) *Cases Reviewed by Agency*				
		(avg)	218.2	(min)	146
		(med)	197.0	(max)	298
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

D) **Total Time**

[N = 6]	(1) *Cases Reviewed by Agency*				
		(avg)	1307.8	(min)	770
		(med)	1255.5	(max)	1845
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	6
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 6
No: 0

B) **Results of Review**

Affirm:	5	*Modify:*	1
Reverse:	0	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 6]

A) **Prehearing & Hrg.** (separate days)

[N = 6]	(avg)	29.0	(min)	8
	(med)	19.5	(max)	73

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 6]	(avg)	5.7	(min)	2
	(med)	3.5	(max)	14

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 6]	(avg)	26.5	(min)	2
	(med)	10.5	(max)	74

F) **No. of Evid. Docs.** (excl Briefs)

[N = 5]	(avg)	34.8	(min)	0
	(med)	34.0	(max)	63

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

K) **Oral Argument**

[N = 3]	Yes	1
	No	2

Notes and Comments:

Procedures are similar to those used in the "split" hearings except that here the two staff reports ("Supplemental Safety Evaluation" and "Final Environmental Statement") are issued within a month of each other so the issues are consolidated into a single proceeding.

Agency: NRC

Casetype: Operating License Reviews

Total Number of Case-Closed Cards Submitted: 3

I) ELAPSED TIME DATA (in days) (Procedures generally the same as in Construction Permit Reviews.)

A) **Prehearing Stage**

[N = 3]	(avg)	495.0	(min)	43
	(med)	679.0	(max)	763

B) **Hearing Stage**

[N = 3]	(avg)	511.3	(min)	127
	(med)	365.0	(max)	1042

C) **Posthearing Stage**

[N = 3] (1) *Cases Reviewed by Agency*

(avg)	275.0	(min)	69
(med)	335.0	(max)	421

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 3] (1) *Cases Reviewed by Agency*

(avg)	1281.3	(min)	239
(med)	1379.0	(max)	2226

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	3
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 3
No: 0

B) **Results of Review**

Affirm:	3	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 3]

A) **Prehearing & Hrg.** (separate days)

[N = 3]	(avg)	36.3	(min)	8
	(med)	43.0	(max)	58

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 3]	(avg)	5.0	(min)	3
	(med)	5.2	(max)	6

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 2]	(avg)	10.0	(min)	7
	(med)	10.0	(max)	13

F) **No. of Evid. Docs.** (excl Briefs)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

K) **Oral Argument**

[N = 2]	Yes	1
	No	1

Notes and Comments:

The issues may be different, but the procedures are similar to construction permit reviews.

Agency: NRC

Casetype: Antitrust Reviews

Total Number of Case-Closed Cards Submitted: 4

I) ELAPSED TIME DATA (in days) (Procedures generally the same as in Construction and Operating Permit Reviews.)

A) **Prehearing Stage**

[N = 4]	(avg)	259.2	(min)	116
	(med)	215.0	(max)	481

B) **Hearing Stage**

[N = 4]	(avg)	646.2	(min)	357
	(med)	602.5	(max)	1023

C) **Posthearing Stage**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	81.0	(min)	81
(med)	81.0	(max)	81

[N = 3] (2) *All Other Cases*

(avg)	0	(min)	0
(med)	0	(max)	0

D) **Total Time**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	886.0	(min)	886
(med)	886.0	(max)	886

[N = 3] (2) *All Other Cases*

(avg)	939.0	(min)	698
(med)	838.0	(max)	1281

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	3
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	1[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 1
No: 1

B) **Results of Review**

Affirm:	1	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a]Elapsed time in the hearing stage, 623 days [N = 1].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 1]

A) **Prehearing & Hrg.** (separate days)

[N = 2]	(avg)	9.5	(min)	5
	(med)	9.5	(max)	14

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 1]	(avg)	5.0	(min)	5
	(med)	5.0	(max)	5

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 1]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

F) **No. of Evid. Docs.** (excl Briefs)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

K) **Oral Argument**

[N = 1]	Yes	0
	No	1

Notes and Comments:

Antitrust proceedings may arise out of either construction or operating permit reviews if the Attorney General recommends a separate hearing on antitrust issues. The prehearing stage is still initiated by the application, but during the prehearing review process the Attorney General may make such a recommendation. The hearing and review procedures for these separate proceedings are as described in construction permit reviews, although the issues are obviously different and the Attorney General may participate as a party.

Agency: NRC

Casetype: Miscellaneous Hearings

Total Number of Case-Closed Cards Submitted: 6

I) ELAPSED TIME DATA (in days) (Procedures vary.)

A) **Prehearing Stage**

[N = 6]	(avg)	59.0	(min)	0
	(med)	11.0	(max)	216

B) **Hearing Stage**

[N = 6]	(avg)	476.3	(min)	190
	(med)	466.0	(max)	790

C) **Posthearing Stage**

[N = 6]	(1) *Cases Reviewed by Agency*				
		(avg)	131.2	(min)	39
		(med)	90.0	(max)	214
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

D) **Total Time**

[N = 6]	(1) *Cases Reviewed by Agency*				
		(avg)	667.0	(min)	339
		(med)	692.5	(max)	829
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement(Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	6
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 6
No: 0

B) **Results of Review**

Affirm:	6	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 6]

A) **Prehearing & Hrg.** (separate days)

[N = 6]	(avg)	7.3	(min)	3
	(med)	5.0	(max)	14

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 6]	(avg)	3.5	(min)	2
	(med)	3.8	(max)	5

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 5]	(avg)	5.6	(min)	0
	(med)	4.0	(max)	15

F) **No. of Evid. Docs.** (excl Briefs)

[N = 5]	(avg)	28.6	(min)	7
	(med)	18.0	(max)	74

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

K) **Oral Argument**

[N = 6]	Yes	1
	No	5

Agency: SEC

Casetype: Regulation A Suspensions (1933 Act)

Total Number of Case-Closed Cards Submitted: 13

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below)

A) **Prehearing Stage** Date formal order of investigation issued to date of referral to CALJ.

[N = 10]	(avg)	265.2	(min)	97
	(med)	197.0	(max)	665

B) **Hearing Stage** Referral to CALJ to date of ALJ decision.

[N = 2]	(avg)	220.0	(min)	189
	(med)	220.0	(max)	251

C) **Posthearing Stage** ALJ decision to Commission's final action.

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 2] (2) *All Other Cases*

(avg)	450.0	(min)	50
(med)	450.0	(max)	850

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 12] *(2) All Other Cases*

(avg)	607.6	(min)	378
(med)	558.7	(max)	1347

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	9
Withdrawal/Consent	3
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	1[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 1

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

[a]Elapsed time in the hearing stage: 189 days [N = 1].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 2]

A) **Prehearing & Hrg.** (separate days)

[N = 3]	(avg)	1.3	(min)	0
	(med)	1.0	(max)	3

B) **Prehearing & Hrg.** (actual hours)

[N = 3]	(avg)	10.7	(min)	3
	(med)	14.0	(max)	15

C) **No. of Parties & Intervenors**

[N = 13]	(avg)	2.0	(min)	1
	(med)	2.0	(max)	3

D) **Hours of ALJ Travel**

[N = 3]	(avg)	30.7	(min)	10
	(med)	28.0	(max)	54

E) **No. of Contested Motions**

[N = 3]	(avg)	2.0	(min)	0
	(med)	2.0	(max)	4

F) **No. of Evid. Docs.** (excl Briefs)

[N = 13]	(avg)	12.8	(min)	1
	(med)	9.2	(max)	49

G) **No. Pages Briefs**

[N = 2]	(avg)	87.0	(min)	25
	(med)	87.0	(max)	149

H) **No. Pages Transcripts**

[N = 3]	(avg)	205.3	(min)	31
	(med)	169.0	(max)	416

I) **No. Pages Exhibits**

[N = 2]	(avg)	26.0	(min)	7
	(med)	26.0	(max)	45

J) **No. Pages Written Opinion**

[N = 2]	(avg)	9.0	(min)	0
	(med)	9.0	(max)	18

K) **Oral Argument**

[N = 2]	Yes	0
	No	2

Notes and Comments:

Procedures: Anytime after the filing of a notification of an offering of securities covered by this Regulation, the Commission may initiate the proceeding by entering an order temporarily suspending the exemption from the Act's registration requirements. Upon such an order the Commission gives notice to the affected offeror who has 30 days to request a hearing. Hearing is set within 20 days after such request, and the case is referred to the office of CALJ. Unless waived by the parties and not required by the Commission, the ALJ makes an initial decision. Normally the parties have 30 days after the close of the hearing to submit proposed findings and briefs. Initial decisions are final unless, within 15 days, a petition for review is filed with the Commission. Commission review is discretionary in these cases, but if review is granted or ordered, the periods for briefing and reply briefing are 30 days each.

Agency: SEC

Casetype: Broker/Dealer (1934 Act)

Total Number of Case-Closed Cards Submitted: 77

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Date formal order of investigation issued to date of referral to CALJ.

[N = 77]	(avg)	369.1	(min)	0
	(med)	304.0	(max)	1534

B) **Hearing Stage** Referral to CALJ to date of ALJ decision.

[N = 14]	(avg)	909.6	(min)	302
	(med)	776.5	(max)	2316

C) **Posthearing Stage** ALJ decision to Commission's final action.

[N = 2] (1) *Cases Reviewed by Agency*

(avg)	1626.0	(min)	734
(med)	1626.0	(max)	2518

[N = 12] (2) *All Other Cases*

(avg)	90.0	(min)	33
(med)	55.5	(max)	295

D) **Total Time**

[N = 2] (1) *Cases Reviewed by Agency*

(avg)	2890.5	(min)	1553
(med)	2890.5	(max)	4228

[N = 75] (2) *All Other Cases*

(avg)	879.2	(min)	170
(med)	853.0	(max)	2293

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	56
Withdrawal/Consent	1
Dismissal	0
Other	5

B) **On Merits:**

ALJ Hrg. & Decision	15
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 2
No: 13

B) **Results of Review**

Affirm:	2	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a]All of these cases were decided after hearing by an ALJ.

[b]It seems anomalous that the posthearing stage should exceed 30 days where there is no review.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 20]

A) **Prehearing & Hrg.** (separate days)

[N = 22]	(avg)	4.8	(min)	1
	(med)	3.8	(max)	13

B) **Prehearing & Hrg.** (actual hours)

[N = 21]	(avg)	31.1	(min)	1
	(med)	16.0	(max)	110

C) **No. of Parties & Intervenors**

[N = 74]	(avg)	5.7	(min)	2
	(med)	4.6	(max)	23

D) **Hours of ALJ Travel**

[N = 21]	(avg)	40.0	(min)	0
	(med)	37.0	(max)	96

E) **No. of Contested Motions**

[N = 26]	(avg)	2.4	(min)	0
	(med)	2.0	(max)	14

F) **No. of Evid. Docs.** (excl Briefs)

[N = 74]	(avg)	20.2	(min)	1
	(med)	14.2	(max)	95

G) **No. Pages Briefs**

[N = 24]	(avg)	65.7	(min)	0
	(med)	36.5	(max)	198

H) **No. Pages Transcripts**

[N = 20]	(avg)	530.0	(min)	9
	(med)	323.0	(max)	1567

I) **No. Pages Exhibits**

[N = 20]	(avg)	467.7	(min)	0
	(med)	734.0	(max)	3300

J) **No. Pages Written Opinion**

[N = 17]	(avg)	20.2	(min)	0
	(med)	18.0	(max)	45

K) **Oral Argument**

[N = 20]	Yes	0
	No	20

Notes and Comments:

Procedures: The proceeding is initiated when the Commission issues a formal order of investigation. If the staff's recommendation that a hearing be held is followed, the Commission will issue an "order for proceeding" which generally gives notice of hearing and coincides with the referral of the case to the CALJ's office. Unless the case is settled or unless a decision is waived by the parties and not required by the Commission, the ALJ makes an initial decision. Normally the parties have 30 days after the close of the hearing to submit proposed findings and briefs. (An expedited procedure is available where the proceeding is for suspension of broker-dealer registration pending final determination. It is not known how often this procedure was used.) Initial decisions are final unless, within 15 days, a petition for review is filed with the Commission. In broker-dealer cases, the Commission must review if a petition is filed. The Commission may review on its own motion within 30 days. The periods for briefing and reply briefing are 30 days each.

Agency: SEC

Casetype: Notices/Exceptions (1934 Act)

Total Number of Case-Closed Cards Submitted: 2

I) ELAPSED TIME DATA (in days) (Procedures similar to Broker-Dealer cases; see Comments, below.)

A) **Prehearing Stage** Date of application to referral to CALJ.

[N = 2]	(avg)	230.0	(min)	2
	(med)	230.0	(max)	458

B) **Hearing Stage**

[N = 1]	(avg)	0	(min)	0
	(med)	0	(max)	0

C) **Posthearing Stage**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 1] (2) *All Other Cases*

(avg)	0	(min)	0
(med)	0	(max)	0

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 2] (2) *All Other Cases*

(avg)	294.5	(min)	2
(med)	294.5	(max)	587

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	1
Withdrawal/Consent	0
Dismissal	1
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 0

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 0]

A) **Prehearing & Hrg.** (separate days)

[N = 1]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

B) **Prehearing & Hrg.** (actual hours)

[N = 2]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

C) **No. of Parties & Intervenors**

[N = 2]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 1]	(avg)	7.0	(min)	7
	(med)	7.0	(max)	7

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 1]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

K) **Oral Argument**

[N = 0]	Yes	—
	No	—

Notes and Comments:

Procedures similar to Broker-Dealer cases except the proceeding is initiated by an application. Review by the Commission is discretionary.

Agency: SEC

Casetype: Public Utility Regulation Exemption (1935 Act)

Total Number of Case-Closed Cards Submitted: 2

I) ELAPSED TIME DATA (in days) (Procedures similar to Broker-Dealer cases; see Comments, below.)

A) **Prehearing Stage** Date of application to referral to CALJ.

[N = 2]	(avg)	86.0	(min)	43
	(med)	86.0	(max)	129

B) **Hearing Stage**

[N = 1]	(avg)	1311.0	(min)	1311[a]
	(med)	1311.0	(max)	1311

C) **Posthearing Stage**

[N = 1]	(1) *Cases Reviewed by Agency*				
		(avg)	929.0	(min)	929[a]
		(med)	929.0	(max)	929
[N = 0]	(2) *All Other Cases*				
		(avg)	—	(min)	—
		(med)	—	(max)	—

D) **Total Time**

[N = 1]	(1) *Cases Reviewed by Agency*				
		(avg)	2369.0	(min)	2369[a]
		(med)	2369.0	(max)	2369
[N = 1]	(2) *All Other Cases*				
		(avg)	168.0	(min)	168
		(med)	168.0	(max)	168

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	1
ALJ Hrg. w/o Decision	1
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 1
No: 0

B) **Results of Review**

Affirm:	0	*Modify:*	0
Reverse:	1	*Remand/Other:*	0

[a]This case was decided after an ALJ hearing.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 2]

A) **Prehearing & Hrg.** (separate days)

[N = 2]	(avg)	44.0	(min)	3
	(med)	44.0	(max)	85

B) **Prehearing & Hrg.** (actual hours)

[N = 2]	(avg)	220.5	(min)	16
	(med)	220.5	(max)	425

C) **No. of Parties & Intervenors**

[N = 2]	(avg)	5.0	(min)	3
	(med)	5.0	(max)	7

D) **Hours of ALJ Travel**

[N = 2]	(avg)	0	(min)	0
	(med)	0	(max)	0

E) **No. of Contested Motions**

[N = 2]	(avg)	3.0	(min)	2
	(med)	3.0	(max)	4

F) **No. of Evid. Docs.** (excl Briefs)

[N = 2]	(avg)	43.5	(min)	12
	(med)	43.5	(max)	75

G) **No. Pages Briefs**

[N = 2]	(avg)	416.5	(min)	172
	(med)	416.5	(max)	661

H) **No. Pages Transcripts**

[N = 2]	(avg)	4667.5	(min)	330
	(med)	4667.5	(max)	9005

I) **No. Pages Exhibits**

[N = 2]	(avg)	3527.5	(min)	255
	(med)	3527.5	(max)	6800

J) **No. Pages Written Opinion**

[N = 2]	(avg)	28.5	(min)	0
	(med)	28.5	(max)	57

K) **Oral Argument**

[N = 2]	Yes	0
	No	2

Notes and Comments:

Procedures similar to Broker-Dealer cases except the proceeding is initiated by an application. Review by the Commission is discretionary.

Agency: SEC

Casetype: Investment Adviser (1940 Act)

Total Number of Case-Closed Cards Submitted: 7

I) ELAPSED TIME DATA (in days) (Procedures same as Broker-Dealer cases.)

A) **Prehearing Stage**

[N = 7]	(avg)	54.3	(min)	7
	(med)	41.0	(max)	154

B) **Hearing Stage**

[N = 2]	(avg)	1111.5	(min)	817 [a]
	(med)	1111.5	(max)	1406

C) **Posthearing Stage**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 2] (2) *All Other Cases*

(avg)	53.5	(min)	50 [a]
(med)	53.5	(max)	57

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 7] (2) *All Other Cases*

(avg)	563.6	(min)	155
(med)	508.0	(max)	1470

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	5
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	2
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 2

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

[a]These 2 cases were heard and decided by an ALJ, but were not reviewed by the Commission.

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 3]

A) **Prehearing & Hrg.** (separate days)

[N = 3]	(avg)	2.7	(min)	2
	(med)	2.5	(max)	4

B) **Prehearing & Hrg.** (actual hours)

[N = 3]	(avg)	18.7	(min)	8
	(med)	16.0	(max)	32

C) **No. of Parties & Intervenors**

[N = 7]	(avg)	3.6	(min)	2
	(med)	3.7	(max)	5

D) **Hours of ALJ Travel**

[N = 3]	(avg)	8.7	(min)	6
	(med)	8.0	(max)	12

E) **No. of Contested Motions**

[N = 3]	(avg)	0.3	(min)	0
	(med)	0.2	(max)	1

F) **No. of Evid. Docs.** (excl Briefs)

[N = 7]	(avg)	6.7	(min)	1
	(med)	6.8	(max)	13

G) **No. Pages Briefs**

[N = 3]	(avg)	72.0	(min)	12
	(med)	19.0	(max)	185

H) **No. Pages Transcripts**

[N = 3]	(avg)	285.7	(min)	65
	(med)	67.0	(max)	725

I) **No. Pages Exhibits**

[N = 3]	(avg)	175.0	(min)	0
	(med)	75.0	(max)	450

J) **No. Pages Written Opinion**

[N = 2]	(avg)	24.5	(min)	13
	(med)	24.5	(max)	36

K) **Oral Argument**

[N = 3]	Yes	0
	No	3

Notes and Comments:

Commission review is discretionary.

Agency: SEC

Casetype: Investment Company (1940 Act)

Total Number of Case-Closed Cards Submitted: 4

I) ELAPSED TIME DATA (in days) (Procedures similar to Broker-Dealer cases; see Comments, below.)

A) **Prehearing Stage** Date of application to referral to CALJ.

[N = 4]	(avg)	345.5	(min)	146
	(med)	203.0	(max)	602

B) **Hearing Stage**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **Posthearing Stage**

[N = 0] (1) *Cases Reviewed by Agency*

	(avg)	—	(min)	—
	(med)	—	(max)	—

[N = 0] (2) *All Other Cases*

	(avg)	—	(min)	—
	(med)	—	(max)	—

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

	(avg)	—	(min)	—
	(med)	—	(max)	—

[N = 4] (2) *All Other Cases*

	(avg)	932.2	(min)	576
	(med)	910.0	(max)	1333

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	1
Withdrawal/Consent	0
Dismissal	1
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	1
ALJ Hrg. w/o Decision	1
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 0

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 3]

A) **Prehearing & Hrg.** (separate days)

[N = 3]	(avg)	3.0	(min)	1
	(med)	2.5	(max)	7

B) **Prehearing & Hrg.** (actual hours)

[N = 3]	(avg)	16.7	(min)	1
	(med)	5.0	(max)	44

C) **No. of Parties & Intervenors**

[N = 4]	(avg)	4.5	(min)	2
	(med)	3.5	(max)	7

D) **Hours of ALJ Travel**

[N = 3]	(avg)	0	(min)	0
	(med)	0	(max)	0

E) **No. of Contested Motions**

[N = 4]	(avg)	1.2	(min)	0
	(med)	0.5	(max)	3

F) **No. of Evid. Docs.** (excl Briefs)

[N = 4]	(avg)	25.8	(min)	9
	(med)	25.5	(max)	35

G) **No. Pages Briefs**

[N = 3]	(avg)	97.0	(min)	0
	(med)	72.5	(max)	291

H) **No. Pages Transcripts**

[N = 3]	(avg)	334.7	(min)	0
	(med)	8.0	(max)	996

I) **No. Pages Exhibits**

[N = 3]	(avg)	50.7	(min)	0
	(med)	55.0	(max)	97

J) **No. Pages Written Opinion**

[N = 3]	(avg)	3.0	(min)	0
	(med)	2.2	(max)	9

K) **Oral Argument**

[N = 3]	Yes	0
	No	3

Notes and Comments:

Procedures similar to Broker-Dealer cases except the proceeding is initiated by an application. Review by the Commission is discretionary.

Agency: SEC

Casetype: Rules of Practice

Total Number of Case-Closed Cards Submitted: 8

I) ELAPSED TIME DATA (in days) (Procedures similar to Broker-Dealer cases; see Comments, below.)

A) **Prehearing Stage**

[N = 8]	(avg)	394.5	(min)	104
	(med)	387.0	(max)	594

B) **Hearing Stage**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **Posthearing Stage**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 8] (2) *All Other Cases*

(avg)	615.0	(min)	202
(med)	633.0	(max)	966

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	5
Withdrawal/Consent	3
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 0

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 0]

A) **Prehearing & Hrg.** (separate days)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 7]	(avg)	2.3	(min)	2
	(med)	2.2	(max)	4

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 7]	(avg)	6.9	(min)	1
	(med)	2.2	(max)	16

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

K) **Oral Argument**

[N = 0]	Yes	—
	No	—

Notes and Comments:

Procedures similar to Broker-Dealer cases. Normally the case is initiated by a formal order of investigation. The Commission, after the necessary investigation, will issue an order of temporary suspension to the practitioner, who may within 30 days, petition for a lifting of the suspension. If not lifted, the petition is set for hearing (generally a "nonpublic" hearing). Specific hearing and review procedures are not provided for these proceedings. Only those referred to the CALJ's office are included in these statistics.

Where a practitioner has been convicted of a crime, the temporary suspension will follow automatically, though the practitioner may still request a hearing.

Agency: U.S. Civil Service Comm.

Casetype: Hatch Political Activities Act

Total Number of Case-Closed Cards Submitted: 10

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Receipt of private complaint to referral to CALJ.

[N = 10]	(avg)	196.8	(min)	0
	(med)	203.5	(max)	363

B) **Hearing Stage** Referral to CALJ to date of ALJ decision.

[N = 10]	(avg)	256.2	(min)	44
	(med)	156.0	(max)	672

C) **Posthearing Stage** ALJ decision to date of Commission's final action.

[N = 5] (1) *Cases Reviewed by Agency*

(avg)	201.0	(min)	145
(med)	223.0	(max)	254

[N = 5] (2) *All Other Cases* (Where no review, after 30 days the ALJ decision is final. The 30 days was not captured.)

(avg)	0	(min)	0
(med)	0	(max)	0

D) **Total Time**

[N = 5] (1) *Cases Reviewed by Agency*

(avg)	655.0	(min)	458
(med)	610.0	(max)	903

[N = 5] (2) *All Other Cases*

(avg)	452.0	(min)	46
(med)	440.0	(max)	910

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	1
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	7
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	2

III) AGENCY REVIEW

A) *Yes:* 5
No: 4

B) **Results of Review**

Affirm:	3	*Modify:*	2
Reverse:	0	*Remand/Other:*	0

[a]The elapsed time in the hearing stage varies according to the manner of termination as follows:

hearing and decision	332.1 days [N = 7]
decision w/o hearing	95.5 days [N = 2]
consent	46 days [N = 1]

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 7]

A) **Prehearing & Hrg.** (separate days)

[N = 7]	(avg)	2.9	(min)	1
	(med)	1.2	(max)	8

B) **Prehearing & Hrg.** (actual hours)

[N = 7]	(avg)	16.7	(min)	5
	(med)	5.4	(max)	49

C) **No. of Parties & Intervenors**

[N = 10]	(avg)	9.7	(min)	2
	(med)	3.3	(max)	63

D) **Hours of ALJ Travel**

[N = 7]	(avg)	16.4	(min)	4
	(med)	12.0	(max)	34

E) **No. of Contested Motions**

[N = 8]	(avg)	0.9	(min)	0
	(med)	0.8	(max)	2

F) **No. of Evid. Docs.** (excl Briefs)

[N = 8]	(avg)	20.8	(min)	2
	(med)	11.5	(max)	72

G) **No. Pages Briefs**

[N = 9]	(avg)	68.0	(min)	0
	(med)	15.5	(max)	369

H) **No. Pages Transcripts**

[N = 7]	(avg)	385.6	(min)	94
	(med)	155.0	(max)	1311

I) **No. Pages Exhibits**

[N = 8]	(avg)	163.4	(min)	5
	(med)	31.5	(max)	470

J) **No. Pages Written Opinion**

[N = 10]	(avg)	15.8	(min)	0
	(med)	5.5	(max)	70

K) **Oral Argument**

[N = 8]	Yes	5
	No	3

Notes and Comments:

Procedures: The case is initiated when the Commission receives a complaint or information about an alleged violation. The General Counsel then has to authorize an investigation. A "letter of charges" is served on the employee(s) and the state or local office employing the employee(s). The respondent has 15 days to answer, at which point the case is referred to the CALJ and a notice of hearing is sent out. The ALJ files his initial decision after opportunity for parties to file proposals. Parties have 30 days from date of service of decision to appeal to the Commission. If the ALJ finds that there has been no violation or one that does not warrant removal, his initial decision becomes the final decision of the Commission unless a party appeals within 30 days. Where the ALJ finds a violation warranting removal he so recommends to the Commission, which makes the final decision.

Note: The Chief ALJ reports that the number of such cases is dwindling. (See caseload tables Part A, p. 67.)

Agency: U.S. Coast Guard

Casetype: License Revocation and Suspension Cases (Misconduct)

Total Number of Case-Closed Cards Submitted: 313

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Date of investigation to date of referral to ALJ.

[N = 313]	(avg)	5.5	(min)	0
	(med)	1.2	(max)	233

B) **Hearing Stage** Referral to ALJ to date of ALJ's written decision.

[N = 312]	(avg)	52.5	(min)	0
	(med)	20.9	(max)	638 [a]

C) **Posthearing Stage** ALJ's written decision to Commandant's decision (if any).

[N = 14]	(1) *Cases Reviewed by Agency*			
	(avg)	228.9	(min)	99
	(med)	179.0	(max)	523
[N = 297]	(2) *All Other Cases*			
	(avg)	1.3	(min)	0
	(med)	0.01	(max)	304

D) **Total Time**

[N = 14]	(1) *Cases Reviewed by Agency*			
	(avg)	353.4	(min)	118
	(med)	215.0	(max)	903
[N = 297]	(2) *All Other Cases*			
	(avg)	53.8	(min)	0
	(med)	24.0	(max)	638

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	11
Other	18

B) **On Merits:**

ALJ Hrg. & Decision	284 [a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 14
No: 297

B) **Results of Review**

Affirm:	11	*Modify:*	2
Reverse:	1	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 306]

A) **Prehearing & Hrg.** (separate days)

[N = 311]	(avg)	1.6	(min)	1
	(med)	1.2	(max)	19

[a] Average elapsed time in the hearing stage: 55.4 days [N = 284].

B) **Prehearing & Hrg.** (actual hours)

[N = 310]	(avg)	2.6	(min)	1
	(med)	1.9	(max)	49

C) **No. of Parties & Intervenors**

[N = 311]	(avg)	2.2	(min)	2
	(med)	2.0	(max)	63

D) **Hours of ALJ Travel**

[N = 306]	(avg)	2.4	(min)	0
	(med)	0.3	(max)	24

E) **No. of Contested Motions**

[N = 306]	(avg)	0.2	(min)	0
	(med)	0.1	(max)	4

F) **No. of Evid. Docs.** (excl Briefs)

[N = 305]	(avg)	3.7	(min)	0
	(med)	3.5	(max)	16

G) **No. Pages Briefs**

[N = 27]	(avg)	16.6	(min)	0
	(med)	0.3	(max)	369

H) **No. Pages Transcripts**

[N = 27]	(avg)	92.9	(min)	0
	(med)	23.0	(max)	1311

I) **No. Pages Exhibits**

[N = 305]	(avg)	12.0	(min)	0
	(med)	4.2	(max)	470

J) **No. Pages Written Opinion**

[N = 312]	(avg)	8.0	(min)	1
	(med)	7.1	(max)	70

K) **Oral Argument**

[N = 306]	Yes	293
	No	13

Notes and Comments:

Procedures: The prehearing stage is very brief. Ordinarily the case is initiated when an investigating officer goes on board a ship to review the logbook. If the book discloses possible need for disciplinary action he may (during or after his investigation) prefer charges against the license holder. (He may also take other action such as recommend taking no action, accept voluntary deposit or surrender of the license, or give a warning). The charges are preferred on a form provided for the purpose; the case is generally docketed immediately on the local ALJ's calendar and the respondent is given notice of the charges and the hearing date. This must all be done very quickly before the respondent's ship leaves the dock. Therefore the time between the date of the investigator's entry on the ship and the date of the notice to the respondent is usually a matter of hours.

Each ALJ in the field maintains his own docket, the cases are only rarely assigned by the CALJ.

The ALJ will often deliver an oral decision and hand the respondent a summary "short order." However, the hearing stage is not concluded until the complete decision is written. (Hearings may be conducted "in absentia" if the respondent fails to appear after being duly served.) The order is then served on the respondent. This may take a long time if he is out at sea "China-hopping." But once served he has 30 days to file a notice of appeal and 60 days to complete his appeal [*Note:* there is a special office (Merchant Vessel Personnel) which handles nothing but the appeal papers]. The Commandant has 60 days to review on his own motion. If the respondent cannot be located he is placed on the "Man-wanted list.))

In the review stage, the CALJ ordinarily makes a recommendation to the Chief Counsel of the Coast Guard who drafts final recommendations for the Commandant. The Commandant's decision is the final agency decision, although respondents may take a further appeal to the National Transportation Safety Board of Commandant decisions sustaining orders of revocation (only). As of 1975, it was estimated that in the NTSB's six years of existence it had heard 42 such appeals and reversed only twice.

Agency: U.S. Coast Guard

Casetype: License Revocation and Suspension Cases (Negligence of Duty)

Total Number of Case-Closed Cards Submitted: 171

I) ELAPSED TIME DATA (in days) (Procedures same as in misconduct cases.)

A) **Prehearing Stage**

[N = 171]	(avg)	6.6	(min)	0
	(med)	0.4	(max)	79

B) **Hearing Stage**

[N = 169]	(avg)	58.6	(min)	0
	(med)	28.3	(max)	617

C) **Posthearing Stage**

[N = 11]	(1) *Cases Reviewed by Agency*				
		(avg)	250.4	(min)	0
		(med)	236.0	(max)	452
[N = 158]	(2) *All Other Cases*				
		(avg)	0	(min)	0
		(med)	0	(max)	0
[N = 11]	(1) *Cases Reviewed by Agency*				
		(avg)	364.1	(min)	167
		(med)	375.0	(max)	616
[N = 158]	(2) *All Other Cases*				
		(avg)	61.8	(min)	4
		(med)	33.0	(max)	617

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	1
Dismissal	7
Other	3

B) **On Merits:**

ALJ Hrg. & Decision	160[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 11
No: 158

B) **Results of Review**

Affirm:	8	*Modify:*	0
Reverse:	2	*Remand/Other:*	0

[a]Average elapsed time in the hearing stage: 60.4 days [N = 160].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 168]

A) **Prehearing & Hrg.** (separate days)

[N = 169]	(avg)	1.5	(min)	1
	(med)	1.2	(max)	8

B) **Prehearing & Hrg.** (actual hours)

[N = 169]	(avg)	3.2	(min)	1
	(med)	2.1	(max)	16

C) **No. of Parties & Intervenors**

[N = 169]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	3

D) **Hours of ALJ Travel**

[N = 168]	(avg)	3.2	(min)	0
	(med)	1.7	(max)	24

E) **No. of Contested Motions**

[N = 167]	(avg)	0.4	(min)	0
	(med)	0.2	(max)	7

F) **No. of Evid. Docs.** (excl Briefs)

[N = 167]	(avg)	3.2	(min)	0
	(med)	2.1	(max)	21

G) **No. Pages Briefs**

[N = 20]	(avg)	3.9	(min)	0
	(med)	0.5	(max)	18

H) **No. Pages Transcripts**

[N = 18]	(avg)	44.6	(min)	0
	(med)	12.5	(max)	196

I) **No. Pages Exhibits**

[N = 166]	(avg)	5.5	(min)	0
	(med)	2.3	(max)	56

J) **No. Pages Written Opinion**

[N = 169]	(avg)	9.7	(min)	1
	(med)	6.9	(max)	111

K) **Oral Argument**

[N = 168]	Yes	164
	No	4

Agency: U.S. Coast Guard

Casetype: License Revocation and Suspension Cases (Incompetence)

Total Number of Case-Closed Cards Submitted: 1

I) ELAPSED TIME DATA (in days) (Procedures same as in misconduct cases.)

A) **Prehearing Stage**

[N = 1]	(avg)	13.0	(min)	13
	(med)	13.0	(max)	13

B) **Hearing Stage**

[N = 1]	(avg)	249.0	(min)	249
	(med)	249.0	(max)	249

C) **Posthearing Stage**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	254.0	(min)	254
(med)	254.0	(max)	254

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 1] (2) *Cases Reviewed by Agency*

(avg)	516.0	(min)	516
(med)	516.0	(max)	516

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	1
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 1
No: 0

B) **Results of Review**

Affirm:	1	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 1]

A) **Prehearing & Hrg.** (separate days)

[N = 1]	(avg)	5.0	(min)	5
	(med)	5.0	(max)	5

B) **Prehearing & Hrg.** (actual hours)

[N = 1]	(avg)	7.0	(min)	7
	(med)	7.0	(max)	7

C) **No. of Parties & Intervenors**

[N = 1]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2

D) **Hours of ALJ Travel**

[N = 1]	(avg)	15.0	(min)	15
	(med)	15.0	(max)	15

E) **No. of Contested Motions**

[N = 1]	(avg)	1.0	(min)	1
	(med)	1.0	(max)	1

F) **No. of Evid. Docs.** (excl Briefs)

[N = 1]	(avg)	10.0	(min)	10
	(med)	10.0	(max)	10

G) **No. Pages Briefs**

[N = 1]	(avg)	18.0	(min)	18
	(med)	18.0	(max)	18

H) **No. Pages Transcripts**

[N = 1]	(avg)	193.0	(min)	193
	(med)	193.0	(max)	193

I) **No. Pages Exhibits**

[N = 1]	(avg)	22.0	(min)	22
	(med)	22.0	(max)	22

J) **No. Pages Written Opinion**

[N =]	(avg)	13.0	(min)	13
	(med)	13.0	(max)	13

K) **Oral Argument**

[N = 1]	Yes	1
	No	0

Agency: U.S. Coast Guard

Casetype: License Revocation and Suspension Cases
(Violation of Law or Regulations)

Total Number of Case-Closed Cards Submitted: 10

I) ELAPSED TIME DATA (in days) (Procedures same as in misconduct cases.)

A) **Prehearing Stage**

[N = 10]	(avg)	9.8	(min)	0
	(med)	6.5	(max)	28

B) **Hearing Stage**

[N = 10]	(avg)	46.3	(min)	5
	(med)	14.0	(max)	171

C) **Posthearing Stage**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	197.0	(min)	197
(med)	197.0	(max)	197

[N = 9] (2) *All Other Cases*

(avg)	1.1	(min)	0
(med)	0.6	(max)	10

D **Total Time**

[N = 1] (1) *Cases Reviewed by Agency*

(avg)	372.0	(min)	372
(med)	372.0	(max)	372

[N = 9] (2) *All Other Cases*

(avg)	41.8	(min)	5
(med)	20.0	(max)	182

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	1
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	9[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 1
No: 9

B) **Results of Review**

Affirm:	1	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a]Average elapsed time in hearing stage = 50.7 days [N = 9].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 9]

A) **Prehearing & Hrg.** (separate days)

[N = 10]	(avg)	1.7	(min)	1
	(med)	1.1	(max)	7

B) **Prehearing & Hrg.** (actual hours)

[N = 9]	(avg)	3.6	(min)	2
	(med)	2.2	(max)	13

C) **No. of Parties & Intervenors**

[N = 9]	(avg)	2.1	(min)	2
	(med)	2.1	(max)	3

D) **Hours of ALJ Travel**

[N = 8]	(avg)	4.1	(min)	0
	(med)	3.8	(max)	14

E) **No. of Contested Motions**

[N = 8]	(avg)	0.2	(min)	0
	(med)	0.1	(max)	2

F) **No. of Evid. Docs.** (excl Briefs)

[N = 9]	(avg)	4.1	(min)	0
	(med)	2.2	(max)	19

G) **No. Pages Briefs**

[N = 2]	(avg)	2.0	(min)	0
	(med)	2.0	(max)	4

H) **No. Pages Transcripts**

[N = 2]	(avg)	27.5	(min)	0
	(med)	27.5	(max)	55

I) **No. Pages Exhibits**

[N = 9]	(avg)	6.1	(min)	0
	(med)	2.8	(max)	32

J) **No. Pages Written Opinion**

[N = 10]	(avg)	10.7	(min)	1
	(med)	7.5	(max)	24

K) **Oral Argument**

[N = 9]	Yes	9
	No	0

Agency: U.S. Coast Guard

Casetype: License Revocation and Suspension Cases
(Conviction for Narcotics Violations)

Total Number of Case-Closed Cards Submitted: 20

I) ELAPSED TIME DATA (in days) (Procedures same as in misconduct cases.)

A) **Prehearing Stage**

[N = 20]	(avg)	10.8	(min)	0
	(med)	0.5	(max)	48

B) **Hearing Stage**

[N = 20]	(avg)	53.2	(min)	0
	(med)	26.5	(max)	175

C) **Posthearing Stage**

[N = 2] (1) *Cases Reviewed by Agency*

(avg)	261.5	(min)	139
(med)	261.5	(max)	384

[N = 18] (2) *All Other Cases*

(avg)	0	(min)	0
(med)	0	(max)	0

D) **Total Time**

[N = 2] (1) *Cases Reviewed by Agency*

(avg)	436.5	(min)	292
(med)	436.5	(max)	581

[N = 18] (2) *All Other Cases*

(avg)	51.7	(min)	1
(med)	36.5	(max)	171

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	5
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	15[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 2
No: 17

B) **Results of Review**

Affirm:	2	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a]Average elapsed time in hearing stage: 63.9 days [N = 15].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 18]

A) **Prehearing & Hrg.** (separate days)

[N = 20]	(avg)	1.4	(min)	1
	(med)	1.3	(max)	3

B) **Prehearing & Hrg.** (actual hours)

[N = 20]	(avg)	2.0	(min)	1
	(med)	1.4	(max)	10

C) **No. of Parties & Intervenors**

[N = 20]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2

D) **Hours of ALJ Travel**

[N = 19]	(avg)	3.2	(min)	0
	(med)	0.4	(max)	12

E) **No. of Contested Motions**

[N = 18]	(avg)	0	(min)	0
	(med)	0	(max)	0

F) **No. of Evid. Docs.** (excl Briefs)

[N = 20]	(avg)	2.4	(min)	0
	(med)	2.2	(max)	6

G) **No. Pages Briefs**

[N = 6]	(avg)	0.2	(min)	0
	(med)	0.1	(max)	1

H) **No. Pages Transcripts**

[N = 5]	(avg)	12.0	(min)	0
	(med)	6.7	(max)	40

I) **No. Pages Exhibits**

[N = 20]	(avg)	3.4	(min)	0
	(med)	3.5	(max)	9

J) **No. Pages Written Opinion**

[N = 20]	(avg)	7.6	(min)	1
	(med)	5.0	(max)	58

K) **Oral Argument**

[N = 18]	Yes	16
	No	2

Agency: U.S. Coast Guard

Casetype: License Revocation and Suspension Cases (Multiple Charges)

Total Number of Case-Closed Cards Submitted: 28

I) ELAPSED TIME DATA (in days) (Procedure same as in misconduct cases.)

A) **Prehearing Stage**

[N = 28]	(avg)	7.0	(min)	0
	(med)	2.5	(max)	47

B) **Hearing Stage**

[N = 28]	(avg)	72.0	(min)	6
	(med)	31.5	(max)	392

C) **Posthearing Stage**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 28] (2) *All Other Cases*

(avg)	0	(min)	0
(med)	0	(max)	0

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 28] (2) *All Other Cases*

(avg)	79.0	(min)	7
(med)	54.5	(max)	392

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	0
Withdrawal/Consent	0
Dismissal	2
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	26[a]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 28

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

[a]Average elapsed time in the hearing stage: 73 days [N = 26].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 27]

A) **Prehearing & Hrg.** (separate days)

[N = 28]	(avg)	1.8	(min)	1
	(med)	1.4	(max)	9

B) **Prehearing & Hrg.** (actual hours)

[N = 77]	(avg)	4.7	(min)	1
	(med)	3.0	(max)	18

C) **No. of Parties & Intervenors**

[N = 27]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2

D) **Hours of ALJ Travel**

[N = 27]	(avg)	4.6	(min)	0
	(med)	3.6	(max)	22

E) **No. of Contested Motions**

[N = 27]	(avg)	0.4	(min)	0
	(med)	0.2	(max)	2

F) **No. of Evid. Docs.** (excl Briefs)

[N = 27]	(avg)	4.1	(min)	0
	(med)	3.4	(max)	11

G) **No. Pages Briefs**

[N = 1]	(avg)	10.0	(min)	10
	(med)	10.0	(max)	10

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 27]	(avg)	12.2	(min)	0
	(med)	5.2	(max)	85

J) **No. Pages Written Opinion**

[N = 28]	(avg)	9.6	(min)	1
	(med)	8.5	(max)	25

K) **Oral Argument**

[N = 27]	Yes	26
	No	1

Agency: U.S. Postal Service

Casetype: False Representation

Total Number of Case-Closed Cards Submitted: 101

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Filing of informal complaint or date of start of prelim. investigation to referral to CALJ.

[N = 84]	(avg)	96.3	(min)	10
	(med)	78.5	(max)	491

B) **Hearing Stage** Referral to CALJ to ALJ's decision.

[N = 94]	(avg)	101.1	(min)	22
	(med)	55.2	(max)	782

C) **Posthearing Stage** ALJ's decision to final decision by Judicial Officer.

[N = 20]	(1) *Cases Reviewed by Agency*			
	(avg)	70.3	(min)	2
	(med)	37.5	(max)	235
[N = 16]	(2) *All Other Cases*			
	(avg)	9.8	(min)	1
	(med)	5.5	(max)	35

D) **Total Time**

[N = 19]	(1) *Cases Reviewed by Agency*			
	(avg)	440.3	(min)	147
	(med)	368.0	(max)	1137
[N = 18]	(2) *All Other Cases*			
	(avg)	228.6	(min)	39
	(med)	126.0	(max)	1010

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	56 [a]
Withdrawal/Consent	16 [b]
Dismissal	4 [c]
Other	4 [d]

B) **On Merits:**

ALJ Hrg. & Decision	21 [e]
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 20
No: 1

B) **Results of Review**

Affirm:	20	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a] *Settlements:* Are quite common and usually occur in the prehearing stage but after assignment to the ALJ. (53 of 56 were settled before the hearing began.) The ALJ makes the final order in these cases. The average elapsed time in the hearing stage for settled cases was 60 days [N = 56].

[b] *Defaults:* If the respondent fails to file an answer, the ALJ issues an order certifying the case to the Judicial Officer who issues the final order in the case. The average elapsed time in the hearing stage for defaulted cases was 36 days [N = 13].

[c] *Dismissals:* The ALJ may grant the respondent's motion to dismiss for lack of evidence. This is appealable. The average elapsed time in the hearing stage for dismissed cases was 50 days [N = 2].

[d] *Other:* After the case is assigned to the ALJ, the respondent may waive the ALJ hearing and ask that the Judicial Officer make the decision without ALJ participation. The J.O. may or may not hold a hearing. This is known as an "expedited hearing."

[e] *ALJ Hrg. & Decision:* The average elapsed time in the hearing stage for cases heard and decided by ALJ's was 262.9 days [N = 21].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 26]

A) **Prehearing & Hrg.** (separate days)

[N = 23]	(avg)	1.5	(min)	1
	(med)	1.2	(max)	5

B) **Prehearing & Hrg.** (actual hours)

[N = 21]	(avg)	5.6	(min)	1
	(med)	4.2	(max)	16

C) **No. of Parties & Intervenors**

[N = 25]	(avg)	2.0	(min)	2
	(med)	2.0	(max)	2

D) **Hours of ALJ Travel**

[N = 20]	(avg)	11.6	(min)	0
	(med)	0.7	(max)	72

E) **No. of Contested Motions**

[N = 17]	(avg)	0.7	(min)	0
	(med)	0.3	(max)	4

F) **No. of Evid. Docs.** (excl Briefs)

[N = 23]	(avg)	9.0	(min)	1
	(med)	9.8	(max)	21

G) **No. Pages Briefs**

[N = 17]	(avg)	30.8	(min)	0
	(med)	26.0	(max)	92

H) **No. Pages Transcripts**

[N = 21]	(avg)	151.7	(min)	21
	(med)	109.0	(max)	527

I) **No. Pages Exhibits**

[N = 23]	(avg)	93.7	(min)	4
	(med)	30.0	(max)	450

J) **No. Pages Written Opinion**

[N = 20]	(avg)	15.1	(min)	4
	(med)	12.5	(max)	34

K) **Oral Argument**

[N = 19]	Yes	7
	No	12

Notes and Comments:

Procedures: The case is initiated either by the filing of a complaint by a member of the public or (if no complaint) by start of a preliminary investigation by the Inspection Service. At the end of the investigation, the inspector refers the case to the Consumer Protection Office within the Office of General Counsel. The Office then may file a formal complaint with the Judicial Officer's docket clerk. The clerk then gives notice of an evidentiary proceeding and the respondent has 15 days to answer. Assuming there is no default, settlement or expedited hearing, the ALJ shall render the initial decision ("with all due speed"). Exceptions may be filed to an initial decision or dismissal within 15 days. Briefing periods are 10 days. Appeal is to the Judicial Officer by delegation of the Postmaster General.

Agency: U.S. Postal Service

Casetype: Lottery Cases

Total Number of Case-Closed Cards Submitted 1

I) ELAPSED TIME DATA (in days) (Procedures same as in False Representation cases.)

A) **Prehearing Stage**

[N = 1]	(avg)	26.0	(min)	26
	(med)	26.0	(max)	26

B) **Hearing Stage**

[N = 1]	(avg)	22.0	(min)	22
	(med)	22.0	(max)	22

C) **Posthearing Stage**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

D) **Total Time**

[N = 0] (1) *Cases Reviewed by Agency*

(avg)	—	(min)	—
(med)	—	(max)	—

[N = 0] (2) *All Other Cases*

(avg)	—	(min)	—
(med)	—	(max)	—

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	1
Withdrawal/Consent	0
Dismissal	0
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	0
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 0
No: 0

B) **Results of Review**

Affirm:	—	*Modify:*	—
Reverse:	—	*Remand/Other:*	—

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 0]

A) **Prehearing & Hrg.** (separate days)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

B) **Prehearing & Hrg.** (actual hours)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

C) **No. of Parties & Intervenors**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

D) **Hours of ALJ Travel**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

E) **No. of Contested Motions**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

F) **No. of Evid. Docs.** (excl Briefs)

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

G) **No. Pages Briefs**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

H) **No. Pages Transcripts**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

I) **No. Pages Exhibits**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

J) **No. Pages Written Opinion**

[N = 0]	(avg)	—	(min)	—
	(med)	—	(max)	—

K) **Oral Argument**

[N = 0]	Yes	—
	No	—

Agency: U.S. Postal Service

Casetype: Second Class Mail Privileges

Total Number of Case-Closed Cards Submitted: 24

I) ELAPSED TIME DATA (in days) (Procedures explained in Comments, below.)

A) **Prehearing Stage** Initiation of Case (see Comments) to referral to CALJ.

[N = 23]	(avg)	176.8	(min)	15
	(med)	136.0	(max)	827

B) **Hearing Stage** Referral to CALJ to ALJ's decision.

[N = 24]	(avg)	256.2	(min)	20 [a]
	(med)	105.5	(max)	991

C) **Posthearing Stage** ALJ's decision to final decision by Judicial Officer.

[N = 9]	(1) *Cases Reviewed by Agency*			
	(avg)	182.0	(min)	33
	(med)	197.0	(max)	357
[N = 1]	(2) *All Other Cases*			
	(avg)	148.0	(min)	148
	(med)	148.0	(max)	148

D) **Total Time**

[N = 8]	(1) *Cases Reviewed by Agency*			
	(avg)	649.2	(min)	125
	(med)	826.0	(max)	1063
[N = 1]	(2) *All Other Cases*			
	(avg)	972.0	(min)	972
	(med)	972.0	(max)	972

II) MANNER OF TERMINATION

A) **Not on Merits:**

Settlement/Compromise	4
Withdrawal/Consent	0
Dismissal	10
Other	0

B) **On Merits:**

ALJ Hrg. & Decision	10
ALJ Hrg. w/o Decision	0
ALJ Decision w/o Hrg.	0

III) AGENCY REVIEW

A) *Yes:* 9
No: 2

B) **Results of Review**

Affirm:	9	*Modify:*	0
Reverse:	0	*Remand/Other:*	0

[a] Average elapsed time in the hearing stage by manner of termination:

settlement: 586.0 days [N = 4]
dismissal: 70.7 days [N = 10]
ALJ Hrg. & Decision: 309.7 days [N = 10].

IV) TIME AND EFFORT AT HEARING STAGE (averages are per case)

[Total number of cases heard or partially heard: 11]

A) **Prehearing & Hrg.** (separate days)

[N = 10]	(avg)	1.9	(min)	1
	(med)	1.5	(max)	4

B) **Prehearing & Hrg.** (actual hours)

[N = 9]	(avg)	7.1	(min)	1
	(med)	5.0	(max)	18

C) **No. of Parties & Intervenors**

[N = 10]	(avg)	2.4	(min)	2
	(med)	2.2	(max)	4

D) **Hours of ALJ Travel**

[N = 8]	(avg)	15.1	(min)	0
	(med)	1.5	(max)	72

E) **No. of Contested Motions**

[N = 6]	(avg)	1.2	(min)	0
	(med)	0.5	(max)	4

F) **No. of Evid. Docs.** (excl Briefs)

[N = 9]	(avg)	14.8	(min)	1
	(med)	5.2	(max)	43

G) **No. Pages Briefs**

[N = 6]	(avg)	55.7	(min)	0
	(med)	18.0	(max)	200

H) **No. Pages Transcripts**

[N = 9]	(avg)	167.1	(min)	16
	(med)	62.5	(max)	615

I) **No. Pages Exhibits**

[N = 9]	(avg)	614.4	(min)	8
	(med)	180.0	(max)	2500

J) **No. Pages Written Opinion**

[N = 9]	(avg)	22.2	(min)	1
	(med)	12.0	(max)	49

K) **Oral Argument**

[N = 9]	Yes	3
	No	6

Notes and Comments:

Procedures: These cases are either application-denial cases or revocation/suspension cases. In application cases, the case is initiated by the filing of an application for second-class mailing privileges. The Director of the Office of Mail Classifications may deny such application and issue a notice of denial with a letter of reasons to the applicant. In revocation/suspension cases, the case is initiated when a postal inspector or competitor brings the apparent violation to the Office's attention. The Director may then send a letter to the publisher containing the notice of proposed revocation or suspension.

In either situation the publisher ("petitioner") has 15 days to appeal, at which point the docket clerk issues notice of hearing. The rest of the procedures are the same as in false representation cases except that if the publisher fails to appear at the hearing, the ALJ may dismiss the petition outright or give the petitioner 30 days to show cause why a dismissal should not be ordered.

PART C

"Pretabulated Statistics"

- ICC
- NLRB
- OSHRC
- Social Security Admin.

Interstate Commerce Commission (ICC)

Statistics on the ICC's caseload and case processing time are developed within the Commission and are submitted to the Administrative Conference on a computer printout report prepared by the Assistant to the Managing Director for Information Systems. The ICC's in-house statistical reporting system is among the most systematic of those agencies submitting data to ACUS, and although ACUS did ask for certain specific types of data, comparable in scope to that derived from other agencies' individual case reporting forms, the Conference relies totally on the accuracy of the data as generated within the ICC.

Formal proceedings of the ICC are difficult to classify. The Commission divided its formal proceedings into fifteen categories (each of which had at least one closed case in Fiscal Year 1975). Only cases that reached the stage of referral to the administrative law judge are included in the "new cases" column. Generally speaking, ICC formal proceedings are of three main types: formal complaints, formal investigations and applications. The 15 casetypes are each briefly described in the caseload tables at page 51, and each casetype is analyzed separately in the following "ICC Tables." The basic procedure followed in such cases is as follows: Whenever an application, complaint or order of investigation initiates a proceeding which might result in a hearing, the proceeding is forwarded to the Office of Proceedings. That office along with the Chief Administrative Law Judge's Office then makes a determination whether to assign the case for oral hearing or whether to use "modified procedure," a procedure in which no oral hearing is held, but verified written submissions are made to the presiding officer. If the case is deemed to be potentially a complicated one with disputed issues of fact, the case will be forwarded to the CALJ's office for assignment to an ALJ for oral hearing. The remainder of these cases are adjudicated by modified procedure. In a few categories of cases, ALJs also preside over some of these modified procedure cases, but in most categories the CALJ's office will not see a case unless it is to involve an oral hearing. Other agency employees and "employee boards" preside over the bulk of the modified procedure cases. One difficulty with the ICC's statistics is that cases heard under the simplified and shorter "modified procedure" by ALJs are not separated from cases orally heard by ALJs. (In fiscal year 1975, ALJs presided over modified procedure cases in two general categories of cases: "Investigation of Existing Rates" and "Investigation and Suspension of Proposed Rates.")

When a case is referred to the CALJ's office, it is then referred to an individual ALJ. Whether or not the case is set for oral hearing or is to be presided over by an ALJ according to the modified procedure, the ALJ, in most categories of cases, must write an initial decision which is subject to review when exceptions are filed or upon the Commission's own motion. [In a few types of cases (most notably in cases involving investigation and suspension of rates), where the Commission is under a statutory deadline to make a decision, the Commission has, by regulation, done away with the initial decision in order to more speedily issue its final decision. However, in practice, the Commission still asks the ALJ to write a decision, not served on the parties, which serves as a recommendation to the Commission and is often released as the decision of the Commission.]

The ALJ presides over the oral hearing (or the submission of written evidence in those modified procedure cases assigned to an ALJ). Oral argument may be permitted by the ALJ after the close of the hearing; otherwise the parties have 45 days to file trial briefs. Extensions and reply briefs are not permitted unless ordered by the Commission. In the usual case, where the ALJ issues an initial decision, the decision may become effective as the order of the Commission unless an exception is filed or the Commission stays the decision on its own motion. Exceptions must be filed within thirty days of service of the decision and any reply within twenty days. Oral argument before the Commission or other reviewing body (see below) is within the discretion of the reviewing body.

The rules of practice governing procedure before the ICC, including the formal hearings described in this report, are found at 49 CFR part 1100. On November 8, 1976, the Commission proposed a revision of this part intended to "facilitate and expedite proceedings before it," and the revision contains editing changes which make the rules somewhat more readable. See 41 Federal Register 49283.

Neither the existing rules of practice nor the proposed revision, however, shed much light on the procedures used by the Commission to review ALJs' initial decisions. As stated above, except in a few categories of cases, initial decisions are made, either by ALJs or employee boards. (In its report to ACUS, the ICC does not report on a case unless an ALJ is involved.) In most cases, where exceptions are filed, ALJ initial decisions are reviewed by a "division" of the Commission consisting of 3 members. There are three divisions: Division I (Operating Rights), Division II (Rates and Practices) and Division III (Finance and Service). These divisions also act as "Appellate Divisions" when a division reverses or modifies a decision by the ALJ. In such cases a petition for reconsideration is addressed to the same division acting in an

appellate capacity (although the same Commissioners sit on the Appellate Division as sat on the Division.) Some cases are not, however, initially reviewed by a division, but by an employee review board which has been delegated review authority by the Commission, with the possibility of further review by a division and the entire Commission. The entire Commission (eleven members) will not review a decision by the division or appellate division unless it announces, on its own motion or after a petition, that a "matter of general transportation importance" is involved.

The general reviewing procedures are set forth in the proposed rules at 49 CFR §§1100.101–1100.103, but the Commission's policies and practices regarding the particular reviewing authority of the three divisions and employee boards are not included in the rules. Information on this can be found only in the minutes of Commission meetings.

"ICC TABLES"

In the following "ICC Tables," the case (and the post-hearing stage) is deemed terminated when the Commission issues notice to the parties that the decision has become final. Thus, even if no exceptions have been filed, there is a slight delay before such notice is given.

Each type of case is treated separately and the information is analogous to that presented for the other agencies' cases. However, the prehearing stage is divided into two sub-stages to reflect the time taken between referral to Office of Hearings and referral to the ALJ. The elapsed time for each stage is further broken down by manner of termination to reflect the three "manners" reported to us by the ICC:

(1) *Dismissal/withdrawal.* These include only those situations where the applicant agrees to withdraw his application or a complainant agrees to voluntarily dismiss his complaint. No decisions on the merits are included.

(2) *ALJ decision final.* Includes only those cases where no exceptions are filed and the initial decision becomes final through operation of law.

(3) *ALJ decision reviewed.* Where the ALJ's decision is not final because exceptions were filed or the Commission reviews on its own motion. Also includes those cases where the ALJ does not write an initial decision.

The effect of agency review is also given for those cases where the ALJ's decision was reviewed. Minor modifications are considered affirmances; major modifications are considered reversals. The affirmances include a significant number of summary affirmances by the division or Commission, called "decisions and orders" or "DANDO's."

The only information available from the ICC corresponding to "Time and Effort at Hearing Stage" is the number of hours of hearing. The problem with this is that most, but not all, dismissals and withdrawals show zero hours and all cases heard under modified procedure presumably show zero hours. We have therefore counted the number of cases that show a number of hours of hearing greater than zero, to arrive at an estimate of the number of hearings held in each category of case.

The Chief ALJ cautions that these hearing-hours figures are derived from case cards turned in by individual ALJs and that the judges' practices with respect to filling in the number of hours, and with respect to including prehearing conference hours, vary considerably. He urged that the figures be discounted heavily.

* * * *

Finally it should be noted that the ICC publishes statistics relating to all of its activities in its Annual Report. The ICC's 1975 Annual Report (Appendix B, Table 1, page 100-101) contains figures on the Commission's workload for fiscal 1975. Caseload and elapsed-time figures are presented for all formal proceedings, not just those heard and decided by ALJs. However, a glance at the Annual Report's two partial tables that contain figures for cases decided by an "Effective ALJ initial decision" and cases "decided by final report after service of initial decision" will show slightly different figures than were provided to us by the ICC. The differences occurred because, in its report to ACUS, the ICC used more particularized case categories, and because a case was not included in our report (as a FY 1975 case) unless the Commission's final order was issued in FY 1975. In the Annual Report, the case was considered closed when the unappealed ALJ or division decision was issued, resulting in a different universe.

At any rate, the statistics presented in this report relating to ALJ proceedings correspond well with the information provided by the other agencies and are more informative, on this aspect of the Commission's activities and workload, than those presented in the ICC's Annual Report.

ICC table 1:

Interstate Commerce Commission

Casetype: Investigation of Existing Rates (etc.)
(Excluding Motor Carrier Cases)

Total Number of Cases Terminated (FY 1975): 82

I) ELAPSED TIME DATA (in days). [Note; ICC submits data in months. We multiply by 30.4.]

A) **Prehearing Stage**

			Days	
(1) *Origination to Referral to Office of Hearings*				
Dism/Wdraw	(7)	avg	76	
ALJ decision final	(26)	avg	137	
ALJ decision reviewed	(49)	avg	140	
Total	**(N = 82)**	avg		134
(2) *Office of Hearings to Referral to ALJ*				
Dism/Wdraw	(7)	avg	438	
ALJ decision final	(26)	avg	0	
ALJ decision reviewed	(49)	avg	46	
Total	**(N = 82)**	avg		64[a]

B) **Hearing Stage** (Referred to ALJ to Initial Decision)

Dism/Wdraw	(2)	avg	210	
ALJ decision final	(26)	avg	149	
ALJ decision reviewed	(49)	avg	192	
Total	**(N = 77)**	avg		176

C) **Posthearing Stage** (Initial Decision to Final Commission Action)

Dism/Wdraw	(2)	avg	277	
ALJ decision final	(26)	avg	43	
ALJ decision reviewed	(49)	avg	258	
Total	**(N = 77)**	avg		185

D) **Total Time**

Dism/Wdraw	(7)	avg	982	
ALJ decision final	(26)	avg	331	
ALJ decision reviewed	(49)	avg	638	
Total	**(N = 77)**	avg		572

II) MANNER OF TERMINATION

Dismissal/Withdrawals:	7
ALJ decision final:	26
ALJ decision reviewed:	49

III) EFFECT OF AGENCY REVIEW

Affirm/Modify:	33
Reverse:	16

IV) NUMBER OF HOURS OF HEARING

Total number of hours:	158
Number of cases that went to hearing:	10

V) NUMBER OF CASES PENDING AT END OF YEAR

Up to 24 months old:	45
24 to 30 months old:	18
Over 30 months old:	31

[a]See Comments for elaboration on time taken for referral to ALJ.

Notes and Comments:

Most of these cases are initiated by a complaint by a shipper about a carrier's rate or change in services. (Some investigations are initiated by the Commission's own motion or are triggered by a protest filed when the carrier seeks to change the existing rate. The Commission forwards the complaint or investigative order to the Office of Proceedings, which along with the Chief ALJ, determines whether the case will require an oral (ALJ) hearing, or whether it can be handled without oral hearing ("modified procedure") in which case it may or may not be assigned to an ALJ.)

All of the above reported cases were in fact assigned to ALJs, and 68 of the 82 were handled by modified procedure. The principal difference in the processing time for the modified procedure cases was that no time elapsed in sending the case from the Office of Hearings to the ALJ. In the 14 cases not handled by modified procedure, this stage took an average of approximately 378 days.

ICC table 2:

Interstate Commerce Commission

Casetype: Investigation of Existing Rates (etc.)
(Motor Carrier)

Total Number of Cases Terminated (FY 1975): 48

I) ELAPSED TIME DATA (in days). [Note, ICC submits data in months. We multiply by 30.4]

A) **Prehearing Stage** — **Days**

(1) *Origination to Referral to Office of Hearings*

Dism/Wdraw	(6)	avg	91	
ALJ decision final	(21)	avg	131	
ALJ decision reviewed	(21)	avg	158	
Total	**(N = 48)**	avg		137

(2) *Office of Hearings to Referral to ALJ*

Dism/Wdraw	(6)	avg	170	
ALJ decision final	(21)	avg	12	
ALJ decision reviewed	(21)	avg	6	
Total	**(N = 48)**	avg		27 [a]

B) **Hearing Stage** (Referred to ALJ to Initial Decision)

Dism/Wdraw	(3)	avg	158	
ALJ decision final	(21)	avg	137	
ALJ decision reviewed	(21)	avg	207	
Total	**(N = 45)**	avg		170

C) **Posthearing Stage** (Initial Decision to Final Commission Action)

Dism/Wdraw	(3)	avg	456	
ALJ decision final	(21)	avg	43	
ALJ decision reviewed	(21)	avg	319	
Total	**(N = 45)**	avg		201

D) **Total Time**

Dism/Wdraw	(6)	avg	629	
ALJ decision final	(21)	avg	322	
ALJ decision reviewed	(21)	avg	696	
Total	**(N = 48)**	avg		523

II) MANNER OF TERMINATION

Dismissal/Withdrawals:	6
ALJ decision final:	21
ALJ decision reviewed:	21

III) EFFECT OF AGENCY REVIEW

Affirm/Modify:	15
Reverse:	6

IV) NUMBER OF HOURS OF HEARING

Total number of hours:	21
Number of cases that went to hearing:	4

V) NUMBER OF CASES PENDING AT END OF YEAR

Up to 24 months old:	26
24 to 30 months old:	3
Over 30 months old:	6

[a]See Comments for elaboration on time taken for referral to ALJ.

Notes and Comments:

The procedures are the same as in other Investigation of Rates cases, except that motor carrier cases are reported separately.

Thirty-nine of the 48 cases were handled by modified procedure. As in the other Investigation of Rates cases, the difference in the processing time for the modified procedures cases was that no time elapsed in sending the case from the Office of Hearings to the ALJ. In the 9 cases not handled by modified procedure this stage took an average of approximately 150 days.

ICC table 3:

Interstate Commerce Commission

Casetype: Investigation and Suspension of Proposed Rates (etc.)
(Excluding Motor Carrier Cases)

Total Number of Cases Terminated (FY 1975): 10

I) ELAPSED TIME DATA (in days). [Note, ICC submits data in months. We multiply by 30.4]

A) **Prehearing Stage** — **Days**

(1) *Origination to Referral to Office of Hearings*

Dism/Wdraw	(6)	avg	3	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(4)	avg	103	
Total	**(N = 10)**	avg		43

(2) *Office of Hearings to Referral to ALJ*

Dism/Wdraw	(6)	avg	30	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(4)	avg	33	
Total	**(N = 10)**	avg		31

B) **Hearing Stage** (Referred to ALJ to Initial Decision)

Dism/Wdraw	(1)	avg	134	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(4)	avg	185	
Total	**(N = 5)**	avg		176

C) **Posthearing Stage** (Initial Decision to Final Commission Action)

Dism/Wdraw	(1)	avg	927	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(4)	avg	337	
Total	**(N = 5)**	avg		456

D) **Total Time**

Dism/Wdraw	(6)	avg	593	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(4)	avg	663	
Total	**(N = 10)**	avg		623

II) MANNER OF TERMINATION

Dismissal/Withdrawals:	6
ALJ decision final:	0
ALJ decision reviewed:	4

III) EFFECT OF AGENCY REVIEW

Affirm/Modify:	4
Reverse:	0

IV) NUMBER OF HOURS OF HEARING

Total number of hours: 93
Number of cases that went to hearing: 3

V) NUMBER OF CASES PENDING AT END OF YEAR

Up to 24 months old:	13
24 to 30 months old:	0
Over 30 months old:	2

Notes and Comments:

These investigatory proceedings are similar to investigations of existing rates. However, in these cases the proposed rates, by statute, can only be suspended for seven months, otherwise they become effective.

These proceedings will only be reported if they are assigned to an ALJ, and in this category of cases, ALJs will generally be assigned only those relatively few cases that are to be orally heard. (Two of the 10 reported cases were modified procedure cases assigned to ALJs, but the large number of proposed rates proceedings are handled according to modified procedure by employee review boards.)

In the above reported cases the ALJ does not write an initial decision, to be served on the parties; instead the ALJ writes a recommended decision for the Commission, but in practice the ALJ's duty is the same as in other cases.

ICC table 4

Interstate Commerce Commission

Casetype: Investigation and Suspension of Proposed Rates (etc.) (Motor Carriers)

Total Number of Cases Terminated (FY 1975): 7

I) ELAPSED TIME DATA (in days). [Note, ICC submits data in months. We multiply by 30.4]

A) **Prehearing Stage**

			Days	
(1) *Origination to Referral to Office of Hearings*				
Dism/Wdraw	(5)	avg	36	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(2)	avg	325	
Total	**(N = 7)**	avg		119
(2) *Office of Hearings to Referral to ALJ*				
Dism/Wdraw	(5)	avg	143	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(2)	avg	27	
Total	**(N = 7)**	avg		109

B) **Hearing Stage** (Referred to ALJ to Initial Decision)

Dism/Wdraw	(1)	avg	24	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(2)	avg	222	
Total	**(N = 3)**	avg		158

C) **Posthearing Stage** (Initial Decision to Final Commission Action)

Dism/Wdraw	(1)	avg	2	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(2)	avg	1000	
Total	**(N = 3)**	avg		666

D) **Total Time**

Dism/Wdraw	(5)	avg	246	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(2)	avg	1578	
Total	**(N = 7)**	avg		626

II) MANNER OF TERMINATION

Dismissal/Withdrawals:	5
ALJ decision final:	0
ALJ decision reviewed:	2

III) EFFECT OF AGENCY REVIEW

Affirm/Modify:	2
Reverse:	0

IV) NUMBER OF HOURS OF HEARING

Total number of hours: 0
Number of cases that went to hearing: 0

V) NUMBER OF CASES PENDING AT END OF YEAR

Up to 24 months old:	4
24 to 30 months old:	0
Over 30 months old:	1

Notes and Comments:

The procedures are the same as in other Investigation and Suspension of Proposed Rates cases, except that motor carrier cases are reported separately.

ICC table 5:

Interstate Commerce Commission

Casetype: Finance Docket (Excluding Motor Carrier Cases)

Total Number of Cases Terminated (FY 1975): 108

I) ELAPSED TIME DATA (in days). [Note, ICC submits data in months. We multiply by 30.4]

A) **Prehearing Stage** — **Days**

(1) *Origination to Referral to Office of Hearings*

Dism/Wdraw	(66)	avg	137
ALJ decision final	(19)	avg	97
ALJ decision reviewed	(23)	avg	134
Total	**(N = 108)**	avg	131

(2) *Office of Hearings to Referral to ALJ*

Dism/Wdraw	(66)	avg	204
ALJ decision final	(19)	avg	116
ALJ decision reviewed	(23)	avg	492
Total	**(N = 108)**	avg	249

B) **Hearing Stage** (Referred to ALJ to Initial Decision)

Dism/Wdraw	(46)	avg	264
ALJ decision final	(19)	avg	185
ALJ decision reviewed	(23)	avg	298
Total	**(N = 88)**	avg	255

C) **Posthearing Stage** (Initial Decision to Final Commission Action)

Dism/Wdraw	(46)	avg	699
ALJ decision final	(19)	avg	225
ALJ decision reviewed	(23)	avg	605
Total	**(N = 88)**	avg	572

D) **Total Time**

Dism/Wdraw	(66)	avg	1237
ALJ decision final	(19)	avg	626
ALJ decision reviewed	(23)	avg	1532
Total	**(N = 108)**	avg	1192

II) MANNER OF TERMINATION

Dismissal/Withdrawals:	66
ALJ decision final:	19
ALJ decision reviewed:	23

III) EFFECT OF AGENCY REVIEW

Affirm/Modify:	17
Reverse:	6

IV) NUMBER OF HOURS OF HEARING

Total number of hours: 649
Number of cases that went to hearing: 54

V) NUMBER OF CASES PENDING AT END OF YEAR

Up to 24 months old:	12[a]
24 to 30 months old:	16[b]
Over 30 months old:	28

[a] 11 are Rail Abandonment cases awaiting environmental clearance.
[b] 24 are Rail Abandonment cases awaiting environmental clearance.

Notes and Comments

These cases are not assigned to ALJs unless they are to be heard orally. They involve many different types of financial transactions which require Commission approval. In fiscal year 1975, 78 of the cases were rail abandonment cases (most of which involved the Penn Central Railroad).

ICC table 6:

Interstate Commerce Commission

Casetype: Finance Docket (Motor Carriers)

Total Number of Cases Terminated (FY 1975): 97

I) ELAPSED TIME DATA (in days). [Note, ICC submits data in months. We multiply by 30.4]

A) **Prehearing Stage** — **Days**

(1) *Origination to Referral to Office of Hearings*

Dism/Wdraw	(12)	avg	116	
ALJ decision final	(22)	avg	88	
ALJ decision reviewed	(63)	avg	179	
Total	**(N = 97)**	avg		149

(2) *Office of Hearings to Referral to ALJ*

Dism/Wdraw	(12)	avg	179	
ALJ decision final	(22)	avg	85	
ALJ decision reviewed	(63)	avg	185	
Total	**(N = 97)**	avg		161

B) **Hearing Stage** (Referred to ALJ to Initial Decision)

Dism/Wdraw	(3)	avg	337	
ALJ decision final	(22)	avg	185	
ALJ decision reviewed	(63)	avg	258	
Total	**(N = 88)**	avg		243

C) **Posthearing Stage** (Initial Decision to Final Commission Action)

Dism/Wdraw	(3)	avg	344	
ALJ decision final	(22)	avg	40	
ALJ decision reviewed	(63)	avg	371	
Total	**(N = 88)**	avg		286

D) **Total Time**

Dism/Wdraw	(12)	avg	547	
ALJ decision final	(22)	avg	401	
ALJ decision reviewed	(63)	avg	997	
Total	**(N = 97)**	avg		806

II) MANNER OF TERMINATION

Dismissal/Withdrawals:	12
ALJ decision final:	22
ALJ decision reviewed:	63

III) EFFECT OF AGENCY REVIEW

Affirm/Modify:	47
Reverse:	16

IV) NUMBER OF HOURS OF HEARING

Total number of hours:	1375
Number of cases that went to hearing:	65

V) NUMBER OF CASES PENDING AT END OF YEAR

Up to 24 months old:	88
24 to 30 months old:	16
Over 30 months old:	26

Notes and Comments:

These procedures are the same as in other Finance Docket cases, except that motor carrier cases are reported separately.

ICC table 7:

Interstate Commerce Commission

Casetype: Section 5(a) Applications (Motor Carrier)

Total Number of Cases Terminated (FY 1975): 3

I) ELAPSED TIME DATA (in days). [Note, ICC submits data in months. We multiply by 30.4]

A) **Prehearing Stage**

			Days	
(1) *Origination to Referral to Office of Hearings*				
Dism/Wdraw	(0)	avg	—	
ALJ decision final	(1)	avg	213	
ALJ decision reviewed	(2)	avg	383	
Total	**(N = 3)**	avg		325
(2) *Office of Hearings to Referral to ALJ*				
Dism/Wdraw	(0)	avg	—	
ALJ decision final	(1)	avg	0	
ALJ decision reviewed	(2)	avg	0	
Total	**(N = 3)**	avg		0

B) **Hearing Stage** (Referred to ALJ to Initial Decision)

Dism/Wdraw	(0)	avg	—	
ALJ decision final	(1)	avg	55	
ALJ decision reviewed	(2)	avg	125	
Total	**(N = 3)**	avg		100

C) **Posthearing Stage** (Initial Decision to Final Commission Action)

Dism/Wdraw	(0)	avg	—	
ALJ decision final	(1)	avg	40	
ALJ decision reviewed	(2)	avg	219	
Total	**(N = 3)**	avg		161

D) **Total Time**

Dism/Wdraw	(0)	avg	—	
ALJ decision final	(1)	avg	316	
ALJ decision reviewed	(2)	avg	730	
Total	**(N = 3)**	avg		590

II) MANNER OF TERMINATION

Dismissal/Withdrawals:	0
ALJ decision final:	1
ALJ decision reviewed:	2

III) EFFECT OF AGENCY REVIEW

Affirm/Modify:	0
Reverse:	2

IV) NUMBER OF HOURS OF HEARING

Total number of hours: 0
Number of cases that went to hearing: 0

V) NUMBER OF CASES PENDING AT END OF YEAR

Up to 24 months old:	1
24 to 30 months old:	0
Over 30 months old:	1

Notes and Comments:

Specialized proceedings involving applications by motor carriers seeking approval of agreements relating to joint rates, fares, charges etc.

ICC table 8:

Interstate Commerce Commission

Casetype: Ex Parte Proceedings

Total Number of Cases Terminated (FY 1975): 3

I) ELAPSED TIME DATA (in days). [Note, ICC submits data in months. We multiply by 30.4]

A) **Prehearing Stage**

			Days	
(1) *Origination to Referral to Office of Hearings*				
Dism/Wdraw	(1)	avg	27	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(2)	avg	36	
Total	**(N = 3)**	avg		32
(2) *Office of Hearings to Referral to ALJ*				
Dism/Wdraw	(1)	avg	119	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(2)	avg	188	
Total	**(N = 3)**	avg		164

B) **Hearing Stage** (Referred to ALJ to Initial Decision)

Dism/Wdraw	(1)	avg	784	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(2)	avg	182	
Total	**(N = 3)**	avg		383

C) **Posthearing Stage** (Initial Decision to Final Commission Action)

Dism/Wdraw	(1)	avg	344	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(2)	avg	377	
Total	**(N = 3)**	avg		365

D) **Total Time**

Dism/Wdraw	(1)	avg	1283	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(2)	avg	790	
Total	**(N = 3)**	avg		955

II) MANNER OF TERMINATION

Dismissal/Withdrawals:	1
ALJ decision final:	0
ALJ decision reviewed:	2

III) EFFECT OF AGENCY REVIEW

Affirm/Modify:	1
Reverse:	1

IV) NUMBER OF HOURS OF HEARING

Total number of hours: 16
Number of cases that went to hearing: 1

V) NUMBER OF CASES PENDING AT END OF YEAR

Up to 24 months old:	5
24 to 30 months old:	0
Over 30 months old:	2

Notes and Comments:

These proceedings are broad-based investigations or rulemaking proceedings undertaken by the Commission and assigned for hearing by an ALJ. The Commission may or may not require an initial decision by the ALJ.

ICC table 9:

Interstate Commerce Commission

Casetype: Fourth Section Applications

Total Number of Cases Terminated (FY 1975): 2

I) ELAPSED TIME DATA (in days). [Note, ICC submits data in months. We multiply by 30.4]

A) **Prehearing Stage**

			Days	
(1) *Origination to Referral to Office of Hearings*				
Dism/Wdraw	(1)	avg	3	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(1)	avg	249	
Total	**(N = 2)**	avg		125
(2) *Office of Hearings to Referral to ALJ*				
Dism/Wdraw	(1)	avg	36	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(1)	avg	0	
Total	**(N = 2)**	avg		18

B) **Hearing Stage** (Referred to ALJ to Initial Decision)

Dism/Wdraw	(0)	avg	—	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(1)	avg	237	
Total	**(N = 1)**	avg		237

C) **Posthearing Stage** (Initial Decision to Final Commission Action)

Dism/Wdraw	(0)	avg	—	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(1)	avg	283	
Total	**(N = 1)**	avg		283

D) **Total Time**

Dism/Wdraw	(1)	avg	176	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(1)	avg	772	
Total	**(N = 2)**	avg		474

II) MANNER OF TERMINATION

Dismissal/Withdrawals:	1
ALJ decision final:	0
ALJ decision reviewed:	1

III) EFFECT OF AGENCY REVIEW

Affirm/Modify:	0
Reverse:	1

IV) NUMBER OF HOURS OF HEARING

Total number of hours: 0
Number of cases that went to hearing: 0

V) NUMBER OF CASES PENDING AT END OF YEAR

Up to 24 months old:	2
24 to 30 months old:	0
Over 30 months old:	2

Notes and Comments:

These proceedings are spin-offs from Investigation and Suspension proceedings where a carrier applies for special permission to charge less for through shipments than the sum of charges to all intermediate points.

ICC table 10:

Interstate Commerce Commission

Casetype: Released Rates

Total Number of Cases Terminated (FY 1975): 2

I) ELAPSED TIME DATA (in days). [Note, ICC submits data in months. We multiply by 30.4]

A) **Prehearing Stage**

			Days		
(1) *Origination to Referral to Office of Hearings*					
Dism/Wdraw	(1)	avg	33		
ALJ decision final	(0)	avg	—		
ALJ decision reviewed	(1)	avg	0		
Total	**(N = 2)**			avg	18
(2) *Office of Hearings to Referral to ALJ*					
Dism/Wdraw	(1)	avg	97		
ALJ decision final	(0)	avg	—		
ALJ decision reviewed	(1)	avg	420		
Total	**(N = 2)**			avg	258

B) **Hearing Stage** (Referred to ALJ to Initial Decision)

Dism/Wdraw	(0)	avg	—		
ALJ decision final	(0)	avg	—		
ALJ decision reviewed	(1)	avg	310		
Total	**(N = 1)**			avg	310

C) **Posthearing Stage** (Initial Decision to Final Commission Action)

Dism/Wdraw	(0)	avg	—		
ALJ decision final	(0)	avg	—		
ALJ decision reviewed	(1)	avg	860		
Total	**(N = 1)**			avg	860

D) **Total Time**

Dism/Wdraw	(1)	avg	1447		
ALJ decision final	(0)	avg	—		
ALJ decision reviewed	(1)	avg	1596		
Total	**(N = 2)**			avg	1520

II) MANNER OF TERMINATION

Dismissal/Withdrawals:	1
ALJ decision final:	0
ALJ decision reviewed:	1

III) EFFECT OF AGENCY REVIEW

Affirm/Modify:	1
Reverse:	0

IV) NUMBER OF HOURS OF HEARING

Total number of hours:	114
Number of cases that went to hearing:	1

V) NUMBER OF CASES PENDING AT END OF YEAR

Up to 24 months old:	1
24 to 30 months old:	0
Over 30 months old:	1

Notes and Comments:

Specialized proceedings involving a carrier's limitation-of-liability provisions.

ICC table 11:

Interstate Commerce Commission

Casetype: Operating Authority Applications (Motor Carrier)

Total Number of Cases Terminated (FY 1975): 723

I) ELAPSED TIME DATA (in days). [Note, ICC submits data in months. We multiply by 30.4]

A) **Prehearing Stage**

			Days	
(1) *Origination to Referral to Office of Hearings*				
Dism/Wdraw	(214)	avg	131	
ALJ decision final	(191)	avg	119	
ALJ decision reviewed	(318)	avg	121	
Total	**(N = 723)**	avg		125
(2) *Office of Hearings to Referral to ALJ*				
Dism/Wdraw	(214)	avg	170	
ALJ decision final	(191)	avg	103	
ALJ decision reviewed	(318)	avg	146	
Total	**(N = 723)**	avg		143

B) **Hearing Stage** (Referred to ALJ to Initial Decision)

Dism/Wdraw	(1)	avg	195	
ALJ decision final	(191)	avg	155	
ALJ decision reviewed	(318)	avg	201	
Total	**(N = 510)**	avg		185

C) **Posthearing Stage** (Initial Decision to Final Commission Action)

Dism/Wdraw	(1)	avg	43	
ALJ decision final	(191)	avg	49	
ALJ decision reviewed	(318)	avg	319	
Total	**(N = 510)**	avg		216

D) **Total Time**

Dism/Wdraw	(214)	avg	350	
ALJ decision final	(191)	avg	438	
ALJ decision reviewed	(318)	avg	793	
Total	**(N = 723)**	avg		565

II) MANNER OF TERMINATION

Dismissal/Withdrawals:	214
ALJ decision final:	191
ALJ decision reviewed:	318

III) EFFECT OF AGENCY REVIEW

Affirm/Modify:	236
Reverse:	72

IV) NUMBER OF HOURS OF HEARING

Total number of hours:	6630
Number of cases that went to hearing:	355

V) NUMBER OF CASES PENDING AT END OF YEAR

Up to 24 months old:	693
24 to 30 months old:	46
Over 30 months old:	85

Notes and Comments:

All applications for motor carrier operating rights are published in the Federal Register. After a 30-day period for filing protests has expired, the applications will be designated either for oral hearing or modified procedure. Only those cases deemed complex are assigned to the oral hearing docket, to be heard by ALJs. Some cases are first assigned to the modified procedure docket, but are later referred for oral hearing if the employee review board feels such treatment is warranted.

Only those cases assigned or transferred to ALJs for hearing are reported above.

ICC table 12:

Interstate Commerce Commission

Casetype: Operating Authority Applications (Water Carrier)

Total Number of Cases Terminated (FY 1975): 4

I) ELAPSED TIME DATA (in days). [Note, ICC submits data in months. We multiply by 30.4]

A) **Prehearing Stage**

			Days	
(1) *Origination to Referral to Office of Hearings*				
Dism/Wdraw	(1)	avg	122	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(3)	avg	40	
Total	**(N = 4)**	avg		61
(2) *Office of Hearings to Referral to ALJ*				
Dism/Wdraw	(1)	avg	164	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(3)	avg	210	
Total	**(N = 4)**	avg		198

B) **Hearing Stage** (Referred to ALJ to Initial Decision)

Dism/Wdraw	(0)	avg	—	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(3)	avg	185	
Total	**(N = 3)**	avg		185

C) **Posthearing Stage** (Initial Decision to Final Commission Action)

Dism/Wdraw	(0)	avg	—	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(3)	avg	271	
Total	**(N = 3)**	avg		271

D) **Total Time**

Dism/Wdraw	(1)	avg	313	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(3)	avg	708	
Total	**(N = 4)**	avg		611

II) MANNER OF TERMINATION

Dismissal/Withdrawals:	1
ALJ decision final:	0
ALJ decision reviewed:	3

III) *EFFECT OF AGENCY REVIEW*

Affirm/Modify:	3
Reverse:	0

IV) NUMBER OF HOURS OF HEARING

Total number of hours:	44
Number of cases that went to hearing:	3

V) NUMBER OF CASES PENDING AT END OF YEAR

Up to 24 months old:	5
24 to 30 months old:	1
Over 30 months old:	3

Notes and Comments:

Procedures are similar to those used to handle the much more frequent motor carrier applications.

ICC table 13:

Interstate Commerce Commission

Casetype: Operating Authority Applications (Freight Forwarder)

Total Number of Cases Terminated (FY 1975): 6

I) ELAPSED TIME DATA (in days). [Note, ICC submits data in months. We multiply by 30.4]

A) **Prehearing Stage**

			Days	
(1) *Origination to Referral to Office of Hearings*				
Dism/Wdraw	(2)	avg	131	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(4)	avg	301	
Total	**(N = 6)**	avg		243
(2) *Office of Hearings to Referral to ALJ*				
Dism/Wdraw	(2)	avg	43	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(4)	avg	91	
Total	**(N = 6)**	avg		76

B) **Hearing Stage** (Referred to ALJ to Initial Decision)

Dism/Wdraw	(0)	avg	—	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(4)	avg	149	
Total	**(N = 6)**	avg		149

C) **Posthearing Stage** (Initial Decision to Final Commission Action)

Dism/Wdraw	(0)	avg	—	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(4)	avg	109	
Total	**(N = 4)**	avg		109

D) **Total Time**

Dism/Wdraw	(2)	avg	213	
ALJ decision final	(0)	avg	—	
ALJ decision reviewed	(4)	avg	657	
Total	**(N = 6)**	avg		511

II) MANNER OF TERMINATION

Dismissal/Withdrawals:	2
ALJ decision final:	0
ALJ decision reviewed:	4

III) EFFECT OF AGENCY REVIEW

Affirm/Modify:	4
Reverse:	0

IV) NUMBER OF HOURS OF HEARING

Total number of hours: 80
Number of cases that went to hearing: 4

V) NUMBER OF CASES PENDING AT END OF YEAR

Up to 24 months old:	5
24 to 30 months old:	0
Over 30 months old:	1

Notes and Comments:
Procedures are similar to those used to handle the much more frequent motor carrier applications.

ICC table 14:

Interstate Commerce Commission

Casetype: Operating Authority Complaints (Motor Carrier)

Total Number of Cases Terminated (FY 1975): 55

I) ELAPSED TIME DATA (in days). [Note, ICC submits data in months. We multiply by 30.4]

A) **Prehearing Stage**

			Days	
(1) *Origination to Referral to Office of Hearings*				
Dism/Wdraw	(12)	avg	46	
ALJ decision final	(16)	avg	140	
ALJ decision reviewed	(27)	avg	106	
Total	**(N = 55)**	avg		103
(2) *Office of Hearings to Referral to ALJ*				
Dism/Wdraw	(12)	avg	106	
ALJ decision final	(16)	avg	109	
ALJ decision reviewed	(27)	avg	116	
Total	**(N = 55)**	avg		112

B) **Hearing Stage** (Referred to ALJ to Initial Decision)

Dism/Wdraw	(0)	avg	—	
ALJ decision final	(16)	avg	155	
ALJ decision reviewed	(27)	avg	192	
Total	**(N = 43)**	avg		179

C) **Posthearing Stage** (Initial Decision to Final Commission Action)

Dism/Wdraw	(0)	avg	—	
ALJ decision final	(16)	avg	42	
ALJ decision reviewed	(27)	avg	413	
Total	**(N = 43)**	avg		273

D) **Total Time**

Dism/Wdraw	(12)	avg	246	
ALJ decision final	(16)	avg	450	
ALJ decision reviewed	(27)	avg	833	
Total	**(N = 55)**	avg		593

II) MANNER OF TERMINATION

Dismissal/Withdrawals:	12
ALJ decision final:	16
ALJ decision reviewed:	27

III) EFFECT OF AGENCY REVIEW

Affirm/Modify:	3
Reverse:	1
Declaratory Order	23*

IV) NUMBER OF HOURS OF HEARING

Total number of hours:	645
Number of cases that went to hearing:	26

V) NUMBER OF CASES PENDING AT END OF YEAR

Up to 24 months old:	41
24 to 30 months old:	9
Over 30 months old:	8

Notes and Comments:

*Declaratory orders are dispositions by issuance of an order which does not determine a controversy on the merits, but which may state the Commission's future policy or future rule of general applicability.

These proceedings are instituted by the filing of a formal complaint against the license holder. The complaint is served upon the defendant or defendants by the Commission. The answer normally must be filed within 20 days, but there may be supplemental complaints by the complainant or cross-complaints filed by the defendant.

ICC table 15:

Interstate Commerce Commission

Casetype: Operating Authority Complaints (Freight Forwarder)

Total Number of Cases Terminated (FY 1975): 4

I) ELAPSED TIME DATA (in days). [Note, ICC submits data in months. We multiply by 30.4]

A) **Prehearing Stage**

			Days	
(1) *Origination to Referral to Office of Hearings*				
Dism/Wdraw	(2)	avg	64	
ALJ decision final	(1)	avg	15	
ALJ decision reviewed	(1)	avg	12	
Total	**(N = 4)**	avg		40
(2) *Office of Hearings to Referral to ALJ*				
Dism/Wdraw	(2)	avg	347	
ALJ decision final	(1)	avg	97	
ALJ decision reviewed	(1)	avg	264	
Total	**(N = 4)**	avg		264

B) **Hearing Stage** (Referred to ALJ to Initial Decision)

Dism/Wdraw	(0)	avg	—	
ALJ decision final	(1)	avg	161	
ALJ decision reviewed	(1)	avg	103	
Total	**(N = 2)**	avg		134

C) **Posthearing Stage** (Initial Decision to Final Commission Action)

Dism/Wdraw	(0)	avg	—	
ALJ decision final	(1)	avg	70	
ALJ decision reviewed	(1)	avg	505	
Total	**(N = 2)**	avg		286

D) **Total Time**

Dism/Wdraw	(2)	avg	480	
ALJ decision final	(1)	avg	350	
ALJ decision reviewed	(1)	avg	888	
Total	**(N = 4)**	avg		550

II) MANNER OF TERMINATION

Dismissal/Withdrawals:	2
ALJ decision final:	1
ALJ decision reviewed:	1

III) EFFECT OF AGENCY REVIEW

Affirm/Modify:	0
Reverse:	0
Declaratory Order:	1

IV) NUMBER OF HOURS OF HEARING

Total number of hours: 25
Number of cases that went to hearing: 2

V) NUMBER OF CASES PENDING AT END OF YEAR

Up to 24 months old:	1
24 to 30 months old:	1
Over 30 months old:	0

Notes and Comments:

Procedures are similar to operating authority complaints involving motor carriers.

National Labor Relations Board (NLRB)

Unfair Labor Practice Cases: Proceedings instituted by the General Counsel by issuance of a complaint pursuant to Section 10(b) of the NLRA, 29 U.S.C. 160(b), alleging violations of Section 8 of that Act, with formal evidentiary hearing by an ALJ and final decision by the Board. (Rules of Practice: 29 CFR 101, 102)

Procedures: The proceeding is begun by the filing of an unfair labor practice charge by "any person" (generally an employee, union or employer). The charge is investigated by the appropriate Regional Office. Upon completion of the investigation, the Regional Director (RD) determines whether the charge is meritorious. If the charge is deemed not meritorious, the RD recommends that the complainant withdraw the charge. If the charging party does not withdraw, the RD dismisses the charge. A dismissed charge may be appealed, within 10 days, to the General Counsel in Washington who may reverse or sustain the RD's dismissal. If the charge is deemed meritorious by the RD initially, or if the General Counsel reverses an RD's dismissal, the RD then attempts to achieve a settlement before issuing a complaint. Such a settlement is known as an "informal settlement" and is, in effect, a promise by the respondent that he will not repeat or continue the practice complained of. It involves a written agreement between the respondent, the RD and (usually) the complainant, although such an agreement may at times be entered into without the complainant, who may appeal such a "unilateral settlement agreement" to the General Counsel as if the RD had dismissed the charge.

Other meritorious charges are sometimes withdrawn on the complainant's own initiative due to a change in circumstances or due to an agreement between the complainant and the respondent without the RD's involvement. Informal settlements and withdrawals of meritorious charges are grouped into a category called "adjustments" for statistical purposes. Although most adjustments occur prior to the issuance of a complaint, they may also occur afterwards.

Complaints which are not settled are assigned to administrative law judges for hearing. The possibility of an adjustment remains, although once the complaint has issued, the agency favors a "formal settlement agreement" which is subject to the approval of the Board in Washington. If the formal settlement is agreed to by the RD and the respondent, but over the objections of the complainant (after issuance of the complaint), the settlement must first be approved by the General Counsel and then finally approved by the Board. If all parties agree, the Board must still give its final approval. Formal settlement agreements normally contain the specific terms of an agreed-upon Board order, and may also provide for the entry of a consent court decree enforcing that order. (Such a decree makes any violation of the agreement contemptuous of court.)

If the case does proceed to a hearing, the hearing is presided over by an ALJ who makes a decision on the merits—either to recommend dismissal of the complaint or sustainment of the complaint in whole or in part with a recommended cease and desist decree and remedial order. If no exceptions are filed, the Board will adopt the ALJ's decision. If timely exceptions are filed, the Board must review the case.

*Review Procedures:** When the ALJ's decision is released, the parties are given 23 days to file briefs and/or exceptions. If exceptions are filed, cross exceptions and a brief in support of the cross-exceptions and/or a brief answering the exceptions may be filed within a further period of 13 days. Finally a brief in opposition to the cross-exceptions may be filed within another 13 days.

[Fiscal 1975—990 ALJ decisions received by the Board

Exceptions filed	620 (67.6%)
Cross exceptions filed	88 (14.2% of the 620)
Answer	210 (33.9% of the 620)
Answering brief to cross-exception	27 (30.7% of the 88)

Extensions of time are requested in about 55% of the cases and the median number of days in the extensions granted was 12 days for fiscal years 1973 and 1974 (although that median has reportedly been cut down to 3 as of January, 1975).]

The five-member Board has divided itself into five panels. Only cases involving questions of policy or which present novel or unusual issues of law are considered by the full Board. [In FY 1974, the last year for which this information is available, the Board issued 977 contested unfair labor practice decisions. Of these only 139 (14.2%) were considered by the full Board.]

The decision making at the Board level is divided into "stages." Stage I is analysis and research; Stage II is drafting of a decision; Stage III is circulation for Board Members' approval. And the final stages, unnumbered, are editing, reproduction and issuance.

Stage I: The cases to be reviewed are assigned to an individual Board Member who assigns the task of reviewing the record to an attorney (a "counsel") in his office. The counsel reports to his or her supervisor as to the issues and the facts as reflected in the record, and with his supervisor, prepares the case for submission to a subpanel composed of experienced counsel to the Members assigned to the panel that is to consider the case. In infrequent cases, where the issues appear completely routine, the subpanel is bypassed and the case is presented directly to the panel in the form of a draft opinion and order (called a "draft-in-lieu"). But in those cases that appear to have substantial issues, the case is presented to the subpanel for discussion. The subpanel may arrive at a tentative decision or it may decide to present the case to the panel or, in rare cases, directly to the full Board by means of a memorandum covering issues which cannot be readily resolved. The stage ends when the subpanel acts (or when the "draft-in-lieu" is prepared).

Stage II: The drafting process has already begun during Stage I. The proposed draft has risen through the supervisory hierarchy of the originating Member's staff, which is charged with ensuring that the draft comports with the tentative decision reached by the subpanel or panel. The stage is complete when the originating Member approves the draft for circulation to the other two panel Members. Courtesy copies are also sent to the remaining two Members for "clearance" so that they may request full Board consideration.

*The description of the Board's review procedures is from "Deciding Cases at the NLRB," a paper presented before the Chairman's Task Force on the NLRB, January 6, 1976.

Stage III: The other panel Members assign the circulating draft to a counsel who specializes in screening such drafts. If after discussions with the "screener," the Member has questions or suggestions, these are taken up with the originating staff. It may be necessary to reschedule the case for further panel (or full Board) discussion. If a majority of the panel (or Board) has approved the draft, and a Member wishes to dissent, that may be done. When all the various Members have completed their review of the drafts, the copies are returned to the originally-assigned counsel who is responsible for clearing all changes with all participating Members. After this, it is then edited and submitted to the Executive Secretary's office where it is reproduced and released.

Cases Considered by the Full Board: Cases may reach the full Board directly from the sub-panel or panel, or by being called there by any Board Member at any stage. (In FY 1974, to reiterate, 14.3% of all unfair labor practice decisions issued by the Board were issued after consideration by the full Board.)

Stages II and III take twice as much time, on the average, in those cases considered by the full Board. The cases are considered at regularly scheduled meetings of the Board, but are sometimes put over to an additional meeting. After decision is reached, the draft is prepared by counsel, approved by the originating Member and circulated to all Members.

NLRB STATISTICS

I. Manner of Termination (Closed cases derived from Table 7, 1975 Annual Report of NLRB, p. 219.)

A) Cases closed prior to issuance of complaint	**26,339**
adjustments (Including informal settlements)	*4,960*
withdrawals of non-meritorious charges	*10,347*
dismissals by Regional Director	*10,504*
10K cases (jurisdictional disputes not decided by ALJ)	*528*
B) *Cases closed after issuance of complaint	**3,469**
1) *Adjustments*	*1,546*
Before opening of hearing	1,382
After hearing opened	164
2) *Formal settlement* (Board supervises)	*234*
Before opening of hearing	153
After hearing opened	81
3) *Withdrawal of charges*	*259*
Before opening of hearing	215
After hearing opened, before ALJ decision	23
After hearing opened before Board decision	10
4) *Dismissal of charges*	*351*
Before opening of hearing	23
After hearing opened, before ALJ decision	6
By ALJ dismissal (not ruled upon by Board)	2
By Board dismissal (ALJ's dismissal adopted, no exceptions filed)	89
By Board dismissal (in contested cases)	198
By court of appeals	23
By Supreme Court action	10
5) *Compliance with*	*1,078*
ALJ's decision (not ruled upon by the Board)	1
Board decision (ALJ's decision adopted, no exceptions files)	185
Board decision (in contested cases)	555
Court of appeals decree	309
Supreme Court action	28
6) *Otherwise* (firm went out of business)	*1*

*(Note, this category is approximately equivalent to case closing figures for other agencies in our reporting system, although the Board does not consider some cases closed until Federal court action is final.)

II. Elapsed Time of Steps in ULP Cases, FY 1975 (*median days*) (Provided by Division of Operations-Management, Office of General Counsel.)

A) Informal dispositions—prior to issuance of complaint	
Filing of charge to closing (all informal dispositions)	42 days
Filing to adjustment	39 days
Filing to withdrawal	27 days
Filing to dismissals (not appealed to General Counsel)	52 days
Filing to dismissals (affirmed by General Counsel)	52 days
Filing to dismissals (affirmed by General Counsel)	81 days
B) Formal dispositions	
Filing to issuance of complaint	54 days
Complaint to close of hearings (length of hearing = 2-4 days)	55 days
Close of hearing to ALJ decision	72 days
ALJ decision to Board decision	134 days**
Total: *Filing to Board decision* contested cases)	332 days

**[Median elapsed times for various stages of Board's review process (after ALJ decision) are from "Deciding Cases at the NLRB" see footnote, p. , *supra*.]

ALJ decision to *assignment* of case to Board Member (all cases)	44 days
(Intermediate Stages for cases not going to Full board:	
Stage I (through action of subpanel)	23 days
Stage II (drafts of decision)	28 days
Stage III (circularization)	20 days
Mechanics of issuance of official opinion	11 days
Total: Assignment to Board decision	89 days
Total: Assignment to Board decision (Only cases going to Full Board)	194 days

III. Activity at the ALJ level (Fiscal 1975 statistics provided by Division of Operations Management, Office of General Counsel)

Cases pending at beginning of FY	
(at trial)	433
(awaiting decision)	190
Cases assigned a hearing date	3,345
Hearings closed	1,080
Judges' decisions issued	995***
ALJ decisions appealed to Board	693***
Cases pending at end of FY	
(at trial)	691
(awaiting decision)	228
Average number of pages of transcript for those cases where ALJs made decisions	349
Number of ALJs at end of year	77

***These figures differ slightly from those provided in the paper "Deciding Cases at the NLRB" where the number of decisions was 990 and the number of those appealed to the Board was 620.

Occupational Safety and Health Review Commission (OSHRC)

OSHA Enforcement Cases: Proceedings whereby an employer may contest a citation or proposed civil penalty assessment charging him with a violation of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651-78) or any standard, rule, or order promulgated thereunder, or whereby an affected employee or representative may contest the citation's prescribed period for abatement of the violation.

Procedure: The proceeding is set in motion when an inspector for the Occupational Safety and Health Administration (OSHA), an agency of the Department of Labor, finds what he believes to be a violation of the Act. The employer is issued a citation which describes the violation, the period of time OSHA deems reasonable for correction ("abatement"), and a civil penalty if any. The employer or any affected employee has 15 working days from receipt of the notification of proposed penalty to notify the OSHA Area Director in writing of his intent to contest the citation. Within 7 days of receipt, the OSHA Area Director must forward the notice of contest to the Commission. The Commission notifies the Secretary of Labor ("complainant"), the employer ("respondent"), and other affected parties of the docketing of the case.

Within 20 days of the date on which OSHA receives the employer's notice of contest, the Secretary of Labor (Solicitor's Office) must file a complaint with the Commission setting forth the alleged violation and justification for the proposed penalty. The employer has 15 days from the filing to file an answer. If no answer is filed, a show cause letter is sent warning the respondent of possible dismissal of his contest. The docketed case is channeled through the Chief ALJ's office and is assigned to an ALJ for hearing. The parties are given at least 10 days notice of the hearing.

At any stage of the proceedings, an employer may withdraw his contest if he abates the violation (or shows when it will be abated), pays any proposed penalty, and gives notice to affected employees. Settlements are encouraged but they must be approved by the Secretary of Labor, the Commission, and affected employees.

After the trial-type hearing, the ALJ will issue a written decision and file it with the Commission and the parties. This decision becomes final 30 days after receipt by the Commission unless one of the three Commissioners directs that the case be reviewed. Review is not a matter of right; however, any party may petition the Commission requesting review. The Commission may also review the case on its own motion. Where review is directed, briefs and exceptions are filed and oral argument is sometimes permitted. If review is not directed, or if the Commission issues a decision on the merits, appeal may be had to the U.S. Court of Appeals.

If the employer has not contested the citation, he may still later file a petition for modification of abatement (PMA). This petition must be filed no later than the end of the next working day following the date on which abatement was to have been completed. OSHA must forward this petition to the Commission within 3 days of receipt. Within 10 days of receipt, the Secretary of Labor must file a response. (In these cases, the employer is the "petitioner" and the Secretary of Labor is the "respondent.")

Statistics: The following statistics were provided by the Director of the Management Information Systems Division at OSHRC. (Fiscal Year 1975)

The number of new cases referred to ALJs in FY 1975 was 2513. The number of cases terminated by the Commission (all terminations result in final order by the Commission) was also 2513. (See quarterly case load figures in Caseload Tables, page 62 , *supra*).

Elapsed time and Manner of Terminations—Hearing Stage

Average elapsed time in days for each of the following steps in the case:

Date Docketed to Date Assigned to ALJ—73.2 days (N = 2,264)
(Note, this N is less than the total number of terminations because either date was missing for a number of cases.)

Date Assigned to Date Heard—61.1 days (N = 896)
(N is lower because many cases were withdrawn or settled prior to the opening of the hearing.)

Date Heard to Date All Briefs Received—63.0 days (N = 564)

Date All Briefs Received to Date ALJ's Decision Filed with Commission—88.9 days (N = 594)

Total—Date Assigned to Date Decision/Order Filed:

Formal ALJ decision on merits	208.3 days	N = 716
Withdrawal of Contest	77.4 days	N = 190
Dismissal of Contest (including defaults)	76.9 days	N = 185
Settlements	191.2 days	N = 986
Ruling on PMA's (by ALJ)	100.4 days	N = 176
Other	99.0 days	N = 10
(All Cases)	126.7 days	N = 2263

Review by the Commission

Number of cases where review was directed		296*
Number of petitions for review filed		204*
Review w/o petition	155	
Review with petition	141	
Petitions denied	63	

Review (elapsed time from decision filed to final order date:

Where no review	30.5 days (N = 1965)
All others	334.2 days (N = 472)**
All others (not including PMA cases)	439.4 days (N = 292)
Average number of pages of transcript for heard cases	139.9 pages (N = 851)

*(Does not include rulings on PMA's, all of which are reviewed.)

**All others include—

Affirmed	182
Reversed (vacated)	33
Affirmed in part, reversed in part	18
Modified	57
Modification of abatement period granted	146
Modification of abatement period denied	1
PMA dismissed	12
PMA withdrawn	19
Other	1

Social Security Administration (SSA)

The 5 types of SSA cases are as follows:

RSI—Retirement and Survivors Insurance, 42 U.S.C. 402 *et seq.* Statutory hearing requirement, 42 U.S.C. 405(b). Rules of Practice, 20 CFR 404.901-404.990.

Initial determinations made by the Administration with respect to the entitlement to monthly benefits or lump sum payments under the old age insurance program, Title II, 42 U.S.C. 402 *et seq.* Initial determinations may involve the amount of benefits to be paid an individual, a recomputation of the individual's primary insurance amount [see 42 U.S.C. 215(f)], whether there has been an overpayment or underpayment, whether a husband, widower or parent meets the requirement of support from the insured individual, or whether an individual's earnings record should be revised.

Written notice of the initial determination is sent to the party to the determination. A dissatisfied party may request in writing that the Administration reconsider the determination. The Administration shall reconsider the determination upon written request and give notice of the reconsidered determination. If still dissatisfied, the party has a right to an adjudicative hearing before an Administrative Law Judge. The ALJ shall make a decision in the case or certify the case to the Appeals Council with a recommended decision. When the ALJ has certified the case to the Appeals Council, the Council shall make the decision. If the ALJ has decided the case himself (as is usually the case), a dissatisfied party may seek review by the Appeals Council which may in its discretion deny or grant the request for review. The Council may, on its own motion remove to itself cases pending before or decided by an ALJ. After final action by the Appeals Council a dissatisfied party may file a civil action for relief in a federal district court.

DI and DWIB—Disability Insurance Benefits (including disabled widow/ers) 42 U.S.C. 421 *et seq.* Statutory hearing requirement 42 U.S.C. 421(d). Rules of Practice 20 CFR 404.901-404.990.

Initial determinations made by the Administration with respect to the entitlement to monthly benefits or lump sum payments from the disability insurance program, Title II, 42 U.S.C. 421 *et seq.* Initial determinations may involve the amount of benefits to be paid an individual, reduction or suspension of benefits, or establishment or termination of a period of disability [this determination may be made by a State agency when required by a Federal-State agreement pursuant to 42 U.S.C. 421(b)].

The procedures are the same as described in the discussion of RSI cases.

HI—Hospital and Supplemental Medical Insurances (including providers of services cases) 42 U.S.C. 1395c *et seq.* Statutory hearing requirement 42 U.S.C. 1395ff(b). Rules of Practice 20 CFR 404.901-401.990, 20 CFR 701-750, ~~20~~ CFR 405.1501-405.1595. 422.

Initial determinations made by the Administration, designated intermediaries or the Secretary with respect to the "Medicare program," Title XVIII of the Act.

Initial determinations include:

a) The entitlement of an individual to coverage under the hospital insurance program, 42 U.S.C. 1395c *et seq*, and under the supplementary medical insurance program, 42 U.S.C. 1395 *et seq.* These determinations are made under the procedures in 20 CFR 404.901-404.990 as described in the discussion of RSI cases.

b) Determinations made by an SSA designated intermediary on the basis of a request for payment by a covered individual who has received hospital care. These determinations include the coverage of items and services furnished, the amount of deductible number of days of care, beginning and ending of illness, medical necessity of service, etc. In some cases a provider of services (see paragraph c below) has provided services to an individual and then requested payment on behalf of that individual. The intermediary may determine that such items and services were not covered and that the individual or provider knew or should have known this. These determinations, reconsideration (by the Administration) and hearings are under 20 CFR 701-750, and the procedures are generally the same as in RSI cases. However, the right to a hearing before an ALJ is subject to an amount-in-controversy requirement of $100, and a civil action may be filed in the district court only where the amount in controversy after final action by the Appeals Council is $1,000 or more.

c) Determinations made by the Secretary of HEW with respect to whether an institution, facility, agency or clinic is a provider of services [under 42 U.S.C. 1395x(e)] or whether such status should be terminated according to 42 U.S.C. 1395cc. (Other similar questions may arise with respect to the status of laboratories, x-ray services, and providers of emergency hospital services). The procedures governing this determination, reconsideration, hearing before an ALJ and review by Appeals Council are set forth in 20 CFR 405.1500-405.1595, and are similar to those followed in RSI cases.

BL—Black Lung Benefits, 30 U.S.C.A. 901 *et seq* (1976 Supplement). Statutory hearing requirement 30 U.S.C.A. 923 (1976 Supplement). Rules of Practice 20 CFR 410.600-410.699 [(*Note:* Pursuant to Pub. L. 92-303, May 19, 1972, the Social Security Administration has jurisdiction only over those claims filed before June 30, 1973. Those claims filed after December 31, 1973 are under the jurisdiction of the Department of Labor (or approved State workmen's compensation plans; see 30 U.S.C.A. 925 (1976 Supplement). Those claims made during the transition period (July 1, 1973 — December 31, 1973) are also administered by the Department of Labor, but after consultation with the Secretary of HEW; see 30 U.S.C.A. 925 (1976 Supplement). Accordingly, the number of new BL cases in the SSA system is steadily decreasing.]

Initial determinations made by the Administration (or approved State agency) with respect to whether an individual is or has ceased to be under a total disability or with

respect to the amount of benefits to which the individual is entitled. These determinations, reconsiderations (by the Administration), adjudicatory hearings and appeals are governed by 20 CFR 410.600–410.699, and the procedures are generally the same as in RSI cases.

SSI—Supplemental Security Income, 42 U.S.C. §1381 *et seq*. Statutory hearing requirement, 42 U.S.C. §1383(c). Rules of Practice, 20 CFR 416 *et seq*.

Title XVI, as amended in 1972, effective January 1, 1974, established a national program to transfer from the states to the SSA primary responsibility for welfare aid to the aged, blind and disabled. However, in these amendments Congress was not explicit as to whether hearings required under the amendments had to be presided over by ALJs, and the Civil Service Commission refused to classify the hearing examiners employed by the SSA to hear these cases as ALJs. This controversy was not resolved until January 2, 1976, when Congress passed P.L. 94-209 making the SSI hearing examiners ALJs until the end of 1978. (This controversy is more fully described in Chapter I of this report, page , *supra*.)

In fiscal year 1975, SSI cases were not, then, within our definition of cases heard by ALJs. But because the procedures are basically similar to the other SSA cases we have provided some summary caseload statistics for SSI cases. In many of the cases heard by SSI hearing examiners in FY 1975, issues involving Title II questions were present along with Title XVI issues. For the summary statistical purposes, the cases are divided into those containing Title XVI issues only and those with a combination of Title II and Title XVI issues.

Statistics—(All statistics prepared by Division of Administration, Management Information Systems Branch, Bureau of Hearings and Appeals, SSA)

I. Caseload

1st Quarter = 6/22/74 - 9/14/74
2nd Quarter = 9/15/74 - 1/4/75
3rd Quarter = 1/5/75 - 3/29/75
4th Quarter = 3/30/75 - 6/21/75

A(1) Hearing Level (Quarter by Quarter)

Type of Case	Begin Quarter Total Cases Pending	During Quarter New Cases	During Quarter Dispositions	End Quarter Total Cases Pending	End Quarter 6 months to 1 year	End Quarter Over 1 year
1st Quarter						
RSI	1,652	644	560	1,736	505	467
DI & DWIB	39,240	17,643	12,642	44,241	11,281	5,707
HI	1,454	417	507	1,364	360	612
BL	33,292	8,619	8,031	33,880	12,231	7,725
Total Cases	75,638	27,323	21,740	81,221	24,377	14,511
2nd Quarter						
RSI	1,736	723	748	1,711	688	—
DI & DWIB	44,241	23,314	18,699	48,856	14,691	—
HI	1,364	493	560	1,297	479	130
BL	33,880	7,298	7,192	33,986	13,007	1,138
Total Cases	81,221	31,838	27,199	85,850	28,865	1,268
3rd Quarter						
RSI	1,711	552	616	1,647	680	—
DI & DWIB	48,856	19,525	17,580	50,801	16,899	—
HI	1,297	218	384	1,131	535	111
BL	33,986	2,102	6,080	30,008	13,273	1,057
Total Cases	85,850	22,397	24,660	83,587	31,387	1,168
4th Quarter						
RSI	1,647	555	619	1,583	723	15
DI & DWIB	50,801	18,031	18,045	50,787	18,518	—
HI	1,131	415	417	1,129	475	96
BL	30,008	1,496	7,189	24,315	10,436	7,297
Total Cases	83,587	20,497	26,270	77,814	30,152	7,408

A(2) Hearing Level (by Type of Case) *RSI*

	Begin Quarter	During Quarter		End Quarter		
	Total Cases Pending	New Dispositions	Pending	Total Cases Pending	6 months to 1 year	Over 1 year
Q1	1,652	644	560	1,736	505	467
Q2	1,736	723	748	1,711	688	—
Q3	1,711	552	616	1,647	680	—
Q4	1,647	555	619	1,583	723	15
Total		2,474	2,543			
DI & DWIB						
Q1	39,240	17,643	12,642	44,241	11,281	5,707
Q2	44,241	23,314	18,699	48,856	14,691	—
Q3	48,856	19,525	17,580	50,801	16,899	—
Q4	50,801	18,031	18,045	50,787	18,518	—
Total		78,513	66,966			
HI						
Q1	1,454	417	507	1,364	360	612
Q2	1,364	493	560	1,297	479	130
Q3	1,297	218	384	1,131	535	111
Q4	1,131	415	417	1,129	475	96
Total		1,543	1,868			

(Note: of these HI cases there were 7 new Provider of Service cases and 5 disposed cases, with 8 cases still pending.)

BL						
Q1	33,292	8,619	8,031	33,880	12,231	7,725
Q2	33,880	7,298	7,192	33,986	13,007	1,138
Q3	33,986	2,102	6,080	30,008	13,273	1,057
Q4	30,008	1,496	7,189	24,315	10,436	7,297
Total		19,515	28,492			

	New Cases	Dispositions	Pending (end of year)
RSI	2,474	2,543	1,583
DI & DWIB	78,513	66,966	50,787
HI	1,543	1,868	1,129
BL	19,515	28,492	24,315
Total Cases	102,045	99,869	77,814

SSI Hearing Cases—FY 75

Title XVI issues only

	Pending	New Cases	Dispositions	Pending (end of year)
	554	24,223	8,463	16,314
Title II and Title XVI issues in same case				
	1,041	28,677	12,677	17,041
Total	1,595	52,900	21,140	33,355

B(1) Appeals Council Level (Quarter by Quarter)

Type of Case	Begin Quarter Total Cases Pending	During Quarter New Cases	During Quarter Dispositions	End Quarter Total Cases Pending	End Quarter 6 months to 1 year	End Quarter Over 1 year
1st Quarter						
RSI	248	243	217	274	17	—
DI & DWIB	3,254	2,960	2,649	3,565	407	337
HI	161	84	112	133	19	4
BL	2,368	4,596	2,569	4,395	142	115
Total Cases	6,031	7,883	5,547	8,367	585	456
2nd Quarter						
RSI	274	312	308	278	62	62
DI & DWIB	3,565	4,036	3,511	4,090	786	—
HI	133	113	93	153	47	9
BL	4,395	4,707	5,335	3,767	657	—
Total Cases	8,367	9,168	9,247	8,288	1,552	9
3rd Quarter						
RSI	278	230	240	268	64	—
DI & DWIB	4,090	4,620	3,732	4,978	982	—
HI	153	59	82	130	37	8
BL	3,767	3,357	3,248	3,876	1,041	—
Total Cases	8,288	8,266	7,302	9,252	2,124	8
4th Quarter						
RSI	268	198	239	227	40	32
DI & DWIB	4,978	4,558	3,912	5,624	1,101	33
HI	130	52	76	106	34	25
BL	3,876	3,258	3,118	4,016	1,028	47
Total Cases	9,252	8,066	7,345	9,973	2,203	137

B(2) Appeals Council Level (by Type of Case) *RSI*

	Begin Quarter	During Quarter		End Quarter		
	Total Cases Pending	New Cases	Dispositions	Total Cases Pending	6 months to 1 year	Over 1 year
Q1	248	243	217	274	17	—
Q2	274	312	308	378	62	—
Q3	278	230	240	268	64	—
Q4	268	198	239	227	40	32
Total		983	1,004			
DI & DWIB						
Q1	3,254	2,960	2,649	3,565	407	337
Q2	3,565	4,036	3,511	4,090	786	—
Q3	4,090	4,620	3,732	4,978	982	—
Q4	4,978	4,558	3,912	5,624	1,101	33
Total		16,174	13,804			
HI						
Q1	161	84	112	133	19	4
Q2	133	113	93	153	47	9
Q3	153	59	82	130	37	8
Q4	130	52	76	106	34	25
Total		308	363			

[*Note:* of these HI cases there were 5 new Provider of Service cases and 2 disposed cases, with 4 still pending]

BL						
Q1	2,368	4,596	2,569	4,395	142	115
Q2	4,395	4,707	5,335	3,767	657	—
Q3	3,767	3,357	3,248	3,876	1,041	—
Q4	3,876	3,258	3,118	4,016	1,028	47
Total		15,918	14,270			

Appeals—Total FY 75

	New Cases	Dispositions	Pending (end of year)
RSI	983	1,004	227
DI & DWIB	16,174	13,804	5,624
HI	308	363	106
BL	15,918	14,270	4,016
Total	33,383	29,441	9,973

SSI Appeals Council Cases—FY 75

Title XVI issues only

Pending	New Cases	Dispositions	Pending (end of year)
0	1,320	244	1,076
Title II and Title XVI issues in same case			
2	1,974	378	1,598
Total 2	3,294	622	2,674

II Manner of Disposition

A. Hearing Level

	Total Dispositions	Affirm[a]	Reverse[b]	Dismissal[c]
RSI				
Q1	560	296 (52.9%)	189 (33.8%)	75 (13.4%)
Q2	748	357 (47.7%)	284 (38.0%)	107 (14.3%)
Q3	616	348 (56.5%)	179 (29.1%)	89 (14.4%)
Q4	619	312 (50.4%)	217 (35.1%)	90 (14.5%)
Total	2,543	1,313 (51.6%)	869 (34.2%)	361 (14.2%)
DI & DWIB				
Q1	12,642	5,170 (40.9%)	6,216 (49.2%)	1,256 (9.9%)
Q2	18,699	7,656 (40.9%)	9,388 (50.2%)	1,655 (8.9%)
Q3	17,580	7,400 (42.1%)	8,528 (48.5%)	1,652 (9.4%)
Q4	18,045	7,427 (41.2%)	8,743 (48.5%)	1,875 (10.4%)
Total	66,966	27,653 (41.3%)	32,875 (49.1%)	6,438 (9.6%)
HI				
Q1	507	184 (36.3%)	253 (49.9%)	70 (13.8%)
Q2	560	193 (34.5%)	289 (51.6%)	78 (13.9%)
Q3	384	137 (35.7%)	185 (48.2%)	62 (16.1%)
Q4	417	176 (42.2%)	177 (42.4%)	64 (15.3%)
Total	1,868	690 (36.9%)	904 (48.4%)	274 (14.7%)
BL				
Q1	8,031	6,021 (75.0%)	1,571 (19.6%)	439 (5.5%)
Q2	7,192	5,150 (71.6%)	1,644 (22.9%)	398 (5.5%)
Q3	6,080	4,285 (70.5%)	1,452 (23.9%)	343 (5.6%)
Q4	7,189	5,116 (71.2%)	1,698 (23.6%)	375 (5.2%)
Total	28,492	20,572 (72.2%)	6,365 (22.3%)	1,555 (5.5%)
Total—FY 75				
RSI	2,543	1,313	869	361
DI & DWIB	66,966	27,653	32,875	6,438
HI	1,868	690	904	274
BL	28,492	20,572	6,365	1,555
Total	99,869	50,228 (50.3%)	41,013 (41.1%)	8,628 (8.6%)
SSI (Title XVI)	8,463	3,100 (36.6%)	4,334 (50.1%)	1,029 (12.2%)
SSI (Title II & XVI)	12,677	5,104 (40.3%)	5,336 (42.1%)	2,237 (17.6%)
	21,140	8,204 (38.8%)	9,670 (45.7%)	3,266 (15.4%)

[a] *Affirm:* Affirmation of initial determination.
[b] *Reverse:* Reversal of initial determination.
[c] *Dismissal:* Dismissal of appeal from initial determination.

(B) Appeals Council Level

RSI

	Total Dispo-sitions	Affirm[a]	Reverse[b]	Denied[c]	Dis-missal[d]	Remand[e]	Other
Q1	217	20	32	150	5	9	1
Q2	308	22	66	166	8	12	34
Q3	240	18	33	155	6	15	13
Q4	239	25	39	159	6	7	3
Total	1,004	85(8.5%)	170(16.9%)	630(62.7%)	25(2.5%)	43(4.3%)	51(5.1%)
DI & DWIB							
Q1	2,649	185	320	1,923	90	123	8
Q2	3,511	209	435	2,654	80	129	4
Q3	3,732	173	292	2,995	121	139	12
Q4	3,912	148	271	3,242	98	137	16
Total	13,804	715(5.2%)	1,318(9.5%)	10,814(78.3%)	389(2.8%)	528(3.8%)	40(0.3%)
HI							
Q1	112	10	24	70	0	6	2
Q2	93	8	22	57	1	4	1
Q3	82	3	14	52	3	6	4
Q4	76	3	20	45	5	3	0
Total	363	24(6.6%)	80(22.9%)	224(61.7%)	9(2.5%)	19(5.2%)	7(1.9%)
BL							
Q1	2,569	34	98	2,365	32	35	5
Q2	5,335	156	403	4,657	73	43	3
Q3	3,248	216	272	2,617	85	31	27
Q4	3,118	214	271	2,502	64	30	7
Total	14,270	650(4.6%)	1,044(7.3%)	12,141(85.1%)	254(1.8%)	139(1.0%)	42(0.3%)
Total—FY 75							
RSI	1,004	85	170	630	25	43	51
DI&DWIB	13,804	715	1,318	10,814	389	528	40
HI	363	24	80	224	9	19	7
BL	14,270	650	1,044	12,141	254	139	42
	29,441	1,474(5.0%)	2,612(8.9%)	23,809(80.9%)	677(2.3%)	729(2.5%)	140(0.5%)
SSI (Title XVI)	244	7	22	158	2	54	1
SSI (Title II & XVI)	378	14	26	259	3	69	7
	622	21(3.4%)	48(7.7%)	417(67.0%)	5(0.8%)	123(19.8%)	8(1.3%)

[a] *Affirm:* Affirmation of ALJ's decision on the merits.
[b] *Reverse:* Reversal of ALJ's decision on the merits.
[c] *Denial:* Appeal from ALJ's decision denied.
[d] *Dismissed:* Appeal from ALJ's decision dismissed.
[e] *Remand:* Case returned to ALJ.

Death of party, not timely filed, or on request of party
20 CFR 404.95

(C) Remands Received at Hearing Level

	Total	From Court	From Appeals Council
RSI			
Q1	22	9	13
Q2	11	4	7
Q3	17	3	14
Q4	16	8	8
	66	24	42
DI & DWIB			
Q1	311	144	167
Q2	351	181	170
Q3	286	115	171
Q4	346	193	153
	1,294	633	661
HI			
Q1	3	0	3
Q2	5	2	3
Q3	8	2	6
Q4	6	1	5
	22	5	17
BL			
Q1	41	7	34
Q2	60	9	51
Q3	41	11	30
Q4	50	25	25
	192	52	140
Total Remands Received at Hearing Level			
	1,527	714(45.4%)	860(54.6%)
SSI (Title XVI)		0?	51
SSI (Title II & XVI)		0?	6
			57

(D) Action Taken by ALJ on Remanded Cases in FY 1975

Remands From Court

	Total # of Remands	Affirm Initial Determination	Reverse I.D.
RSI	19	8	11
DI & DWIB	438	178	260
HI	4	2	2
BL	19	7	12
	480	195(40.6%)	285(59.4%)

Remands From Appeals Council

RSI	17	12	5
DI & DWIB	376	169	207
HI	7	2	5
BL	57	34	23
	457	217(47.5%)	240(52.5%)
SSI (Title XVI)	51	14	37
SSI (Title II & XVI)	6	3	3
57	57	17(29.8%)	40(70.7%)

(E) Own Motion Reviews by the Appeals Council

The Appeals Council may, on its own motion, assume jurisdiction over a case decided by or pending before an ALJ. Such an action may be based upon a comprehensive review conducted for monitoring purposes or upon a protest filed by another Bureau of SSA. The nature of the Appeals Council's own-motion procedures changed during FY 75. At the beginning of the year the Council conducted a comprehensive review on all cases processed by new ALJs hearing Title II (RSI, DI & DWIB) cases as well as all cases where the ALJ reversed the initial determination. During the first quarter (August) comprehensive review was limited to a 5% sample of Title II decisions and all BL reversals although review of new ALJs and Bureau protests continued. During the fourth quarter (April) there began a phasing out of comprehensive review of Title II cases.

(1) *Own Motion Review by Appeals Council (quarter by quarter)*

1st Quarter

Type of Case	Total New Cases	By Own Motion
RSI	243	60
DI & DWIB	2,960	154
HI	84	17
BL	4,596	402
	7,883	633 (8.0%)

2nd Quarter

RSI	312	80
DI & DWIB	4,036	59
HI	113	22
BL	4,707	416
	9,168	577 (6.3%)

3d Quarter

RSI	230	32
DI & DWIB	4,620	58
HI	59	16
BL	3,357	211
	8,266	317 (3.8%)

4th Quarter

RSI	198	18
DI & DWIB	4,558	60
HI	52	9
BL	3,258	134
	8,066	221 (2.7%)

FY Total (by type of case)

RSI	983	190
DI & DWIB	16,174	331
HI	308	64
BL	15,918	1,163
	33,383	1,748 (5.2%)

(2) *Manner of Disposition of Own Motion Cases Processed During FY 75*

	Total Cases Processed	Total O.M. Cases Processed	Affirm	Reversed	Remand	Decline
RSI	1,004	171	40	104	13	14
DI & DWIB	13,804	431	137	206	54	34
HI	363	70	8	44	4	14
BL	14,270	987	149	698	29	111
	29,441	1,659(5.6%)	334(20.1%)	1,052(63.4%)	100(6.0%)	173(10.4%)

III. Elapsed-time Statistics

Key:

RH/HO	Claimant)s request for hearing filed to claim file received in hearing office
HO/ALJ	Claim file received in HO to case assigned to ALJ
ALJ/DEC or DIS	Case assigned to ALJ to ALJ's decision or dismissal of the case
RH/DEC	Request for hearing to ALJ's decision
RH/DIS	Request for hearing to ALJ's dismissal
RH/DEC or DIS	Request for hearing to ALJ's decision *or* dismissal
AC/DEC	Request for review or Appeals Council's own motion review of case to final decision by AC
AC/O-D	Request for review or AC's own motion review to a denial of review, dismissal, remand or other disposition by the AC
AC/DEC or O-D	Request for review to final disposition by AC

(Note, the medians are calculated using all cases, with one exception: that the assignment to ALJ date is recorded in only 75% of the cases. This means that the statistic given for *HO/ALJ* and *ALJ/DEC or DIS* is based on a 75% sampling of cases.)

A. Hearing Level (Median elapsed time in days—various stages)

	RH/HO	HO/ALJ	ALJ/DEC or DIS	RH/DEC	RH/DIS	RH/DEC or DIS
RSI Cases						
Q1	5	59	127	221	159	216
Q2	5	69	115	226	141	217
Q3	6	83	119	247	196	244
Q4	6	92	106	237	195	232
DI & DWIB Cases						
Q1	4	49	107	181	139	178
Q2	4	59	107	200	152	197
Q3	4	70	112	216	176	212
Q4	4	81	100	220	169	216
HI Cases						
Q1	5	120	99	266	208	262
Q2	6	118	128	287	198	275
Q3	7	129	97	280	223	276
Q4	7	122	78	280	223	274
BL Cases						
Q1	5	129	105	242	184	239
Q2	5	131	114	267	266	267
Q3	5	158	129	314	302	314
Q4	5	195	123	348	304	346
All Cases						
Q1	4	71	106	203	150	199
Q2	4	78	109	219	165	217
Q3	4	88	116	238	192	234
Q4	5	106	106	252	188	247

B. Appeals Council Level (Median elapsed time in days)*

RSI Cases

	AC/DEC	AC/O-D	AC/DEC or O-D
Q1	131	75	80
Q2	173	76	81
Q3	168	84	88
Q4	197	77	91

DI & DWIB Cases

Q1	208	73	79
Q2	239	77	84
Q3	264	84	90
Q4	267	85	91

HI Cases

Q1	186	92	103
Q2	245	103	130
Q3	283	127	142
Q4	218	125	155

BL Cases

Q1	102	68	69
Q2	164	77	81
Q3	200	84	89
Q4	257	82	91

All Cases

Q1	183	75	80
Q2	239	77	83
Q3	232	84	90
Q4	261	84	91

*(*Note*, a claimant has 60 days from the date of mailing of the ALJ decision or dismissal to fila a request for review by the Appeals Council. On the average, approximately 30 days elapse before such requests are filed. This time is not captured by the SSA computer system.)

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