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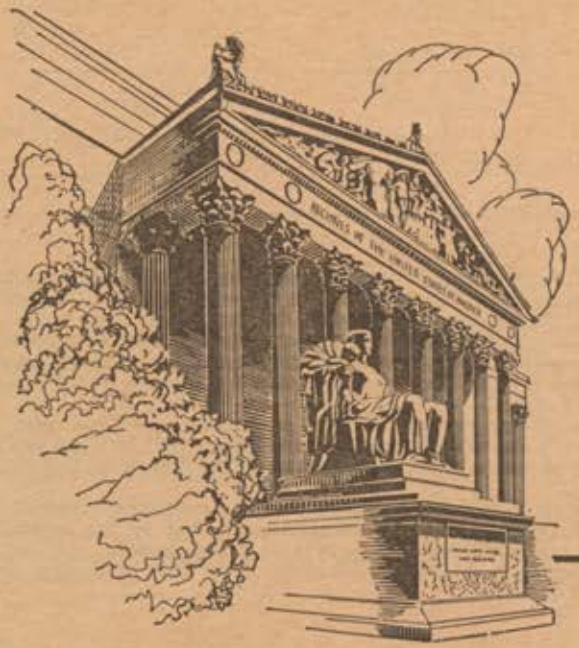

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(Codification Guide)

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

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Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 67-SO-46]

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

Alteration of Control Zone

On May 19, 1967, F.R. Doc. No. 67-5599, effective June 26, 1967, was published in the FEDERAL REGISTER (32 F.R. 7443), amending Part 71 of the Federal Aviation Regulations by altering the Fort Lauderdale, Fla., control zone.

Subsequent to the publication of the rule, it was determined that the proviso "excluding the portion which coincides with the Miami, Fla., control zone" had been omitted from the description.

Since this amendment is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, F.R. Doc. No. 67-5599 is amended as follows:

Beginning on line 18 of the Fort Lauderdale, Fla., control zone description "* * * extending from the 5-mile radius zone to the RBN * * *" is deleted and "* * * extending from the 5-mile radius zone to the RBN; excluding the portion which coincides with the Miami, Fla., control zone * * *" is substituted therefor.

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

Issued in East Point, Ga., on June 2, 1967.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 67-6548; Filed, June 12, 1967; 8:46 a.m.]

[Airspace Docket No. 67-SO-53]

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

Designation of Reporting Point

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Biscayne Bay, Fla., VOR as a domestic high altitude reporting point.

Since this amendment is minor in nature and involves a subject in which the public is not particularly interested, notice and public procedure are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., July 20, 1967, as hereinafter set forth.

Section 71.207 (32 F.R. 2282) is amended by adding:

Biscayne Bay, Fla.

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

Issued in Washington, D.C., on June 5, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-6550; Filed, June 12, 1967; 8:46 a.m.]

[Airspace Docket No. 67-WE-5]

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

Alteration of Federal Airway

On March 21, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 4315) stating that the Federal Aviation Agency was considering the designation of a west alternate to V-187 from Boysen Reservoir, Wyo., 9 miles, 1,200 feet AGL, 56 miles, 9,100 feet MSL, 1,200 feet AGL via Cody, Wyo., 1,200 feet to Billings, Mont., excluding the airspace between the main and alternate airway.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., August 17, 1967, as hereinafter set forth.

Section 71.123 (32 F.R. 2009) is amended as follows:

In V-187 "12 AGL Billings, Mont.;" is deleted and "12 AGL Billings, Mont., including a west alternate from Boysen Reservoir, 9 miles, 12 AGL, 56 miles, 91 MSL, 12 AGL via Cody, Wyo., 12 AGL Billings, excluding the airspace between the main and this west alternate;" is substituted therefor.

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

Issued in Washington, D.C., on June 6, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-6573; Filed, June 12, 1967; 8:48 a.m.]

[Airspace Docket No. 67-CE-4]

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

Alteration of Federal Airway

On May 24, 1967, F.R. Doc. No. 67-5746, was published in the FEDERAL REGISTER (32 F.R. 7589) and in part realigned V-424 via the Blue Springs, Mo., VORTAC 077° True radial. This action is to become effective on July 20, 1967. Recent mathematical calculations have determined that the value of this radial should be 078° True. Action is taken herein to amend the FEDERAL REGISTER document to reflect the correct value of the radial.

Since this amendment is editorial in nature, the Administrator has determined that notice and public procedure thereon is unnecessary and that it may be made effective immediately.

In consideration of the foregoing, F.R. Doc. No. 67-5746 (32 F.R. 7589) Item 1.c. is amended, effective immediately, as hereinafter set forth.

In V-424 "12 AGL INT Blue Springs 077°" is deleted and "12 AGL INT Blue Springs 078°" is substituted therefor.

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

Issued in Washington, D.C., on June 6, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-6574; Filed, June 12, 1967; 8:48 a.m.]

[Docket No. 7633; Amdt. Nos. 91-41, 135-6]

PART 91—GENERAL OPERATING AND FLIGHT RULES

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

Operable Condition of Required Instruments and Equipment and Increased Maximum Certificated Weight for Certain Airplanes in Alaska

The purpose of these amendments to Parts 91 and 135 of the Federal Aviation Regulations is to expressly provide that the instruments and equipment required by §§ 91.33(a) and 135.143(b) for particular aircraft operations must be in operable condition. In addition, this amendment contains a change in the language of § 91.38 that will permit the same increase in the maximum certificated weight for certain small airplanes in Alaska as previously allowed under SR-399D and SFAR-12.

The amendments to §§ 91.33(a) and 135.143(b) were proposed in Notice of Proposed Rule Making No. 66-35 published in the FEDERAL REGISTER on September 29, 1966 (31 F.R. 12736). Interested persons were afforded an opportunity to comment on the proposal and all comments have been considered. A majority of the comments received in response to the notice were in accord with the objective of the rule. Therefore, for the reasons set forth in the notice, the rule is adopted herein without change.

As to the authorization for increased maximum certificated weight for certain airplanes in Alaska, the FAA has found that the insertion of the word "takeoff" in § 91.38 prevents the use of an increased weight for landing as was permitted under SFAR-12 and its predecessor SR-399D. There was no intent to make a substantive change in the provisions of SFAR-12 when it was incorporated into Part 91. Therefore, § 91.38 is amended to conform to SFAR-12 by deleting the word "takeoff" where it appears in that section. Since this amendment involves only the correction of a rule and does not impose any additional burden upon interested persons, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Parts 91 and 135 are amended as follows, effective July 13, 1967:

1. Section 91.33(a) of Part 91 is amended to read as follows:

§ 91.33 Powered civil aircraft with standard category U.S. airworthiness certificates; instrument and equipment requirements.

(a) *General.* Except as provided in paragraphs (c)(3) and (e) of this section, no person may operate a powered civil aircraft with a standard category U.S. airworthiness certificate in any operation described in paragraphs (b) through (f) of this section unless that aircraft contains the instruments and equipment specified in those paragraphs (or FAA-approved equivalents) for that type of operation, and those instruments and items of equipment are in operable condition.

* * * * *

§ 91.38 [Amended]

2. Section 91.38 is amended by deleting the word "takeoff" wherever it appears in the title and text of that section.

3. Section 135.143(b) of Part 135 is amended to read as follows:

§ 135.143 General requirements.

* * * * *

(b) No person may operate an aircraft in operations to which this part applies, unless the required instruments and equipment in it have been approved and are in operable condition.

(Secs. 313(a), 601(a), Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421(a))

Issued in Washington, D.C., on June 6, 1967.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 67-6551; Filed, June 12, 1967; 8:46 a.m.]

Title 29—LABOR

Chapter I—National Labor Relations Board

PART 102—RULES AND REGULATIONS, SERIES 8

Subpart P—Ex Parte Communications

MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in it by the National Labor Relations Act, approved July 5, 1935,[1] the National Labor Relations Board hereby issues the following further amendments to its rules and regulations, Series 8, as amended, which it finds necessary to carry out the provisions of said Act, such amendments to be effective June 14, 1967.

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

Dated, Washington, D.C., June 7, 1967.

By direction of the Board.

OGDEN W. FIELDS,
Executive Secretary.

1. Section 102.127(a) is amended to read as follows:

§ 102.127 Definitions.

When used in this subpart:

(a) The term "person who is a party," to whom the prohibitions apply, shall include any individual outside this agency (whether in public or private life), partnership, corporation, association, or other entity, who is named or admitted as a party or who seeks admission as a party, and the general counsel or his representatives when prosecuting an unfair labor practice proceeding before the Board pursuant to section 10(b) of the act.

* * * * *

2. In § 102.128 the introductory paragraph is amended to read as follows:

§ 102.128 Types of on-the-record proceedings; categories of Board agents; and duration of prohibition.

Unless otherwise provided by specific order of the Board entered in the proceeding, the prohibition of § 102.126 shall be applicable in the following types of on-the-record proceedings to unauthorized ex parte communications made to the designated categories of Board agents who participate in the decision, from the stage of the proceeding specified until the issues are finally resolved by the Board for the purposes of that proceeding under prevailing rules and practices:

* * * * *

3. Section 102.134 is amended to read as follows:

§ 102.134 Penalties and enforcement.

Upon notice and hearing, the Board may censure, suspend, or revoke the privilege of practice before the agency of any person who knowingly and willfully makes or solicits the making of a prohibited ex parte communication. To the extent permitted by law, the Board may, under appropriate circumstances, deny or limit remedial measures otherwise available under the act to any party who shall, directly or indirectly, knowingly and willfully make or solicit the making of an unauthorized communication. However, before the Board institutes formal proceedings under this section, it shall first advise the person or persons concerned in writing that it proposes to take such action and that they may show cause, within a period to be stated in such written advice, but not less than 7 days from the date thereof, why it should not take such action. The Board may censure, or, to the extent permitted by law, suspend, dismiss, or institute proceedings for the dismissal of, any Board agent who knowingly and willfully violates the prohibitions and requirements of this rule.

[F.R. Doc. 67-6557; Filed, June 12, 1967; 8:47 a.m.]

[1] 49 Stat. 449; 29 U.S.C. 151-166, as amended by act of June 23, 1947 (61 Stat. 136; 29 U.S.C. Supp. 151-167), act of Oct. 22, 1951 (65 Stat. 601; 29 U.S.C. 158, 159, 168), and act of Sept. 14, 1959 (73 Stat. 519; 29 U.S.C. 141-166).

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

"Solid" and "Karat" Used Together in Describing Articles Composed of Gold

§ 15.129 "Solid" and "karat" used together in describing articles composed of gold.

The Commission advised an association that the word "solid" could be used in conjunction with the karat indication of gold of 10 or more karats in fineness. For example, it would be proper to use the expression "14 karat solid gold" or "solid 14 karat gold" to describe an article which was both in fact solid and in fact made of gold 14 karat in fineness. The use of such descriptions, or appropriate abbreviations therefor, provided both factors in the description were given adequate prominence, would be unobjectionable.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Issued: June 12, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-6563; Filed, June 12, 1967; 8:47 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Use of Words "National" and "Association" in Name of Proposed Trade Association

§ 15.130 Use of words "National" and "Association" in name of proposed trade association.

(a) The Commission was requested to render an advisory opinion concerning the legality of the use of the words "National" and "Association" in the name of an association in the process of formation.

(b) The Commission was advised that a group of members of the industry had cooperated in the founding of the association, an unincorporated group. These members were active in several different States. They are now soliciting memberships from every industry member known in the United States, which exceed 2,500 in number. The purpose of the association will be to foster the well-being and growth of the industry, as is common with trade associations. Within a short time, the group expects to achieve substantial and widespread representation.

(c) The opinion advised that the Commission had considered the facts presented and the steps which the group planned to take and that it had no objection to the use of either word in the name of the proposed association.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Issued: June 12, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-6564; Filed, June 12, 1967; 8:47 a.m.]

Title 46—SHIPPING

Chapter IV—Federal Maritime Commission

SUBCHAPTER A—GENERAL PROVISIONS

[General Order 22]

PART 502—RULES OF PRACTICE AND PROCEDURE

PART 503—PUBLIC INFORMATION

Miscellaneous Amendments

On July 4, 1966, Congress enacted Public Law 89–487, amending section 3 of the Administrative Procedure Act. The purpose of the amendment was to clarify and protect the right of the public to information made available by governmental agencies. The effective date of the amendment is July 4, 1967.

The Federal Maritime Commission has carefully considered the requirements and the obligations imposed upon the Commission by the amendment and hereby adopts rules and regulations which describe the application of the amendment to and its implementation by the Commission.

Therefore, pursuant to sections 3 and 4 of the Administrative Procedure Act, 5 U.S.C. 1002, as amended by Public Law 89–487 (80 Stat. 250), 1003, Title 46 of the Code of Federal Regulations is hereby amended by adding a new Part 503—Public Information. In the new Part 503, Subpart E—Fees, consists of the regulations currently appearing in § 502.6, which are hereby transferred to Part 503 and redesignated as §§ 503.41 through 503.43. The regulations appearing in § 502.5 *Inspection of records* are superseded by the new Part 503 and are hereby revoked.

The new Part 503 reads as follows:

Subpart A—General

Sec.
503.1 Statement of policy.

Subpart B—Publication in the "Federal Register"

503.11 Materials to be published.
503.12 Effect of nonpublication.
503.13 Incorporation by reference.

Subpart C—Commission Opinions and Orders

503.21 Public records.
503.22 Current index.
503.23 Effect of noncompliance.
503.24 Documents available at the Public Reference Room.
503.25 Documents available at the Office of the Secretary.

Subpart D—Procedure Governing Availability of Commission Records

503.31 Identification of records.
503.32 Records generally available.
503.33 Other records available upon written request.
503.34 Appeal.
503.35 Exceptions to availability of records.

Subpart E—Fees

503.41 Policy and services available.
503.42 Payment of fees and charges.
503.43 Fees for services.

AUTHORITY: The provisions of this Part 503 issued under secs. 3, 4, Administrative Procedure Act, 5 U.S.C. 1002, as amended by Public Law 89–487 (80 Stat. 250), 1003.

Subpart A—General

§ 503.1 Statement of policy.

(a) The Chairman of the Federal Maritime Commission is responsible for the effective administration of the provisions of Public Law 89–487 amending section 3 of the Administrative Procedure Act, effective July 4, 1967. The Chairman shall carry out this responsibility through the program and the officials which are prescribed in Manual of Orders, Commission Order No. 1 (Amended), and as hereinafter designated in this part.

(b) In addition, the Chairman pursuant to his responsibility hereby directs that every effort be expended to facilitate the maximum expedited service to the public with respect to the obtaining of information and records. Accordingly, the public may make requests for information, decisions, or records or submittals (1) in person to the Director, Office of International Affairs and Relations or the Public Reference Room under his supervision; or (2) in writing to the Secretary.

Subpart B—Publication in the "Federal Register"

§ 503.11 Materials to be published.

(a) The Commission shall separately state and concurrently publish the following materials in the FEDERAL REGISTER for the guidance of the public:

(1) Descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions.

(2) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available.

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations.

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency.

(5) Every amendment, revision, or repeal of the foregoing.

(b) The Commission's publication with respect to paragraph (a)(1) of this section has been and shall continue to be by publication in the FEDERAL REGISTER of the Manual of Orders, Commission Order No. 1 (Amended), and amendments and supplements thereto.

(c) The Commission's publications with respect to paragraph (a) (2), (3), and (4) of this section, including amendment, revision, and repeal, have been and shall continue to be by publication in the FEDERAL REGISTER as part of the Code of Federal Regulations, Title 46, Chapter IV.

§ 503.12 Effect of nonpublication.

Except to the extent that a person has actual and timely notice of the terms thereof, no person shall in any manner be required to resort to, or be adversely affected by any matter required to be published in the FEDERAL REGISTER and not so published.

§ 503.13 Incorporation by reference.

For purposes of this subpart, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the FEDERAL REGISTER when incorporated by reference therein with the approval of the Director of the Federal Register.

Subpart C—Commission Opinions and Orders

§ 503.21 Public records.

The Commission shall, in accordance with this part, make the following materials available for public inspection and copying:

(a) Final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases.

(b) Those statements of policy and interpretations which have been adopted by the Commission.

(c) Administrative staff manuals and instructions to staff that affect any member of the public.

To prevent unwarranted invasion of personal privacy, the Commission may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction, and shall, in each such case, explain in writing the justification for the deletion.

§ 503.22 Current index.

The Commission shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated, and which is required by Subpart B of this part to be made available or published. The index shall be available at the Office of the Secretary, Room 432, Centennial Building, 1321 H Street NW., Washington, D.C. 20573.

§ 503.23 Effect of noncompliance.

No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public will be relied upon, used, or cited, as precedent by the Commission against any private party unless it has been indexed and either made available or published as provided by this subpart, or unless that private party shall have actual and timely notice of the terms thereof.

§ 503.24 Documents available at the Public Reference Room.

The following documents have been promulgated by the Commission and are available for inspection and copying at Public Reference Room No. 609, Centennial Building, 1321 H Street NW., Washington, D.C.:

(a) Proposed rules.

(b) Final rules.

(c) General orders of the Commission including general substantive rules.

(d) Tariff circular No. 3 (Domestic).

(e) Reports of decisions (including concurring and dissenting opinions), orders and notices in all formal proceedings and pertinent correspondence.

(f) Press releases, biographies, etc.

(g) Pamphlets.[1]

(h) List—"Approved Conference, Rate, and Interconference Agreements of Steamship Lines in the Foreign Commerce of the United States".

(i) Rules of practice and procedure.

(j) Annual reports of the Commission.

(k) Bound volumes of Commission decisions.

(l) Shipping Act, 1916, and related acts.

(m) Interpretive rulings and statements of policy published in the Code of Federal Regulations.

(n) Administrative staff manuals and instructions to staff that affect any member of the public.

§ 503.25 Documents available at the Office of the Secretary.

The following documents are available for inspection and copying at the Office of the Secretary, Room No. 432, Centennial Building, 1321 H Street NW., Washington, D.C. 20573:

(a) Official docket files (transcripts, exhibits, briefs, etc.) in all formal proceedings.[2]

(b) Approved minutes showing final votes.

(c) Correspondence to or from the Commission or examiners concerning docketed proceedings.

Subpart D—Procedure Governing Availability of Commission Records

§ 503.31 Identification of records.

A member of the public who requests permission to inspect or copy a record must identify the record sought in sufficient detail to enable the Commission staff to locate the record.

§ 503.32 Records generally available.

The following records are available for inspection and copying upon request in person or in writing at the Public Reference Room:

(a) Agreements filed and approved pursuant to section 15 of the Shipping Act, 1916.

(b) Agreements filed for approval under section 15 which have been noticed in the FEDERAL REGISTER.

(c) Tariffs filed under the provisions of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933.

(d) Terminal tariffs filed pursuant to G.O. No. 15.

(e) Form of approved dual rate contracts and pending contracts after notice thereof has been filed in the FEDERAL REGISTER.

(f) List of certifications of financial responsibility pertaining to Public Law 89-777.

(g) List of licensed freight forwarders.

§ 503.33 Other records available upon written request.

Any written request to the Secretary, Federal Maritime Commission, 1321 H Street NW., Washington, D.C. 20573, for records listed in paragraphs (a) through (e), inclusive, of this section shall identify the record as provided in § 503.31. The Secretary shall evaluate each request in conjunction with the official having responsibility for the subject matter area, the General Counsel and the Chief, Office of International Affairs and Relations, and shall make the record available unless the Secretary shall notify the person making the request that no such record can be found; that the record is needed by the staff; or that the record falls within a specific exception. There follows categories of records subject to this provision:

(a) Correspondence:

(1) General correspondence.

(2) Correspondence regarding interpretation or applicability of a statute or rule.

(3) Correspondence regarding methods of compliance with general orders.

(4) Correspondence and reports on legislation if made public by the Bureau of the Budget and Congressional Committee.

(b) Staff reports served on a party at interest.

(c) Filings:

(1) Reports on self-policing under G.O. 7 (Part 528 of this chapter).

(2) Notice of admission and denial of conference membership under G.O. 9 (Part 523 of this chapter).

(3) Procedures and reports regarding shippers' requests and complaints under G.O. 14 (Part 527 of this chapter).

(4) Parts I and II of applications for license as independent ocean freight forwarder filed under G.O. 4 (Part 510 of this chapter).

(d) Staff records:

(1) Advisory opinions to the public.

(2) Nonconfidential records.

(e) Court records in which the Commission is a party:

(1) Briefs filed in court.

(2) Court decisions.

§ 503.34 Appeal.

Upon refusal of the Secretary to furnish a record, which has been requested in writing under § 503.33, the requesting person or entity may appeal in writing to the Chairman of the Secretary's action or failure to act.

§ 503.35 Exceptions to availability of records.

The following records shall not be available: *Provided, however*, That nothing in this section authorizes withholding of information or limiting the availability of records to the public except as specifically stated in this part, nor shall this part be authority to withhold information from Congress.

(a) Records specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy. This exception may apply to records in the custody of the Commission which have been transmitted to the Commission by another agency which has designated the record as nonpublic under Executive order.

(b) Records related solely to the internal personnel rules and practices of the Commission. Such records relate to those matters which are for the guidance of Commission personnel with respect to their employment with the Federal Maritime Commission.

(c) Records specifically exempted from disclosure by statute.

[1] Items (g)—(l) are also on sale. Write Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

[2] Transcripts may be purchased from Hoover Reporting Co., 320 Massachusetts Avenue, NE., Washington, D.C.

(d) Information given in confidence. This includes information obtained by or given to the Commission which constitutes trade secrets, confidential commercial or financial information, privileged information, or other information which was given to the Commission in confidence or would not customarily be released by the person from whom it was obtained.

(e) Interagency or intraagency memoranda or letters which would not be available by law to a private party in litigation with the Commission. Such communications include interagency memoranda, drafts, staff memoranda transmitted to the Commission, written communications between the Commission, the Secretary, and the General Council, regarding the preparation of Commission orders and decisions, other documents received or generated in the process of issuing an order, decision, or regulation, and reports and other work papers of staff attorneys, accountants, and investigators.

(f) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. This exemption includes all personnel and medical records and all private, personal, financial, or business information contained in other files which, if disclosed to the public, would invade the privacy of any person, including members of the family of the person to whom the information pertains.

(g) Investigatory files compiled for law enforcement purposes except to the extent available by law to a private party. This includes the files of the Bureau of Investigation, which pertain to investigations of violations of the Shipping Acts, licensing and certification, and files prepared in connection with related Government litigation or Commission proceedings, except to the extent available by law to a private party.

Subpart E—Fees

§ 503.41 Policy and services available.

Pursuant to policies established by the Congress, the Government's costs for special services furnished to individuals or firms who request such service are to be recovered by the payment of fees (Act of Aug. 31, 1951–5 U.S.C. 140). Upon written request directed to and within the discretion of the Federal Maritime Commission, there are available upon payment of the fees hereinafter prescribed, with respect to documents subject to inspection, services as follows:

(a) Copying records/documents.

(b) Certification of copies of documents.

(c) Records search.

(d) Subscriptions to publications of the Commission.

(e) Transcripts of hearings.

§ 503.42 Payment of fees and charges.

The fees charged for special services may be paid by check, draft, or postal money order, payable to the Federal Maritime Commission, except for charges for transcript of hearings. Fees for transcript of hearings are payable to the firm providing the services.

§ 503.43 Fees for services.

The basic fees set forth below provide for documents to be mailed with ordinary first-class postage prepaid. If copy is to be transmitted by registered, certified, air, or special delivery mail, postage therefor will be added to the basic fee. Also, if special handling or packaging is required, costs thereof will be added to the basic fee.

(a) The copying of records and documents will be available at the rate of 25 cents per page (one side) by the Xerox process, limited to size 8¼" x 14" or smaller.

(b) The certification and validation (with Federal Maritime Commission seal) of documents filed with or issued by the Commission will be available at $1.00 for each such certification.

(c) To the extent that time can be made available, records and information search will be performed for reimbursement at the following rates:

(1) By clerical personnel at a rate of $4 per person per hour.

(2) By professional personnel at an actual hourly cost basis to be established prior to search.

(3) Minimum charge, $2.

(d) Annual subscriptions to Commission publications for which there are regular mailing lists are available at the charges indicated below for calendar year terms. Subscriptions for periods of less than a full calendar year will be prorated on a quarterly basis. No provision is made for refund upon cancellation of subscription by a purchaser.

(1) Orders, notices, rulings, and decisions (initial and final) issued by hearing examiners and by the Commission in all formal docketed proceedings before the Federal Maritime Commission are available at an annual subscription rate of $30.

(2) Final decisions (only) issued by the Commission in all formal docketed proceedings before the Commission are available at an annual subscription rate of $10.

(3) General orders of the Commission, including all proposed and final rules, are available at an annual subscription rate of $2 (initial annual subscription will entitle the purchaser to a complete set of current General Orders issued to date).

(4) Exceptions: No charge will be made by the Commission for notices, decisions, orders, etc., required by law to be served on a party to any proceeding or matter before the Commission. No charge will be made for single copies of Commission publications individually requested in person or by mail. In addition a subcription to Commission mailing lists will be entered without charge when one of the following conditions is present:

(i) The furnishing of the service without charge is an appropriate courtesy to a foreign country or international organization.

(ii) The recipient is another governmental agency, Federal, State, or local, concerned with the domestic or foreign commerce by water of the United States or, having a legitimate interest in the proceedings and activities of the Commission.

(iii) The recipient is a college or university.

(iv) The recipient does not fall into subdivision (i), (ii), or (iii) of this subparagraph, but is determined by the Commission to be appropriate in the interest of its program.

(e) Transcripts of testimony and of oral argument are furnished by a nongovernmental contractor, and may be purchased directly from the reporting firm.

Notice and public procedure are not necessary for the promulgation of this amendment since the rules contained therein are not substantive in nature.

Effective date. This amendment shall become effective July 4, 1967.

By the Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-6590; Filed, June 12, 1967; 8:50 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.559]

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Aliens Entering To Perform Skilled or Unskilled Labor

Part 42, Chapter I, Title 22 of the Code of Federal Regulations is being amended to provide that the spouse of an immigrant student must obtain a labor certification if it will be necessary for the nonstudent spouse to accept employment in the United States.

Subdivision (ii) of § 42.91(a)(14) is amended to read as follows:

§ 42.91 Aliens ineligible to receive visas.

(a) *Aliens ineligible under the provisions of section 212(a) of the Act.* * * *

(14) *Aliens entering to perform skilled or unskilled labor.* * * *

(ii) The following persons are not considered to be within the purview of section 212(a)(14) and do not require a labor certification: * * * (F) A person coming to the United States solely for the purpose of study who has been accepted by an institution of learning in the United States and who will be pursuing a full course of study in the United States for at least two full consecutive academic years, if the alien has sufficient financial resources to support himself during the period of proposed study in the United States and will not seek employment during that period. If it will be necessary for the spouse of such a

student to accept employment in the United States, the spouse must obtain a labor certification, notwithstanding the provisions of (b) of this subdivision.

* * * * *

Effective date. The amendment to the regulation contained in this order shall become effective upon publication in the FEDERAL REGISTER.

The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003), as amended, relative to notice of proposed rule making are inapplicable to this order because the regulation contained herein involves foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

Dated: June 1, 1967.

BARBARA M. WATSON,
Acting Administrator, Bureau of Security and Consular Affairs.

[F.R. Doc. 67-6547; Filed, June 12, 1967; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

PART 9-1—GENERAL

Subpart 9-1.52—Procurement by Cost-Type Contractors

PART 9-3—PROCUREMENT BY NEGOTIATION

Subpart 9-3.9—Subcontracting Policies and Procedures

PART 9-7—CONTRACT CLAUSES

Subpart 9-7.50—Use of Standard Clauses

PART 9-15—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 9-15.50—Cost Principles and Procedures

PART 9-16—PROCUREMENT FORMS

Subpart 9-16.50—Contract Outlines

PART 9-51—REVIEW AND APPROVAL OF CONTRACT ACTIONS

Subpart 9-51.2—Subcontracts Requiring Prior Authorization by AEC

MISCELLANEOUS AMENDMENTS

1. Section 9-1.5201, *Prime contract control provisions,* is revised to read as follows:

§ 9-1.5201 Prime contract control provisions.

Procurement activities of AEC cost-type contractors are governed by (a) the requirements of the "Contractor procurement" clauses of their prime contracts and (b) other applicable contract provisions. The standard Contractor procurement clause (AECPR 9-7.5006-29) states the contractual basis for the Government to exercise control over the contractor's procurement activities. Among other things, the clause requires the contractor to provide the Government with information concerning his own procurement practices and to use procurement methods and procedures which are acceptable to the Government. It reserves to the Government the right to require the contractor to submit for prior approval any or all contractor procurement actions. As a part of such approval authority, the contracting officer may prescribe the inclusion of subcontract provisions. In the absence of an article of the type giving the Government the contractual right to establish controls and to review and approve the contractor's procurement and contracting procedures, every effort should be made to accomplish this objective through mutual agreement with the contractor.

2. In § 9-1.5203, *AEC basic procurement policies for cost-type contractors,* paragraph (f) is revised to read as follows:

§ 9-1.5203 AEC basic procurement policies for cost-type contractors.

* * * * *

(f) Procurements or transfers of equipment, materials, supplies, or services from contractor-controlled sources shall be governed by the policy set forth in AECPR 9-3.951.

* * * * *

3. Section 9-3.000-50, *Policy, cost-type contractor procurement,* is revised to read as follows:

§ 9-3.000-50 Policy, cost-type contractor procurement.

The following portion of the Federal Procurement Regulations Part 3 and this AECPR Part 3 constitute specific provisions which the contracting officer shall bring to the attention of cost-type contractors as constituting areas which require appropriate treatment in the development of statements of contractor procurement practices, in order to carry out the basic AEC procurement policies set forth in AECPR 9-1.5203.

Section or Subpart	*Subpart*
FPR:	
1-3.101 (b)(4) and (c).	General requirements for negotiation.
1-3.102	Factors to be considered in negotiating contracts.
1-3.103 (b) and (c).	Dissemination of procurement information.
1-3.4 (all)	Types of Contracts.
1-3.601	Purpose.
1-3.602	Policy.
1-3.603	Competition.
1-3.606	Blanket purchase arrangements.
1-3.8 (all)	Price Negotiation Policies and Techniques.
AECPR:	
9-3.103	Dissemination of procurement information.
9-3.4 (all)	Types of Contracts.
9-3.600	Scope of subpart.
9-3.603-2	Data to support small purchases.
9-3.8 (all)	Price Negotiation Policies and Techniques.
9-3.951	Procurement from contractor-controlled sources.

3. In § 9-3.903-2, *Review and approval of subcontracts,* paragraph (a) is revised to read as follows:

§ 9-3.903-2 Review and approval of subcontracts.

(a) Procurement activities of AEC cost-type contractors are governed by (1) the requirements of the "contractor procurement" clause in the contract and (2) other applicable contract provisions. (See AECPR 9-1.5201, 9-1.5202, 9-1.5203, and 9-3.951.)

* * * * *

4. The following section is added to Subpart 9-3.9:

§ 9-3.951 Procurement from contractor-controlled sources.

(a) *Scope.* This subpart sets forth basic AEC policy for procurement from contractor-controlled sources under cost-type contracts.

(b) *Definition.* The term "contractor-controlled source" means any division or other organizational component of the prime contractor (exclusive of the contracting component) and any subsidiary or affiliate of the contractor under a common control.

(c) *Policy*—(1) *General.* (i) Procurement or transfer of equipment, materials, supplies, and services from contractor-controlled sources is treated as an allowable cost under the terms of the prime contract. In many cases, such procurements may be made on the same basis (e.g., including profit or fee) as any procurement from a third party; the nature of the prime contract itself will largely determine the extent to which this is appropriate. With effective procedures and controls, a Class A contractor, by reason of a separate procurement function for the performance of AEC contract work (and, in effect, acting for AEC in its procurements for that work) in AEC facilities on AEC sites, may be authorized to treat contractor-controlled sources in the same manner as any other source. Generally, however, a Class B contractor is engaged to perform its AEC contract work in private facilities and utilizes all of its resources (including those of contractor-controlled sources, where necessary) in performing that work; accordingly, third-party treatment generally would not be appropriate in this situation. In either the Class A or Class B case, the contractor's procurement methods and practices with respect to such sources should be carefully reviewed, and any limitations or controls necessary to assure consistency with AEC basic procurement policies (see AECPR 9-1.5203) should be established prior to AEC approval, pursuant to the "Contractor procurement" clause (AECPR 9-7.5006-29) of the prime contract.

(ii) Subcontracts for performance of contract work itself (as distinguished from procurement of equipment, materials, supplies, and services needed in connection with the performance of contract work) require AEC authorization which may involve an adjustment of the contractor's fixed fee (see, for example, AECPR 9-7.5006-56, Note (a)). If either the Class A or Class B contractor seeks

authorization to have some part of the contract work performed by a contractor-controlled source, and the contractor's performance of that work was a factor in the negotiated fixed fee, AEC approval would normally require (*a*) that the contractor-controlled source perform such work on a cost basis without profit or (*b*) an equitable downward adjustment to the contractor's (i.e., the contracting component's) fixed fee.

(2) *Class A contractors.* As indicated in subparagraph (1) of this paragraph, contractor-controlled sources should be treated like any other source and any procurement from such sources should be made under the same terms and conditions as would apply if the purchase was from a third party. However, where a contractor-controlled source is a potential supplier of equipment, materials, supplies, or services and the contractor is authorized to make the procurement directly, it shall be made (i) under policies and procedures particularly designed to permit fair and open competition, and (ii) in a manner which results in legally enforceable terms and conditions. When considered appropriate (e.g., in the absence of subdivision (i) of this subparagraph), procurements of equipment, materials, supplies, and services involving contractor-controlled sources should be made directly by, or with the prior approval of, AEC.

(3) *Class B contractors.* Procurements or transfers from contractor-controlled sources by Class B contractors may, because of the value or character of the items involved, require the approval of the Contracting Officer. Adequate provision should be made to give the Government the benefit of customary warranties and protection against patent infringement applicable under the circumstances. Specific guidance with respect to reimbursement for procurements or transfers from contractor-controlled sources by Class B contractors is set forth in AECPR 9–15.5010–19.

5. In § 9–7.5006–9, *Allowable costs and fixed fee (CPFF operating and construction contracts)*, paragraph (d)(10) is revised to read as follows:

§ 9–7.5006–9 Allowable costs and fixed fee (CPFF operating and construction contracts).

* * * * *

(d) *Examples of items of allowable cost.* * * *

(10) *Subcontracts and purchase orders,* including procurements from contractor-controlled sources, subject to approvals required by other provisions of this contract.

* * * * *

6. In § 9–7.5006–10, *Allowable costs and fixed fee (supply contracts and research and development contracts with concerns other than educational institutions)*, paragraph (d)(13) is revised to read as follows:

§ 9–7.5006–10 Allowable costs and fixed fee (supply contracts and research and development contracts with concerns other than educational institutions).

* * * * *

(d) *Examples of items of allowable cost.* * * *

(13) *Subcontracts, purchase orders* and procurements from contractor-controlled sources, subject to approvals required by other provisions of this contract.

* * * * *

7. In § 9–7.5006–12, *Allowable costs and fixed fee (Architect-Engineer Contracts)*, paragraph (d)(15) is revised to read as follows:

§ 9–7.5006–12 Allowable costs and fixed fee (Architect-Engineer Contracts).

* * * * *

(d) *Examples of items of allowable cost.* * * *

(15) Subcontracts, purchase orders, and procurements from contractor-controlled sources, subject to approvals required by other provisions of this contract.

* * * * *

8. Section 9–7.5006–29, *Subcontracts and purchase orders,* is revised to read as follows:

§ 9–7.5006–29 Contractor procurement.

(a) The Commission reserves the right at any time to require that the contractor submit for approval any or all procurements under this contract. The contractor shall not procure any item whose purchase is expressly prohibited by the written direction of the Commission and shall use such special and directed procurement sources as may be expressly required by the Commission. The contractor shall provide information concerning procurement methods, practices, and procedures used or proposed to be used (Note A), and shall use methods, practices, and procedures which are acceptable to the Commission. Procurement arrangements under this contract (Note B) shall not relieve the contractor of any obligation under this contract (including, among other things, the obligation properly to supervise, administer, and coordinate the work of subcontractors) and shall be in such form and contain such provisions as are required by this contract or as the Commission may prescribe.

(b) In addition to, and without derogation of any rights under paragraph (a) of this section and any other provision in this contract, the contractor shall require subcontractors to furnish cost or pricing data, and shall include in such subcontracts the clause set forth in AECPR 9–3.814–50, except as otherwise directed or approved by the Commission (Note C).

(c) Procurement or transfer of equipment, materials, supplies, or services from a contractor-controlled source (any division or other organizational component of the prime contractor (exclusive of the contracting component) and any subsidiary or affiliate of the contractor under a common control) shall be considered a procurement for the purposes of this article (Note D).

NOTE A: This requirement may be waived only in accordance with AECPR 9–1.5202(c).

NOTE B: When appropriate, the words "shall be made in the name of the contractor, shall not bind nor purport to bind the Government" may be inserted here.

NOTE C: Paragraph (b) above is to be used only when the contract is subject to the provisions of AECPR 9–3.807–3(b).

NOTE D: See also AECPR 9–3.951 and 9–15.5010–19.

9. Section 9–7.5006–33, *Purchases from contractor-controlled sources,* is deleted and reserved.

10. The following section is added:

§ 9–7.5006–56 Statement of work (cost-type contracts).

NOTE: (a) While it is not feasible to set forth standard language which would fit every cost-type contract situation, language for this clause must be designed to describe clearly the work being undertaken; the controls, as appropriate, to be exercised by AEC over the performance of that work; and the relationship contemplated between the parties.

(b) This clause shall also include the following language with respect to subcontracting performance of the work described pursuant to (a) above:

"The contractor shall, when directed by the Commission, and may, but only when authorized by the Commission, enter into subcontracts for the performance of any part of the work under this article."

The foregoing language will satisfy the requirements of AECPR 9–51.201(a), as well as any programmatic requirements which may not be anticipated or present when entering into the contract.

(c) In operating-type contracts when the contractor is expected to perform no Davis-Bacon work with his own forces, the special clause in AECPR 9–12.403–50 shall be included in this clause.

§ 9–7.5007–4 [Deleted]

11. Section 9–7.5007–4, *Statement of work,* is deleted and reserved.

12. The following section is added:

§ 9–15.5010–19 Procurements or transfers from contractor-controlled sources by Class B cost-type contractors.

Allowance for all equipment, materials, supplies, and services which are sold or transferred between any division, subsidiary, or affiliate of the contractor under a common control shall be on the basis of cost incurred in accordance with the terms of the contract, except that when it is the established practice of the transferring organization to price interorganization transfers of equipment, materials, supplies, and services at other than cost for commercial work of the contractor or any division, subsidiary, or affiliate of the contractor under a common control, allowance may be at a price when:

(a) It is or is based on an "established catalog or market price of commercial items sold in substantial quantities to the general public" in accordance with FPR 1–3.807–1(b)(2); or

(b) It is the result of "adequate price competition" in accordance with FPR 1–3.807–1(b)(1)(i) and (ii), and is the price at which an award was made to the affiliated organization after obtaining quotations on an equal basis from such organization and one or more outside sources which normally produce the item or its equivalent in significant quantity; provided that in either case:

(1) The price is not in excess of the transferor's current sales price to his most favored customer (including any division, subsidiary, or affiliate of the contractor under a common control) for a like quantity under comparable conditions, and

(2) The price is not determined to be unreasonable by the contracting officer: *Provided, however,* That if the price is determined unreasonable, such determination must be supported by an enumeration of facts on which it is based and approved at a level above the contracting officer.

The price determined in accordance with (a) above should be adjusted, when appropriate, to reflect the quantities being procured and may be adjusted upward or downward to reflect the actual cost of any modifi-

cations necessary because of contract requirements.

14. In § 9–16.5002–2, *Outline of a cost-plus-a-fixed-fee supply contract (performed by commercial concerns in contractor's facilities)*, paragraphs (2) and (13) are revised to read as follows:

§ 9–16.5002–2 Outline of a cost-plus-a-fixed-fee supply contract (performed by commercial concerns in contractor's facilities).

* * * * *

(2) Statement of work—§ 9–7.5006–56.

* * * * *

(13) Contractor procurement—§ 9–7.5006–29.

* * * * *

15. In § 9–16.5002–2, *Outline of a cost-plus-a-fixed-fee supply contract (performed by commercial concerns in contractor's facilities)*, paragraph (36) is deleted and paragraphs (37) through (40) are renumbered as paragraphs (36) through (39), respectively.

16. In § 9–16.5002–4, *Outline of a cost-plus-a-fixed-fee construction contract*, Articles II and XV are revised to read as follows:

§ 9–16.5002–4 Outline of a cost-plus-a-fixed-fee construction contract.

* * * * *

Article II—Statement of work. Insert contract clause set forth in AECPR 9–7.5006–56.

* * * * *

Article XV—Contractor procurement. Insert contract clause set forth in AECPR 9–7.5006–29.

* * * * *

17. In § 9–16.5002–4, *Outline of a cost-plus-a-fixed-fee construction contract*, Article XXXIII, *Purchases from contractor-controlled sources*, and related Note are deleted, and Article XXXIV, *Priorities, Allocations, and Allotments*, is reumbered Article XXXIII.

18. In § 9–16.5002–5, *Outline of a cost-plus-a-fixed-fee architect-engineer contract*, the Note to Article XVI, *Subcontracts and purchase orders—When subcontracts authorized—Requirements applicable to subcontracts and purchase orders*, is revised and a further Note added, as follows:

§ 9–16.5002–5 Outline of a cost-plus-a-fixed-fee architect-engineer contract.

* * * * *

Article XVI—Subcontracts and purchase orders—When subcontracts authorized—Requirements applicable to subcontracts and purchase orders. * * *

(NOTE A: The words "shall be made in the name of the Contractor, shall not bind nor purport to bind the Government" are optional and may be used or omitted, as appropriate.)

(NOTE B: Paragraph (c) of AECPR 9–7.5006–29 shall be included in the contract if it is contemplated that the contractor will be required to procure any equipment, materials, supplies, or services of the kind and character manufactured or sold by contractor-controlled sources.)

* * * * *

19. In §9–16.5002–5, *Outline of a cost-plus-a-fixed-fee architect-engineer contract*, Article XXXI, *Purchases from contractor controlled sources*, and related Note are deleted, and Articles XXXII through XXXVII are renumbered as Articles XXXI through XXXVI, respectively.

20. In § 9–16.5002–6, *Outline of a lump-sum architect-engineer contract (with cost reimbursement features)*, the following Note is added to Article X, *Subcontracts:*

§ 9–16.5002–6 Outline of a lump-sum architect-engineer contract (with cost reimbursement features).

* * * * *

Article X—Subcontracts. * * *

NOTE: Paragraph (c) of AECPR 9–7.5006–29 should be included in the contract if deemed necessary.

* * * * *

21. In § 9–16.5002–6, *Outline of a lump-sum architect-engineer contract (with cost reimbursement features)*, Article XXIV, *Purchases from contractor controlled sources*, is deleted, and Articles XXV through XXXI are renumbered as Articles XXIV through XXX, respectively.

22. In § 9–51.201, *Types of actions*, paragraph (a) is revised to read as follows:

§ 9–51.201 Types of actions.

* * * * *

(a) *Contracts entered into under section 41.* Prior approval shall be required for the subcontracting of any work a contractor is obligated to perform under a contract entered into under section 41 of the Atomic Energy Act of 1954, as amended.

* * * * *

(Sec. 161, Atomic Energy Act of 1954, as amended; 68 Stat. 948, 42 U.S.C. 2201; sec. 205, Federal Property and Administrative Services Act of 1949, as amended; 63 Stat. 390, 40 U.S.C. 486)

Effective date. These amendments are effective 45 days after publication in the FEDERAL REGISTER, but may be observed earlier.

Dated at Germantown, Md., this 2d day of June 1967.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

[F.R. Doc. 67–6533; Filed, June 12, 1967; 8:45 a.m.]

Chapter 50—Division of Public Contracts, Department of Labor

PART 50–204—SAFETY AND HEALTH STANDARDS FOR FEDERAL SUPPLY CONTRACTS

Radiation Standards for Uranium Mining

Radiation standards for uranium mining were published in the FEDERAL REGISTER (32 F.R. 7022) for effect June 8, 1967. Data, views, and argument were invited, with the statement that consideration would be given such submissions with a view to making any amendment considered to be necessary or desirable as fully as though such submissions had been received pursuant to a proposal:

Since the May 9 publication in the FEDERAL REGISTER, all available evidence and commentary has been reviewed. This has included testimony presented before the Joint Committee On Atomic Energy, Subcommittee on Research, Development, and Radiation; all letters received by the Department of Labor commenting on the standard; and all of the materials that had been reviewed prior to the May 9 promulgation, in particular the relevant documents of the Federal Radiation Council. All of these were carefully considered. Upon such consideration, 41 CFR 50–204.321 is revised, effective immediately, to read as set out below.

The bodily injury occasioned by excessive exposure to radiation is a matter concerning which there is an ever growing mass of information. This subject will be kept under constant study with a view to improving the standards here promulgated.

Some of the data submitted in response to the publication of May 9, 1967 (32 F.R. 7022), indicate confusion concerning the development and present status of the Walsh-Healey safety and health standards which this document amends. These standards do not, in and of themselves, have the force and effect of law. The Act requires that each contractor to whom it applies stipulate that no part of the work will be performed "in any plants, factories, buildings or surroundings or under working conditions which are unsanitary or hazardous or dangerous to the health and safety of employees". The question of what conditions are unsanitary or hazardous or dangerous is, under the Act, a question of fact to be resolved after investigation by evidence received at a formal administrative adjudication of the type described in section 5 of the Act. Respondents may there establish it that their failure to comply with the regulations did not result in conditions which are "unsanitary or hazardous or dangerous to the health and safety of employees" within the meaning of the Act (41 CFR 50–204.1(c)).

These standards indicate the basis for looking beyond the "prima facie" evidence that the statute provides for compliance with State laws to ascertain whether there is evidence that a hazardous or unsanitary condition may exist notwithstanding compliance with whatever requirement the State law may impose.

The revised 41 CFR 50–204.321 is as follows:

§ 50–204.321 Radiation standards for uranium mining.

(a) For the purpose of this section, a "working level" is defined as any combination of radon daughters in 1 liter of air which will result in the ultimate emission of 1.3×10^5 million electron volts of potential alpha energy. The numerical value of the "working level" is derived from the alpha energy released by the total decay of short-lived radon daughter products in equilibrium with 100 pico-curies of radon 222 per liter of air. A working level month is defined as the exposure received by a worker

breathing air at one working level concentration for 4⅓ weeks of 40 hours each.

(b) Occupational exposure to radon daughters in underground mines shall be controlled so that no individual will receive an exposure of more than 1.8 working level months in any consecutive 3-month period and no more than 3.6 working level months in any consecutive 12-month period. Actual exposures shall be kept as far below these values as practicable. *Provided, however,* that mines with conditions that would result in an exposure of more than 3.6 working level months but not more than 12 working level months in any 12 consecutive months will be considered in compliance up to January 1, 1969, if an effective program is established and carried out to (i) protect the health and safety of employees exposed to these conditions, and (ii) reduce the concentration to the 3.6 working level months standard by January 1, 1969.

(c) Records of environmental concentrations in the various parts of the mine, and of the time spent in each area by each person involved in underground work shall be established and maintained. These records shall be in sufficient detail to permit calculations of the exposures, in units of working level months, of the individuals and shall be available for inspection by the Secretary of Labor or his authorized agents.

(Sec. 4, 49 Stat. 2036, 2038; 41 U.S.C. 38; sec. 7, 60 Stat. 241; 5 U.S.C. 556(d))

Signed at Washington, D.C., this 9th day of June 1967.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 67-6687; Filed, June 12, 1967; 9:09 a.m.]

Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER K—GENERAL CONDITIONAL PAYMENTS PROVISIONS

PART 892—MAINLAND CANE SUGAR AREA

Pursuant to the provisions of the Sugar Act of 1948, as amended, the title of Part 892 is amended to read "Part 892—Mainland Cane Sugar Area"; § 892.1 (29 F.R. 9426) is rescinded; and new §§ 892.1 through 892.19 are added to read as follows:

Sec.

AUTHORITY: The provisions of this Part 892 issued pursuant to sec. 403, Sugar Act of 1948, as amended, 61 Stat. 932, 7 U.S.C. 1153; sec. 301, 61 Stat. 929, as amended, 7 U.S.C. 1131; sec. 304, 61 Stat. 931, 7 U.S.C. 1134; sec. 306, 61 Stat. 932, 7 U.S.C. 1136.

§ 892.1 Regulations, as effective, and definitions.

(a) The regulations in the following §§ 892.1 through 892.19 become effective on the 20th day after the date of publication of such sections in the FEDERAL REGISTER, shall continue in effect until amended, superseded, or revoked, and shall apply to actions or proceedings initiated after such effective date. As used in this part, the terms:

(b) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture, to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(c) "Deputy Administrator" or "DASCO" means the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(d) "State Committee" means the persons in a State designated by the Secretary as the Agricultural Stabilization and Conservation State Committee, under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended.

(e) "State Executive Director" means the person responsible for the day-to-day operations of the Agricultural Stabilization and Conservation Service State Office (herein referred to as ASCS State Office) or any employee of such office authorized to act on his behalf.

(f) "County Committee" means the persons elected within a county as the County Committee pursuant to regulations governing the selection and function of Agricultural Stabilization and Conservation County and Community Committees, under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended.

(g) "County Office Manager" means the person responsible for the day-to-day operations of the Agricultural Stabilization and Conservation Service County Office (herein referred to as ASCS County Office).

(h) "Act" or "Sugar Act" means the Sugar Act of 1948, as amended.

(i) "Producer" means a person who is the legal owner, at the time of harvest or abandonment, of a portion or all of a crop of sugarcane grown on a farm for the extraction of sugar or liquid sugar.

(j) "Processor-producer" means a producer who is determined to be also a processor. A producer shall be deemed to be also a processor:

(1) If such producer is directly engaged in the processing of sugarcane for sugar;

(2) If such producer, whether alone or in conjunction with others, controls a person directly engaged in the processing of sugarcane for sugar, either by stock ownership or otherwise; or

(3) If such producer is controlled, whether through stock ownership or otherwise, by a person directly engaged in the processing of sugarcane for sugar.

(k) "Farm" shall have the meaning set forth in Part 822 of this chapter.

(l) "Operator" means the producer who controls and directs the sugarcane operations on the farm, who has all or the major portion of the risk of financial loss or of the opportunity for financial gain resulting from such operations and who has the authority to make the final decisions with respect to growing, harvesting, and marketing the sugarcane crop: *Provided, however,* That the cosigning of a note by a parent to enable his child to obtain financing shall not in itself be considered as diminishing the risk of financial loss borne by such child.

(m) "Ownership tract" means a farm or portion of a farm which is separately owned.

(n) "Proportionate share" or "share" means the proportionate share for a farm in terms of planted acreage as provided in sections 301 and 302 of the Act.

(o) "Accredited acreage" or "accredited acres" means the area on the farm (within the share for such farm if shares are in effect) for any crop as designated by year on which sugarcane was grown and marketed (or processed) for the extraction of sugar or liquid sugar, except for use as livestock feed or for the production of livestock feed, or which was harvested for seed or which was determined by the county committee to have been bona fide abandoned acreage and abandoned acreage (hereinafter referred to as "abandoned acreage") to the extent of fulfilling at least the requirements for abandonment payments set forth in paragraph (c)(1)(i) and (ii) of § 845.2 of this chapter, as shown by office records of the county committee.

(p) "Cropland" means land suitable for the production of sugarcane on the farm.

(q) "Crop" means a crop of sugarcane and shall be designated by year to correspond to the year in which harvest begins in the Mainland Cane Sugar Area. The term "crop year" means the crop designated by year as provided in this paragraph.

§ 892.2 Compliance with child labor provisions of the Act.

(a) *Applicability.* As a condition for payment under the Act, and except for a member of the immediate family of a person who was the legal owner of not less than 40 percent of the crop at the time work was performed, no child under the age of 14 shall have been employed or permitted to work on the farm, whether for gain to such child or any person, in the production, cultivation, or harvesting of a crop of sugarcane with respect to which application for payment is made, nor be so employed or permitted to work for a longer period than 8 hours in any 1 day if between the ages of 14 and 16.

(b) *Deduction for noncompliance.* Payment authorized under the Act may be made notwithstanding a failure to comply with the conditions set forth in paragraph (a) of this section, but the payments made with respect to any crop shall be subject to a deduction of $10 for each child for each day, or a portion of a day, during which such child was employed or permitted to work contrary to the provisions of this section.

(c) *Proof of age.* The operator of a farm upon which a child is found, by a representative of the ASCS county or State office or county or State committee, to have worked or to be working in the production, cultivation, or harvesting of a crop of sugarcane, shall be required upon request of the representative to furnish proof of age of the child if such child is not a member of the immediate family of a person owning at least 40 percent of the crop of sugarcane at the time such work was performed. Proof of age may be established by (1) an age certificate issued pursuant to any child labor program carried out under State or Federal supervision or other authorized personnel such as a school superintendent or principal, (2) a birth certificate or transcript thereof, (3) a baptismal certificate showing the date of birth, (4) a passport, (5) an insurance policy or (6) a Bible record.

(d) *Proving child member of producer's immediate family.* If it is alleged that the child is a member of the immediate family of a person who owns such 40 percent of a crop, such person or the operator of the farm must establish such relationship to the satisfaction of the representative of the ASCS county or State office or county or State committee. "Member of the immediate family" is deemed to include children who constitute the household of a person when such person is responsible for and provides the support of such children either as parent or in place of the parent.

(e) *Checking compliance with child labor provisions.* In accordance with instructions issued by DASCO, the county committee shall determine by random selection the farms on which child labor compliance checks shall be made. The farm operator shall be notified immediately of any violation of these provisions.

§ 892.3 Sharecropper or share tenant protection.

For any crop designated by year the number of share tenants or sharecroppers engaged in cane production on the farm shall not be reduced below the number so engaged for the previous crop unless such reduction is approved by the county committee. In considering such approval, the county committee shall be guided by whether the reduction resulted from voluntary action of the tenants or sharecroppers, or was otherwise beyond the producer's control. The producer shall not have entered into any leasing or cropping agreement to direct payments to him to which share tenants or sharecroppers would be entitled if their leasing or cropping agreements for the previous crop were in effect except with the approval of the county committee prior to entering into the leasing or cropping agreement for the current crop. Failure to comply with these provisions will result in the forfeiture of the Sugar Act payment.

§ 892.4 Compliance with the acreage certification and land use provisions.

When proportionate shares are in effect for a crop, if the operator of a farm, located in a county designated in Part 718 of this title, as a county in which farm operators' certification of the acreage and land use may be accepted in lieu of farm inspection and measurements, fails to file a report in compliance with § 718.8(b)(6) of this title, or files a timely report showing that the acreage of cane is within the share for the farm and the county or State committee later determines that such acreage is in excess of the share and was knowingly reported incorrectly by the operator, no payment shall be made with respect to such farm.

§ 892.5 Compliance with other conditions of payment.

All requirements of the Act and the regulations issued pursuant thereto with respect to wage rates, farm proportionate shares (if in effect) and in case of a processor-producer, prices paid for sugarcane shall be met to be eligible for payment under the Act.

§ 892.6 Instructions and forms.

DASCO shall cause to be prepared such forms and internal management instructions as are necessary for carrying out the regulations in this part and regulations hereafter issued. These forms, instructions, and data pertaining to the individual farms are available in the ASCS county office of the county in which the farm headquarters is located, or in the absence of a farm headquarters, in the ASCS county office of the county in which the major portion of land suitable for the production of sugarcane on the farm is located. A list of forms prescribed for the conditional payment program in the Mainland Cane Sugar Area is set forth in § 892.19.

§ 892.7 Filing application for payment.

(a) *Form to be used.* Applications for payments authorized under Title III of the Act with respect to sugar commercially recoverable from sugarcane grown on a farm, as well as for acreage abandonment and crop deficiency payments, shall be made on Form SU-120.

(b) *Person eligible to apply for payment.* The producer on the farm, or his legal representative, must sign and file the form in the ASCS county office or with a representative of such office for the county in which the farm headquarters is located or, in the absence of a farm headquarters, for the county in which the major portion of land suitable for the production of sugarcane on the farm is located.

(c) *Closing date for filing.* Form SU-120 must be filed with respect to a crop of sugarcane no later than December 31 of the second calendar year following the year designating such crop. The producers shall be notified by the county office of the place and time the forms are available for signing.

(d) *Exception to closing date requirement.* An application may be filed after the closing date if the State committee determines that the applicant was prevented from filing by such date because of illness or other reason beyond his control.

(e) *Person eligible to receive payment.* Payment shall be made to a producer of the sugarcane in accordance with the provisions of section 304(d) of the Act. In the event of death, disappearance, or incompetency of the producer, payment shall be made to the beneficiary designated in the application for payment by the producer, or if no such beneficiary is named, to the producer's legal representative or his heirs as determined by the county committee.

(f) *Assignments.* Sugar Act payments may not be assigned.

(g) *Receivers.* A Sugar Act payment may not be made to a receiver.

§ 892.8 Computation of Sugar Act payment.

Payment is made as to each farm, and the amount of payment is scaled down as shown in the following table when the quantity of sugar for which payment may be made as determined from sugarcane planted on the farm exceeds 7,000 hundredweight. The Sugar Act payment for the amount of commercially recoverable sugar determined for a farm shall be computed by the county committee in accordance with the following table:

If the hundredweight of commercially recoverable sugar determined for a farm is—	Multiply it by—	Then add—
1 to 7,000	$0.80	$0
7,001 to 14,000	.75	350
14,001 to 20,000	.70	1,050
20,001 to 30,000	.60	3,050
30,001 to 60,000	.55	4,550
60,001 to 120,000	.525	6,050
120,001 to 240,000	.50	9,050
240,001 to 600,000	.475	15,050
More than 600,000	.30	120,050

Example: If the hundredweight of commercially recoverable sugar determined for a farm is 50,000 hundredweight: 50,000 x $0.55 equals $27,500.00 plus $4,550.00 totals $32,050.00, the amount of payment.

§ 892.9 Credit for accredited sugarcane acreage record.

For the purpose of compiling sugarcane production records for use in establishing shares, the subdivisions of any farm which is subdivided shall be credited with the accredited sugarcane acreage record of such farm for the three crops immediately preceding the crop year when such farm is subdivided by apportioning such record among the subdivisions on the basis of the cropland suitable for the production of sugarcane in such subdivisions. However, if the county committee determines that the use of the cropland relationship is materially inconsistent with the accredited acreage of sugarcane of such three crops grown on any subdivision, or is not representative of the sugarcane acreage of the crop growing or grown on any subdivision in the year designating such crop when such farm is subdivided, or if all persons concerned in the subdivision file a written request with the county committee which is approved by the committee, such subdivisions shall be credited with a pro rata share of the accredited acreage record of the farm for such three crops, determined either on the basis of the total accredited acreage of sugarcane of such three crops, on each subdivision or on the basis of the acreage of sugarcane of the crop growing or grown and harvested on each subdivision in the year designating such crop when such farm is subdivided. A reconstituted farm consisting of any combination of farms, combination of subdivisions of farms, or combination of farms and subdivision of farms shall be credited with the total of the accredited acreage records determined for such three crops for the constituent parts of the farm.

§ 892.10 Determination of eligibility and basis for payment, review and changes in determination, appeals for review thereof, and appeals for review of proportionate shares when such shares are in effect.

The finality provisions of section 306 of the Act apply to determinations made in conformity with the regulations in this § 892.10. Compliance with the conditions prescribed by the Act and regulations for any payment authorized under Title III of the Act, the facts constituting the basis for any such payment, and the amount thereof, shall be determined by the county committee, any such determination to be subject to redetermination initiated by the county committee and to review initiated by the State committee and to approval or redetermination by the State committee. Any determination by the State committee shall be subject to redetermination initiated by the State committee and to review initiated by the Deputy Administrator and to approval or redetermination by the Deputy Administrator. Determinations and redeterminations by the county committee, the State committee or the Deputy Administrator shall be made and decided in accordance with the applicable provisions of the Act and regulations issued by the Secretary thereunder and on the facts in the individual case. The producers on the farm with respect to which such a determination or redetermination is made shall be promptly notified in writing of the substance and meaning of the determination or redetermination, the amounts of any payments and any reduction in payments which are determined; and that the producer may obtain reconsideration or review of the determination or redetermination and an informal hearing in connection therewith, by filing a written request within 15 days from the date of mailing of such written notification. The written notification also shall state where the request for reconsideration or review should be filed and where further information in regard to appeal procedure and the hearing may be obtained. The provisions apprising producers of their rights to request reconsideration or appeal from determinations affecting their eligibility for or the amount of payments under the Act, and the procedure to follow in such instances including time limitations for filing requests for reconsideration and appeals are contained in Chapter VII, Part 780 of this title. The procedures applicable to claims for unpaid wages are provided for under regulations pertaining thereto, as issued by the Secretary, and contained in Parts 863 (Florida) and 864 (Louisiana) of this chapter.

§ 892.11 Obtaining information regarding eligibility for payment.

Where it is necessary to obtain information to assist the county committee in determining compliance with the conditions prescribed by the Act and regulations for any payment authorized under Title III of the Act, the facts constituting the basis for any such payment or the amount thereof, or to assist the State committee or the Deputy Administrator in reviewing upon appeal, or upon their own initiative, any such determination by the county committee, any such information with respect to acreage or compliance shall be obtained to the extent possible as provided in the applicable provisions of Part 718 of Chapter VII of this title, as amended. In the absence of a provision in such Part 718 of this title for obtaining any such information, any employee of the ASCS county office or employees of the ASCS State office designated respectively by the county office manager or by the State Executive Director to be qualified to perform such a duty may obtain such information.

§ 892.12 Conditions of payment not met where producer prevents obtaining information.

If the producer, or his representative, on any farm with respect to which application is made for any payment authorized under Title III of the Act prevents the obtaining of the information necessary to determine compliance with the conditions for any such payment, the facts constituting the basis of any such payment or the amount thereof, the conditions prescribed by the Act and regulations for any such payment shall be deemed not to have been met until such producer or his representative permits such information to be obtained.

§ 892.13 Notification of shares when shares are in effect.

Each operator of a farm for which a share is established and each applicant filing a request for a new-producer share shall be notified in writing on behalf of the county committee of the share established for his farm (even if "none" in case of a new-producer request) and of his right to appeal under § 892.10 and each such person shall be notified in writing of any adjustment or change made in the share.

§ 892.14 Harvesting within the farm's share when shares are in effect.

In addition to other conditions of payment, a producer must comply with the following provision to be eligible for payment under the Act when shares are in effect.

(a) *Harvesting for sugar.* When shares are in effect for any crop designated by year, the total acreage of cane of such crop on the farm harvested for seed, and harvested and marketed (or processed) for sugar production (except livestock sugar) shall not exceed the final share determined for the farm.

(b) *Harvested for seed.* The acreage of cane harvested for seed purposes from a farm and planted as seed on another farm will be considered as acreage of the latter farm harvested for seed for purposes of compliance with the share established for such latter farm, except where the seed cane was harvested within the share established for the farm on which grown or from an experimental farm operated by a State or Federal agency. Where such seed cane was grown on a farm for which a share was not established the operator of the farm on the seed cane is planted shall notify the county committee prior to the acquisition of the seed cane so that the committee may determine, at the expense of the operator, the acreage to be harvested for such purpose, or in the absence of such notification the county committee shall determine at the expense of the operator the acreage harvested for such purpose, or shall determine the acreage harvested for seed by estimate or calculation from information available to it.

(c) *Harvested for sugar and seed in excess of farm share.* The producer shall be deemed to have met the requirements for payment with respect to marketings (or processings) within the share where cane was marketed (or processed) for sugar or for sugar and seed from an acreage on the farm (including acreage of seed cane attributed to such farm under this paragraph) in excess of the share: *Provided*, That (1) such excess acreage is not more than the larger of four-tenths acre or 2 percent of the share but not in excess of 5 acres, (2) the county committee finds and the State committee concurs that such marketings (or processings) were unintentional, and (3) within 1 year after the processing of such excess cane the operator arranges for the raw value equivalent of sugar produced from cane in the Mainland Cane Sugar Area, and not marketed to fill a quota for such area as provided in Part 816 of this chapter, to be made subject to a bond given pursuant to Part

816 of this chapter, which provides that a condition of such bond shall be that the sugar shall be used for livestock feed. The Sugar Act payment in any such case shall be limited to the amount of sugar commercially recoverable from cane marketed (or processed) from the acreage within such share.

§ 892.15 Notification of excess sugarcane acreage when shares are in effect.

If the county committee determines for any crop that the acreage of sugarcane on any farm is in excess of the acreage established as the share for such farm, written notice of such excess acreage and of the eligibility requirements for payment shall be mailed to the person who is listed on the ASCS county office records as the operator of the farm.

§ 892.16 Erroneous notice of share or of excess sugarcane acreage when shares are in effect.

If through error, an operator is officially notified of a share for his farm greater than the share properly established, or is furnished an incorrect notice of excess sugarcane acreage, or if the determined acreage of sugarcane is in excess of the share for the farm and notice thereof is not mailed to the operator, and it is found by the county committee that such operator, acting solely on the information contained in the erroneous notice or without a notice of excess sugarcane acreage being mailed to him, marketed sugarcane from an acreage in excess of the share properly established, the operator will be deemed to be in compliance with the share unless he harvested sugarcane for seed or marketed sugarcane for sugar from an acreage in excess of the share stated in the erroneous notice, or unless it is determined by the county committee that the error in the share or notice was so gross, or that the excess acreage was so gross as to place the operator on notice regarding the error in the share or of the existence of the excess acreage. However, the Sugar Act payment with respect to the farm shall be limited to the amount of sugar determined by the county committee to be commercially recoverable from the sugarcane marketed (or processed) from the acreage within the properly established share.

§ 892.17 Disposition of excess acreage when shares are in effect.

The provisions of this section apply if the county committee determines there is acreage of cane on a farm in excess of the share.

(a) Excess acreage which the operator elects to plow-out, abandon, or harvest for purposes other than for sugar (except livestock sugar) or seed may be disposed of at any time. Notification must be given to the county committee by the operator when and how disposition will be made to permit verification by a committee representative of the action taken. Excess acreage of cane disposed of concurrently with acreage harvested within the share must be clearly identified by a county committee representative. Such excess acreage must be so located that it may be disposed of without interfering with the harvest of the proportionate share acreage. The identity of such excess acreage must be maintained after harvest to assure that proper disposition was made: *Provided*, That if cane is harvested from excess acreage for sirup concurrently with the harvest of cane within the share for seed or sugar other than for livestock sugar, and such acreage is not identified as provided above, the producer shall not market a quantity of cane for sugar production or seed greater than the total of the tonnages of cane marketed for sugar, seed and sirup multiplied by the percentage that the acreage harvested for sugar and seed on the farm is of the total acreage of all cane so marketed.

(b) An estimate of the average tons of cane per acre growing on excess acreage which has been identified and designated for harvest for sirup or livestock sugar must be made before such harvest by a county committee representative and the farm operator. The estimate must be signed by the operator and filed at the county office.

(c) Any operator who markets cane for livestock sugar or sirup from excess acreage must furnish weight tickets to the county committee evidencing that such cane was sold by him or processed by or for him for such purposes. Where excess acreage is identified by a county committee representative and an estimate made, as provided in paragraph (b) of this section, and the average tonnage of cane per acre grown on such excess acreage, as computed by dividing the total tonnage of cane marketed for livestock sugar or sirup by the excess acreage, is less than 80 percent of the estimate made pursuant to paragraph (b) of this section, no payment shall be made until the operator furnishes acceptable proof to the county committee that the cane from all excess acreage on the farm was marketed or disposed of other than for seed or sugar production except for livestock sugar.

(d) For any crop, the operator must maintain a record of the excess acreage in each field or parts of fields and the method and purpose of disposal of cane grown on such acreage until receipt of the Sugar Act payment for such crop.

§ 892.18 Eminent domain.

The share established for a crop designated by year for a farm which was removed from cane production in its entirety or in part by acquisition within the 3 years immediately preceding the year designating such crop by an agency or entity entitled to exercise the right of eminent domain, shall, upon application by the owner of the land so removed to the appropriate ASCS State office, be added to the share established for such crop for any land owned by the owner in the same State to the extent requested in the application, but the acreage added shall not exceed the difference between the share established for the farm from which production was removed and the share established for the part of the farm not lost by the acquisition. Where application is not made as provided in this section for the entire share or part thereof established for the farm, the share or part thereof not applied for shall be reserved by the State committee for 3 years after the date of acquisition or until application is made by the owner of the land removed, whichever is earlier: *Provided*, That such reserved share or part thereof shall be subject to any adjustments required to be made in establishing shares for old-producer farms under the regulations applicable during the period the share is reserved. The acreage of such reserved shares not applied for may not be reallocated to other old-producer farms.

§ 892.19 List of prescribed forms.

Forms prescribed for the conditional payment program in the Mainland Cane Sugar Area.

Form Number and Title
SU-79—Application to Produce and Market Mainland Sugar under Bond.
SU-120—Application for Payment.
SU-120-1—Supplement to Application for Payment.
SU-120-2—Abandonment and Deficiency Area Worksheet.
SU-122—Sugarcane Record Card.
SU-122-A—Sugarcane Record Worksheet.
SU-125—Notice of Farm Proportionate Share.
SU-126—Worksheet for Computing Farm Base and Proportionate Share.
SU-126-A—Worksheet for Dividing 1967 Proportionate Share.
SU-126-B—Worksheet for Consolidating 1967 Proportionate Share.
SU-127—Farm Normal Yield Worksheet.
SU-128—Prices Paid for Sugarcane with Related Information.
SU-129—Sugarcane Producer Identification Card.
SU-130—Report of Performance.
SU-130-A—Summary of Measured Sugarcane Acreage and Disposition of Acreage in Excess of Proportionate Share.
SU-130-B—Child Labor and Wage Claim Report.
SU-132—Report of Sugarcane Deliveries.
SU-134—Daily Wage Rate Record Sheet.
SU-140—Wage Rate Compliance Check Sheet.
SU-141—Request for New Producer Proportionate Share.
SU-142—Request for Additional Proportionate Share.
SU-190—Child Labor Compliance Check Sheet.
SU-191—Claim Against Producer for Unpaid Wages.
SU-195—Sugar Act Payment Deductions.
ASCS-578—Report of Acreage.

Statement of bases and considerations. To qualify for Sugar Act payments, sugarcane producers must comply with various general provisions and requirements of the Act, as implemented in determinations issued by the Secretary. In addition, they must file applications for payments, use approved forms, adhere to certain instructions and furnish information regarding eligibility for payment and the basis for payment and in connection with appeals for review thereof. Prior to the 1963 crop some of these provisions were incorporated in the annual proportionate share regulations. In 1964, certain of these provisions were incorporated into Part 892 since proportionate shares are not necessarily required for every crop year.

This action represents a reissuance of these general provisions, with several additions. Also, some provisions applicable only when proportionate shares are in effect have been added. Heretofore, they have been issued without substantive change with each proportionate share regulation. Some definitions previously included in other regulations, among others the definition of Processor-Producer as stated in 7 CFR 821.1, have been added.

The Department published in the FEDERAL REGISTER of February 9, 1967 (32 F.R. 2708) its intention to issue regulations revising the definition of a farm and defining and interpreting the term farm operator. After reviewing and fully considering the comments that have been received, it has been concluded that no amendment of the definitions of a farm should be issued pending further study. However, the definition of "operator" has been expanded by the addition of a provision which makes it possible for a parent to provide financing for his child without the parent being considered as having assumed the risk of the financial loss merely by cosigning a note so that the child could start his own farming enterprise.

Determination of eligibility and basis for payment and appeals for review thereof has been updated to be consistent with regulations governing appeals (Ch. VII, Pt. 780). Also, provisions have been added which set forth the long established rule that Sugar Act payments may not be assigned and may not be made to receivers.

Provisions of the Act relating to proportionate shares and not included herein will be incorporated in the regulations pertaining to proportionate shares when it is determined by the Secretary that such shares are required.

Accordingly, I hereby find and conclude that the foregoing regulation will effectuate the applicable provisions of the Act.

Effective date: The 20th day after date of publication.

Signed at Washington, D.C., June 7, 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-6584; Filed, June 12, 1967; 8:49 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 270, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b)(1)(ii) of § 910.570 (Lemon Reg. 270, 32 F.R. 8021) are hereby amended to read as follows:

§ 910.570 Lemon Regulation 270.

* * * * *

(b) *Order.* (1) * * *

(ii) District 2: 395,250 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 8, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-6559; Filed, June 12, 1967; 8:47 a.m.]

PART 953—IRISH POTATOES GROWN IN SOUTHEASTERN STATES

Limitation of Shipments

(a) Notice of rule making with respect to a proposed limitation of shipments regulation to be made effective under Marketing Agreement No. 104 and Order No. 953 (7 CFR Part 953), regulating the handling of Irish potatoes grown in the designated counties of Virginia and North Carolina, was published in the FEDERAL REGISTER, June 3, 1967 (32 F.R. 8039). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

This notice afforded interested parties an opportunity to file written data, views, or arguments pertaining thereto. None was filed.

After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, and other available information, it is hereby found that the limitation of shipments regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

(b) It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553 (1966)) in that (1) shipments of 1967 crop potatoes grown in the production area are expected to begin on or about the effective date of this section, (2) to maximize benefits to producers, this regulation should apply to all shipments during the 1967 season, (3) compliance with this section will not require any special preparation on the part of handlers which cannot be completed by the effective date, and (4) notice has been given of the limitation of shipments set forth in this section through publicity in the production area and by publication in the FEDERAL REGISTER of June 3, 1967 (32 F.R. 8039).

§ 953.307 Limitation of shipments.

During the period June 15 to August 1, 1967, no person shall ship any lot of potatoes produced in Districts 1, 2, 3, or 4 of the production area unless such potatoes meet the requirements of paragraphs (a) and (b) of this section or unless such potatoes are shipped in accordance with paragraphs (c) and (d), or (e), of this section.

(a) *Minimum quality requirements*—(1) *Grade.* All varieties U.S. No. 2, or better grade.

(b) *Inspection.*—(1) No first handler may ship any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto by the Federal-State Inspection Service and the certificate is valid at the time of shipment.

(2) No handler may transport or cause the transportation of potatoes by motor vehicle for which an inspection certificate is required unless such shipment is accompanied by a copy of the inspection certificate applicable thereto.

(3) For administration of this part each inspection certificate is valid for only 72 hours following completion of inspection as shown on the certificate.

(c) *Special purpose shipments.* The grade and inspection requirements set forth in paragraphs (a) and (b) of this section shall not be applicable to shipments of potatoes for potato chipping, canning, freezing, livestock feed, or charity: *Provided,* That the handler thereof complies with the safeguard requirements of paragraph (d) of this section.

(d) *Safeguards.* Each handler making shipments of potatoes for potato chipping, canning, freezing, livestock feed, or charity in accordance with paragraph (c) of this section shall:

(1) Notify the committee of his intent to ship potatoes pursuant to paragraph (c) of this section by applying on forms furnished by the committee for a certificate applicable to such special purpose shipments;

(2) Obtain an approved Certificate of Privilege;

(3) Prepare on forms furnished by the committee a special purpose shipment report for each such individual shipment; and

(4) Forward copies of such special purpose shipment report to the committee office and to the receiver with instructions to the receiver that he sign and return a copy to the committee's office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for suspension of such handler's certificate applicable to such special purpose shipments.

(e) *Minimum quantity exception.* Each handler may ship up to, but not to exceed, 5 hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any portion of a shipment that exceeds 5 hundredweight of potatoes.

(f) *Definitions.* The term "U.S. No. 2," shall have the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540–51.1556 of this title), including the tolerances set forth therein. All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 104 and this part.

(g) *Applicability to imports.* Pursuant to § 608e–1 of the Act and § 980.1, "Import regulation" (7 CFR 980.1), round white varieties of Irish potatoes imported into the United States during the period June 15 to August 1, 1967, shall meet the grade, size, quality, and maturity requirements specified in paragraph (a) of this section.

(Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date. Issued June 9, to become effective June 15, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-6680; Filed, June 12, 1967; 8:50 a.m.]

[980.1 Potatoes, Amdt. 3]

PART 980—VEGETABLES: IMPORT REGULATIONS

Irish Potatoes

Pursuant to the requirements of § 603e–1 of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), § 980.1 *Import regulations; Irish potatoes* (7 CFR 980) is hereby amended in the following respects;

1. Subparagraph (1)(i) of paragraph (a) is amended by substituting "No. 946 (Part 946 of this chapter), and No. 953 (Part 953 of this chapter);" for "and No. 946 (Part 946 of this chapter);"

2. The provisions of subdivision (ii) of paragraph (a)(2) are amended by changing the semicolon at the end thereof to a colon and adding the following: *"Provided,* That during the period June 15, 1967, through June 30, 1967, imports of such round type potatoes are in most direct competition with the same type potatoes produced in the production area covered by Order No. 953 (Part 953 of this chapter);"

3. The provisions of subdivision (iii) of paragraphs (a)(2) are amended by changing the semicolon at the end thereof to a colon and adding the following: *"Provided,* That during the month of July 1967, imports of such potatoes other than red skinned round type potatoes are in most direct competition with potatoes of the same type produced in the production area covered by Order No. 953 (Part 953 of this chapter);"

4. The provisions of subparagraph (1) of paragraph (b) are amended by changing the period at the end thereof to a colon and adding the following: *"Provided,* That for July 1967, the grade, size, quality and maturity requirements of Marketing Order No. 953 (Part 953 of this chapter) applicable to round type potatoes shall be the respective grade, size, quality, and maturity requirements for imported potatoes of the round types other than round type red skinned potatoes."

5. The provisions of subparagraph (2) of paragraph (b) are amended by changing the period at the end thereof to a colon and adding the following: *"Provided,* That for the period June 15, 1967, through June 30, 1967, the grade, size, quality, and maturity requirements for round varieties of potatoes other than red varieties grown in the production area covered by Marketing Order 953 (Part 953 of this chapter) shall be the respective grade, size, quality and maturity requirements for all imported potatoes of the same type."

Findings. (a) It is hereby found and determined that during the period June 15 through July 31, 1967, round white varieties of potatoes imported into the United States are in most direct competition with round white varieties produced in the Virginia-North Carolina production area and that import regulations during such period shall be based on regulations in effect for round white varieties of potatoes regulated under Marketing Order No. 953 (7 CFR Part 953).

(b) It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553 (1966)) in that (1) the requirements of § 608e–1 of the act make this amendment mandatory; (2) compliance with this amendment on and after the effective date hereof will not require any special preparation by importers which cannot be completed by the effective date; and (3) this amendment relieves restrictions on potato imports.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated June 9, 1967, to become effective June 15, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-6681; Filed, June 12, 1967; 8:50 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 254]

JELLYFISH

Control and Elimination

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 1 of the Jellyfish Act of 1966 (Public Law 89–720), it is proposed to adopt 50 CFR Part 254 as set forth below. The purpose of these regulations is to provide for procedures to be used by the Secretary in providing financial assistance to State agencies to conserve and protect the fish and shellfish resources in the coastal waters of the United States and the Commonwealth of Puerto Rico, and to promote and safeguard water-based recreation for present and future generations. The Secretary of the Interior is authorized to cooperate with the States in controlling and eliminating jellyfish, commonly referred to as "sea nettles," and other such pests and in conducting research for the purposes of controlling floating seaweed in such waters.

This proposed regulation relates to matters which are exempt from the rule making requirements of the Administrative Procedures Act (5 U.S.C. 1003). However, it is the policy of the Department of the Interior that, whenever practicable, the rule making requirements be observed voluntarily. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed new part to the Director, Bureau of Commercial Fisheries, Department of the Interior, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Sec.

AUTHORITY: The provisions of this Part 254 issued under Public Law 89–720.

§ 254.1 Administration.

The Bureau of Commercial Fisheries shall administer the Jellyfish Act for the Secretary.

§ 254.2 Definitions.

As used in this part, terms shall have the meaning ascribed in this section.

(a) *Secretary.* The Secretary of the Interior or his authorized representatives.

(b) *Act.* Public Law 89–720, the Jellyfish Act, approved November 2, 1966.

(c) *State.* Any coastal State of the United States and the Commonwealth of Puerto Rico.

(d) *State agency.* The department(s), division(s), or commission(s) of a State empowered under its laws to manage or administer fish and shellfish resources or water-based recreation programs.

(e) *Coastal waters.* For the purposes of this Act coastal waters include all or part of the mouth of a navigable or interstate stream or body of water, bays, sounds, lagoons, channels, estuaries, and other waters inhabited by jellyfish or other such pests.

(f) *Jellyfish.* Jellyfish, commonly known as "sea nettles" (Chrysaora quinquecirrha) belonging to the phylum Coelenterata.

(g) *Other such pests.* All other species belonging to the phyla Coelenterata and Ctenophora which adversely affect fish and shellfish and water-based recreation of the coastal waters of the United States and the Commonwealth of Puerto Rico.

(h) *Floating seaweed.* Marine algae, commonly known as seaweed which are detrimental to fish and shellfish, or water-based recreation.

(i) *Project.* Any undertaking involving research on or the control or elimination of jellyfish and other such pests or the control of floating seaweed.

§ 254.3 Submission of applications.

Project documents for grant-in-aid under section 1 of the Act shall be submitted by the State agency to the concerned Regional or Area Office of the Bureau of Commercial Fisheries.

(a) *Project proposal.* A project proposal shall be submitted for each project. The proposal shall include a description of new work to be accomplished, including objectives, procedures, cost, location, and time required for completion and any such other information as the Secretary requires.

(b) *Project agreement.* After the Secretary shall have approved a project proposal, a project agreement may be executed describing new work as prescribed under the Act. Such agreements shall set forth the responsibilities of the State, the anticipated benefits of the undertaking, the estimated cost, the term of the agreement, and such other conditions as may be appropriate. Project agreements constitute the basis for projects and shall conform to the documentation requirements prescribed by the Secretary. A subproject is established upon execution of a project agreement.

(c) *Document signature.* Signature by an official(s) authorized in accordance with State law to commit a State agency to participate in the Act.

§ 254.4 Availability of funds.

Language appearing in Appropriation Acts providing funds for this program will govern the period during which the funds may be obligated by the United States.

(a) On July 1, of each year, or as soon thereafter as practicable, the Secretary shall notify the States of the appropriation available to carry out the purpose of the Act.

(b) Funding priority shall be given to those projects having an immediate effect on jellyfish (sea nettles) or floating seaweed.

(c) Payments shall be made to States as work described in project agreements progresses and is completed.

§ 254.5 Vouchers.

Vouchers showing amounts expended on each project and the Federal portion claimed to be due on account thereof shall be submitted to the Secretary by the State agency either after completion of each project or as the work progresses.

§ 254.6 Administrative funds.

The Bureau of Commercial Fisheries will finance its administrative cost from the appropriations made available by the Act. This administrative cost shall not exceed eight (8) percent of the appropriation. This administrative cost shall be considered part of the costs of projects for which agreements are executed.

§ 254.7 Matching funds.

The costs of projects, pursuant to the Act, shall be borne equally by the Federal Government and by the States. Eligible matching funds are those which are available to the State agency from any non-Federal source.

§ 254.8 Capital and related expenditures.

(a) The Secretary shall not enter into an agreement pursuant to the Act which includes amounts for the construction of permanent buildings.

(b) Payments received pursuant to the Act may be applied to capital expenditures, other than for permanent buildings, to the extent that such expenditures are provided for in projects approved by the Secretary.

§ 254.9 Agreements.

The Secretary shall not enter into an agreement with a non-Federal interest

other than a State agency responsible for the management or administration of fish and shellfish or water-based recreation.

§ 254.10 Compacts.

The Secretary shall encourage any compact or agreement between two or more States for the purpose of carrying out a program of research, study, investigations, and control or elimination of jellyfish and other such pests, or floating seaweed in coastal waters.

§ 254.11 Prosecution of work.

(a) The State agency, or a subcontractor of the State agency, shall carry projects through to a stage of completion acceptable to the Secretary with reasonable promptness. Failure to render satisfactory progress reports or failure to complete the project to the satisfaction of the Secretary shall be cause to withhold further payments until the project provisions are satisfactorily met. Projects may be terminated upon determination by the Secretary that satisfactory progress has not been maintained. Projects will be subject at all times to Federal inspection.

(b) Research and/or development work shall be continuously coordinated by the State with studies conducted by others to avoid unnecessary duplication.

(c) All work shall be performed in accordance with applicable State laws, except when in conflict with Federal laws or regulations, in which case Federal law or regulations shall prevail.

§ 254.12 Economy and efficiency.

No agreement shall be executed until the State has shown to the satisfaction of the Secretary that appropriate and adequate means shall be employed to achieve economy and efficiency in the completion of the project.

§ 254.13 General information for the Secretary.

Before any Federal funds may be obligated for any project the State shall furnish to the Secretary upon his request the authority of a State agency to participate in the benefits of the Act.

§ 254.14 Personnel.

The State or subcontractor shall maintain an adequate and competent force of employees to initiate and carry project agreements to satisfactory completion. Personnel employed on projects shall be selected on the basis of their competence to perform the services required and shall conduct their duties in a manner acceptable to the Secretary.

§ 254.15 Record retention.

All records of accounts, reporting and supporting documentation thereto shall be retained by the State for a period of 3 years after final payment is made. These records shall be available for Federal audit.

§ 254.16 Reporting.

Progress and final reports shall be submitted by the State in accordance with reporting requirements prescribed by the Secretary. Progress and final reports will be placed in depository for future reference. States are encouraged to publish, as technical literature, the findings, results, and conclusions relating to separately identifiable research projects undertaken pursuant to the Act.

§ 254.17 Safety and accident prevention.

In the performance of each project, the State or a subcontractor of the State shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation. The State shall be responsible that all safeguards, safety devices, and protective equipment are provided and will take any other needed actions reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the project.

§ 254.18 Contracts.

Supply, service, equipment, and construction contracts, other than research and development contracts and contracts for professional services, involving an expenditure of $2,500 or more entered into by a cooperator for the execution of approved project activities shall be based upon free and open competitive bids. If a contract is awarded to other than the lowest responsible bidder, the payment of the Federal portion of the cost of the project shall be based on the lowest responsible bid, unless it is satisfactorily shown that it was advantageous to the project to accept a higher bid. Upon request, the State shall certify and promptly furnish to the Secretary a copy of each contract executed and copies of all bids received concerning the contract. Contracts for research and development and professional services may be negotiated: *Provided*, That the Secretary is satisfied that adequate steps are taken to insure economical and efficient services and the impartial selection of contractors.

§ 254.19 Statements and payrolls.

The regulations of the Secretary of Labor applicable to contractors and subcontractors (29 CFR Part 3), made pursuant to the Copeland Act, as amended (40 U.S.C. 276c), and to aid in the enforcement of the Anti-Kickback Act (18 U.S.C. 874) are made a part of these regulations by reference. The State will comply with these regulations and any amendments or modifications thereof and the State's prime contractor will be responsible for the submission of statements required of subcontractors thereunder. The foregoing shall apply except as the Secretary of Labor may specifically provide for reasonable limitation, variations, tolerances, and exemptions.

§ 254.20 Officials not to benefit.

No member of or delegate to Congress or resident commissioner, shall be admitted to any share or any part of an agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

§ 254.21 Patents and inventions.

Determination of the patent rights in any inventions or discoveries resulting from work under project agreements entered into pursuant to the Act shall be governed by the Statement of Government Patent Policy promulgated by the President in his memorandum of October 10, 1963 (3 CFR 1963 Supp. p. 238, 28 F.R. 10943).

§ 254.22 Pesticides.

In the use or development of chemicals to control jellyfish, floating seaweed, or other such pests the State agency or subcontractor shall be required to:

(a) Register such chemicals as required under the Federal Insecticide, Fungicide and Rodenticide Act, as amended.

(b) Submit evidence of such registration to the Bureau of Commercial Fisheries in the form of an approved label.

(c) Submit to the Federal Committee on Pest Control, annually or as the Committee may specify, programs financed with Federal funds.

§ 254.23 Convict labor.

In connection with the performance of work, the State agrees not to employ any person undergoing sentence of imprisonment at hard labor.

§ 254.24 Nondiscrimination.

Each Project Agreement shall contain the applicable sections of Executive Order No. 11246, dated September 24, 1965, pertaining to nondiscrimination and shall also be subject to Public Law 88-352 and any regulations promulgated thereunder.

J. L. McHugh,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 67-6549; Filed, June 12, 1967; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[9 CFR Parts 316, 317, 318]

MARKING, BRANDING, IDENTIFYING, LABELING, REINSPECTION, AND PREPARATION OF PRODUCTS

Notice of Proposed Rule Making

Notice is hereby given, in accordance with the administrative procedure provisions in 5 U.S.C. 553, that the Department of Agriculture, pursuant to the authority conferred by the Meat Inspection Act, as amended and extended (21 U.S.C. 71-96) and section 306 of the Tariff Act of 1930, as amended (19 U.S.C. 1306), proposes to amend Parts 316, 317, and 318 of the Meat Inspection Regulations (9 CFR Parts 316, 317, and 318), as follows. The purposes of the proposed amendments are to:

1. Provide, within specific limits and with appropriate label declaration, for

use of additional safe Food Grade substances which will benefit the consumer by facilitating preparation of improved product and protect product during storage, transportation, and merchandising. The proposed amendments include provisions that would:

a. Authorize application of a solution consisting of a combination of citric acid with ascorbic acid or its sodium salts to the surface of cured cuts to protect color.

b. Authorize application of a solution of potassium sorbate or propylparaben (propyl p-hydroxybenzoate) to the casing of dry sausage to inhibit mold growth.

c. Authorize addition of antioxidants during preparation of dry sausage to protect flavor.

d. Increase the maximum amount of certain synergists allowed for use in combination with approved antioxidants in rendered fats and shortenings; and allow the combined use of certain synergists and antioxidants for any dry sausage, any fresh pork sausage, and any dried meats.

e. Allow the use of sodium n-alkylbenzene sulfonate of specified composition, potassium pyrophosphate and sodium pyrophosphate in cooling and retort water to prevent staining on canned goods. Allow the use of sodium n-alkylbenzene sulfonate of specified composition, sodium sulfate and sucrose in hog scald water to facilitate removal of hair.

Thorough investigation and testing of the proposed ingredients has demonstrated their safety and utility in producing products that will be more acceptable to consumers.

2. Relieve restrictions imposed by present regulations on the maximum size of container of shortening containing polysorbate 60 and polysorbate 80 and delete sorbitan monostearate from the list of emulsifiers for shortenings so the Meat Inspection Regulations will be in harmony in this respect with the Food Additives Regulations under the Federal Food, Drug and Cosmetic Act.

3. Make a change in wording of present regulations to clarify the area of use for the artificial sweeteners, sodium cyclamate and calcium cyclamate, and to make other minor changes with respect to marking and labeling of products.

These proposals are consistent with the policy of providing full consumer protection under the Meat Inspection Program.

The proposed amendments are as follows:

1. Paragraph (e) of § 316.13 would be revised to read:

§ 316.13 Marking of meat food products in casings.

* * * * *

(e) When approved antioxidants are added to dried sausage in casings, fresh pork sausage or dehydrated meats, the product shall be legibly and conspicuously marked in an approved manner to show their presence and the purpose for which they are added, for example, with the statement "oxygen interceptor added to improve stability".

* * * * *

2. Paragraph (c) of § 317.8 would be further amended by adding a new subparagraph (70) to read:

§ 317.8 False or deceptive labeling and practices.

* * * * *

(c) * * *

(70) Sausage of the dry varieties treated with potassium sorbate or propylparaben (propyl p-hydroxybenzoate) as permitted by Part 318 of this subchapter, shall bear branding or labeling disclosing such treatment and the purpose thereof, such as "dipped in a potassium sorbate solution to retard mold growth".

* * * * *

§ 318.7 [Amended]

3. In subparagraph (4) of paragraph (b) of § 318.7, the chart would be amended as stated below:

(1) The portion of the chart dealing with the class of substance "Emulsifying Agents" would be amended by deleting all reference to sorbitan monostearate and information relating thereto; and by deleting the wording with respect to polysorbate 60 (polyoxyethylene (20) sorbitan monostearate) and polysorbate 80 (polyoxyethylene (20) sorbitan monooleate) in the column under the heading "Products", and substituting therefor the following: "Shortening for use in nonstandardized baked goods, baking mixes, icings, fillings, and toppings, and in the frying of foods.

(2) The portion of the chart dealing with the class of substance "Curing Agents" would be amended by changing the wording with respect to "Citric acid or sodium citrate," in the column under the heading "Amount", to read: "May be used in cured product, or in 10 percent solution used to spray surface of cured cuts prior to packaging, to replace up to 50 percent of the ascorbic acid, erythorbic acid, sodium ascorbate, or sodium erythorbate that is used."

(3) The portion of the chart dealing with the class of substance "Curing Agents" would be further amended by changing the wording with respect to ascorbic acid, erythorbic acid, sodium ascorbate, and sodium erythorbate, in the column under the heading "Purpose", to read: "To accelerate color fixing or preserve color during storage."

(4) The portion of the chart dealing with the class of substance designated as "Miscellaneous" would be amended by inserting the following information for potassium sorbate and propyl p-hydroxybenzoate in the appropriate columns in alphabetical order.

Class of substance	Substance	Purpose	Products	Amount
Miscellaneous...	Potassium sorbate	To retard mold growth.	Dry Sausage	2.5 percent in water solution may be applied to casings after stuffing or casings may be dipped in solution prior to stuffing.
	Propylparaben (propyl p-hydroxybenzoate).	do	do	3.5 percent in water solution may be applied to casings after stuffing or casings may be dipped in solution prior to stuffing.

(5) The portion of the chart dealing with the class of substance "Synergists (used in combination with antioxidants)" would be amended as stated below:

a. The words "Unsmoked" preceding the words "dry sausage," "Frozen" preceding the words "fresh pork sausage" and "Freeze" preceding the words "dried meats" would be deleted where they appear in the columns under the headings "Products" and "Amount".

b. The wording with respect to monoisopropyl citrate and monoglyceride citrate in the column under the heading "Products", would be amended to include "dried meats" and "fresh pork sausage".

c. In the column under the heading "Amount", with respect to monoisopropyl citrate and monoglyceride citrate, "0.01%" would be changed to "0.02%".

d. In the column under the heading "Amount", with respect to citric acid for use in dry sausage, the word "antioxidants" would be substituted for "0.003% of butylated hydroxyanisole".

(6) The portion of the chart dealing with the class of substance "Antioxidants and Oxygen Interceptors" would be amended by deleting the words "Unsmoked" preceding the words "dry sausage", "Frozen" preceding the words "fresh pork sausage", and "Freeze" preceding the words "dried meats", where they appear in the column under the heading "Products".

(7) The portion of the chart dealing with the class of substance "Artificial Sweeteners" would be amended to read as follows:

Class of substance	Substance	Purpose	Products	Amount
Artificial sweeteners	Saccharin	To sweeten product	Bacon	0.01 percent.
	Sodium cyclamate	do	Bacon	0.15 percent.
			Ham	0.03 percent.
	Calcium cyclamate	do	Bacon	0.15 percent.
			Ham	0.03 percent.

(8) In the portion of the chart dealing with the classes of substances "Cooling and Retort Water Treatment Agents" and "Hog Scald Agents" the following information would be inserted in the appropriate columns in alphabetical order.

Class of substance	Substance	Purpose	Products	Amount
Cooling and retort water treatment agents.	Sodium n-alkylbenzene sulfonate (alkyl group predominantly C_{12} and C_{13} and not less than 95 percent C_{18} to C_{20}).	To prevent staining on canned goods.	Various	0.05 percent.
	Potassium pyrophosphate	do	do	Sufficient for purpose.
	Sodium pyrophosphate	do	do	Do.
Hog scald agents	Sodium n-alkylbenzene sulfonate (alkyl group predominantly C_{12} and C_{13} and not less than 95 percent C_{18} to C_{20}).	To remove hair	Hog carcasses	Do.
	Sodium sulfate	do	do	Do.
	Sucrose	do	do	Do.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendments may do so by filing them, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 60 days after date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 8th day of June 1967.

R. K. SOMERS,
Deputy Administrator, Consumer Protection, Consumer and Marketing Service.

[F.R. Doc. 67-6585; Filed, June 12, 1967; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-SO-61]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Greenwood, Miss., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Memphis Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 18097, Memphis, Tenn. 38118. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The Greenwood transition area described in § 71.181 (32 F.R. 2148) would be redesignated as:

That airspace extending upward from 700 feet above the surface, within a 10-mile radius of the Greenwood-Leflore Airport; within 2 miles each side of the Greenwood VOR 243° and 063° radials, extending from the Greenwood control zone to 8 miles southwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within 8 miles southeast and 5 miles northwest of the Greenwood VOR 243° and 063° radials, extending from 5 miles northeast of the VOR to 14 miles southwest, and within 5 miles each side of the Greenwood VOR 063° radial, extending from 5 miles north of the VOR to 18 miles northeast.

The transfer of Air Carrier operations from the Greenwood Municipal Airport to the Greenwood-Leflore Airport and the use of Greenwood-Leflore Airport by turbojet aircraft necessitates the establishment of this transition area for the protection of IFR aircraft operations.

A standard instrument approach procedure utilizing the Greenwood VOR is proposed in conjunction with the alteration of this transition area.

The official docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Administration, Room 724, 3400 Whipple Street, East Point, Ga.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)).

Issued in East Point, Ga., on June 1, 1967.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 67-6575; Filed, June 12, 1967; 8:48 a.m.]

[14 CFR Parts 71, 73]

[Airspace Docket No. 67-WE-10]

RESTRICTED AREA AND CONTROLLED AIRSPACE

Proposed Designation and Alteration

The Federal Aviation Administration is considering amendments to Part 71 and 73 of the Federal Aviation Regulations that would designate a restricted area near Blythe, Calif., and alter the description of the continental control area to reflect the establishment of the restricted area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif. 90009. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Department of the Navy has requested the designation of a joint-use restricted area near Blythe, Calif., adjoining the Chocolate Mountains, Calif., Restricted Area R-2507, extending from 100 feet AGL to 17,000 feet MSL for jet, high speed, low altitude, air-to-air combat tactics training. The Navy states in their request that current combat operations has caused a high priority requirement for an area or areas suitable for this kind of training. F4 and F8 fighter aircraft from MCAS El Toro and NAS Miramar would be the prime users with any transient fighter group deployed to MCAS Yuma utilizing the area as scheduling permits.

Restricted areas R-2507 and R-2301 are the only areas within operational distance of MCAS El Toro and NAS Miramar that could be used for low altitude tactics training. R-2507 is presently too narrow for this purpose and R-2301 is primarily an aerial gunnery range. The requirement for aerial gunnery and air-to-air missile training keeps R-2301 in use to such a degree that the possibility of scheduling tactics flights in this area is virtually eliminated. However, the designation of an additional restricted area adjacent to R-2507 would provide suitable airspace for the mission.

Flights of two or more aircraft would be scheduled into the area commencing shortly after sunrise and continuing throughout the day until sunset. No night operations would be conducted and no ordnance is to be expended during these training flights. Scheduling would normally be 6 days a week, Monday through Saturday, with Sunday operations only as required to meet training deadlines. If established it is estimated that units will utilize the restricted area approximately 75 hours per

week. Ground radar will not be available during these operations.

In consideration of the foregoing, the Federal Aviation Administration proposes the airspace actions as hereinafter set forth.

1. R-2532 Blythe, Calif., would be designated as follows:

Boundaries: Beginning at latitude 33°30'-30" N., longitude 115°00'00" W.; thence counterclockwise along the arc of an 18-mile radius circle centered on the Blythe, Calif., airport at latitude 33°37'15" N., longitude 114°43'00" W.; to latitude 33°23'50" N., longitude 114°53'00" W.; to latitude 33°-08'45" N., longitude 114°56'40" W.; to latitude 33°22'50" N., longitude 115°09'58" W.; to latitude 33°21'40" N., longitude 115°12'-00" W.; to latitude 33°24'15" N., longitude 115°17'00" W.; to latitude 33°25'50" N., longitude 115°14'30" W.; thence to point of beginning.

Time of designation: Sunrise to sunset.

Designated altitudes: 100 feet AGL to 17,000 feet MSL.

Controlling agency: FAA, Los Angeles ARTC Center.

Using agency: MCAS, Yuma, Ariz.

2. The description of the continental control area would be altered to include R-2532.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on June 5, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-6552; Filed, June 12, 1967; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 50]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Financial Qualifications

The present provisions of Part 50 of the Atomic Energy Commission's regulations require facility license applications to state the financial qualifications of the applicant to engage in the proposed activities in accordance with the Commission's regulations. The proposed amendment to § 50.33 of Part 50 set forth below would provide further guidance as to what information would be required to establish financial qualifications for a facility construction permit or an operating license. The proposed amendment to § 50.71 set forth below would provide for the filing of the annual financial reports, including the certified financial statements of facility licensees with the Commission. The specific requirements of the proposed amendment relating to a showing of financial qualifications to cover the cost of operations for a period of at least 5 years and the filing of annual financial reports, and the requirements applicable to newly formed entities, apply only to a production or utilization facility of a type described in § 50.21(b) or § 50.22 of Part 50, and to testing facilities as defined in § 50.2(r), Part 50.

The proposed amendments set forth below will, if adopted, be supplemented by a guide set out as a proposed Appendix C to Part 50, for the use of applicants in preparing their facility applications. The guide is intended to aid applicants in satisfying the requirements of § 50.33(f) with respect to the preparation and submission of information sufficient to demonstrate the financial ability of the applicant to carry out the particular activity for which the permit or license is sought.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Administrative Procedure Act of 1946, as amended, notice is hereby given that adoption of the following amendments to 10 CFR Part 50 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, within 60 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments received may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545.

1. Paragraph (f) of § 50.33 of 10 CFR Part 50 is revised to read as follows:

§ 50.33 Contents of applications; general information.

Each application shall state:

* * * * *

(f) Information sufficient to demonstrate to the Commission the financial qualifications of the applicant to carry out, in accordance with the regulations in this chapter, the activities for which the permit or license is sought. If the application is for a construction permit, such information shall show that the applicant possesses the funds necessary to cover estimated construction costs and related fuel cycle costs or that the applicant has reasonable assurance of obtaining the necessary funds, or a combination of the two. If the application is for an operating license, such information shall show that the applicant possesses the funds necessary to cover estimated operating costs or that the applicant has reasonable assurance of obtaining the necessary funds, or a combination of the two. With respect to any production or utilization facility of a type described in § 50.21(b) or § 50.22, or a testing facility, the following specific requirements shall apply:

If the application is for an operating license such information shall show that the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover the estimated costs of operation for the period of the license or for 5 years, whichever is greater, plus the estimated costs of permanently shutting the facility down and maintaining it in a safe condition. Without limitation on the generality of the foregoing requirements, each application for a construction permit or an operating license submitted by an entity organized for the primary purpose of constructing or operating a facility shall include information showing the legal and financial relationships it has or proposes to have with its stockholders or owners, and their financial ability to meet any contractual obligation to such entity which they have incurred or propose to incur, and any other information necessary to enable the Commission to determine the applicant's financial qualifications.

* * * * *

2. Section 50.71 is revised to read as follows:

§ 50.71 Maintenance of records, making of reports.

(a) Each licensee and each holder of a construction permit shall maintain such records and make such reports, in connection with the licensed activity, as may be required by the conditions of the license or permit or by the rules, regulations, and orders of the Commission in effectuating the purposes of the Act, including section 105 of the Act.

(b) With respect to any production or utilization facility of a type described in § 50.21(b) or § 50.22, or a testing facility, each licensee and each holder of a construction permit shall, upon each issuance of its annual financial report, including the certified financial statements, file a copy thereof with the Commission.

3. A new Appendix C is added to 10 CFR Part 50 to read as follows:

A GUIDE FOR THE FINANCIAL DATA AND RELATED INFORMATION REQUIRED TO ESTABLISH FINANCIAL QUALIFICATIONS FOR FACILITY CONSTRUCTION AND OPERATING LICENSES (10 CFR PART 50, § 50.33(f))

The following is intended as a guide in satisfying the requirements of § 50.33(f) of 10 CFR Part 50 with respect to the preparation and submission of information sufficient to demonstrate the financial ability of the applicant to carry out the activities for which the permit or license is sought. The kind and depth of information which the Commission desires in this connection and which is described in this guide is not intended to be a rigid and absolute requirement. In some instances, additional pertinent material may be needed. In any case, the applicant should include information other than that specified if such information is pertinent to establishing the applicant's financial ability to construct and operate the proposed facility.

I. APPLICATION FOR FACILITY CONSTRUCTION PERMIT

A. The applicant(s) shall submit current, firm projections or estimates for the following:

1. Total costs to design and construct the nuclear facility and all other facilities connected therewith or directly related thereto. These estimates should be summarized by major feature and/or component following, where feasible, the Uniform System of Accounts prescribed by the Federal Power Commission, and should be sufficiently detailed so that the Commission can make a judgment as to the reasonableness of the costs. Such costs shall include but not be limited to:

a. Nuclear production plant:

Land and land rights.
Structures and improvements.
Reactor plant equipment.

Turbo generator units.
Accessory electric and miscellaneous power plant equipment.

b. Costs, such as the following, should be separately identified. Indicate specifically whether they are included in I.A.1.a. and, if possible, the amount of each item included in each category.

Preoperational testing.
Payroll costs for in-house personnel (construction liaison, engineering, drafting, etc.) assigned to project. Provisions for contingencies, for price escalation and for allowance for possible oversights, errors, and underestimates not included in the normal provision for contingencies.
Administrative, legal, interest, insurance, taxes, and the like which are prorated to the project.

c. Transmission plant.
d. Distribution plant.
e. General plant.
f. All other costs not included above which are directly related to the project such as personnel training, safety analysis reports and the like.

2. Total costs of the fuel inventory (initial core, spares, etc.) exclusive of the special nuclear material as UF_6 required to operate the reactor.

3. The number of kilograms of uranium contained in the fuel (item 2 above), itemized as to enrichment in the isotope U^{235}, and the value of such enriched uranium as UF_6 based upon the current AEC schedule of charges.

Where contracts exist for significant portions of the items described above (e.g., turnkey contracts for design and construction of reactor plant, fuel cycle, etc.), the pertinent provisions, terms, and conditions of each contract should be summarized so as to clearly state the commitments of each party to the contract for the major features or components of work or services to be performed and the prices to be paid.

B. The applicant(s) shall submit:

1. Total estimated construction expenditures, by year, for the period of construction of the proposed facility segregated as to expenditures for the proposed facility and for all other construction, if any.

2. A description or schedule of the anticipated sources of the funds estimated to be required each year to finance all costs of the facility (including fuel). The capability or reasonable assurance of each source to produce its assigned portion of the estimated fund requirements should be demonstrated.

a. If the applicant is an established operating business and the proposed facility is to be financed in the same manner as other additions to the applicant's system are financed, the statement should cover:

(1) The sources of funds required for the entire construction program each year (it will not be necessary to separately identify sources for the specific project), and

(2) With regard to the capability of each source to produce the necessary funds, the applicant's presentations should include, as appropriate, pertinent indicators of the applicant's credit position; a record of recent bond offerings; the rating accorded the outstanding bond issues by investors services (such as Moody's, Standard and Poor's); present plans for future stock and bond offerings; the relative effect of these offerings on the applicant's capitalization at the end of each year during the construction period; and a projection for the same period of the funds to be generated internally (e.g., undistributed earnings and depreciation accruals).

b. If the applicant is, in effect, an instrumentality for the construction and/or operation of the facility as the agent of other principals (usually a new formed entity), documentary support shall be submitted to completely define the legal and financial relationships with the corporate affiliates (usually parent companies) or others (such as banks) upon whom the applicant is relying for financial assistance. This documentary support applies to both the construction and operation of the facility and includes such matters as stock subscription agreements with sponsoring affiliates, loan commitments or agreements, guaranty agreements by affiliates, and similar information to support stability of operations. In addition, satisfactory evidence shall be submitted that all State and Federal requirements for incorporation, issuance of any proposed bonds, stocks, notes, etc., or for any purpose have been satisfactorily met. This documentary support will not be required in applications for research or medical reactors.

If the applicant is, in effect, an agent of others, financial qualifications of each "sponsor" or "principal" to meet its legal obligations shall be demonstrated in the same manner as if it were the applicant and, as applicable, data as indicated in this guide shall be submitted by each.

C. The applicant(s) shall submit:

1. The latest published, certified Annual Financial Report, together with current interim financial statements as are deemed appropriate. If such a report is not published, comparative balance sheets and operating statements covering the last two complete annual accounting periods, together with all pertinent notes thereto and the public accountant's certification thereof. If the applicant is a newly formed entity, it shall submit a balance sheet, showing in detail the assets, liabilities, and capital structure as of the latest date feasible, together with any other data pertinent to the financial status of the applicant.

2. A summary of financial information covering, as a minimum, the last 5 years of operations (or from date of inception of the business if such was within the last 5 years) reflecting the principal income and balance sheet data.

3. If the applicant is a public utility, (1) a summary of the operating statistics over the last 5 years, with the electric power portion of the business clearly identified, (2) data showing estimated average capacity factor (kwh) and the percentage of the generating capability represented by the proposed nuclear facility at the time it is expected to go fully operational, and (3) the estimated increase in demand on the system which the facility is expected to meet.

4. Assurances satisfactory to the Commission that property damage insurance shall be obtained at the appropriate time for the facility and, to the maximum extent available, for the special nuclear material which the applicant will own or be financially responsible.

5. If the published Annual Report submitted under subparagraph 1. contains adequate summaries of the data noted in subparagraphs 2. and 3., generally, such report should be sufficient.

II. APPLICATION FOR FACILITY OPERATING LICENSE

A. The applicants shall appropriately update the financial information contained in the original application and amendments, including the pertinent financial arrangements and relations with others, status of construction and estimates of costs to complete the project and fuel data.

B. The applicant(s) shall submit firm projections or estimates for the following:

1. Total costs for each year of operating the facility for the first 5 years of operation, regardless of the term of the license. Annual cost estimates for succeeding years will be requested where applicable as a part of the Commission's continuing review of financial qualifications. These estimates shall itemize the principal categories of cost such as the fuel cycle (including all costs of SNM), other operation and maintenance, depreciation, taxes (other than income), insurance, other costs directly applicable to the plant, and all costs such as transmission and distribution costs, selling, administrative, and other nonstation costs not included above.

Sufficient information should be supplied concerning the composition of or basis for the cost estimates, particularly the fuel cycle, so that the Commission can make a judgment as to the reasonableness of the total costs of operating the facility.

If the application is for a research or medical reactor, it will be sufficient to submit only the estimated annual cost of operating the facility, itemized as to principal categories of cost.

2. Estimates of the costs to shut down the nuclear facility and place it in a safe condition, if and when such an event becomes necessary. If the applicant is, in effect, acting as an agent for another, documentary support should clearly identify the entity(ies) legally and financially responsible for this function. In those cases where the operating license is for a short term, and there is a high probability factor that deactivation may occur before or upon termination of the license, these costs should be sufficiently detailed so that the Commission may make a judgment as to their reasonableness and resources to cover such costs should be provided during the period of the license.

C. The applicant(s) shall submit the same financial data as required in section I.C. of this guide, and, in addition, a projection of the source and application of funds for the first 5 years of operation of the facility, regardless of the term of the license. Source and application of funds projections for succeeding years will be requested where applicable as a part of the Commission's continuing review of financial qualifications. The statement should be in sufficient detail to identify each major source of funds and each major application. The proposed method or provision, if any, to cover those costs noted in subsection II.B.2. should be clearly identified. The source and application of funds projections are not required when the application is for operation of a research or medical reactor.

III. CONTINUING REVIEW

Annually, each holder of a facility construction permit or operating license shall file with the Commission a copy of its published, certified Annual Financial Report, as soon as such a report is available. If such a document is not published, follow subsection I.C.1. above. This requirement does not apply to licenses for construction or operation of a research or medical reactor.

In addition, upon the request by the Commission, each holder of a facility construction permit or operating license shall file such other financial data and information as the Commission may deem necessary for a review of the licensee's financial qualifications.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 26th day of May 1967.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 67-6534; Filed, June 12, 1967; 8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ. 570; 1967 Revision]

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE SURETIES ON FEDERAL BONDS AND AS ACCEPTABLE REINSURING COMPANIES

Correction

In F.R. Doc. 67-6052 appearing in the issue of Wednesday, June 7, 1967, on page 8200, the following corrections are made:

1. On page 8203, the eleventh entry in the first column which reads "American General Insurance Company, Houston, Tex." should read "Maryland American General Insurance Company, Houston, Tex."

2. On page 8206, in the second chart, the company name which reads "Trans Atlantic Reinsurance Company, New York, N.Y." should read "Transatlantic Reinsurance Company, New York, N.Y."

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Idaho 05080]

IDAHO

Notice of Proposed Withdrawal and Reservation of Lands and Partial Termination

JUNE 6, 1967.

Notice of an application Serial No. Idaho 05080, for withdrawal and reservation of lands was published as F.R. Doc. No. 55-10237 on page 9868 of the issue for December 22, 1955. The Bureau of Sport Fisheries and Wildlife has canceled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2311, such lands will be at 10 a.m. on June 21, 1967, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

BOISE MERIDIAN, IDAHO

T. 6 S., R. 5 E.,
Sec. 7, SW¼NE¼ and NE¼SE¼;
Sec. 8, SW¼SW¼;
Sec. 9, NW¼NE¼ and N½NW¼;
Sec. 10, SW¼NW¼ and NE¼SW¼.

The land to be terminated aggregates 320 acres.

The Bureau of Sport Fisheries and Wildlife has requested that the lands described below remain in the withdrawal application for use in connection with the C. J. Strike Wildlife Management Area as requested in 1955.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the Bureau of Sport Fisheries and Wildlife.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands remaining in the application are:

BOISE MERIDIAN, IDAHO

T. 6 S., R. 5 E.,
Sec. 17, NW¼NE¼.

The area described aggregates 40 acres.

EUGENE E. BABIN,
Acting Manager, Land Office.

[F.R. Doc. 67-6541; Filed, June 12, 1967; 8:45 a.m.]

[Serial No. N-891]

NEVADA

Notice of Classification of Public Lands for Multiple Use Management

JUNE 5, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR, Parts 2410 and 2411, the public lands described in paragraph 3 below, are hereby classified for multiple use management.

2. Publication of this notice segregates the described lands from appropriation only under the agricultural land laws (43 U.S.C. chs. 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the revised statutes (43 U.S.C. 1171) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing or material sale laws with the exception contained in paragraph 4. As used in this order, the term "public lands" means any lands (1) withdrawn or reserved by Executive Order 6910 of November 26, 1934, as amended, or (2) within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

3. The classified public lands are shown on Maps No. N-891 on file in the Winnemucca District Office, Bureau of Land Management, Winnemucca, Nev., and the Nevada Land Office, Bureau of Land Management, Federal Building, Reno, Nev.

The lands lie in Humboldt and Pershing Counties and are within the area generally described as follows:

Commencing at the northeast corner of Humboldt County; thence south along the eastern boundary of Humboldt County to the Humboldt River; thence generally along the Humboldt River west to about Mill City; thence northwesterly to a point on the Western Pacific Railroad about 4 miles west of Jungo; thence westerly along the railroad to a point on the Western Pacific Railroad about 10 miles west of Sulphur; thence northerly within Rs. 26 and 27 E., to the southeast corner of the Charles Sheldon National Antelope Refuge; thence continuing northerly along the line between Rs. 26 and 27 E., to a point on the Nevada-Oregon border; thence east to point of beginning.

The areas described aggregate approximately 3,422,000 acres of public land.

4. The lands listed below are further segregated from the mining but not the mineral leasing or material sale laws:

MOUNT DIABLO MERIDIAN, NEVADA

T. 43 N., R. 28 E., unsurveyed,
Secs. 1 and 2;
Sec. 3, E½NE¼;
Sec. 11, N½NE¼, NE¼NW¼;
Sec. 12, N½.
T. 44 N., R. 28 E., unsurveyed,
Sec. 34, SE¼SE¼;
Sec. 35, S½;
Sec. 36, S½S½.
T. 43 N., R. 29 E., unsurveyed,
Sec. 6, W½;
Sec. 7, NW¼NW¼.
T. 44 N., R. 29 E., unsurveyed,
Sec. 35, S½S½.

The areas described above aggregate approximately 3,100 acres.

5. For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240 (43 CFR 2411.1-2(d)).

NOLAN F. KEIL,
State Director, Nevada.

[F.R. Doc. 67-6542; Filed, June 12, 1967; 8:45 a.m.]

[Serial No. N-296]

NEVADA

Notice of Offering of Land for Sale

MAY 26, 1967.

Notice is hereby given that, under the provisions of the Act of September 19, 1964 (78 Stat. 988), and pursuant to an application from Lander County, Austin, Nev., the Secretary of the Interior will offer for sale lots 4 and 5, N½SW¼,

section 36, T. 32 N., R. 44 E., MDM, Nevada.

The land has been classified as chiefly valuable for the orderly growth and development of the town of Battle Mountain, Nev., for use as a garbage disposal site. The tract is zoned "O", Open Land Use, which permits certain specific uses and such other uses as the County Commissioners may determine. The land is located approximately 3½ miles southwesterly from Battle Mountain, Nev., and about 1½ miles southeast of State Highway 8A.

It is the intention of the Secretary to enter into an agreement with the Lander County Board of County Commissioners to permit Lander County to purchase the land at the appraised market value.

Patent to the land issued under the Act of September 19, 1964, supra, shall contain a reservation to the United States of rights-of-way for ditches and canals under the Act of August 30, 1890 (43 U.S.C. sec. 945), and of all mineral deposits which shall thereupon be withdrawn from appropriation under the public land laws, including the mining and mineral leasing laws.

DANIEL P. BAKER,
Manager, Nevada Land Office.

[P.R. Doc. 67-6562; Filed, June 12, 1967; 8:47 a.m.]

[Oregon 346]

OREGON

Notice of Proposed Classification of Public Lands

JUNE 7, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–1418), and the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269), as amended, and to the regulations found at 43 CFR Parts 2410 and 2411, notice is hereby given of a proposal to classify public lands as follows:

a. The public lands within the following described areas for disposal through public sale under the Public Land Sale Act of September 19, 1964 (43 U.S.C. 1421–1427):

WILLAMETTE MERIDIAN

MORROW COUNTY

T. 4 N., R. 24 E.,
Sec. 24, S½S½.
T. 4 N., R. 25 E.,
Sec. 20, SE¼, E½SW¼, and SW¼SW¼;
Sec. 22, S½, S½N½, and NE¼NE¼.
T. 4 N., R. 26 E.,
Sec. 2, S½S½ and NE¼SE¼;
Sec. 4, W½ and N½SE¼;
Sec. 8, NW¼, NW¼NE¼, S½SW¼, and SE¼;
Sec. 10;
Sec. 12, W½;
Sec. 14;
Sec. 18, E½ and SW¼;
Sec. 20;
Sec. 22;
Sec. 24, W½, SE¼, that portion of the NE¼ lying south of Highway 30 right-of-way;
Sec. 26;
Sec. 28;
Sec. 30;
Sec. 32;
Sec. 34.
T. 4 N., R. 27 E.,
Sec. 20, that portion of the S½S½ lying south of Highway 30 right-of-way.
T. 5 N., R. 26 E.,
Sec. 26, SW¼, W½SE¼, and S½SE¼SE¼;
Sec. 32;
Sec. 34.
T. 3 N., R. 27 E.,
Sec. 20, E½NW¼;
Sec. 30, SE¼NW¼ and NE¼SW¼.
T. 5 N., R. 27 E.,
Sec. 28;
Sec. 30, NE¼, E½NW¼, SW¼NW¼, NE¼SE¼, SW¼SE¼, and S½SW¼.

The public lands in the areas described aggregate approximately 12,066.45 acres.

b. The public lands within the following described areas for disposal through public sale under section 2455 of the Revised Statutes (43 U.S.C. 1171):

WILLAMETTE MERIDIAN

MORROW COUNTY

T. 2 N., R. 23 E.,
Sec. 6, SW¼SW¼;
Sec. 18, N½ and SW¼;
Sec. 20, N½SW¼.
T. 2 N., R. 25 E.,
Sec. 30, SE¼NE¼ and SW¼SW¼.
T. 2 N., R. 27 E.,
Sec. 6, NE¼NW¼.
T. 1 N., R. 25 E.,
Sec. 2, SW¼NE¼ and W½SE¼.
T. 1 S., R. 29 E.,
Sec. 8, SE¼SE¼;
Sec. 24, NE¼NE¼, W½NW¼, and S½SW¼;
Sec. 25, SW¼NW¼ and SW¼;
Sec. 26, NE¼NE¼.
T. 2 S., R. 23 E.,
Sec. 5, SE¼SW¼;
Sec. 8, SW¼NE¼ and N½SE¼;
Sec. 9, S½;
Sec. 14, SE¼SW¼;
Sec. 15, S½SE¼.
T. 2 S., R. 29 E.,
Sec. 1, NW¼SE¼.
T. 3 S., R. 23 E.,
Sec. 31, lots 2, 3, and 4, E½SW¼, W½SE¼, and SE¼SE¼;
Sec. 32, SW¼SW¼.
T. 3 S., R. 27 E.,
Sec. 1, NW¼ and SW¼.
T. 3 S., R. 28 E.,
Sec. 4, NE¼NW¼;
Sec. 26, SE¼SE¼;
Sec. 35, E½E½.
T. 3 S., R. 29 E.,
Sec. 13, NW¼NE¼ and NW¼NW¼.
T. 4 S., R. 24 E.,
Sec. 25, NW¼SW¼;
Sec. 30, NE¼NW¼.
T. 4 S., R. 25 E.,
Sec. 1, SE¼SE¼.
T. 4 S., R. 26 E.,
Sec. 27, NW¼NE¼.
T. 4 S., R. 28 E.,
Sec. 1, SE¼NE¼ and N½SE¼.
T. 4 S., R. 29 E.,
Sec. 3, NE¼SE¼;
Sec. 6, SE¼SW¼ and SW¼SE¼.
T. 5 S., R. 25 E.,
Sec. 31, lot 4.
T. 5 S., R. 26 E.,
Sec. 11, SW¼SW¼.
T. 6 S., R. 25 E.,
Sec. 1, lot 1;
Sec. 6, lot 4;
Sec. 7, NE¼SE¼;
Sec. 8, NW¼SW¼;
Sec. 9, NE¼SW¼;
Sec. 10, E½SW¼ and S½SE¼;
Sec. 15, N½NE¼ and NE¼NW¼;
Sec. 19, lot 3.

The public lands in the areas described aggregate approximately 3,553.84 acres.

c. The public lands within the following described areas for disposal through exchange under section 8(c) of the Act of June 28, 1934 (43 U.S.C. 1272; 43 U.S.C. 315g):

WILLAMETTE MERIDIAN

MORROW COUNTY

T. 4 N., R. 25 E.,
Sec. 2, lot 1, S½NE¼, SE¼, NE¼SW¼, portion of SE¼SW¼ lying north of railroad and east of Highway No. 730, NE¼ lot 2, S½ lot 2, NE¼NE¼ lot 3, S½NE¼ lot 3, SW¼SW¼ lot 3, E½SW¼ lot 3, SE¼ lot 3, E½NE¼ lot 4, SE¼ lot 4, N½NE¼SW¼SW¼;
Sec. 11, NW¼SE¼ plus that portion of N½NW¼ lying easterly of the westerly right-of-way line of U.S. Highway 730 (containing 34.25 acres more or less), SE¼NW¼;
Sec. 12, NE¼, N½NW¼, and NW¼SW¼;
Sec. 24.
T. 4 N., R. 26 E.,
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 18, lots 1, 2, and E½NW¼.

The public lands in the areas described aggregate approximately 2,249.89 acres.

The public lands listed in paragraphs 1 (a), (b), and (c) aggregate approximately 17,800 acres.

2. Information concerning the lands, including the record of public discussions and the documentation of comments from interested parties and land status maps, is available for inspection and review at the Bureau of Land Management District Office in Baker, Oreg.

3. For a period of 60 days from the date of the publication of this notice in the FEDERAL REGISTER, interested parties may submit comments, suggestions, or objections to this proposed classification in writing to the District Manager, Bureau of Land Management, Post Office Box 591, Baker, Oreg.

4. Publication of this notice segregates the described lands from all forms of disposal under the public land laws, including the mining laws, except as to exchange (par. 1c) under section 8(c) of the Act of June 28, 1934, as amended, and Sales (par. 1b) under section 2455 of the Revised Statutes and Sales (par. 1a) under the Public Land Sale Act of September 19, 1964, as to those lands specifically designated above.

5. A public hearing on the proposed classification will be held on July 12, 1967, at 2 p.m. in the Courthouse at Heppner, Oreg.

6. After having considered comments received as a result of this publication and hearing, the undersigned officer will classify the above described lands, which classification will be published in the FEDERAL REGISTER.

GARTH H. RUDD,
Acting State Director.

[F.R. Doc. 67-6572; Filed, June 13, 1967; 8:48 a.m.]

Office of the Secretary

E. CLYDE McGRAW

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) Add: Laclede Gas Co.
(3) None.
(4) None.

This statement is made as of June 9, 1967.

Dated: May 18, 1967.

E. CLYDE McGRAW.

[F.R. Doc. 67-6543; Filed, June 12, 1967; 8:46 a.m.]

GEORGE A. PORTER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) Additions: 100 shares Chrysler Corp., common stock; 200 shares Federal Mogul Corp., common stock; 100 shares Marathon Oil Co., common stock.
(3) No change.
(4) No change.

For period October 1, 1966 through March 31, 1967.

This statement is made as of April 7, 1967.

Dated: April 7, 1967.

GEORGE A. PORTER.

[F.R. Doc. 67-6556; Filed, June 12, 1967; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

TENNESSEE

Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Tennessee natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

TENNESSEE

Benton.	Gibson.
Carroll.	Humphreys.
Decatur.	Perry.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 7th day of June 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-6560; Filed, June 12, 1967; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

FLORIDA STATE UNIVERSITY SCHOOL OF ENGINEERING SCIENCE ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 67-00098-33-46040. Applicant: Florida State University, School of Engineering Science, Tallahassee, Fla. 32306. Article: Electron Microscope, Model EM-100C. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used to instruct students of the School of Engineering Science. Application received by Commissioner of Customs: May 29, 1967.

Docket No. 67-00100-33-46040. Applicant: University of California, Riverside, Post Office Box 112, Riverside, Calif. 92502. Article: Electron Microscope, Model Norelco EM-300 and accessories. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used for research studies on ultra thin sections and on isolated biological materials shadowed with heavy metals or stained with uranyl salts or phosphotungstic acids. It will be used in teaching and by students to investigate such things as biological membranes and other cellular components to develop more valid concepts of structural and functional relationships in biological systems. Application received by the Commissioner of Customs: June 1, 1967.

Docket No. 67-00102-33-46500. Applicant: University of Massachusetts, Amherst, Mass. 01002. Article: Microtome, Reichert Thermal Advance Ultramicrotome, Model SIDEA ("Om U2"). Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: Applicant states:

Prepare ultrathin sections of plant tissues for electron microscopy—as part of a study of embryogenesis.

Application received by Commissioner of Customs: June 2, 1967.

Docket No. 67-00106-33-46040. Applicant: State University of New York, Upstate Medical Center, 766 Irving Avenue, Syracuse, N.Y. 13210. Article: Electron Microscope, Model Elmiskop IA with spare parts kit and water recirculating unit. Manufacturer: Siemens AG, West Germany. Intended use of article: Examination of biological materials. Application received by Commissioner of Customs: June 2, 1967.

Docket No. 67-00107-60-31550. Applicant: The Commonwealth of Pennsylvania for the Pennsylvania State University, Commonwealth of Pennsylvania, Department of Property and Supplies, Harrisburg, Pa. 17125. Article: Vacuum Induction Glass Melting Equipment, Model TI30FI/SV. Manufacturer: Siatem, Italy. Intended use of article: Applicant states:

Research and instruction in the field of Glass Science involving melting special glasses.

Application received by Commissioner of Customs: June 2, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-6537; Filed, June 12, 1967; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-264]

DOW CHEMICAL CO.

Notice of Proposed Issuance of Facility License

The Atomic Energy Commission ("the Commission") is considering the issuance to The Dow Chemical Co. of a facility license substantially in the form

annexed which would authorize the operation of a TRIGA Mark I type nuclear reactor at its site in Midland, Mich.

Prior to issuance of the license, the facility will be inspected by representatives of the Commission to determine whether it has been constructed in accordance with the provisions of Construction Permit No. CPRR-94. Also, The Dow Chemical Co. will be required to furnish proof of financial protection and to execute an indemnity agreement as required by section 170 of the Atomic Energy Act of 1954, as amended, and 10 CFR Part 140.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by the issuance of this facility license may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, a notice of hearing or an appropriate order will be issued.

For further details with respect to this proposed license, see (1) the application and amendments thereto, and (2) a related Safety Evaluation prepared by the Division of Reactor Licensing, all of which are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the Safety Evaluation may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545. Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 1st day of June 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

PROPOSED LICENSE

[License No. R- ———]

The Atomic Energy Commission (hereinafter referred to as "the Commission") having found that:

a. The application for license complies with the requirements of the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act"), and the Commission's regulations set forth in Title 10, Chapter I, CFR;

b. The reactor has been constructed in conformity with Construction Permit No. CPRR-94 and will operate in conformity with the application and in conformity with the Act and the rules and regulations of the Commission;

c. There is reasonable assurance that the reactor can be opeated at the designated location without endangering the health and safety of the public;

d. The Dow Chemical Co. is technically and financially qualified to engage in the proposed activities in accordance with the Commission's regulations, and to assume financial responsibility for Commission charges for special nuclear material;

e. The possession and operation of the reactor, and the receipt, possession and use of the special nuclear material, in the manner proposed in the application, will not be inimical to the common defense and security or to the health and safety of the public;

f. The Dow Chemical Co. has submitted proof of financial protection which satisfies the requirements of Commission regulations currently in effect, and will execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140.

Facility License No. R- ———, effective as of the date of issuance, is issued as follows:

1. This license applies to The Dow Chemical Co. TRIGA Mark I type nuclear reactor (hereinafter, "the reactor"), owned by The Dow Chemical Co. (hereinafter, "the licensee") and located at Midland, Mich., and which is described in the licensee's application for license dated August 3, 1966, and amendments thereto (herein referred to as "the application").

2. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses The Dow Chemical Co.:

A. Pursuant to section 104c of the Act and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities" to possess, use, and operate the reactor in accordance with the procedures and limitations described in the application, and in this license;

B. Pursuant to the Act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material" to receive, possess, and use up to 3.0 kilograms of contained uranium-235 in connection with operation of the reactor; and

C. Pursuant to the Act and Title 10, CFR, Chapter I, Part 30, "Licensing of Byproduct Material", to receive, possess, and use a 7 curie sealed polonium 210-beryllium neutron source for reactor startup; and to possess, but not to separate, such byproduct material as may be produced by operation of the reactor.

3. This license shall be deemed to contain and be subject to the conditions specified in Part 20, § 30.34 of Part 30, §§ 50.54 and 50.59 of Part 50 and § 70.32 of Part 70, and is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:

A. *Maximum power level.* The licensee may operate the reactor at steady state power levels up to a mixtmum of 100 kilowatts (thermal).

B. *Technical specifications.* The Technical Specifications contained in Appendix A hereto[1] are hereby incorporated in this license. Except as otherwise permitted by the Act and the rules, regulations and orders of the Commission, the licensee shall operate the reactor in accordance with the Technical Specifications. No changes shall be made in the Technical Specifications unless authorized by the Commission as provided in § 50.59 of 10 CFR Part 50.

C. *Records.* In addition to those otherwise required under this license and applicable regulations, the licensee shall keep the following records:

(1) Reactor Operating records, including power levels and periods of operation at each power level.

(2) Records showing radioactivity released or discharged into the air or water beyond the effective control of the licensee as measured at or prior to the point of such release or discharge.

[1] This item was not filed with the Office of the Federal Register but is available for inspection in the Public Document Room of the Atomic Energy Commission.

(3) Records of emergency shutdowns and inadvertent scrams, including reasons for emergency shutdowns.

(4) Records of maintenance operations involving substitution or replacement of reactor equipment or components.

(5) Records of experiments installed including description, reactivity worths, locations, exposure time, total irradiation, and any unusual events involved in their performance and in their handling.

(6) Records of tests and measurements performed pursuant to the Technical Specifications.

D. *Reports.* In addition to reports otherwise required under this license and applicable regulations:

(1) The licensee shall inform the Commission of any incident or condition relating to the operation of the reactor which prevented or could have prevented a nuclear system from performing its safety function as described in the Technical Specifications. For each such occurrence, the licensee shall promptly notify by telephone or telegraph, the Director of the appropriate Atomic Energy Commission Regional Compliance Office listed in Appendix D of 10 CFR 20 and shall submit within ten (10) days a report in writing to the Director, Division of Reactor Licensing (hereinafter, Director, DRL) with a copy to the Regional Compliance Office.

(2) The licensee shall report to the Director, DRL, in writing within thirty (30) days of its observed occurrence any substantial variance disclosed by operation of the reactor from performance specifications contained in the Hazards Summary Report or the Technical Specifications.

(3) The licensee shall report to the Director, DRL, in writing within thirty (30) days of its occurrence any significant changes in transient or accident analysis as described in the Hazards Summary Report.

4. This license shall expire at midnight, December 20, 1976.

Date of issuance:

For the Atomic Energy Commission.
DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67-6535; Filed, June 12, 1967; 8:45 a.m.]

[Docket No. 50-27]

WASHINGTON STATE UNIVERSITY

Notice of Issuance of Construction Permit

No request for a hearing or petition to intervene having been filed following publication of the notice of proposed action in the FEDERAL REGISTER, May 13, 1967, 32 F.R. 7225, the Atomic Energy Commission has issued Construction Permit No. CPRR-96 to Washington State University. The construction permit authorizes Washington State University to install a modified TRIGA type nuclear reactor core and control system as a replacement for the core and control system in the existing Washington State University Reactor located on the University's campus at Pullman, Wash.

The construction permit was issued in the form published in the notice of proposed action.

Dated at Bethesda, Md., this 1st day of June 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67-6536; Filed, June 12, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 17450]

PACIFIC AIR FREIGHT, INC., ET AL.

Notice of Postponement of Hearing Regarding Acquisition of Red Bird Delivery Service, Inc.

Notice is given herewith that public hearing in the above-entitled proceeding, now assigned to be held on June 27, 1967, is postponed indefinitely.

Dated at Washington, D.C., June 8, 1967.

[SEAL] RICHARD A. WALSH,
Hearing Examiner.

[F.R. Doc. 67-6569; Filed, June 12, 1967; 8:47 a.m.]

[Docket No. 18595]

ALM DUTCH ANTILLEAN AIRLINE

Notice of Prehearing Conference

Application for authority to engage in foreign air transportation of persons, property, and mail between the Netherlands Antilles and Miami via Santo Domingo, Dominican Republic, Port au Prince, Haiti, Kingston, and Montego Bay, Jamaica, Camaguey, and Havana, Cuba; and between the Netherlands Antilles and New York; and for off-route charter authority.

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held at 10 a.m., e.d.s.t., June 19, 1967, Room 211, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Leslie G. Donahue.

Dated at Washington, D.C., June 7, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-6570; Filed, June 12, 1967; 8:47 a.m.]

[Docket No. 16236; Order E-25270]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding North Central Pacific Cargo Rates

Adopted by the Civil Aeronautics Board at its Office in Washington, D.C., on the 8th day of June 1967.

Agreement adopted by Joint Conferences 3-1 and 1-2-3 of the International Air Transport Association relating to North/Central Pacific cargo rates; Docket 16236, Agreement C.A.B. 18689.

By Order E-23466, adopted April 1, 1966, the Board, among other things, approved certain transpacific cargo rate resolutions adopted by Joint Conferences 3-1 and 1-2-3 of the International Air Transport Association (IATA). However, it limited its approval of the general cargo rate and minimum charge resolutions to December 31, 1966, in the belief that the overall level of rates in this area was unduly high. Subsequently, by Order E-24727 and in response to the carriers' requests, the Board extended the approval through May 31, 1967 so as to afford the carriers an opportunity to consider the rates in question at the regularly scheduled cargo conference which was to convene in San Juan in April 1967.

By telegrams dated May 29, 1967, Northwest Airlines, Inc., and Pan American World Airways, Inc., have now requested that the Board extend its approval through September 30, 1967, so as to permit a worldwide uniform effectiveness date of October 1, 1967, for the rate resolutions agreed upon at San Juan. Based upon the carriers' statements that substantial reductions were agreed upon at the San Juan Conference for application via the North and Central Pacific, and in the interest of stability, we will herein grant the carriers' request. Accordingly, acting pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204(a) and 412:

It is ordered, That approval of IATA Resolutions JT31(Mail 114)501, JT31 (Mail 114)556a, and JT123(Mail 431)501, incorporated in Agreement CAB 18689 and contained in Order E-24727, shall be and hereby is extended through September 30, 1967.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-6571; Filed, June 12, 1967; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 67-645]

RADIO EQUIPMENT LIST

Type Acceptance and Listing Withdrawn for Certain Transmitters as of November 1, 1971

Effective November 1, 1971, the Part 89, 91, 93, and 95 listings for 146 transmitters (of 19 manufacturers) which do not comply with the narrow band technical standards for operation in the 450–470 Mc/s band will be deleted from the Radio Equipment List, Part C.

New "narrow band" technical standards for operation in the 450–470 Mc/s band under Parts 89, 91, 93, and 95 of the rules and regulations were established by the Commission in Docket 13847, FCC 66-1084, 31 F.R. 15577, December 10, 1966. This action established a new requirement for the frequency characteristic of the audiofrequency low-pass filter employed in equipment operating in the 450–470 Mc/s band under Parts 89, 91, 93, and 95 of the Commission's rules. In addition, it established a tighter frequency tolerance requirement for such equipment used at fixed and base stations. In each case, the use of nonconforming equipment authorized prior to November 1, 1967, or integrated with existing radio systems authorized prior to November 1, 1967, is permitted through October 31, 1971, in accordance with provisions set forth in the above-mentioned rules.

The Commission has recently completed a review of Part C of the Radio Equipment List to determine which of the listed transmitter types do not comply with the technical standards for equipment used in the 450–470 Mc/s band under Parts 89, 91, 93, and 95 which become mandatory November 1, 1971. The technical requirements for such equipment are set forth as Subpart A of Part 89, and Subpart C of Parts 91, 93, and 95. On the basis of information submitted by manufacturers and reflected in the Radio Equipment List, the equipment types listed in the attached appendix are not considered capable of complying with those standards. This being the case, type acceptance and listings in the Radio Equipment List, Part C, for those transmitters under Parts 89, 91, 93, and 95 will be withdrawn, effective November 1, 1971.

Part 89, 91, 93, and 95 licensees are not authorized to utilize the transmitters listed in the attachment to this notice on or after November 1, 1971.

Any manufacturer or licensee, having equipment shown on the list attached to this notice, which he believes to be capable of compliance with all pertinent requirements without modification, may submit to the Commission measurement data taken in accordance with type acceptance procedures set forth in Subpart F of Part 2 of the Commission's rules, accompanied by a request for continued listing in the Radio Equipment List, Part C. Such measurement data should show the capabilities of the equipment with respect to the technical standards in Subpart A of Part 89, or Subpart C of Parts 91, 93, or 95, as appropriate.

Persons desiring to modify equipment for compliance with the standards may submit requests for type acceptance of the modified transmitters in accordance with the type acceptance procedure set forth in Subpart F of Part 2 of the Commission's rules.

Adopted: June 7, 1967.

Released: June 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[1] Chairman Hyde absent.

APPENDIX

TRANSMITTERS FOR WHICH TYPE ACCEPTANCE AND LISTING IN THE RADIO EQUIPMENT LIST, PART C, FOR PARTS 89, 91, 93, AND 95 OF THE COMMISSION'S RULES ARE WITHDRAWN, EFFECTIVE NOVEMBER 1, 1971

Aeronautical Electronics, Inc:	
801	802-2
801-2	835
802	
Aircraft Radio Corp.:	
7001UUMNZ-P	7030UUXNZ-T
7030UUMNZ-F	7010UUMNZ-T
7030UUMNZ-T	7450UUMNZ-L
7030UUXNZ-F	7010UUXNZ-T
Bendix Corp.:	
1TR-2	2TR-1
1TR-4	
Communications Co., Inc.:	
450-UHF	684-RMT-K
460-6/12	CR-435
460-AC-A	CR-436
460-AC-B	CR-437
684-T-K	
Connecticut Telephone and Electric:	
32049	CR-419
Du Mont Division of Fairchild:	
5803-/CA	T-403-RA
M-845-A-W	T-403-RT
M-895-A-W	T-403-RTA
Du Mont Division of Gonset:	
M-430-RT	M-896-A-WRE
M-845-A-W	T-403-RT
M-895-A-W	T-403-RTA
Farinon Electric Co.:	
MB450-100W	MB450A-100W
MB450-250W	MB450A-250W
MB450-25W	MB450A-25W
General Electric Co.:	
CR-428	ET-27-B
CR-440	ET-51-A
ES-14-A	ET-59-B
ES-31-A	ET-59-D
ES-32-A	ET-60-B
ET-19-A	ET-60-D
ET-24-A	ET-68-A
ET-24-C	ET-71-B
ET-27-A	ET-71-D
Hallicrafters Co.:	
CSB-10-3	CSM-35-3
CSM-10-3	
Hammarlund Manufacturing Co., Inc.:	
FM40-A	FM48-A
FM42-A	
Kaar Engineering Co.:	
12TR510	TR501
12TR510-6	TR501A
12TR510A	TR502A
8719A	TR505
CR-441	TR505-2
CR-442	TR506
T503A	TR506-2
TR500	TR507
TR500A	
Motorola, Inc.:	
B44A	CC4043
B44A-6	CC4046
CC4001	CR-406
CC4003	CR-407
CC4004	CR-408
CC4005	CR-409
CC4006	CR-410
CC4007	CR-411
CC4008	CR-416
CC4009	CR-417
CC4010	L44A
CC4013	L44A-6
CC4014	T44A
CC4016B	T44A-6
CC4018B	TA110
CC402	TA147
CC4022	TU110
CC4024B	TU204
CC4025	TU291/TU451
CC4041	
Radio Corporation of America:	
CMU-10A3	CSU-15BS
CMU-15A1	CT3-100A
CMU-15A2	CT3-250A
CR-415	CT3-60AA
CR-418	CT3-60AAL
CR-420	CT3-65A
CSU-15B	
Radio Specialists Co.:	
RSC-2	RST-4
Royal Communications Systems:	
CR-430	MR-21
Royalcall, Inc.:	
CB-50	CR-414
Western Electric Co.:	
J41634B	

COMPOSITE TRANSMITTER (NOT IN RADIO EQUIPMENT LIST, PART C) FOR WHICH TYPE ACCEPTANCE UNDER PART 95 OF THE COMMISSION'S RULES IS WITHDRAWN AS OF NOVEMBER 1, 1971

Robert E. England, 10606 Huntley Place, Silver Spring, Md.:
ES-14-A

[F.R. Doc. 67-6576; Filed, June 12, 1967; 8:48 a.m.]

[Docket Nos. 17302, 17303; FCC 67M-937]

BELL TELEPHONE COMPANY OF PENNSYLVANIA AND CONESTOGA TELEPHONE AND TELEGRAPH CO.

Order Rescheduling Hearing

In re applications of The Bell Telephone Company of Pennsylvania, Docket No. 17302, File No. 1688-C2-P-66; for a construction permit to modify the facilities of Station KGA585 in the Domestic Public Land Mobile Radio Service at Philadelphia, Pa.; The Conestoga Telephone and Telegraph Co., Docket No. 17303, File No. 679-C2-P-66; for a construction permit to establish new facilities in the Domestic Public Land Mobile Radio Service near Boyertown, Pa.

Pursuant to a prehearing conference on June 2, 1967: *It is ordered*, That the hearing now scheduled for June 20 be and the same is hereby rescheduled for July 10, 1967, 10 a.m., in the Commission's offices, Washington, D.C.

Issued: June 5, 1967.

Released: June 6, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-6577; Filed, June 12, 1967; 8:48 a.m.]

[Docket Nos. 17470, 17471; FCC 67M-939]

COMMUNITY BROADCASTERS, INC. AND WEST-STATE BROADCASTING CO.

Order Scheduling Hearing

In re applications of Community Broadcasters, Inc., Grand Haven, Mich., Docket No. 17470, File No. BPH-5650; Charles E. Rich, John R. Parker, Diane E. LaBoueff, and Jack L. Maciejewski, doing business as West-State Broadcasting Co., Grand Haven, Mich., Docket No. 17471, File No. BPH-5697; for construction permits.

It is ordered, That Thomas H. Donahue shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on July 20, 1967, at 10 a.m.; and that a prehearing conference shall be held on June 23, 1967, commencing at 9 a.m.: *And, it is further ordered*, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: May 31, 1967.

Released: June 6, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-6578; Filed, June 12, 1967; 8:48 a.m.]

[Docket Nos. 17131 etc.; FCC 67M-942]

GENERAL ELECTRIC CABLEVISION CORP. ET AL.

Order Regarding Procedural Dates

In re petitions by General Electric Cablevision Corp., Van Buren, N.Y., Docket No. 17131, File No. CATV 100-65; General Electric Cablevision Corp., Solvay, N.Y., Docket No. 17132, File No. CATV 100-137; NewChannels Corp., East Syracuse, N.Y., Docket No. 17133, File No. CATV 100-112; NewChannels Corp., Camillus, N.Y., Docket No. 17134, File No. CATV 100-124; for authority pursuant to § 74.1107 of the rules to operate CATV systems in the Syracuse Television Market; in re applications of Eastern Microwave, Inc., Van Buren, N.Y., Docket No. 17135, File No. 4704-C1-P-66; Eastern Microwave, Inc., Camillus, N.Y., Docket No. 17136, File No. 4879-C1-P-66; for construction permits for new point-to-point microwave radio stations; NewChannels Corp., Manlius, N.Y., Docket No. 17273, File No. CATV 100-150; NewChannels Corp., Minoa, N.Y., Docket No. 17274, File No. CATV 100-151; NewChannels Corp., Liverpool, N.Y., Docket No. 17275, File No. CATV 100-153; NewChannels Corp., Fayetteville, N.Y., Docket No. 17276, File No. CATV 100-160; Upstate Community Antenna, Inc., Clay and Cicero Townships, N.Y., Docket No. 17277, File No. CATV 100-154; Onondaga Video, Inc., Onondaga Township, N.Y., Docket No. 17278, File No. CATV 100-166.

The Examiner has for consideration a motion for continuance filed jointly on June 6, 1967, by General Electric Cablevision Corp., New Channels Corp. and Eastern Microwave, Inc.:

It appearing, that all parties have consented to a grant of the requested relief, and that a grant thereof will tend to insure a more complete record, but that the specific dates requested conflict with the Examiner's present hearing schedule, and other dates must be selected:

It is ordered, That the subject motion is granted, and the procedural dates governing this hearing are continued as follows:

Informal exchange of exhibits—July 24, 1967.
Formal exchange of exhibits—August 10, 1967.
Exchange of witness lists—August 14, 1967.
Hearing—September 25, 1967.

Issued: June 6, 1967.

Released: June 7, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-6579; Filed, June 12, 1967; 8:49 a.m.]

[Docket No. 17474; FCC 67M-940]

MEL-LIN (WOBS)

Order Scheduling Hearing

In re application of Mel-Lin, Inc. (WOBS), Jacksonville, Fla., Docket No. 17474, File No. BP-14323; for construction permit.

It is ordered, That Jay A. Kyle shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on July 19, 1967, at 10 a.m.; and that a prehearing conference shall be held on June 23, 1967, commencing at 9 a.m.; *And, it is further ordered*, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: May 31, 1967.

Released: June 6, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-6580; Filed, June 12, 1967; 8:49 a.m.]

[Docket Nos. 17454, 17455; FCC 67-673]

NEW YORK UNIVERSITY AND FAIRLEIGH DICKINSON UNIVERSITY

Memorandum Opinion and Order Modifying Issues

In re applications of New York University, New York, N.Y., Docket No. 17454, File No. BPED-742; Requests: 89.1 mc, No. 206; 8.3 kw(H); 7.7 kw(V); 220 ft.; Fairleigh Dickinson University, Teaneck, N.J., Docket No. 17455, File No. BPED-751; Requests: 89.1 mc, No. 206; 550 w(H); 550 w(V); 500 ft.; for construction permits.

1. On May 17, 1967, the Commission adopted a memorandum opinion and order designating for hearing the applications of New York University (Docket No. 17454, File No. BPED-742), and Fairleigh Dickinson University (Docket No. 17455, File No. BPED-751) on section 307(b) and comparative issues.[1] The background of this proceeding was set forth in that order (FCC 67-607) and need not be repeated here. However, the Commission on its own motion on May 24, 1967, pursuant to § 1.108 of the rules, has reconsidered the aforesaid designation order and has determined that it should be modified in the following respects.

2. The designation order recites the "boiler plate" 307(b) and standard comparative issues.[2] Upon reconsideration, we do not believe that such traditional issues are appropriate in the instant case.

3. A review of the Commission's records indicates that we have not previously designated two noncommercial educational applications for comparative hearing. Accordingly, the Commission has not previously had occasion to state with specificity the precise issues which would be of decisional significance in such a proceeding. We feel it appropriate that we take this occasion to delineate appropriate issues.

4. We note that in at least one other instance there are competing noncommercial educational applicants before the Commission for a reserved educational television channel. In addition, with the lack of available spectrum becoming more pronounced, it is reasonable to assume that we will be faced with other instances in which two or more educational organizations will be compelled to proceed through the hearing process in order for one applicant to obtain a reserved FM or TV assignment.

5. Compounding the problem in this case, is the fact that the applicants are located in New York, N.Y., and Teaneck, N.J., respectively. This, on its face, raises in the traditional sense a 307(b) issue. Additional 307(b) implications are raised by the disparity in power and radiation patterns proposed by the two applicants. We are not persuaded that our traditional areas and populations, and other available services criteria are appropriate in this instance, nor are we persuaded that the factors involved in the usual standard comparison[3] are appropriate in the context of this proceeding.

6. Our reconsideration is primarily founded on our desire to avoid round after round of interlocutory pleadings and appeals which would not only involve unnecessary expense to the two applicants, but would be much more wasteful than necessary of Commission staff time at the Broadcast Bureau, Hearing Examiner, and Review Board levels, and of the time of the Commission itself. Therefore, we will modify the issues in this proceeding as set forth below.

7. The initial FM educational reservations were made by the Commission early in 1938. See Rules 1057 and 1058, 3 F.R. 312. Even at that initial stage the intention was that such a facility be made available to the applicant "for the advancement of its educational work and for the transmission of educational and entertainment programs to the general public". However, the rules then adopted also provided that a noncommercial station would be licensed "only to an organized nonprofit educational agency and upon a showing that the station will be used for the advancement of the agency's educational program". The Commission has never squarely faced the question of whether these reservations were intended strictly as educational tools or were planned to be hybrid facilities to serve that end, as necessary, and during the remainder of the time to serve as additional available conventional, although noncommercial, broadcast outlets.

8. It becomes obvious from the foregoing discussion that we are faced in this proceeding with unique questions. One of the applicants has submitted material indicating that as many as 51 FM signals are available in some part of the respective service areas proposed by the two applicants. We are thus faced with the question of whether "available services" within the context of a section 307(b) determination should include both operating commercial and educational stations. In light of our determination that the Commission's purpose in reserving educational channels at the lower end of the FM band was to establish a separate and independent service, we believe that any determination under the "available services" issue should be limited to available educational FM signals within the respective service areas of the two applicants. In addition, we believe that the Hearing Examiner should be permitted to give whatever weight he deems appropriate to the origination point of such signals: i.e., Whether a 307(b) determination under this standard should include consideration of New York State-originated educational FM signals serving Fairleigh Dickinson's proposed New Jersey service areas, and vice versa. We further believe that an issue should be specified as to the relative integrated use of the requested FM facility proposed by each of the applicants in its overall educational operation. In adopting these issues in a case of first impression, we further note that our standard comparative criteria (local residence, integration, broadcast experience, diversification, etc.) are virtually meaningless in a case of this type.

9. *Accordingly, it is ordered*, That Issues 2 and 3 are modified as follows:

Issue 2 is modified as follows:

2. To determine the number of other reserved-channel educational FM services available in the proposed service area of each applicant, and the areas and populations served thereby.

Issue 3 is modified as follows:

3. To determine the extent to which each of the proposed operations will be integrated into the overall educational operation and objectives of the respective applicants; or whether other factors in the record demonstrate that one applicant will provide a superior FM educational broadcast service.

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[1] An issue was also specified as to whether NYU's tower would constitute a menace to air navigation.

[2] The standard comparative issues would be those considered within the terms of the Commission's Policy Statement on Comparative Broadcast Hearings, 5 RR 2d 1901.

[3] See Policy Statement on Comparative Broadcast Hearings, supra.

10. In all other respects, our memorandum opinion and order adopted May 17, 1967 (FCC 67-607) is affirmed.

Adopted: June 7, 1967.

Released: June 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-6581; Filed, June 12, 1967; 8:49 a.m.]

[Docket Nos. 17423, 17424; FCC 67M-946]

SARASOTA-BRADENTON, FLA. TELEVISION CO., INC., AND TAMIAMI T.V., INC.

Order Continuing Prehearing Conference

In re applications of Sarasota-Bradenton, Florida, Television Co., Inc., Sarasota, Fla., Docket No. 17423, File No. BPCT-3687; Tamiami T.V., Inc., Sarasota, Fla., Docket No. 17424, File No. BPCT-3798; for construction permit for new television broadcast station (Channel 49).

The Hearing Examiner having under consideration a petition filed June 5, 1967, on behalf of Tamiami T.V., Inc., requesting that the prehearing conference presently scheduled for June 6, 1967, be continued to June 19, 1967; and

It appearing that counsel for petitioner has other deadlines in matters before the Commission making it difficult to prepare for and participate in the presently scheduled prehearing conference; and

It further appearing that counsel for Sarasota-Bradenton, Florida Television Co., Inc., and Chief, Broadcast Bureau consent to the immediate favorable consideration of this petition, and good cause for granting the same having been shown;

It is ordered, That the petition for continuance is granted, and the prehearing conference in the above-entitled proceeding is continued from June 6, 1967, to June 19, 1967, at 9 a.m. in the offices of the Commission, Washington, D.C.

Issued: June 6, 1967.

Released: June 7, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-6582; Filed, June 12, 1967; 8:49 a.m.]

[Docket No. 17491; FCC 67-646]

JAMES B. WISHNER

Order Designating Applications for Hearing

In re application of James B. Wishner, Milwaukee, Wis., Docket No. 17491; for authorizations in the amateur radio service, and for a radiotelephone third class operator permit.

The Commission had under consideration the above-entitled applications for radio station and Novice class operator license in the amateur radio service, and for a radiotelephone third class operator permit.

There are substantial questions as to whether the applicant, James B. Wishner, possesses the requisite qualifications to be a licensee of the Commission and whether the grant of the captioned applications would serve the public interest, convenience, and necessity because of: (a) the alleged operation by the applicant of a radio transmitter, in violation of section 301 of the Communications Act of 1934, as amended; (b) the alleged transmission of communications by applicant containing obscene, indecent or profane language, in violation of Title 18, United States Code ,section 1464 and § 95.83(a)(3) of the Commission's rules; (c) the alleged operation by the applicant of a Citizens radio station in violation of various provisions of Part 95 of the Commission's rules, and (d) alleged false statements made by the applicant to the Commission.

In view of these questions, the Commission is unable to find that the grant of the captioned applications would serve the public interest, convenience, and necessity and must, therefore, designate the applications for hearing. Except for the issues specified herein, the applicant is otherwise qualified to hold a radio station and Novice class operator license in the amateur radio service, and a radiotelephone third class operator permit.

Accordingly, it is ordered, Pursuant to section 309(e) of the Communications Act of 1934, as amended, and §§ 1.84 and 1.973(b) of the Commission's rules, that the captioned applications are designated for hearing at a time and place to be specified by subsequent order upon the following issues:

(1) To determine whether James B. Wishner operated radio apparatus in March 1966, and especially on March 8, 1966, without a license therefor, in violation of section 301 of the Communications Act of 1934, as amended.

(2) To determine whether James B. Wishner has transmitted radio communications containing obscene, indecent or profane language, on or about March 6, 12, and 13, 1965, in violation of § 95.83(a)(3) of the Commission's rules.

(3) To determine whether James B. Wishner, on or about April 7, 1965, operated a Citizens radio station in violation of §§ 95.95(c), 95.83(a)(1), (11), and (13), 95.91(a) (then §§ 95.87, 95.81(a), (b), and (c)) and 95.43 of the Commission's rules.

(4) To determine whether James B. Wishner, on April 7, 1965, made false representations to a Commission engineer at the time of an inspection of Citizens radio station KHD-9016.

(5) To determine, whether in the light of the evidence adduced with respect to the foregoing issues, James B. Wishner possesses the requisite qualifications to be a licensee of the Commission.

(6) To determine whether, in the light of the evidence adduced with respect to the foregoing issues, the grant of the application for an authorization in the Amateur Radio Service would serve the public interest, convenience, and necessity.

(7) To determine whether, in the light of the evidence adduced with respect to the foregoing issues, the grant of the application for a Radiotelephone Third Class Operator Permit would serve the public interest, convenience, and necessity.

It is further ordered, That, to avail himself of the opportunity to be heard, the applicant herein, pursuant to § 1.221 of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate a written appearance stating an intent to appear on the date fixed for the hearing and present evidence on the issues specified in this order; and

It is further ordered, That the Chief, Safety and Special Radio Services Bureau, shall, within 10 days after release of this order, furnish a Bill of Particulars to the applicant herein setting forth the basis for the above issues.

Adopted: June 7, 1967.

Released: June 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-6583; Filed, June 12, 1967; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

[Agreement No. FPA-2]

ARNCAM SHIPPING CO., INC., ET AL.

Notice of Extension of Time To File Comments

Notification of the subject agreement was filed in the FEDERAL REGISTER (32 F.R. 7722) May 26, 1967, giving interested parties 15 days after publication to file with the Federal Maritime Commission any such statement or request for a hearing.

At the request of the Chairman, North Atlantic French Atlantic Freight Conference, and good cause appearing, time for filing such statements or requests for a hearing is enlarged to and including June 19, 1967.

A copy of any such statement or request for hearing should also be forwarded to Gerald H. Ullman, Esq., 120 Broadway, New York, N.Y. 10005, Counsel for the parties to the agreement.

By the Commission.

THOMAS LISI,
Secretary.

JUNE 8, 1967.

[F.R. Doc. 67-6587; Filed, June 12, 1967; 8:49 a.m.]

[1] Chairman Hyde absent.

[Independent Ocean Freight Forwarder License No. 1090]

FAST DELIVERY SERVICE

Notice of Compliance With Order To Show Cause

Notice is hereby given that Fast Delivery Service, Post Office Box 48-833, Miami, Fla. 33148, d.b.a. Aida Costa, has complied with the Commission's Order to Show Cause dated May 26, 1967, and published in the FEDERAL REGISTER (32 F.R. 8103), by filing an effective surety bond with the Commission.

JAMES E. MAZURE,
Director,
Bureau of Domestic Regulation.

[F.R. Doc. 67-6588; Filed, June 12, 1967; 8:50 a.m.]

[Agreement No. FFA-1]

WEDEMANN & GODKNECHT, INC., ET AL.

Notice of Extension of Time To File Comments

Notification of the subject agreement was filed in the FEDERAL REGISTER (32 F.R. 7229) May 13, 1967, giving interested parties 15 days after publication to file with the Federal Maritime Commission any such statement or request for a hearing.

A subsequent notice published in the FEDERAL REGISTER (32 F.R. 8051) June 3, 1967, enlarged the time for filing comments to and including June 12, 1967.

At the request of the Chairman, North Atlantic French Atlantic Freight Conference, and good cause appearing, time for filing such comments is further enlarged to and including June 19, 1967.

A copy of any such statement or request for hearing should also be forwarded to Gerald H. Ullman, Esq., 120 Broadway, New York, N.Y. 10005, Counsel for the parties to the agreement.

By the Commission.

THOMAS LISI,
Secretary.

JUNE 8, 1967.

[F.R. Doc. 67-6589; Filed, June 12, 1967; 8:50 a.m.]

[Commission Order 1 (Rev.); Supp. 1]

ORGANIZATION AND FUNCTIONS

Public Information

Commission Order 1 (Revised) is hereby supplemented, effective July 4, 1967, by adding a new section 11 and by renumbering the current section 11 to section 12. The new section 11 provides as follows:

SEC. 11. *Public requests for information and decisions.*

11.01 General: 1. Section 3(a)(A) of the Administrative Procedure Act, as provided in Public Law 89-487, enacted on July 4, 1966, requires that every agency shall separately state and currently publish in the FEDERAL REGISTER for the guidance of the public descriptions of its central and field organizations and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests or obtain decisions.

2. Section 5 of this order complies with that portion of the above requirement with respect to stating and publication of the descriptions of the Federal Maritime Commission's central and field organizations.

3. Accordingly, there is hereby stated and published for the guidance of the public the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests or obtain decisions. For this purpose, the officials hereinafter designated may be contacted by telephone, in writing, or in person, at the Federal Maritime Commission, 1321 H Street NW., Washington, D.C. 20573.

11.02 The Director, Bureau of Compliance, is responsible for the broad functional areas described in § 5.033 of this order, and the public may secure from him, within his functional areas, information and decisions or make requests or submittals. As an additional service, officials subordinate to the bureau director will provide information and decisions or accept requests or submittals as follows:

1. The Chief, Office of Hearing Counsel, with regard to matters within his area of responsibility in the conduct of formal proceedings before the Commission, provided requests for information and decisions are not prohibited under the Administrative Procedure Act or the Commission's rules of practice and procedure.

2. The Director, Office of Transport Economics, with respect to the conduct of research and economic studies, interpretations of economic data and resulting conclusions.

3. The Chief, Division of Carrier Agreements, for matters concerning the approval and administration of section 15 agreements and modifications thereto filed by carriers or conferences of carriers engaged in the foreign commerce of the United States, including those which fix rates, control competition, pool or apportion earnings or traffic, allot ports or regulate sailings, regulate freight and passenger traffic or otherwise provide for exclusive, preferential, or cooperative working arrangements; the approval and administration of exclusive patronage (dual rate) contracts and modifications thereof; the receipt and processing of annual and special reports submitted by common carriers and conferences of such carriers; and the receipt and processing of informal complaints with respect to agreements or practices thereunder of common carriers and conferences engaged in the foreign commerce of the United States.

4. The Chief, Division of Tariffs and Informal Complaints, with regard to the receipt, acceptance, or rejection of tariff filings of carriers in the foreign commerce of the United States, or conferences of such carriers; the receipt, approval, or disapproval of special permission applications submitted by carriers or conferences for relief from statutory and/or Commission tariff requirements; and the receipt and processing of informal complaints with respect to the rates, charges, or tariff rules of carriers or conferences of such carriers.

11.03 The Director, Bureau of Domestic Regulation, is responsible for the broad functional areas he is given in § 5.034 of this order, and the public may secure from him, within his functional areas, information and decisions or make requests or submittals. As an additional service, officials subordinate to the bureau director will provide information and decisions or accept requests or submittals as follows:

1. The Chief, Division of Domestic Offshore Carriers, for matters concerning the approval and administration of section 15 agreements and modifications thereto filed by carriers or conferences of such carriers engaged in the domestic offshore commerce of the United States; the receipt and processing of annual and special reports, except those submitted pursuant to General Orders No. 5 and No. 11, submitted by such common carriers and conferences of such carriers; the receipt, acceptance or rejection of tariff filings of carriers in the domestic offshore commerce of the United States or conferences of such carriers; the suspension and/or investigation of rates and the receipt, approval, or disapproval of special permission applications of carriers or conferences of such carriers in the domestic offshore commerce; and the receipt and processing of informal complaints with respect to rates, charges, or tariff rules or provisions of agreements or practices of domestic offshore carriers or conferences.

2. The Chief, Division of Terminals, with regard to the filing and examination of terminal tariffs; receipt, approval, or disapproval of terminal agreements, and the receipt and processing of informal complaints with regard to tariffs, agreements, or practices of terminal operators.

3. The Chief, Division of Certification and Licensing, with regard to matters concerning the (a) determination of the financial responsibility and the issuance of certificates to owners or charterers of American or foreign passenger vessels embarking passengers at United States ports to cover their liability for death or injury to passengers or other persons and indemnification of passengers for nonperformance of voyages; (b) licensing or revocation of licenses of freight forwarders and the processing of freight forwarder agreements; and (c) processing of informal complaints with respect to the foregoing certification and licensing activities.

11.04 The Director, Office of International Affairs and Relations, the Director, Bureau of Financial Analysis, the Secretary, the General Counsel, and the Chief Hearing Examiner are designated to receive requests or submittals, furnish information or make decisions within their respective functional areas of responsibility as provided in §§ 5.032, 5.036, 5.04, 5.05, and 5.06.

11.05 The District Managers of the Atlantic, Gulf, and Pacific Coasts, the Area Representative for Alaska, and the Auditor, Seattle, Wash., field office will provide information and decisions to the extent possible to the public within their geographic area, or will expedite the obtaining of information and decisions from the Washington officials enumerated in §§ 11.02 through 11.04. The addresses of these field representatives are as follows:

Atlantic Coast District Manager, Federal Maritime Commission, 45 Broadway, Room 603, New York, N.Y. 10006.

Gulf Coast District Manager, Federal Maritime Commission, Post Office Box 30550, 600 South Street, Room 946, New Orleans, La. 70130.

Pacific Coast District Manager, Federal Maritime Commission, Post Office Box 36067, 450 Golden Gate Avenue, Room 15001, San Francisco, Calif. 94102.

Area Representative, Federal Maritime Commission, Federal Building, Room 30, Anchorage, Alaska 99501.

Seattle, Washington Field Auditor, Federal Maritime Commission, Federal Office Building, First Avenue and Marion Street, Room 121, Seattle, Wash. 98104.

11.06 In addition to the foregoing officials from whom the public may secure information and decisions, the public may inspect or obtain copies of certain Commission publications and public records from the Public Reference Room, Office of International Affairs and Relations, 1321 H Street NW., Washington, D.C. 20573 (see General Order No. 22, Public Information).

Approved: June 6, 1967.

JOHN HARLLEE,
Rear Admiral,
U.S. Navy (Retired), Chairman.

[F.R. Doc. 67-6586; Filed, June 12, 1967; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RP67-21]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Proposed Changes in Rates and Charges

JUNE 5, 1967.

Pursuant to § 2.59(a) of the Commission's rules (18 CFR 2.59(a)), notice is given that Natural Gas Pipeline Company of America on May 31, 1967, filed proposed changes in its FPC Gas Tariff to become effective on July 1, 1967. The proposed changes reflect, among other things, an increase in rates that would amount to $19,158,000 per year to Natural's jurisdictional customers, based on their estimated purchases related to December 1, 1967, contract demands, and $757,000 per year to customers of the company's storage service. The proposed increases would be applicable to Natural's rate schedules CD-1, CD-2, G-1, G-2, PL-1, I-1, and S-1.

Natural states that the principal reasons for the changes filed are (1) the large volume of costs to be incurred in calendar year 1967 in construction of facilities certificated by the Commission; (2) significantly increased costs of purchased gas; and (3) that its proposed rates and charges are designed to provide a return equal to the sum of 1½ percent on accumulated deferred income taxes and 7 percent rate of return on its rate base.

Protests, petitions to intervene, or notices of intervention may be filed with the Federal Power Commission, Washington, D.C. 20426, pursuant to the Commission's rules of practice and procedure on or before June 26, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-6538; Filed, June 12, 1967; 8:45 a.m.]

[Project No. 2617]

PACIFIC POWER & LIGHT CO.

Notice of Land Withdrawal, Oregon

JUNE 7, 1967.

Conformable to the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the lands hereinafter described, insofar as title thereto remains in the United States, are included in power Project No. 2617 for which amended application for license (transmission line) was filed November 18, 1966, by Pacific Power & Light Co., of Portland, Oreg. Under said section 24 these lands are from the date of filing of said application reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress.

WILLAMETTE MERIDIAN

All portions of the following subdivisions lying within 62.5 feet of the centerline survey of the transmission line location as delimited upon amended map, designated "Exhibits J & K" entitled "230 kv Transmission Line, Enterprise, Oreg., to Walla Walla, Wash.," filed in the office of the Federal Power Commission November 18, 1966 (FPC No. 2617-2):

T. 4 N., R. 38 E.,
Sec. 28, S½SW¼;
Sec. 29, SE¼SW¼, S½SE¼;
Sec. 30, NE¼SW¼;
Sec. 33, NW¼NE¼, NE¼NW¼;
Sec. 34, E½NE¼;
Sec. 35, S½NW¼, NE¼SW¼, N½SE¼.
T. 3 N., R. 39 E.,
Sec. 5, NW¼SW¼, S½SW¼;
Sec. 6, Lots 1, 2, 3, and 4; and N½SE¼;
Sec. 8, SE¼NE¼, N½NE¼, NE¼NW¼.
T. 4 N., R. 39 E.,
Sec. 31, Lots 11, 12, 14, 15, 16.

The area of United States land reserved pursuant to the filing of this application is approximately 90.77 acres entirely located within the Umatilla National Forest.

The general determination made by the Commission at its meeting of April 17, 1922 (2d Ann. Rept. 128), with respect to the lands reserved for transmission line right-of-way, is applicable to the above described lands.

Copies of the afore-mentioned project map, Exhibits J & K (FPC No. 2617-2) have been transmitted to the Bureau of Land Management, Geological Survey and the Forest Service.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-6539; Filed, June 12, 1967; 8:45 a.m.]

[Docket No. RI67-422]

RILEY & SCOTT GAS CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

JUNE 5, 1967.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking,

such agreement and undertaking shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before July 17, 1967.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI67-422...	R. E. Riley and Thadeus Scott, agents for and d.b.a. Riley & Scott Gas Co., Post Office Box 507, Pikeville, Ky. 41501.	2	8	United Fuel Gas Co. (acreage in Pike County, Ky.).	$2,320	5-12-67	[3] 6-16-67	[2] 6-17-67	[7] 21.0	[4] [5] 23.0	

[1] Includes letter agreement with buyer which provides for an increase in base rate from 17.0 cents to 18.0 cents per Mcf. An increase in compression charge paid by buyer from 4.0 cents to 5.0 cents for compression of Respondent's gas, and from 3.0 cents to 4.0 cents for compression of another producer's gas.
[2] The stated effected date is the effective date requested by Respondent.
[3] The suspension period is limited to 1 day.
[4] Renegotiated rate increase.
[5] Pressure base is 15.325 p.s.i.a.
[6] Includes 5.0 cents compression charge paid by buyer.
[7] Includes 4.0 cents compression charge paid by buyer.

[F.R. Doc. 67-6540; Filed, June 12, 1967; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

INTERAMERICAN INDUSTRIES, LTD.

Order Suspending Trading

JUNE 7, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the capital stock of Interamerican Industries, Ltd., Calgary, Alberta, Canada, being traded in the United States otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in the United States in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 8, 1967, through June 17, 1967, both dates inclusive.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F.R. Doc. 67-6544; Filed, June 12, 1967; 8:46 a.m.]

[812-2069]

INTERNATIONAL UTILITIES INVESTMENT CORP., AND INTERNATIONAL UTILITIES OF THE U.S., INC.

Notice of Filing of Application for Exemption From All Provisions of the Act and for Continuation of Existing Order

JUNE 7, 1967.

Notice is hereby given that International Utilities Investment Corp. ("IU Investment"), a Delaware corporation, and International Utilities of the U.S., Inc. ("IUUS"), c/o White and Case, 14 Wall Street, New York, N.Y. 10005, a Pennsylvania corporation (herein collectively referred to as "Applicants") have filed a joint application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission (1) continuing the order dated November 30, 1966, exempting IU Investment from all provisions of the Act and the rules and regulations thereunder, and (2) exempting IUUS from all provisions of the Act and the rules and regulations thereunder. As discussed below in more detail, IUUS was created to take the place of International Utilities, Inc. ("IU Inc."), and this application seeks an order of exemption subject to the same conditions imposed upon IU Inc., by a previous Commission exemptive order. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

International Utilities Corp. ("IU Corp."), a Maryland corporation organized on October 8, 1924, is a Canadian resident corporation most of whose shareholders are Canadians, and is primarily engaged, through subsidiaries, in the distribution of natural gas and electricity, the operation of motor bus routes, the ownership, operation, and chartering of oil tankers, bulk carriers, and refrigerator ships, the operation of trucklines, the recovery of steel and iron scrap, and in the processing of slag and crushed stone. It organized a wholly owned subsidiary, IU Inc., to segregate, for organizational and tax reasons, its investments in securities of issuers incorporated in the United States. IU Inc., organized IU Investment in June 1966, in order that IU Inc., could, also for organizational and State tax reasons, transfer to IU Investment its portfolio of investment securities prior to a merger between IU Inc., and one of its wholly owned subsidiaries, Brown Brothers Contractors, Inc. ("Brown Brothers"), which is not an investment company. IU Inc., has always owned all of the capital stock of IU Investment.

On August 13, 1965, and November 30, 1966, the Commission issued orders, upon application, exempting IU Inc., and IU Investment, respectively, subject to specific conditions, from all provisions of the Act and the rules and regulations thereunder (Investment Company Act Release Nos. 4325 and 4773, respectively).

On December 19, 1966, IU Inc., transferred to IU Investment its portfolio securities, together with some cash and accounts receivable due to IU Inc., and IU Investment assumed IU Inc.'s indebtedness to IU Corp. On December 21, 1966, IU Inc., organized IUUS to simplify the corporate problems in the procedure originally contemplated. IU Inc., intends to transfer all of its assets, other than stock of IUUS, but including all of the stock of IU Investment, to IUUS, which will also assume all of IU Inc.'s remaining indebtedness, including IU Inc.'s 5 percent notes due December 1, 1985, in the aggregate principal amount of $25 million payable to John Hancock Mutual Life Insurance Co. and Sun Life Assurance Company of Canada. Effective January 31, 1967, Brown Brothers and The Kaiser Nelson Corp., a wholly owned subsidiary of Brown Brothers, were merged into IUUS. IU Inc., also intends to transfer to IU Corp. all of the outstanding capital stock of IUUS and to dissolve.

IUUS represents that it will not issue any equity securities to any person other than IU Inc., IU Corp., or a wholly owned subsidiary of IU Corp., and IUUS will not transfer any equity securities of IU Investment to any person other than IU Corp. or a wholly owned subsidiary of IU Corp. In addition, IU Inc., will not dispose of any equity securities of IUUS now or hereafter owned by it except to IU Corp. or a wholly owned subsidiary of IU Corp. Similarly, IU Corp. will not transfer any equity securities of

IUUS or IU Investment now or hereafter owned by it except to a wholly owned subsidiary of IU Corp.

Applicants assert that the purposes fairly intended by the policy and provisions of the Act are not furthered by subjecting Applicants to regulation under the Act for the following reasons: (1) No change of material significance under the Act will result with respect to IU Investment other than IU Investment being held by IUUS rather than by IU Inc.; (2) in view of the fact that IU Inc., the immediate parent of IUUS, was exempted from the provisions of the Act when IU Inc., directly held the portfolio of securities of IU Corp., and IU Investment, which presently holds such portfolio, has also been exempted, IUUS is merely a wholly owned intermediate subsidiary in the chain of control and should likewise be exempted from the provisions of the Act; (3) the policy underlying the Act is not applicable to IUUS because investors, whose only interest in IUUS or IU Investment would be through ownership of the securities of IU Corp., do not require the protection of the Act merely because IU Corp., not itself an investment company, has decided to segregate its investment securities in a subsidiary; and (4) the test of whether an investment company exists should be applied not to IUUS but to the entire business entity consisting of IU Corp. and all of its subsidiaries. It is represented that investment securities of IU Corp. and its subsidiaries, as of December 31, 1966, amounted to no more than approximately 18 percent of the total assets of IU Corp. and subsidiaries.

Applicants have agreed that the requested order may be subject to the following conditions, which in the case of IUUS are substantially identical to the conditions to which IU Inc. is presently subject:

(1) IU Investment will remain subject to the terms and conditions of the presently outstanding exemptive order with respect to it, dated November 30, 1966;

(2) IUUS will:

(a) File with the Commission, within 120 days after the close of each fiscal year of IUUS, the data required by Items 1.08 (except with respect to information relating to persons under common control with IUUS), 1.09, 1.10, and 1.11(a) of Form N–1R adopted by the Commission pursuant to section 30(a) of the Act;

(b) File with the Commission, within 120 days after the close of each fiscal year of IUUS, a statement of financial position as of the close of such fiscal year, a statement of income for such fiscal year, a statement of paid-in surplus and retained earnings as of the close of such fiscal year, and a schedule of investments as of the close of such fiscal year for IUUS: *Provided, however*, That any such statement or schedule may be incorporated by reference in such filing to any such statement or schedule filed with the Commission by IUUS or International Utilities Corp., pursuant to the requirements of the Act, the Securities Act of 1933, or the Securities Exchange Act of 1934; and

(c) File with the Commission within 30 days after the happening of any of the following events, information as to (i) any request to exchange any of IU Inc.'s 5 percent notes due 1985, which have been or will be assumed by IUUS, for such notes of smaller denominations or for debentures and (ii) any transfer of such 5 percent notes and the names and addresses of each transferee, to the extent that such information shall be available to, or can reasonably be obtained by, IUUS; and

(d) File with the Commission, within 120 days after the close of each fiscal year of IUUS, information with respect to the number of registered holders of the 5 percent notes, which have been or will be assumed by IUUS, outstanding as of the close of such fiscal year;

(3) IUUS will not issue any additional debt securities (other than short-term paper and other than as set forth in par. 2(c) above) unless IUUS shall have first given written notice to the Commission describing the proposed issuance of such additional debt securities within 30 days prior to the date of such proposed issuance, subject, however, to the right of the Commission, upon request of IUUS, to decrease such number of days. If the Commission shall, after receipt of said written notice, determine that a substantial question shall exist as to whether or not the exemption granted by the order requested herein should continue and shall mail or otherwise give notice to that effect to IUUS at its offices, 1500 Walnut Street, Philadelphia, Pa. (or at such other address as IUUS may have previously specified in writing to the Commission), within 15 days after the receipt by the Commission of said written notice from IUUS, IUUS will not consummate the proposed issuance of such additional debt securities except in accordance with an appropriate order of the Commission.

Notice is further given that any interested person may, not later than June 23, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the fund at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after such date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-6545; Filed, June 12, 1967; 8:46 a.m.]

[812-2120]

MUNICIPAL INVESTMENT TRUST FUND, SERIES H

Notice of Application for Order of Exemption

JUNE 7, 1967.

Notice is hereby given that Municipal Investment Trust Fund, Series H ("Applicant") 45 Wall Street, New York, N.Y., a unit investment trust registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicant from compliance with the provisions of section 14(a) of the Act. In substance, section 14(a) of the Act provides that no registered investment company shall make a public offering of securities of which it is the issuer unless it has a net worth of at least $100,000.

All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicant has filed a registration statement under the Securities Act of 1933 for the sale to the public of 6,000 units of undivided interest in a portfolio of tax-free municipal bonds. This registration statement has not yet become effective. Applicant is one of a series of similar funds named "Municipal Investment Trust Fund" and will be governed by a Trust Agreement under which Bache & Co., Inc., Hornblower & Weeks-Hemphill, Noyes and Goodbody & Co. will act as Sponsors and United States Trust Company of New York will act as Trustee. Applicant states that the sponsors, acting as managers for the underwriters, will deposit with the trustee between $5,000,000 and $6,000,000 principal amount of bonds and will receive from the trustee simultaneously with such deposit registered certificates for between 5,000 and 6,000 units which will in turn be offered for sale to the public by the sponsors. No additional units will be issued. The Trust Agreement provides that bonds may from time to time be sold under certain circumstances, or may be redeemed or may mature in accordance with their terms, and the proceeds from such dispositions will be distributed to unitholders.

Units will remain outstanding until redeemed or until the termination of the Trust, which may be terminated by 100

percent of the unitholders of the Applicant, or, in the event that the value of the bonds shall fall below 40 percent of the principal amount of the Trust, upon direction of the sponsors to the trustee. In connection with the requested exemption the sponsors have agreed to refund the sales load to purchasers of units, if within 90 days after the registration statement becomes effective, the net worth of the Trust shall be reduced to less than $100,000 or if the Trust is terminated. The sponsors will instruct the trustee on the date the bonds are deposited that if the Trust shall at any time have a net worth of less than 40 percent of the principal amount of bonds in the Trust, resulting from redemption by the sponsors of units constituting a part of the unsold units, the Trustee shall terminate the Trust in the manner provided in the Trust Agreement and distribute any bonds or other assets deposited with the Trustee pursuant to the Trust Agreement as provided therein. The sponsors have agreed on behalf of the underwriters and such dealers to refund any sales load to any purchasers of units on demand and without any deduction in the event of such termination. Applicant further represents that at the present time sponsors maintain a market for the units of most other Municipal Investment Trust Funds with which they are similarly connected, and continually offer to purchase such units at prices which exceed the redemption price for such units by amounts which depend upon general market conditions. It is the sponsor's intention to maintain a market for the units of the Applicant and to continuously offer to purchase such units at prices in excess of the redemption price as set forth in the Trust Agreement, although the sponsors are not obligated to do so.

Notice is further given that any interested person may, not later than June 21, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-6546; Filed, June 12, 1967; 8:46 a.m.]

TARIFF COMMISSION

[APTA-W-13]

[TC Publication 209]

CERTAIN WORKERS OF GENERAL MOTORS CORPORATION'S CHEVROLET PLANT AT NORTH TARRYTOWN, N.Y.

Report in Adjustment Assistance Case

JUNE 8, 1967.

The Tariff Commission today reported to the Automotive Agreement Adjustment Assistance Board the results of its investigation No. APTA-W-13, conducted under section 302(e) of the Automotive Products Trade Act of 1965. The Commission's report contains factual information for use by the Board, which determines the eligibility of the workers concerned to apply for adjustment assistance. The workers in this case were employed in the North Tarrytown, N.Y., Chevrolet plant of the General Motors Corp.

Only certain sections of the Commission's report can be made public since much of the information it contains was received in confidence. Publication of such information would result in the disclosure of certain operations of individual firms. The sections of the report that can be made public are reproduced on the following pages.

Introduction. In accordance with section 302(e) of the Automotive Products Trade Act of 1965 (79 Stat. 1016), the U.S. Tariff Commission herein reports the results of an investigation (APTA-W-13) concerning the possible dislocation of certain workers engaged in the assembly of automobiles and trucks at the General Motors Corp.'s Chevrolet assembly plant in North Tarrytown, N.Y. The Commission instituted the investigation on April 20, 1967, in response to a request for investigation received on April 19, 1967, from the Automotive Assistance Committee of the Automotive Agreement Adjustment Assistance Board. Public notice of the investigation was given in the FEDERAL REGISTER (32 F.R. 6459) on April 26, 1967.

The Automotive Assistance Committee's request for the investigation resulted from a petition for determination of eligibility to apply for adjustment assistance that was filed with the Assistance Board on April 14, 1967, by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (U.A.W.) and its Local No. 664, on behalf of a group of workers at the North Tarrytown plant of the Chevrolet Division of General Motors Corp. (hereafter referred to as GMC). Neither the petitioners nor any other party requested a hearing before the Commission, and none was held.

The petitioners alleged that the cutback in production at the North Tarrytown plant on February 13, 1967, was due to the importation of automobiles from Canada of the type assembled at North Tarrytown. The petitioners further alleged that the layoffs which occurred as a result of the cutback in production were attributable to the Automotive Products Trade Act of 1965.

The Commission conducted investigation APTA-W-13 concurrently with investigations APTA-W-12 and 14 relating to the possible dislocation of certain workers engaged in the production of automobiles at General Motors Assembly Division's Wilmington, Del., plant and in the production of automobile bodies at General Motors Fisher Body Division's plant at North Tarrytown, N.Y. Much of the information developed in connection with APTA-W-12 and 14 is also pertinent to APTA-W-13; because of significant differences in the circumstances involved in the three investigations, however, separate reports have been prepared.

The information reported herein was obtained from a variety of sources, including the General Motors Corp., the other major U.S. automobile manufacturers, the International Union, U.A.W., and its Local 664, the Commission's files and through fieldwork by members of the Commission's staff.

The automotive product involved—automobiles and trucks weighing 20,000 pounds or less, gross vehicular weight (GVW). Conventional passenger automobiles and trucks weighing 20,000 pounds or less, GVW, are the articles under consideration in this investigation. Automobile components that are shipped in K-D (knocked-down) kits for subsequent assembly are not included within the scope of this investigation; special purpose motor vehicles such as the "Jeep" and "Scout," are treated as trucks.

Imported automobiles are dutiable under item 692.10 of the Tariff Schedules of the United States (TSUS) at the rate of 6.5 percent ad valorem; if imported from Canada, however, they are duty-free under item 692.11. Imported automobile trucks are dutiable under TSUS item 692.05 at the rate of 8.5 percent ad valorem; if imported from Canada, however, they are duty-free under item 692.06.

GMC and its automotive divisions. GMC, with headquarters in Detroit, Mich., is the largest manufacturing corporation in the world. Its net sales in 1966 were valued at about $20 billion; approximately 90 percent of this total was accounted for by the sale of automotive products. GMC is comprised of numerous divisions and foreign and domestic subsidiaries. The divisions, which

are organized along product lines, produce cars, trucks, vehicle bodies, automotive components, engines, household appliances, and other products.

United States and Canadian production and trade—all automobiles.[1] Total U.S. production of automobiles in model years 1963–66 increased from 7.2 million units in 1963 to 8.8 million units in 1965, then declined to 8.6 million units in 1966. During the same period Canadian production increased annually from 467,449 units in 1963 to 672,901 units in 1966 (table 1).

U.S. production of automobiles totaled 2.9 million units in the period January–April 1964, and 2.5 million units in the corresponding period of 1967. Canadian production in the same periods totaled 227,739 and 228,025 units, respectively.

During model years 1963–66, exports to Canada of U.S. produced automobiles increased annually from 6,569 units in 1963 to 59,207 units in 1966. There were no U.S. imports of automobiles from Canada during the 1963–64 model years. Imports from Canada began with 1,610 units in 1965 and increased to 94,381 units in 1966.

U.S. exports to Canada of automobiles totaled 3,459 units in the period January–April 1964, and 75,592 units in the corresponding period of 1967. U.S. imports from Canada amounted to 100,346 units in January–April 1967.

During model year 1966, the United States became a net importer of cars from Canada, importing a net 35,174 units. In the first 9 months of the 1967 model year, the U.S. net import position with Canada was 21,599 units, compared with 22,504 units in the corresponding period of 1966.

By direction of the Commission.

DONN N. BENT,
Secretary.

[F.R. Doc. 67-6565; Filed, June 12, 1967; 8:47 a.m.]

[1] Data are based on the operations of the four principal U.S. producers of automobiles.

FOURTH SECTION APPLICATION FOR RELIEF

JUNE 8, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41046—*Chlorine from Wyandotte, Mich.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 2888), for interested rail carriers. Rates on chlorine, in tank carloads, from Wyandotte, Mich., to Choctaw City, Cromwell, Jachin, Naheola, Pennington, and Rob John, Ala.

Grounds for relief—Market competition.

Tariff—Supplement 15 to Traffic Executive Association-Eastern Railroads, agent, tariff ICC C–611.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-6567; Filed, June 12, 1967; 8:47 a.m.]

[Notice 1531]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 8, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–69657. By order of May 31, 1967, the Transfer Board approved the transfer to Glenn Shoop, Marion, Pa., of certificate in No. MC–26799, issued August 16, 1957, to Elwood V. Miller, Chambersburg, Pa., authorizing the transportation of: Household goods, between Chambersburg, Pa., and points within 8 miles thereof, on the one hand, and, on the other, points in New York, New Jersey, Virginia, Maryland, West Virginia, Ohio, Illinois, Indiana, and the District of Columbia, and: Fresh fruits, in season, from points in Franklin County Pa., to New York, N.Y.; George S. Black, 1209 Lincoln Way East, Chambersburg, Pa. 17201, attorney for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-6568; Filed, June 12, 1967; 8:47 a.m.]

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Tuesday, June 13, 1967 • Washington, D.C.

PART II

Federal Trade Commission

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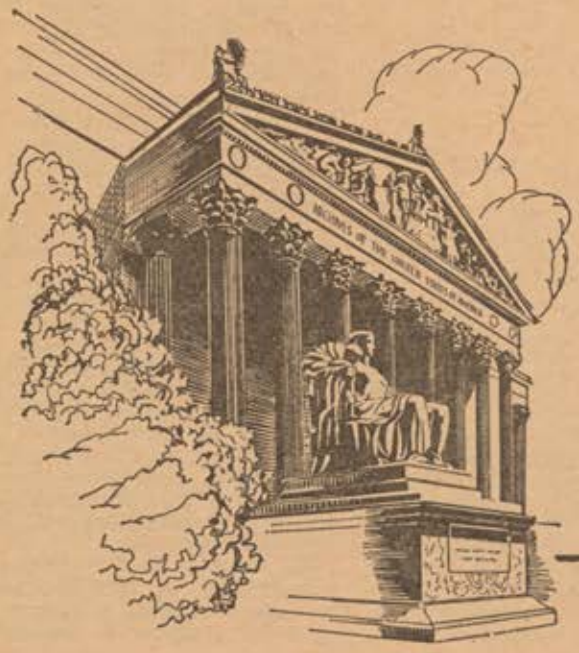
Organization, Procedure, and Rules of Practice



Effective July 1, 1967

FEDERAL TRADE COMMISSION

STATEMENT OF ORGANIZATION

The Federal Trade Commission hereby issues the following revised statement of organization.

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8 The Chairman.
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14 Office of Hearing Examiners.
15 Bureau of Deceptive Practices.
16 Bureau of Economics.
17 Bureau of Field Operations.
18 Bureau of Industry Guidance.
19 Bureau of Restraint of Trade.
20 Bureau of Textiles and Furs.

SECTION 1. *The Commission.* The Federal Trade Commission is composed of five members appointed by the President and confirmed by the Senate for terms of 7 years.

SEC. 2. *Official address.* The principal office of the Commission is at Washington, D.C. All communications to the Commission should be addressed to the Federal Trade Commission, Pennsylvania Avenue and Sixth Street NW., Washington, D.C. 20580, unless otherwise specifically directed.

SEC. 3. *Hours.* Principal and field offices are open on each business day from 8:30 a.m. to 5 p.m.

SEC. 4. *Laws administered.* The Commission exercises enforcement or administrative responsibilities under the Federal Trade Commission Act (15 U.S.C. 41); Clayton Act (15 U.S.C. 12), as amended by the Robinson-Patman Antidiscrimination Act (Public Law 692, 74th Cong.); Export Trade Act (15 U.S.C. 61); Packers and Stockyards Act, 1921 (7 U.S.C. 181); Wool Products Labeling Act of 1939 (15 U.S.C. 68); Trade-Mark Act of 1946 (15 U.S.C. 1051); Fur Products Labeling Act (15 U.S.C. 69); Flammable Fabrics Act (15 U.S.C. 1191); Textile Fiber Products Identification Act (15 U.S.C. 70); Fair Packaging and Labeling Act (Public Law 89–755, 89th Cong.); and other public laws.

SEC. 5. *Meetings.* (a) The Commission may meet and exercise all its powers at any place, and may, by one or more of its members or by such representatives as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

(b) Meetings of the Commission are held as ordered by the Commission and, unless otherwise ordered, are held at the principal office of the Commission, Pennsylvania Avenue and Sixth Street NW., Washington, D.C. Hearings before the Commission, except when the Commission is in executive session, are public, unless otherwise ordered. Executive sessions of the Commission are not public.

SEC. 6. *Quorum.* A majority of the members of the Commission constitute a quorum for the transaction of business.

SEC. 7. *Delegation of functions.* The Commission, under the authority provided by Reorganization Plan No. 4 of 1961, may delegate, by published order or rule, certain of its functions to a division of the Commission, an individual Commissioner, a hearing examiner, or an employee or employee board.

SEC. 8. *The Chairman.* The Chairman of the Commission is designated by the President, and, subject to the general policies of the Commission, is the executive and administrative head of the agency. He presides at meetings of and hearings before the Commission and participates with the other Commissioners in all Commission decisions.

SEC. 9. *Organization structure.* The Federal Trade Commission is comprised of the following principal units:

Executive Director,
Office of the Secretary,
Office of Program Review,
Office of the General Counsel,
Office of Hearing Examiners,
Bureau of Deceptive Practices,
Bureau of Economics,
Bureau of Field Operations,
Bureau of Industry Guidance,
Bureau of Restraint of Trade,
Bureau of Textiles and Furs.

SEC. 10. *Executive Director.* The Executive Director, under the direction of the Chairman, is the chief operating official. He exercises executive and administrative supervision over all the offices, bureaus, and staff of the Commission. Immediately under his direction are the following staff units:

(a) *Deputy Executive Director.* The Deputy Executive Director devotes particular attention to the legal aspects of problems arising in connection with the Executive Director's overall responsibility and, in addition, is responsible for a continuous review and evaluation of the Commission's operations.

(b) *Office of Administration.* This office supervises management, organization, administrative services, and personnel programs. It has the following units:

Management Staff,
Division of Personnel,
Division of Administrative Services,
Division of Data Processing.

(c) *Office of Comptroller.* This office and its Division of Finance supervise and conduct budgetary and fiscal matters within the Commission.

(d) *Office of Information.* This office furnishes information concerning Commission activities to news media and the public.

SEC. 11. *Office of the Secretary.* The Secretary is responsible for the minutes of Commission meetings and is the legal custodian of the Commission's seal, property, papers, and records, including legal and public records. He signs Commission orders and coordinates all liaison activities with the Congress and Government Departments and agencies. The Division of Legal and Public Records in the Office of the Secretary maintains a current index of opinions, orders, statements of policy and interpretations, staff manuals and instructions that affect any member of the public, and other public records of the Commission, and makes available for inspection and copying all public records of the Commission.

SEC. 12. *Office of Program Review.* The Program Review Officer is responsible for studies and reports with recommendations directly to the Commission with respect to how and where its efforts should be exercised in order to best serve the public interest.

SEC. 13. *Office of the General Counsel.* The General Counsel is the Commission's chief law officer and adviser. This office is also responsible for proceedings for the cancellation of trademarks under the Trade-Mark Act of 1946 and for the administration of the Export Trade Act, and for coordinating the Commission's program of Federal-State relations. This office includes the following organizational units:

(a) *Division of Appeals.* Representing the Commission in the Federal courts, this division also aids in preparing memoranda, opinions, and reports on questions of law and policy referred to the General Counsel.

(b) *Division of Consent Orders.* This office supervises the preparation and execution of agreements submitted to the Commission for the settlement of cases by the entry of consent orders.

(c) *Division of Export Trade.* This office performs legal and related services incident to the administration of the Export Trade Act.
sion advises the Commission on legislative matters and prepares for its consideration drafts of and reports on proposed legislation.

SEC. 14. *Office of Hearing Examiners.* Hearing examiners are officials to whom the Commission, in accordance with law, delegates the initial performance of its adjudicative fact-finding functions to be exercised in conformity with Commission decisions and policy directives and with its rules of practice. Hearing examiners are appointed under the authority and subject to the prior approval of the Civil Service Commission.

SEC. 15. *Bureau of Deceptive Practices.* This bureau is responsible for the investigation and trial of all cases involving acts or practices alleged to be deceptive and for obtaining and maintaining compliance with orders to cease and desist issued in such cases. It is also responsible for the development of evidence as a basis for certain industry-wide procedures. The Bureau functions through the following divisions:

(a) *Division of Food and Drug Advertising.* This division handles all cases involving allegedly deceptive practices in connection with the offering for sale and sale of food, drugs, devices, cosmetics, and related matters affecting health. It also monitors radio, television, and other advertising.

(b) *Division of General Practices.* The responsibility of this division is the processing of cases involving allegedly deceptive practices in connection with

the sale of all products subject to the jurisdiction of the Commission other than food, drugs, devices, cosmetics, and related products.

(c) *Division of Special Projects.* This division makes studies and carries out other broad assignments in special consumer protection areas.

(d) *Division of Compliance.* Obtaining and maintaining, and the processing of requests for opinions respecting, compliance with orders to cease and desist issued in deceptive practice cases is the duty of this division.

(e) *Division of Scientific Opinions.* This division furnishes advice, information, and assistance to the various bureaus of the Commission with respect to the composition, nature, effectiveness, and safety of food, drugs, devices, cosmetics, and related commodities, and maintains liaison with other Federal agencies, private institutions, laboratories, and hospitals in connection with these matters.

SEC. 16. *Bureau of Economics.* This bureau aids and advises the Commission concerning the economic aspects of all of its functions, and is responsible for the preparation of various economic reports and surveys. The bureau consists of the following divisions:

(a) *Division of Economic Evidence.* This division provides economic and statistical assistance to the enforcement bureaus in the investigation and trial of cases.

(b) *Division of Industry Analysis.* The function of this division is to conduct general economic studies and investigations in response to requests by the President, the Congress, and the Commission.

(c) *Division of Financial Statistics.* This division, acting in cooperation with the Office of Statistical Standards of the Bureau of the Budget, carries on a continuing financial reporting program for the primary purpose of obtaining basic material for authoritative statistics concerning the financial characteristics of different groups of industries and of various classes of manufacturing corporations.

SEC. 17. *Bureau of Field Operations.* (a) This bureau supervises the investigational activities of the Commission's field offices and has general administrative responsibility for the textile and fur field stations. Field offices are maintained at Washington (Falls Church, Va.), New York, Cleveland, Chicago, San Francisco, Los Angeles, Seattle, New Orleans, Kansas City, Atlanta, and Boston.

(b) The addresses of the respective field offices are as follows: Federal Trade Commission, 450 West Broad Street, Falls Church, Va. 22046; Federal Trade Commission, 30 Church Street, New York, N.Y. 10007; Federal Trade Commission, 1128 Standard Building, Cleveland, Ohio 44113; Federal Trade Commission, Room 486, U.S. Courthouse and Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604; Federal Trade Commission, 450 Golden Gate Avenue, Box 36005, San Francisco, Calif. 94102; Federal Trade Commission, Room 1212, 215 West Seventh Street, Los Angeles, Calif. 90014; Federal Trade Commission, 511 U.S. Courthouse, Seattle, Wash. 98104; Federal Trade Commission, 1000 Masonic Temple Building, 333 St. Charles Street, New Orleans, La. 70130; Federal Trade Commission, 2806 Federal Office Building, Kansas City, Mo. 64106; Federal Trade Commission, 915 Forsyth Building, 86 Forsyth Street NW., Atlanta, Ga. 30303; Federal Trade Commission, John Fitzgerald Kennedy Federal Building, Government Center, Boston, Mass. 02203.

(c) Each of the field offices is supervised by an Attorney in Charge, who is available for conferences with attorneys and other members of the public on matters relating to the Commission's activities.

SEC. 18. *Bureau of Industry Guidance.* With the assistance of this bureau, the Commission endeavors to secure voluntary compliance with the statutes it administers by informing and guiding businessmen as to the requirements of such statutes. The bureau is comprised of three divisions:

(a) *Division of Advisory Opinions.* This division assists businessmen in obtaining advice from the Commission as to the legal requirements of the statutes it administers.

(b) *Division of Industry Guides.* This division administers the program under which are issued interpretive guides dealing with the legality of widely used trade practices.

(c) *Division of Trade Regulation Rules.* The duty of this division is to assist the Commission in promulgating regulation rules.

SEC. 19. *Bureau of Restraint of Trade.* This bureau investigates, litigates, and secures compliance with orders to cease and desist in all cases arising under the Clayton Act and in all restraint of trade cases arising under section 5 of the Federal Trade Commission Act. The bureau functions through the following divisions:

(a) *Division of Mergers.* All cases involving corporate mergers or consolidations and interlocking corporate directorates are processed in this division.

(b) *Division of General Trade Restraints.* This division handles cases involving methods, acts, or practices which have a dangerous tendency unduly to hinder competition, such as price fixing, allocation of markets or customers, boycotts, tie-in selling, and full-line forcing.

(c) *Division of Discriminatory Practices.* Within the jurisdiction of this division are cases alleging unlawful price discrimination, brokerage payments, discrimination in the payment for and in the furnishing of promotional services and facilities, and other discriminatory practices prohibited by law.

(d) *Division of Compliance.* This division acts to obtain and maintain, and to process requests for advisory opinions respecting, compliance with orders to cease and desist in restraint of trade cases.

(e) *Division of Accounting.* This division performs accounting services in connection with the investigation and trial of cases and with general economic investigations.

SEC. 20. *Bureau of Textiles and Furs.* (a) Four statutes are administered by this bureau: The Wool Products Labeling Act of 1939, the Fur Products Labeling Act, the Flammable Fabrics Act, and the Textile Fiber Products Identification Act. The functions of the bureau are performed by the following divisions:

(1) *Division of Regulation.* Inspections, industry counseling, and rules and regulations are the responsibility of this division.

(2) *Division of Enforcement.* This division investigates and litigates all cases within the jurisdiction of the bureau. It also obtains and maintains, and processes requests for advisory opinions respecting, compliance with orders to cease and desist which are issued in such cases.

(b) Inspections and investigations necessary in the administration of the Wool, Fur, Flammable Fabrics, and Textile Fiber Products Acts are conducted through each of the Commission's field offices and through textile and fur field stations located at Charlotte, N.C.; Dallas; Denver; Houston; Miami; Philadelphia; Portland, Oreg.; and St. Louis.

(c) The addresses of the textile and fur field stations are as follows: Federal Trade Commission, 204 Cutter Building, 327 North Tryon Street, Charlotte, N.C. 28202; Federal Trade Commission, 405 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202; Federal Trade Commission, 18013 Federal Office Building, 1961 Stout Street, Denver, Colo. 80202; Federal Trade Commission, Room 10511, U.S. Courthouse Building, 515 Rush Avenue, Houston, Tex. 77061; Federal Trade Commission, 931 New Federal Building, 51 Southwest First Avenue, Miami, Fla. 33130; Federal Trade Commission, 53 Long Lane, Upper Darby, Pa. 19082 (Philadelphia field station); Federal Trade Commission, 231 U.S. Courthouse, Portland, Oreg. 97205; Federal Trade Commission, Room 907, 208 North Broadway, St. Louis, Mo. 63102.

Effective date. This notice shall be effective as of July 1, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-6553; Filed, June 12, 1967; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

PART 1—GENERAL PROCEDURES

PART 2—NONADJUDICATIVE PROCEDURES

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEDURES

PART 4—MISCELLANEOUS RULES

The following revised general procedures and rules of practice of the Federal Trade Commission shall become effective July 1, 1967:

PART 1—GENERAL PROCEDURES

Subpart A—Industry Guidance

ADVISORY OPINIONS

AUTHORITY: The provisions of this Part 1 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46.

Subpart A—Industry Guidance

ADVISORY OPINIONS

§ 1.1 Policy.

Any person, partnership, or corporation may request advice from the Commission with respect to a course of action which the requesting party proposes to pursue. It is the Commission's policy to consider requests for such advice and, where practicable, to inform the requesting party of the Commission's views. A request ordinarily will be considered inappropriate for such advice: (a) Where the course of action is already being followed by the requesting party; (b) where the same or substantially the same course of action is under investigation or is or has been the subject of a current proceeding, order, or decree initiated or obtained by the Commission or another governmental agency; or (c) where the proposed course of action or its effects may be such that an informed decision thereon cannot be made or could be made only after extensive investigation, clinical study, testing, or collateral inquiry.

§ 1.2 Procedure.

The request for advice should be submitted in writing to the Secretary of the Commission and should include full and complete information regarding the proposed course of action. Conferences with members of the Commission's staff may be held before or after submittal of the request. Submittals of additional information may be required. The original submittal should affirmatively show that the proposed course of action is not currently being followed by the requesting party and is not the subject of a pending investigation or other proceeding by the Commission or any other governmental agency. If the request is for advice as to whether the proposed course of action may violate an outstanding order to cease and desist issued by the Commission, such request will be considered as provided for in § 3.61 of this chapter.

§ 1.3 Advice.

(a) On the basis of the facts submitted, as well as other information available to the Commission, and if practicable, the Commission will inform the requesting party of its views and may take such other action as may be appropriate.

(b) Any advice given is without prejudice to the right of the Commission to reconsider the questions involved and, where the public interest requires, to rescind or revoke the advice. Notice of such rescission or revocation will be given to the requesting party so that he may discontinue the course of action taken pursuant to the Commission's advice. The Commission will not proceed against the requesting party with respect to any action taken in good faith reliance upon the Commission's advice under this section, where all relevant facts were fully, completely, and accurately presented to the Commission and where such action was promptly discontinued upon notification of rescission or revocation of the Commission's approval.

§ 1.4 Publication.

Texts or digests of advisory opinions of general interest will be published by the Commission, subject to statutory restrictions against disclosure of trade secrets and names of customers and to considerations of the confidentiality of commercial, financial, and other facts involved and of meritorious objections made by the requesting party to such publication.

INDUSTRY GUIDES

§ 1.5 Purpose.

Industry guides are administrative interpretations of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. They provide the basis for voluntary and simultaneous abandonment of unlawful practices by members of industry. Failure to comply with the guides may result in corrective action by the Commission under applicable statutory provisions. Guides may relate to a practice common to many industries or to specific practices of a particular industry.

§ 1.6 How promulgated.

Industry guides[1] are promulgated by the Commission on its own initiative or pursuant to petition filed with the Secretary or upon informal application therefor, by any interested person or group, when it appears to the Commission that guidance as to the legal requirements applicable to particular practices would be beneficial in the public interest and would serve to bring about more widespread and equitable observance of laws administered by the Commission. In connection with the promulgation of industry guides, the Commission at any time may conduct such investigations, make such studies, and hold such conferences or hearings as it may deem appropriate. All or any part of any such investigation, study, conference, or hearing may be conducted under the provisions of Subpart A of Part 2 of this chapter.

Subpart B—Rules and Rulemaking

§ 1.11 Scope of the rules in this subpart.

The rules in this subpart apply to and govern procedure for the promulgation of trade regulation rules, quantity limit rules, rules authorized under the Wool Products Labeling Act of 1939, the Fur Products Labeling Act, the Flammable Fabrics Act, and the Textile Fiber Products Identification Act, and rules under the Fair Packaging and Labeling Act except to the extent that objections to orders relating to the issuance, amendment, or repeal of rules under the latter Act are required by statute to be determined on the record after opportunity for an agency hearing. The rules in this sub-

[1] In the past, certain of these have been promulgated and referred to as trade practice rules.

part do not apply to the promulgation of industry guides, general statements of policy, or rules of agency organization, procedure, or practice.

§ 1.12 Trade regulation rules.

(a) *Nature and authority.* For the purpose of carrying out the provisions of the statutes administered by it, the Commission is empowered to promulgate rules and regulations applicable to unlawful trade practices. Such rules and regulations (hereinafter called "trade regulation rules") express the experience and judgment of the Commission, based on facts of which it has knowledge derived from studies, reports, investigations, hearings, and other proceedings, or within official notice, concerning the substantive requirements of the statutes which it administers.

(b) *Scope.* Trade regulation rules may cover all applications of a particular statutory provision and may be nationwide in effect, or they may be limited to particular areas or industries or to particular product or geographic markets, as may be appropriate.

(c) *Use of rules in adjudicative proceedings.* Where a trade regulation rule is relevant to any issue involved in an adjudicative proceeding thereafter instituted, the Commission may rely upon the rule to resolve such issue, provided that the respondent shall have been given a fair hearing on the applicability of the rule to the particular case.

§ 1.13 Quantity limit rules.

Quantity limit rules are authorized by section 2(a) of the Clayton Act, as amended by the Robinson-Patman Act. These rules have the force and effect of law.

§ 1.14 Rules applicable to wool, fur, flammable fabrics, and textile fiber products and rules promulgated under the Fair Packaging and Labeling Act.

Rules having the force and effect of law are authorized under section 6 of the Wool Products Labeling Act of 1939, section 8 of the Fur Products Labeling Act, section 5 of the Flammable Fabrics Act, section 7 of the Textile Fiber Products Identification Act, and sections 4, 5, and 6 of the Fair Packaging and Labeling Act.

§ 1.15 Initiation of proceedings—petitions.

Proceedings for the issuance of rules or regulations, including proceedings for exemption of products or classes of products from statutory requirements, may be commenced by the Commission upon its own initiative or pursuant to petition filed with the Secretary by any interested person or group stating reasonable grounds therefor. Anyone whose petition is not deemed by the Commission sufficient to warrant the holding of a rulemaking proceeding will be promptly notified of that determination and given an opportunity to submit additional data. Procedures for the amendment or repeal of a rule or regulation are the same as for the issuance thereof.

§ 1.16 Procedure.

(a) *Investigations and conferences.* In connection with any rulemaking proceeding, the Commission at any time may conduct such investigations, make such studies, and hold such conferences as it may deem necessary. All or any part of any such investigation may be conducted under the provisions of Subpart A of Part 2 of this chapter.

(b) *Notice.* General notice of proposed rulemaking will be published in the FEDERAL REGISTER and, to the extent practicable, otherwise made available to interested persons. If the rulemaking proceeding was instituted pursuant to petition, a copy of the notice will be served on the petitioner. Such notice will include: (1) A statement of the time, place, and nature of the public proceedings; (2) reference to the authority under which the rule is proposed; (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved; and (4) an opportunity for interested persons to participate in the proceeding through the submission of written data, views, or arguments.

(c) *Oral hearings.* Oral hearing on a proposed rule may be held within the discretion of the Commission. Any such hearing will be conducted by the Commission, a member thereof, or a member of the Commission's staff. At the hearing interested persons may appear and express their views as to the proposed rule and may suggest such amendments, revisions, and additions thereto as they may consider desirable and appropriate. The presiding officer may impose reasonable limitations upon the length of time allotted to any person. If by reason of the limitations imposed the person cannot complete the presentation of his suggestions, he may within twenty-four (24) hours file a written statement covering those relevant matters which he did not orally present.

(d) *Promulgation of rules or orders.* The Commission, after consideration of all relevant matters of fact, law, policy, and discretion, including all relevant matters presented by interested persons in the proceeding, will adopt and publish in the FEDERAL REGISTER an appropriate rule or order, together with a concise general statement of its basis and purpose and any necessary findings, or will give other appropriate public notice of disposition of the proceeding.

(e) *Effective date of rules.* Except as provided in paragraphs (f) and (g) of this section, the effective date of any rule, or of the amendment, suspension, or repeal of any rule will be as specified in a notice published in the FEDERAL REGISTER, which date will be not less than thirty (30) days after the date of such publication unless an earlier effective date is specified by the Commission upon good cause found and published with the rule.

(f) *Effective date of rules and orders under Fair Packaging and Labeling Act.* The effective date of any rule or order under the Fair Packaging and Labeling Act will be as specified by order published in the FEDERAL REGISTER, but shall not be prior to the day following the last day on which objections may be filed under paragraph (g) of this section.

(g) *Objections and request for hearing under Fair Packaging and Labeling Act.* On or before the thirtieth (30th) day after the date of publication of an order in the FEDERAL REGISTER pursuant to paragraph (f) of this section, any person who will be adversely affected by the order if placed in effect may file objections thereto with the Secretary of the Commission, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Objections will be deemed sufficient to warrant the holding of a public hearing only: (1) If they establish that the objector will be adversely affected by the order; (2) if they specify with particularity the provisions of the order to which objection is taken; and (3) if they are supported by reasonable grounds which, if valid and factually supported, may be adequate to justify the relief sought. Anyone who files objections which are not deemed by the Commission sufficient to warrant the holding of a public hearing will be promptly notified of that determination. As soon as practicable after the time for filing objections has expired, the Commission will publish a notice in the FEDERAL REGISTER specifying those parts of the order which have been stayed by the filing of objections or, if no objections sufficient to warrant the holding of a hearing have been filed, stating that fact.

Subpart C—Economic Surveys, Investigations, and Reports

§ 1.21 Authority and purpose.

General and special economic surveys, investigations, and reports are made by the Bureau of Economics under the authority of the various laws which the Federal Trade Commission administers. The Commission may in any such survey or investigation invoke any or all of the compulsory processes authorized by law.

Subpart D—Administration of the Wool Products Labeling Act of 1939, Fur Products Labeling Act, Flammable Fabrics Act, and Textile Fiber Products Identification Act

§ 1.31 Administration.

The general administration of the Wool Products Labeling Act of 1939, Fur Products Labeling Act, Flammable Fabrics Act, and Textile Fiber Products Identification Act, and of the respective rules and regulations thereunder is carried out by the Bureau of Textiles and Furs. Any interested person may obtain copies of the several Acts and rules and regulations upon request to the Secretary of the Commission.

§ 1.32 Registered identification numbers.

Registered identification numbers are issued by the Commission under the provisions of Rule 4 of the rules and regulations under the Wool Products Labeling Act of 1939 (§ 300.4 of this chapter);

Rule 26 of the rules and regulations under the Fur Products Labeling Act (§ 301.26 of this chapter); and Rule 20 of the rules and regulations under the Textile Fiber Products Identification Act (§ 303.20 of this chapter). Such numbers are for use as required identification in lieu of the name of the person to whom the number has been issued in satisfying the identification requirement in labeling under the respective Acts. Any person marketing wool products, textile fiber products, or fur or fur products, in commerce, may file an application with the Secretary of the Commission for issuance of a registered identification number. The Commission will furnish application forms upon request. Numbers are issued when, upon examination of the application, the applicant is found to come within the terms of the applicable rules and regulations. Numbers are subject to revocation for cause or upon a change in business status or discontinuance of business. The identity of holders of registered identification numbers issued by the Commission is confidential.

§ 1.33 Continuing guaranties.

Continuing guaranties may be filed with the Commission under section 9 of the Wool Products Labeling Act of 1939 and Rule 33 of the rules and regulations thereunder (§ 300.33 of this chapter); section 10 of the Fur Products Labeling Act and Rule 48 of the rules and regulations thereunder (§ 301.48 of this chapter); section 8 of the Flammable Fabrics Act and Rule 10 of the rules and regulations thereunder (§ 302.10 of this chapter); and section 10 of the Textile Fiber Products Identification Act and Rule 38 of the rules and regulations thereunder (§ 303.38 of this chapter). Upon receipt of continuing guaranties duly executed according to form and substance as prescribed in the applicable rules and regulations, they are filed and made public. Necessary forms may be obtained from the Commission upon request.

§ 1.34 Inspections and counseling.

The Commission maintains a staff to carry on compliance inspection and industry counseling work among manufacturers and marketers of wool products, textile fiber products, and fur or fur products, as well as articles of wearing apparel and fabrics subject to the provisions of the Flammable Fabrics Act. Administrative action to effect correction of minor infractions on a voluntary basis is taken in those cases were such procedure is believed adequate to effect immediate compliance and protect the public interest.

Subpart E—Export Trade Associations

§ 1.41 Limited antitrust exemption.

The Export Trade Act authorizes the organization and operation of export trade associations, and extends to them certain limited exemptions from the Sherman Act and the Clayton Act. It also extends the jurisdiction of the Commission under the Federal Trade Commission Act to unfair methods of competition used in export trade against competitors engaged in export trade, even though the acts constituting such unfair methods are done without the territorial jurisdiction of the United States.

§ 1.42 Notice to Commission.

To obtain the exemptions afforded by the Act, an export trade association is required to file with the Commission, within thirty (30) days after its creation, a verified written statement setting forth the location of its offices and places of business, names, and addresses of its officers, stockholders, or members, and copies of its documents of incorporation or association. On the first day of January of each year thereafter, each association must file a like statement and, when required by the Commission to do so, must furnish to the Commission detailed information as to its organization, business, conduct, practices, management, and relation to other associations, corporations, partnerships, and individuals.

§ 1.43 Recommendations.

Whenever the Commission has reason to believe that an association has violated the prohibitions of section 2 of the Act, it may conduct an investigation. If, after investigation, it concludes that the law has been violated, it may make to such association recommendations for the readjustment of its business. If the association fails to comply with the recommendations, the Commission will refer its findings and recommendations to the Attorney General for appropriate action.

Subpart F—Trademark Cancellation Procedure

§ 1.51 Applications.

Applications for the institution of proceedings for the cancellation of registration of trade, service, or certification marks under the Trade-Mark Act of 1946 may be filed with the Secretary of the Commission. Such applications shall be in writing, signed by or in behalf of the applicant, and should identify the registration concerned and contain a short and simple statement of the facts constituting the alleged basis for cancellation, the name and address of the applicant, together with all relevant and available information. If, after consideration of the application, or upon its own initiative, the Commission concludes that cancellation of the mark may be warranted, it will institute a proceeding before the Commissioner of Patents for cancellation of the registration.

Subpart G—Injunctive and Condemnation Proceedings

§ 1.61 Injunctions pending Commission action.

In those cases arising under section 12 of the Federal Trade Commission Act where the Commission has reason to believe that it would be to the interest of the public, the Commission will apply to the courts for injunctive relief, pursuant to the authority granted in section 13 of the Act.

§ 1.62 Ancillary court orders pending review.

Where petition for review of an order to cease and desist has been filed in a U.S. court of appeals, the Commission may apply to the court for issuance of such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite.

§ 1.63 Injunctions: Wool, Fur, Flammable Fabrics, and Textile cases.

In those cases arising under the Wool Products Labeling Act of 1939, Fur Products Labeling Act, Flammable Fabrics Act, and Textile Fiber Products Identification Act, where it appears to the Commission that it would be to the public interest for it to do so, the Commission will apply to the courts for injunctive relief, pursuant to the authority granted in such Acts.

§ 1.64 Condemnation proceedings.

In those cases arising under the Wool Products Labeling Act of 1939, Fur Products Labeling Act, and especially the Flammable Fabrics Act where the public may be endangered, and where it appears to the Commission that the public interest requires such action, the Commission will apply to the courts for condemnation, pursuant to the authority granted in such Acts.

PART 2—NONADJUDICATIVE PROCEDURES

Subpart A—Investigations

Sec.
- 2.1 How initiated.
- 2.2 Request for Commission action.
- 2.3 Policy as to private controversies.
- 2.4 Investigational policy.
- 2.5 By whom conducted.
- 2.6 Notification of purpose.
- 2.7 Subpoenas in investigations.
- 2.8 Investigational hearings.
- 2.9 Rights of witnesses in investigations.
- 2.10 Depositions.
- 2.11 Orders requiring access.
- 2.12 Reports.
- 2.13 Noncompliance with investigational processes.
- 2.14 Disposition.

Subpart B—Informal Enforcement Procedure

- 2.21 Voluntary compliance.

Subpart C—Consent Order Procedure

- 2.31 Notice of proposed adjudicative proceeding.
- 2.32 Reply.
- 2.33 Agreement.
- 2.34 Disposition.

AUTHORITY: The provisions of this Part 2 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46.

Subpart A—Investigations

§ 2.1 How initiated.

Commission investigations and inquiries may be originated upon the request of the President, Congress, governmental agencies, or the Attorney General; upon referrals by the courts; upon complaint by members of the public; or by the Commission upon its own initiative. The Commission has delegated

to the Directors and Assistant Directors of the Bureaus of Deceptive Practices, Restraint of Trade, Textiles and Furs, and Industry Guidance, without power of redelegation, limited authority to initiate investigations.

§ 2.2 Request for Commission action.

(a) Any individual, partnership, corporation, association, or organization may request the Commission to institute an investigation in respect to any matter over which the Commission has jurisdiction.

(b) Such request should be in the form of a signed statement setting forth the alleged violation of law with such supporting information as is available, and the name and address of the person or persons complained of. No forms or formal procedures are required.

(c) The person making the request is not regarded as a party to any proceeding which might result from the investigation.

(d) It always has been and now is Commission policy not to publish or divulge the name of an applicant or complaining party, except as required by law.

§ 2.3 Policy as to private controversies.

The Commission acts only in the public interest and does not initiate an investigation or take other action when the alleged violation of law is merely a matter of private controversy and does not tend adversely to affect the public.

§ 2.4 Investigational policy.

The Commission encourages voluntary cooperation in its investigations. Where the public interest requires, however, the Commission may, in any matter under investigation, invoke any or all of the compulsory processes authorized by law.

§ 2.5 By whom conducted.

Inquiries and investigations are conducted under the various statutes administered by the Commission by Commission representatives designated and duly authorized for the purpose. Such representatives are "examiners" within the meaning of the Federal Trade Commission Act and are authorized to exercise and perform the duties of their office in accordance with the laws of the United States and the regulations of the Commission. Included among such duties is the administration of oaths and affirmations in any matter under investigation by the Commission.

§ 2.6 Notification of purpose.

Any person under investigation compelled or requested to furnish information or documentary evidence shall be advised with respect to the purpose and scope of the investigation.

§ 2.7 Subpoenas in investigations.

(a) The Commission or any member thereof may issue a subpoena, directing the person named therein to appear before a designated representative at a designated time and place to testify or to produce documentary evidence, or both, relating to any matter under investigation by the Commission. Any motion to limit or quash such subpoena shall be filed with the Secretary of the Commission within ten (10) days after service of the subpoena, or, if the return date is less than ten (10) days after service of the subpoena, within such other time as the Commission may allow.

(b) The Commission has delegated to the Directors and Assistant Directors of the Bureaus of Deceptive Practices, Restraint of Trade, Textiles and Furs, Industry Guidance, and Economics, without power of redelegation, the authority, for good cause shown, to extend the time prescribed for compliance with subpoenas issued during the investigation of any matter.

§ 2.8 Investigational hearings.

(a) Investigational hearings, as distinguished from hearings in adjudicative proceedings, may be conducted in the course of any investigation undertaken by the Commission, including rulemaking proceedings under Subpart B of Part 1 of this chapter, inquiries initiated for the purpose of determining whether or not a respondent is complying with an order of the Commission or the manner in which decrees in suits brought by the United States under the antitrust laws are being carried out, the development of facts in cases referred by the courts to the Commission as a master in chancery, and investigations made under section 5 of the Export Trade Act.

(b) Investigational hearings shall be presided over by the Commission, one or more of its members, or a duly designated representative, for the purpose of hearing the testimony of witnesses and receiving documents and other data relating to any subject under investigation; and the term "presiding official," as used in this part, means and applies to the Commission or any of its members or designated representative when so presiding. Such hearings shall be stenographically reported and a transcript thereof shall be made a part of the record of the investigation.

(c) Unless otherwise ordered by the Commission, investigational hearings shall not be public.

§ 2.9 Rights of witnesses in investigations.

(a) Any person compelled to submit data to the Commission or to testify in an investigational hearing shall be entitled to retain a copy or, on payment of lawfully prescribed costs, procure a copy of any document submitted by him and of his own testimony as stenographically reported, except that in a nonpublic hearing the witness may for good cause be limited to inspection of the official transcript of his testimony.

(b) Any witness compelled to appear in person in an investigational hearing may be accompanied, represented, and advised by counsel as follows:

(1) Counsel for a witness may advise his client, in confidence, and upon the initiative of either himself or the witness, with respect to any question asked of his client, and if the witness refuses to answer a question, then counsel may briefly state on the record if he has advised his client not to answer the question and the legal grounds for such refusal.

(2) Where it is claimed that the testimony or other evidence sought from a witness is outside the scope of the investigation, or that the witness is privileged (for reasons other than self-incrimination, as to which immunity from prosecution or penalty is provided by section 9 of the Federal Trade Commission Act) to refuse to answer a question or to produce other evidence, counsel for the witness may object on the record to the question or requirement and may state briefly and precisely the grounds therefor.

(3) Any objections made under the rules in this part will be treated as continuing objections and preserved throughout the further course of the hearing without the necessity for repeating them as to any similar line of inquiry. Cumulative objections are unnecessary. Repetition of the grounds for any objection will not be allowed.

(4) Counsel for a witness may not, for any purpose or to any extent not allowed by subparagraphs (1) and (2) of this paragraph, interrupt the examination of the witness by making any objections or statements on the record. Motions challenging the Commission's authority to conduct the investigation or the sufficiency or legality of the subpoena must have been addressed to the Commission in advance of the hearing. Copies of such motions may be filed with the presiding official as part of the record of the investigation, but no arguments in support thereof will be allowed at the hearing.

(5) Following completion of the examination of a witness, counsel for the witness may on the record request the presiding official to permit the witness to clarify any of his answers which may need clarification in order that they may not be left equivocal or incomplete on the record. The granting or denial of such request shall be within the sole discretion of the presiding official.

(6) The presiding official shall take all necessary action to regulate the course of the hearing to avoid delay and to prevent or restrain disorderly, dilatory, obstructionist, or contumacious conduct, or contemptuous language. Such official shall, for reasons stated on the record, immediately report to the Commission any instances where an attorney has refused to comply with his directions, or has been guilty of disorderly, dilatory, obstructionist, or contumacious conduct, or contemptuous language in the course of the hearing. The Commission, acting pursuant to § 4.1(d) of this chapter, will thereupon take such further action, if any, as the circumstances warrant, including suspension or disbarment of the attorney from further practice before the Commission or exclusion from further participation in the particular investigation.

§ 2.10 Depositions.

The Commission may order testimony to be taken by deposition in any investigation at any stage of such investigation.

Such depositions may be taken before any person having power to administer oaths who may be designated by the Commission. The testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence as provided in §§ 2.7 through 2.9.

§ 2.11 Orders requiring access.

(a) The Commission may issue an order requiring any corporation being investigated to grant access to files for the purpose of examination and the right to copy any documentary evidence. Any motion to limit or quash such an order shall be filed with the Secretary of the Commission within ten (10) days after service of the order, or, if the date for compliance is less than ten (10) days after service of the order, within such other time as the Commission may allow.

(b) The Commission has delegated to the Directors and Assistant Directors of the Bureaus of Deceptive Practices, Restraint of Trade, Textiles and Furs, Industry Guidance, and Economics, without power of redelegation, the authority, for good cause shown, to extend the time prescribed for compliance with orders requiring access issued during the investigation of any matter.

§ 2.12 Reports.

(a) The Commission may issue an order requiring a corporation to file a report or answers in writing to specific questions relating to any matter under investigation.

(b) The Commission has delegated to the Directors and Assistant Directors of the Bureaus of Deceptive Practices, Restraint of Trade, Textiles and Furs, Industry Guidance, and Economics, without power of redelegation, the authority, for good cause shown, to extend the time prescribed for compliance with orders requiring reports or answers to questions issued during the investigation of any matter.

§ 2.13 Noncompliance with investigational processes.

In cases of failure to comply with Commission investigational processes, appropriate action may be initiated by the Commission or the Attorney General, including actions for enforcement, forfeiture, or penalties or criminal actions.

§ 2.14 Disposition.

(a) When a matter is not subject to informal nonadjudicative disposition pursuant to § 2.21 and investigation indicates that corrective action is warranted, further proceedings may be instituted pursuant to the provisions of Subpart C of this part and the provisions of Part 3 of this chapter: *Provided, however,* That any individual, partnership, or corporation being investigated may be afforded an opportunity to submit through the Division of Consent Orders a proposal for disposition of the matter in the form of an executed consent order agreement complying with the requirements of § 2.33, for consideration by the Commission in connection with a proposed complaint submitted simultaneously by the Commission's staff.

(b) When the facts disclosed by an investigation indicate that corrective action is not necessary or warranted in the public interest, the investigational file will be closed. The matter may be further investigated at any time if circumstances so warrant.

(c) The Commission has delegated to the Directors and Assistant Directors of the Bureaus of Deceptive Practices, Restraint of Trade, Textiles and Furs, and Industry Guidance, without power of redelegation, limited authority to close investigations. The closing action of a Bureau Director or Assistant Bureau Director does not become effective until the files have been sent to the Secretary of the Commission and no member of the Commission has objected within five (5) working days after receiving the notice to close from the Secretary.

Subpart B—Informal Enforcement Procedure

§ 2.21 Voluntary compliance.

(a) The Commission, when it has information indicating that a person or persons may be engaging in a practice which may involve violation of a law administered by it, and if it deems the public interest will be fully safeguarded thereby may afford such person or persons the opportunity to have a matter disposed of on an informal nonadjudicatory basis.

(b) In determining whether the public interest will be fully safeguarded through such informal administrative action, the Commission will consider: (1) The nature and gravity of the alleged violation; (2) the prior record and good faith of the parties involved; and (3) other factors, including, where appropriate, adequate assurance of voluntary compliance.

Subpart C—Consent Order Procedure

§ 2.31 Notice of proposed adjudicative proceeding.

Where time, the nature of the proceeding and the public interest permit, the Commission may notify a person, partnership, or corporation of its intention to institute a formal proceeding against such party, charging him with having violated one or more of the statutes administered by the Commission. Such notice will be accompanied by a form of complaint which the Commission intends to issue, together with a proposed form of order.

§ 2.32 Reply.

Within ten (10) days after service of such notice the party named in the proposed complaint may file with the Secretary of the Commission a reply stating whether or not he is interested in having the proceeding disposed of by the entry of a consent order. If the reply is in the negative or if no reply is filed within the time provided, the complaint will be issued and served forthwith. If the reply is in the affirmative, the party served will be afforded an opportunity to execute an appropriate agreement for consideration by the Commission. The party may appear personally or he may be represented by counsel who has entered an appearance under § 4.1 of this chapter.

§ 2.33 Agreement.

Every agreement shall contain, in addition to an appropriate order, an admission of all jurisdictional facts and express waivers of further procedural steps, of the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, and of all rights to seek judicial review or otherwise to challenge or contest the validity of the order. The agreement shall also contain provisions that the complaint may be used in construing the terms of the order; that the order shall have the same force and effect and shall become final and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders; that the agreement shall not became a part of the official record of the proceeding unless and until it is accepted by the Commission; and that the Commission may withdraw its acceptance of the agreement if, within thirty (30) days after such acceptance, comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate. In addition, the agreement may contain a statement that the signing thereof is for settlement purposes only and does not constitute an admission by any party that the law has been violated as alleged in the complaint.

§ 2.34 Disposition.

(a) Within thirty (30) days after the filing of an affirmative reply under § 2.32, an executed agreement conforming with the requirements of § 2.33 may be submitted to the Commission through the Division of Consent Orders.

(b) Upon receiving such an agreement, the Commission may: (1) Accept it; (2) reject it and issue its complaint and set the matter down for adjudication in regular course; or (3) take such other action as it may deem appropriate. If an agreement is accepted, the Commission will place the order contained therein on the public record for a period of thirty (30) days, during which it will receive and consider any comments or views concerning the order that may be filed by any interested persons. Within ten (10) days thereafter, the Commission may either withdraw its acceptance of the agreement and so notify the other party, in which event it will take such other action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances require), and decision, in disposition of the proceeding.

(c) If an agreement is not so submitted, or if at any time it appears to the Division of Consent Orders that the execution of a satisfactory agreement is

unlikely, the Division of Consent Orders, after notification to the proposed respondents of its intention to do so, shall submit the matter to the Commission, together with any written offers of settlement which the proposed respondents desire to have the Commission consider. The Commission will thereupon take such action as may be appropriate.

(d) After a complaint has been issued, the consent order procedure described in this part will not be available. However, in exceptional and unusual circumstances, the Commission may, upon request and for good cause shown, withdraw a matter from adjudication for the purpose of negotiating a settlement by the entry of a consent order. In such event, the Commission will treat the matter as being in a nonadjudicative status and may consult with and receive advice from its staff members and others. This rule will not preclude the settlement of the case by regular adjudicatory process through the filing of an admission answer or submission of the case to the hearing examiner on a stipulation of facts and an agreed order.

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

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3.71 Authority.
3.72 Reopening.

AUTHORITY: The provisions of this Part 3 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46.

Subpart A—Scope of Rules; Nature of Adjudicative Proceedings

§ 3.1 Scope of the rules in this part.

The rules in this part govern procedure in adjudicative proceedings. It is the policy of the Commission that, to the extent practicable and consistent with requirements of law, such proceedings shall be conducted expeditiously. In the conduct of such proceedings the hearing examiner and counsel for all parties shall make every effort at each stage of a proceeding to avoid delay.

§ 3.2 Nature of adjudicative proceedings.

Adjudicative proceedings are those formal proceedings conducted under one or more of the statutes administered by the Commission which are required by statute to be determined on the record after opportunity for an agency hearing. The term includes hearings upon objections to orders relating to the promulgation, amendment, or repeal of rules under sections 4, 5, and 6 of the Fair Packaging and Labeling Act. It does not include other proceedings such as negotiations for the entry of consent orders; investigational hearings as distinguished from proceedings after the issuance of a complaint; hearings for the purpose of inquiring into the manner and extent of compliance with outstanding orders; proceedings for the promulgation of industry guides or trade regulation rules; proceedings for fixing quantity limits under section 2(a) of the Clayton Act; investigations under section 5 of the Export Trade Act; rulemaking proceedings under the Fair Packaging and Labeling Act up to the time when the Commission determines under § 1.16(g) of this chapter that objections sufficient to warrant the holding of a public hearing have been filed; or the promulgation of substantive rules and regulations, determinations of classes of products exempted from statutory requirements, the establishment of name guides, or inspections and industry counseling, under sections 4(d) and 6(a) of the Wool Products Labeling Act of 1939, sections 7, 8(b), and 8(c) of the Fur Products Labeling Act, sections 5(c) and 5(d) of the Flammable Fabrics Act, and section 7(c), 7(d), and 12(b) of the Textile Fiber Products Identification Act.

Subpart B—Pleadings

§ 3.11 Commencement of proceedings.

(a) *Complaint.* Except as provided in § 3.13, an adjudicative proceeding is commenced by the issuance and service of a complaint by the Commission.

(b) *Form of complaint.* The Commission's complaint shall contain the following:

(1) Recital of the legal authority and jurisdiction for institution of the proceeding, with specific designation of the statutory provisions alleged to have been violated;

(2) A clear and concise factual statement sufficient to inform each respondent with reasonable definiteness of the type of acts or practices alleged to be in violation of the law;

(3) Where practical, a form of order which the Commission has reason to believe should issue if the facts are found to be as alleged in the complaint; and

(4) Notice of the time and place for hearing, the time to be at least thirty (30) days after service of the complaint.

(c) *Motion for more definite statement.* Where a reasonable showing is made by a respondent that he cannot frame a responsive answer based on the allegations contained in the complaint, he may move for a more definite statement of the charges against him before filing an answer. Such a motion shall be filed within ten (10) days after service of the complaint and shall point out the defects complained of and the details desired.

§ 3.12 Answer.

(a) *Time for filing.* A respondent shall have thirty (30) days after service of the complaint within which to file an answer thereto: *Provided, however,* That the filing of a motion for a more definite statement of the charges shall alter this period of time as follows, unless a different time is fixed by the hearing examiner: (1) If the motion is denied, the answer shall be filed within ten (10) days after service of the order of denial or thirty (30) days after service of the complaint, whichever is later; (2) if the motion is granted, in whole or in part, the more definite statement of the charges shall be filed within ten (10) days after service of the order granting the motion and the answer shall be filed within ten (10) days after service of the more definite statement of the charges.

(b) *Content of answer.* An answer shall conform to the following:

(1) *If allegations of complaint are contested.* An answer in which the allegations of a complaint are contested shall contain:

(i) A concise statement of the facts constituting each ground of defense;

(ii) Specific admission, denial, or explanation of each fact alleged in the complaint or, if the respondent is without knowledge thereof, a statement to that effect. Allegations of a complaint not thus answered shall be deemed to have been admitted.

(2) *If allegations of complaint are admitted.* If the respondent elects not to contest the allegations of fact set forth in the complaint, his answer shall consist of a statement that he admits all of the material allegations to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint, and together with the complaint will provide a record basis on which the hearing examiner shall file an initial decision containing appropriate

findings and conclusions and an appropriate order disposing of the proceeding. In such an answer, the respondent may, however, reserve the right to submit proposed findings and conclusions under § 3.46 and the right to appeal the initial decision to the Commission under § 3.52.

(c) *Default.* Failure of the respondent to file an answer within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the complaint and to authorize the hearing examiner, without further notice to the respondent, to find the facts to be as alleged in the complaint and to enter an initial decision containing such findings, appropriate conclusions, and order.

§ 3.13 Adjudicative hearing on issues arising in rulemaking proceedings under the Fair Packaging and Labeling Act.

(a) *Notice of hearing.* When the Commission, acting under § 1.16(g) of this chapter, determines that objections which have been filed are sufficient to warrant the holding of an adjudicative hearing in rulemaking proceedings under the Fair Packaging and Labeling Act, or when the Commission otherwise determines that the holding of such a hearing would be in the public interest, a hearing will be held before a hearing examiner for the purpose of receiving evidence relevant and material to the issues raised by such objections or other issues specified by the Commission. In such case the Commission will publish a notice in the FEDERAL REGISTER containing a statement of:

(1) The provisions of the rule or order to which objections have been filed;

(2) The issues raised by the objections or the issues on which the Commission wishes to receive evidence;

(3) The time and place for hearing, the time to be at least thirty (30) days after publication of the notice; and

(4) The time within which, and the conditions under which, any person who petitioned for issuance, amendment, or repeal of the rule or order, or any person who filed objections sufficient to warrant the holding of the hearing, or any other interested person, may file notice of intention to participate in the proceeding.

(b) *Parties.* Any person who petitions for issuance, amendment, or repeal of a rule or order, and any person who files objections sufficient to warrant the holding of a hearing, and who files timely notice of intention to participate, shall be regarded as a party and shall be individually served with any pleadings filed in the proceeding. Upon written application to the hearing examiner and a showing of good cause, any interested person may be designated by the hearing examiner as a party.

§ 3.14 Intervention.

Any individual, partnership, unincorporated association, or corporation desiring to intervene in an adjudicative proceeding shall make written application in the form of a motion setting forth the basis therefor. Such application shall have attached to it a certificate showing service thereof upon each party to the proceeding in accordance with the provisions of § 4.4(b) of this chapter. A similar certificate shall be attached to the answer filed by any party, other than counsel in support of the complaint, showing service of such answer upon the applicant. The hearing examiner or the Commission may be order permit the intervention to such extent and upon such terms as are provided by law or as otherwise may be deemed proper.

§ 3.15 Amendments and supplemental pleadings.

(a) *Amendments*—(1) *By leave.* If and whenever determination of a controversy on the merits will be facilitated thereby, the hearing examiner may, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, allow appropriate amendments to pleadings or notice of hearing: *Provided, however,* That a motion for amendment of a complaint or notice may be allowed by the hearing examiner only if the amendment is reasonably within the scope of the original complaint or notice. Motions for other amendments of complaints or notices shall be certified to the Commission.

(2) *Conformance to evidence.* When issues not raised by the pleadings or notice of hearing but reasonably within the scope of the original complaint or notice of hearing are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings or notice of hearing; and such amendments of the pleadings or notice as may be necessary to make them conform to the evidence and to raise such issues shall be allowed at any time.

(b) *Supplemental pleadings.* The hearing examiner may, upon reasonable notice and such terms as are just, permit service of a supplemental pleading or notice setting forth transactions, occurrences, or events which have happened since the date of the pleading or notice sought to be supplemented and which are relevant to any of the issues involved.

Subpart C—Prehearing Procedures; Motions; Interlocutory Appeals

§ 3.21 Prehearing conferences.

(a) *When appropriate.* The hearing examiner in any case may, and upon motion of any party or where it appears probable that the hearing will extend for more than five (5) days he shall, direct counsel for all parties to meet with him for a conference to consider any or all of the following:

(1) Simplification and clarification of the issues;

(2) Necessity or desirability of amendments to pleadings, subject, however, to the provisions of § 3.15;

(3) Stipulations, admissions of fact and of the contents and authenticity of documents;

(4) Expedition in the discovery and presentation of evidence, including, but not limited to, restriction of the number of expert, economic, or technical witnesses;

(5) Matters of which official notice will be taken and matters which may be resolved by reliance upon trade regulation rules pursuant to § 1.12(c) of this chapter; and

(6) Such other matters as may aid in the orderly and expeditious disposition of the proceeding, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

(b) *Subpoenas.* Prehearing conferences may be convened for the purpose of accepting returns on subpoenas duces tecum issued pursuant to the provisions of § 3.34(b).

(c) *Reporting.* Prehearing conferences, in the discretion of the hearing examiner, need not be stenographically reported as provided in § 3.44(b), and whether reported or not shall not be public unless all parties so agree.

(d) *Order.* The hearing examiner shall enter in the record an order which recites the results of the conference. Such order shall include the hearing examiner's rulings upon matters considered at the conference, together with appropriate directions to the parties. The hearing examiner's order shall control the subsequent course of the proceeding, unless modified to prevent manifest injustice.

§ 3.22 Motions.

(a) *Presentation and disposition.* During the time a proceeding is before a hearing examiner, all motions therein, except those filed under § 3.42(g), shall be addressed to the hearing examiner, and if within his authority shall be ruled upon by him. Any motion upon which the hearing examiner has no authority to rule shall be certified by him to the Commission with his recommendation. All written motions shall be filed with the Secretary of the Commission and all motions addressed to the Commission shall be in writing.

(b) *Content.* All written motions shall state the particular order, ruling, or action desired and the grounds therefor.

(c) *Answers.* Within ten (10) days after service of any written motion, or within such longer or shorter time as may be designated by the hearing examiner or the Commission, the opposing party shall answer or shall be deemed to have consented to the granting of the relief asked for in the motion. The moving party shall have no right to reply, except as permitted by the hearing examiner or the Commission.

(d) *Motions for extensions.* As a matter of discretion, the hearing examiner or the Commission may waive the requirements of this section as to motions for extensions of time, and may rule upon such motions ex parte.

(e) *Rulings on motions for dismissal.* When a motion to dismiss a complaint or for other relief is granted with the result that the proceeding before the hearing examiner is terminated, the hearing examiner shall file an initial decision in accordance with the provisions of § 3.51. If such a motion is

granted as to all charges of the complaint in regard to some, but not all, of the respondents, or is granted as to any part of the charges in regard to any or all of the respondents, the hearing examiner shall enter his ruling on the record and take it into account in his initial decision. When a moton to dismiss is made at the close of the evidence offered in support of the complaint based upon an alleged failure to establish a prima facie case, the hearing examiner may, if he so elects, defer ruling thereon until the close of the case for the reception of evidence.

§ 3.23 Interlocutory appeals.

(a) *Request for permission.* Except as provided in §§ 3.35(b) and 3.42(d), interlocutory appeals from rulings of a hearing examiner may be filed only after permission is first obtained from the Commission. Any request for such permission shall be in writing, not to exceed ten (10) pages in length, and shall be filed within five (5) days after notice of the ruling complained of. Permission will not be granted except upon a showing that the ruling complained of involves substantial rights and will materially affect the final decision, and that a determination of its correctness before conclusion of the hearing is essential to serve the interests of justice.

(b) *Form of appeal.* Interlocutory appeals shall be in the form of a brief, not to exceed thirty (30) pages in length, and shall be filed within five (5) days after notice of permission to file. Answer thereto may be filed within five (5) days after service of the appeal brief. The appeal shall not operate to suspend the hearing unless otherwise ordered by the hearing examiner or the Commission.

Subpart D—Discovery; Compulsory Process

§ 3.31 Admissions as to facts and documents.

(a) At any time after answer has been filed or after publication of notice of an adjudicative hearing in a rulemaking proceeding under § 3.13, any party may serve upon any other party a written request for the admission of the genuineness of any relevant documents described therein, or the admission of the truth of any relevant matters of fact set forth in such request. A copy of any such request shall be filed with the Secretary of the Commission. Copies of the documents described shall be delivered with the request unless copies have already been furnished or are known to be and in the request are stated as being in the possession of the other party.

(b) Each requested admission shall be deemed made unless, within ten (10) days after service of the request, or within such shorter or longer time as the hearing examiner may allow, the party so served serves upon the party making the request, with a copy to the Secretary of the Commission, either (1) a sworn statement denying specifically the relevant matters of which an admission is requested or setting forth in detail the reasons why he can neither truthfully admit nor deny them, or (2) written objections on the ground that some or all of the matters involved are privileged or irrelevant or that the request is otherwise improper in whole or in part, together with a copy of a request to the hearing examiner for a hearing on the objections at the earliest practicable time. Answers on matters to which such objections are made may be deferred until the objections are determined, but if written objections are made to only a part of a request, the remainder of the request shall be answered within the period designated.

(c) Admissions obtained pursuant to this procedure may be used in evidence to the same extent and subject to the same objections as other admissions.

§ 3.32 Orders requiring access.

Application for issuance of an order requiring any corporation being proceeded against to grant access to files for the purpose of examination and the right to copy documentary evidence shall be made in writing to the hearing examiner, and shall specify as exactly as possible the files to which access is requested, showing the general relevancy of the files and the reasonableness of the scope of the proposed order. Any motion to limit or quash an order requiring such access shall be filed within ten (10) days after service thereof, or, if the date for compliance is less than ten (10) days after service of the order, within such other time as the hearing examiner may allow.

§ 3.33 Depositions.

(a) *When justified.* At any time during the course of a proceeding, whether or not issue has been joined, the hearing examiner, in his discretion, may order the taking of a deposition and the production of documents by the deponent. Such order may be entered upon a showing that the deposition is necessary for purposes of discovery, and that such discovery could not be accomplished by voluntary methods. Such order may also be entered in extraordinary circumstances to preserve relevant evidence upon a showing that there is substantial reason to believe that such evidence could not be presented through a witness at the hearing. Insofar as consistent with considerations of fairness and the requirements of due process and the rules in this part, a deposition should not be ordered when it appears that it will result in undue burden to any other party or in undue delay of the proceeding, and it should not be ordered to obtain evidence from a person relating to matters with regard to which he is expected to testify at the hearing, or to obtain evidence which there is reason to believe can be presented at a hearing without the need for deposition, or to circumvent the orderly presentation of evidence at the hearing. Depositions may be taken orally or upon written interrogatories and cross-interrogatories before any person having power to administer oaths who may be designated by the hearing examiner.

(b) *Form of application.* Any party desiring to take a deposition shall make application in writing to the hearing examiner, setting forth the justification therefor, the time when, the place where, and the name and address of the officer before whom the deposition is desired. The application shall include also the name and address of each proposed deponent and the subject matter concerning which each is expected to depose, and shall be accompanied by an application for any subpoenas desired.

(c) *Ruling on application.* Such order as the hearing examiner may issue for taking a deposition shall state the circumstances warranting its being taken, and shall designate the time when, the place where, and the officer before whom it will be taken, and shall show the name and address of each person who is expected to appear and the subject matter with regard to which each is expected to depose. The time designated shall allow not less than five (5) days from date of service of the order when the deposition is to be taken within the United States, and not less than fifteen (15) days when the deposition is to be taken elsewhere.

(d) *Modification of ruling.* After an order is served for taking a deposition, upon motion timely made by any party or by the person to be deposed and for good cause shown, the hearing examiner may order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the order, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that trade secrets or names of customers need not be disclosed; or the hearing examiner may make any other order which justice requires to protect the party or deponent from annoyance, embarrassment, or oppression, or to prevent the unnecessary disclosure or publication of information contrary to the public interest and beyond the requirements of justice in the particular proceeding.

(e) *Taking of deposition.* Each deponent shall be duly sworn, and any adverse party shall have the right to cross-examine. Objections to questions or documents shall be in short form, stating the grounds of objections relied upon. The questions propounded and the answers thereto, together with all objections made (but not including argument or debate), shall be reduced to writing and certified by the officer before whom the deposition was taken. Thereafter, the officer shall forward the deposition and one (1) copy thereof to the party at whose instance the deposition was taken, and shall forward one (1) copy thereof to the representative of each other party who was present or represented at the taking of the deposition.

(f) *Deposition to preserve evidence.* (1) A deposition taken to preserve relevant evidence which any party intends to offer in evidence may be corrected in the manner provided by § 3.44(c). Any

such deposition shall, in addition to the other required procedures, be read to or by the deponent and subscribed by him if the party intending to offer it in evidence so notifies the officer before whom the deposition was taken.

(2) Subject to appropriate rulings on such objections to the questions and answers as were noted at the time the deposition was taken or as may be valid when it is offered, a deposition taken to preserve relevant evidence, or any part thereof, may be used or offered in evidence as against any party who was present or represented at the taking of the deposition or who had due notice thereof, if the hearing examiner finds: (i) That the deponent is dead; or (ii) that the deponent is out of the United States or is located at such a distance that his attendance would be impractical, unless it appears that the absence of the deponent was procured by the party offering the deposition; or (iii) that the deponent is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (iv) that the party offering the deposition has been unable to procure the attendance of the deponent by subpoena; or (v) that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

§ 3.34 Subpoenas.

(a) *Subpoenas ad testificandum.* Application for issuance of a subpoena requiring a person to appear and depose or testify (other than as provided in §§ 3.36 and 3.37) at the taking of a deposition or at an adjudicative hearing shall be made to the hearing examiner.

(b) *Subpoenas duces tecum.* (1) Application for issuance of a subpoena requiring a person to appear and depose or testify and to produce specified documents (other than as provided in §§ 3.36 and 3.37) at the taking of a deposition, or at a prehearing conference, or at an adjudicative hearing shall be made in writing to the hearing examiner, and shall specify as exactly as possible the documents to be produced, showing the general relevancy of the documents and the reasonableness of the scope of the subpoena. Any motion to limit or quash such subpoena shall be filed within ten (10) days after service thereof, or if the return date is less than ten (10) days after service of the subpoena, within such other time as the hearing examiner may allow.

(2) Subpoenas duces tecum may be used by any party for purposes of discovery or for obtaining documents for use in evidence, or for both purposes. When used for discovery purposes, a subpoena may require any party to produce and permit the inspection and copying of nonprivileged documents, papers, books, or other physical exhibits which constitute or contain evidence relevant to the subject matter involved and which are in the possession, custody, or control of such party.[2]

§ 3.35 Rulings on applications for compulsory process; appeals.

(a) *Rulings.* Applications for orders requiring the granting of access pursuant to the provisions of § 3.32, applications for orders requiring the taking of depositions pursuant to the provisions of § 3.33, and applications for the issuance of subpoenas pursuant to the provisions of § 3.34 may be made ex parte and, if so made, such applications and the rulings thereon shall remain ex parte unless otherwise ordered by the hearing examiner or the Commission. Such applications shall be ruled upon by the hearing examiner or, in the event the hearing examiner is not available, by the Director of Hearing Examiners or such other hearing examiner as the Director may designate.

(b) *Appeals.* Appeals to the Commission from rulings on objections to requests for admissions pursuant to the provisions of § 3.31, or from rulings denying applications within the scope of paragraph (a) of this section, or from rulings on motions to limit or quash process issued pursuant to such applications will be entertained by the Commission only upon a showing that the ruling complained of involves substantial rights and will materially affect the final decision, and that a determination of its correctness before conclusion of the hearing is essential to serve the interests of justice. Such appeals shall be made on the record and shall be in the form of a brief not to exceed thirty (30) pages in length and shall be filed within five (5) days after notice of the ruling complained of. Appeals from denials of ex parte applications shall have annexed thereto copies of the applications and rulings involved. Answer to any such appeal may be filed within five (5) days after service of the appeal brief. The appeal shall not operate to suspend the hearing unless otherwise ordered by the hearing examiner or the Commission.

§ 3.36 Applications for confidential records of the Commission and appearance of Commission employees.

(a) *Form.* An application by a party other than counsel representing the Commission for the production of documents, papers, books, physical exhibits, or other material in the confidential records of the Commission or for the disclosure of confidential information, other than material or information to which the party is entitled by law, or for the issuance of a subpoena requiring the production of confidential records of the Commission by a Commission official or employee, shall be in the form of a motion filed in accordance with the provisions of § 3.22(a).

(b) *Content.* The motion shall specify as exactly as possible the material to be produced, the nature of the information to be disclosed, or the expected testimony of the Commission official or employee, and shall contain a statement showing the general relevancy of the material, information, or testimony, and the reasonableness of the scope of the application, together with a showing that such material, information, or testimony is not available from other sources by voluntary methods or through other provisions of the rules in this chapter.

(c) *Disposition.* The hearing examiner shall certify the motion to the Commission with his recommendation in accordance with the provisions of § 3.22(a). The Commission will consider and act upon such motion, having due regard for the production of the material, the public interest. To the extent that the motion is granted, the Commission will provide such terms and conditions for hte production of the material, the disclosure of the information, or the appearance of the Commission official or employee as may appear necessary and appropriate for the protection of the public interest.

(d) *Exceptions.* An application for the issuance of a subpoena requiring the production of confidential information or material to which a party is entitled by law shall be governed by § 3.34. Nonconfidential information or material may be obtained upon request at the principal office of the Commission as provided in §§ 4.8 and 4.9 of this chapter and Commission counsel is authorized to make available any such information or material for purposes of inspection and copying.

§ 3.37 Applications for appearance of other government officials.

(a) *Form.* An application by any party for the issuance of a subpoena returnable by an official or employee of any governmental agency in an official capacity, other than an official or employee of the Federal Trade Commission, shall be made in the form of a motion filed in accordance with the provisions of § 3.22(a).

(b) *Content and disposition.* The motion shall contain a statement of the necessity for and the relevancy of the expected testimony or the specified material and shall be certified by the hearing examiner with his recommendation to the Commission in accordance with the provisions of § 3.22(a).

Subpart E—Hearings

§ 3.41 General rules.

(a) *Public hearings.* All hearings in adjudicative proceedings shall be public unless otherwise ordered by the Commission.

(b) *Expedition.* Hearings shall proceed with all reasonable expedition, and, insofar as practicable, shall be held at one place and shall continue without suspension until concluded. Consistent with the requirements of expedition, the hearing examiner shall have the authority to order brief intervals of the sort normally involved in judicial proceedings and, in unusual and exceptional

[2] Orders for the production of documents, provided for under former rules of practice, are no longer used.

circumstances for good cause stated on the record, he shall have the authority to order hearings at more than one place and to order brief intervals to permit discovery necessarily deferred during the prehearing procedures. Otherwise, intervals shall not be ordered by the hearing examiner except as directed by the Commission upon his certificate of necessity therefor.

(c) *Rights of parties.* Every party, except intervenors, whose rights are determined under § 3.14, shall have the right of due notice, cross-examination, presentation of evidence, objection, motion, argument, and all other rights essential to a fair hearing.

(d) *Adverse witnesses.* An adverse party, or an officer, agent, or employee thereof, and any witness who appears to be hostile, unwilling, or evasive, may be interrogated by leading questions and may also be contradicted and impeached by the party calling him.

(e) *Participation in adjudicative packaging and labeling hearings.* At adjudicative hearings under the Fair Packaging and Labeling Act, any party or any interested person designated as a party pursuant to § 3.13, or his representative, may be sworn as a witness and heard.

§ 3.42 Presiding officials.

(a) *Who presides.* Hearings in adjudicative proceedings shall be presided over by a duly qualified hearing examiner or by the Commission or one or more members of the Commission sitting as hearing examiners; and the term "hearing examiner" as used in this part means and applies to the Commission or any of its members when so sitting.

(b) *How assigned.* The presiding hearing examiner shall be designated by the Director of Hearing Examiners or, when the Commission or one or more of its members preside, by the Commission, who shall notify the parties of the hearing examiner designated.

(c) *Powers and duties.* Hearing examiners shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings, and to maintain order. They shall have all powers necessary to that end, including the following:

(1) To administer oaths and affirmations;

(2) To issue subpoenas and orders requiring access;

(3) To take or to cause depositions to be taken;

(4) To rule upon offers of proof and receive evidence;

(5) To regulate the course of the hearings and the conduct of the parties and their counsel therein;

(6) To hold conferences for settlement, simplification of the issues, or any other proper purpose;

(7) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adjudicative proceeding, including motions to open defaults;

(8) To make and file initial decisions;

(9) To certify questions to the Commission for its determination; and

(10) To take any action authorized by the rules in this part or in conformance with the provisions of the Administrative Procedure Act as restated and incorporated in Title 5, U.S.C.

(d) *Suspension of attorneys by hearing examiner.* The hearing examiner shall have the authority, for good cause stated on the record, to suspend or bar from participation in a particular proceeding any attorney who shall refuse to comply with his directions, or who shall be guilty of disorderly, dilatory, obstructionist, or contumacious conduct, or contemptuous language in the course of such proceeding. Any attorney so suspended or barred shall have the right of appeal to the Commission. Such appeals shall be in the form of a brief not to exceed thirty (30) pages in length and shall be filed within five (5) days after notice of the hearing examiner's action. Answer thereto may be filed within five (5) days after service of the appeal brief. The appeal shall not operate to suspend the hearing unless otherwise ordered by the hearing examiner or the Commission; in the event the hearing is not suspended, the attorney may continue to participate therein pending disposition of the appeal.

(e) *Substitution of hearing examiner.* In the event of the substitution of a new hearing examiner for the one originally designated, any motion predicated upon such substitution shall be made within five (5) days thereafter.

(f) *Interference.* In the performance of their adjudicative functions, hearing examiners shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for the Commission, and all direction by the Commission to hearing examiners concerning any adjudicative proceeding shall appear in and be made a part of the record.

(g) *Disqualification of hearing examiner.* (1) When a hearing examiner deems himself disqualified to preside in a particular proceeding, he shall withdraw therefrom by notice on the record and shall notify the Director of Hearing Examiners of such withdrawal.

(2) Whenever any party shall deem the hearing examiner for any reason to be disqualified to preside, or to continue to preside, in a particular proceeding, such party may file with the Commission a motion to disqualify and remove the hearing examiner, such motion to be supported by affidavits setting forth the alleged grounds for disqualification. Copy of the motion shall be served by the Commission on the hearing examiner whose removal is sought, and the hearing examiner shall have ten (10) days from such service within which to reply. If the hearing examiner does not disqualify himself within ten (10) days, then the Commission shall promptly determine the validity of the grounds alleged, either directly or on the report of another hearing examiner appointed to conduct a hearing for that purpose.

(h) *Failure to comply with hearing examiner's directions.* Any party who refuses or fails to comply with a lawfully issued order or direction of a hearing examiner may be considered to be in contempt of the Commission. The circumstances of any such neglect, refusal, or failure, together with a recommendation for appropriate action, shall be promptly certified by the hearing examiner to the Commission. The Commission may make such orders in regard thereto as the circumstances may warrant.

§ 3.43 Evidence.

(a) *Burden of proof.* Counsel representing the Commission, or any person who has filed objections sufficient to warrant the holding of an adjudicative hearing pursuant to § 3.13, shall have the burden of proof, but the proponent of any factual proposition shall be required to sustain the burden of proof with respect thereto.

(b) *Admissibility.* Relevant, material, and reliable evidence shall be admitted. Irrelevant, immaterial, unreliable, and unduly repetitious evidence shall be excluded. Immaterial or irrelevant parts of an admissible document shall be segregated and excluded so far as practicable.

(c) *Information obtained in investigations.* Any documents, papers, books, physical exhibits, or other materials or information obtained by the Commission under any of its powers may be disclosed by counsel representing the Commission when necessary in connection with adjudicative proceedings and may be offered in evidence by counsel representing the Commission in any such proceeding.

(d) *Official notice.* When any decision of a hearing examiner or of the Commission rests, in whole or in part, upon the taking of official notice of a material fact not appearing in evidence of record, opportunity to disprove such noticed fact shall be granted any party making timely motion therefor.

(e) *Objections.* Objections to evidence shall timely and briefly state the grounds relied upon, but the transcript shall not include argument or debate thereon except as ordered by the hearing examiner. Rulings on all objections shall appear in the record.

(f) *Exceptions.* Formal exception to an adverse ruling is not required.

(g) *Excluded evidence.* When an objection to a question propounded to a witness is sustained, the examining attorney may make a specific offer to what he expects to prove by, the answer of the witness, or the hearing examiner may, in his discretion, receive and report the evidence in full. Rejected exhibits, adequately marked for identification, shall be retained in the record so as to be available for consideration by any reviewing authority.

§ 3.44 Record.

(a) *Reporting and transcription.* Hearings shall be stenographically reported and transcribed by the official reporter of the Commission under the supervision of the hearing examiner, and the original transcript shall be a part of the record and the sole official transcript. Copies of transcripts are available from the reporter at rates not to exceed

the maximum rates fixed by contract between the Commission and the reporter.

(b) *Corrections.* Corrections of the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. Corrections ordered by the hearing examiner or agreed to in a written stipulation signed by all counsel and parties not represented by counsel, and approved by the hearing examiner, shall be included in the record, and such stipulations, except to the extent they are capricious or without substance, shall be approved by the hearing examiner. Corrections shall not be ordered by the hearing examiner except upon notice and opportunity for the hearing of objections. Such corrections shall be made by the official reporter by furnishing substitute type pages, under the usual certificate of the reporter, for insertion in the official record. The original uncorrected pages shall be retained in the files of the Commission.

§ 3.45 In camera orders.

(a) *Definition.* Except as hereinafter provided, documents and testimony made subject to in camera orders are not made a part of the public record, but are kept confidential, and only respondents, their counsel, authorized Commission personnel, and court personnel concerned with judicial review shall have access thereto. The right of the hearing examiner, the Commission, and reviewing courts to disclose in camera data to the extent necessary for the proper disposition of the proceeding is specifically reserved.

(b) *In camera treatment of documents and testimony.* Hearing examiners shall have authority, but only in those unusual and exceptional circumstances when good cause is found on the record (see Commission's interlocutory decision in H. P. Hood & Sons, Inc., Docket 7709, Mar. 14, 1961, 58 F.T.C. 1184), to order documents or oral testimony offered in evidence, whether admitted or rejected, to be placed in camera. The order shall specify the date on which in camera treatment expires and shall include: (1) A description of the documents and testimony; (2) a full statement of the reasons for granting in camera treatment; and (3) a full statement of the reasons for the date on which in camera treatment expires. Any party desiring, for the preparation and presentation of the case, to disclose in camera documents or testimony to experts, consultants, prospective witnesses, or witnesses, shall make application to the hearing examiner setting forth the justification therefor. The hearing examiner, in granting such application for good cause found, shall enter an order protecting the rights of the affected parties and preventing unnecessary disclosure of information. In camera documents and the transcript of testimony subject to an in camera order shall be segregated from the public record and filed in a sealed envelope, bearing the title and docket number of the proceeding, the notation "In Camera Record under § 3.45," and the date on which in camera treatment expires.

(c) *Release of in camera information.* In camera documents and testimony shall constitute a part of the confidential records of the Commission and shall be subject to the provisions of § 4.11 of this chapter. However, the Commission, on its own motion without notice to any affected party, may make in camera documents and testimony available for inspection, copying, or use by any other governmental agency.

(d) *Briefing of in camera information.* In the submittal of proposed findings, briefs, or other papers, counsel for all parties shall make a good faith attempt to refrain from disclosing the specific details of in camera documents and testimony. This shall not preclude references in such proposed findings, briefs, or other papers to such documents or testimony including generalized statements based on their contents. To the extent that counsel consider it necessary to include specific details of in camera data in their presentations, such data shall be incorporated in separate proposed findings, briefs, or other papers marked "confidential," which shall be placed in camera and become a part of the in camera record.

§ 3.46 Proposed findings, conclusions, and order.

At the close of the reception of evidence, or within a reasonable time thereafter fixed by the hearing examiner, any party may file with the Secretary of the Commission for consideration of the hearing examiner proposed findings of fact, conclusions of law, and rule or order, together with reasons therefor and briefs in support thereof. Such proposals shall be in writing, shall be served upon all parties, and shall contain adequate references to the record and authorities relied on. The record shall show the hearing examiner's ruling on each proposed finding and conclusion, except when his order disposing of the proceeding otherwise informs the parties of the action taken by him thereon.

Subpart F—Decision

§ 3.51 Initial decision.

(a) *When filed and when effective.* Within ninety (90) days after completion of the reception of evidence in a proceeding (or within thirty (30) days in cases of (1) default under § 3.12(c), or of (2) waiver by the parties of the filing of proposed findings of fact, conclusions of law, and rule or order provided for in § 3.46) or within such further time as the Commission may allow by order entered in the record based upon the hearing examiner's written request, the hearing examiner shall file an initial decision which shall become the decision of the Commission thirty (30) days after service thereof upon the parties, unless prior thereto (i) an appeal is perfected under § 3.52; (ii) the Commission by order stays the effective date of the decision; or (iii) the Commission issues an order placing the case on its own docket for review: *Provided, however,* That the failure of an appellant to file an appeal brief within the time prescribed by § 3.52 shall extend for ten (10) days the period within which the Commission may by order stay the effective date of the initial decision or place the case on its own docket for review.

(b) *Content.* The initial decision shall include a statement of (1) findings (with specific page references to principal supporting items of evidence in the record) and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and (2) an appropriate rule or order. The initial decision shall be based upon a consideration of the whole record and supported by reliable, probative, and substantial evidence.

(c) *By whom made.* The initial decision shall be made and filed by the hearing examiner who presided over the hearings, except when he shall have become unavailable to the Commission.

(d) *Reopening of proceeding by hearing examiner; termination of jurisdiction.* (1) At any time prior to the filing of his initial decision, a hearing examiner may reopen the proceeding for the reception of further evidence.

(2) Except for the correction of clerical errors, the jurisdiction of the hearing examiner is terminated upon the filing of his initial decision, unless and until the proceeding is remanded to him by the Commission.

§ 3.52 Appeal from initial decision.

(a) *Who may file; notice of intention.* Any party to a proceeding may appeal an initial decision to the Commission: *Provided,* That within ten (10) days after completion of service of the initial decision such party files a notice of intention to appeal.

(b) *Appeal brief.* The appeal shall be in the form of a brief, filed within thirty (30) days after completion of service of the initial decision, and shall contain, in the order indicated, the following:

(1) A subject index of the matter in the brief, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto;

(2) A concise statement of the case;

(3) A specification of the questions intended to be urged;

(4) The argument presenting clearly the points of fact and law relied upon in support of the position taken on each question, with specific page references to the record and the legal or other material relied upon; and

(5) A proposed form of rule or order for the Commission's consideration in lieu of the rule or order contained in the initial decision.

(c) *Answering brief.* Within thirty (30) days after service of the brief upon a party, such party may file an answering brief which shall also contain a subject index, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto. It shall present clearly the points of fact and law relied upon in support of the position taken on each question, with specific

page references to the record and legal or other material relied upon.

(d) *Reply brief.* Reply briefs shall be limited to rebuttal of matters in answering briefs and will be received if filed and served within seven (7) days after receipt of the answering brief or the day preceding the oral argument, whichever comes first. No answer to a reply brief will be permitted.

(e) *Length of briefs.* No brief in excess of sixty (60) pages, including any appendices, shall be filed without leave of the Commission.

(f) *Oral argument.* Oral arguments will be held in all cases on appeal to the Commission, unless the Commission otherwise orders upon its own initiative or upon request of any party made at the time of filing his brief. Oral arguments before the Commission shall be reported stenographically, unless otherwise ordered. The purpose of oral argument is to emphasize and clarify the written argument appearing in the briefs and to answer questions. Reading at length from the briefs or other texts is not favored.

§ 3.53 Review of initial decision in absence of appeal.

An order by the Commission placing a case on its own docket for review will set forth the scope of such review and the issues which will be considered and will make provision for the filing of briefs if deemed appropriate by the Commission.

§ 3.54 Decision on appeal or review.

(a) Upon appeal from or review of an initial decision, the Commission will consider such parts of the record as are cited or as may be necessary to resolve the issues presented and, in addition, will, to the extent necessary or desirable, exercise all the powers which it could have exercised if it had made the initial decision.

(b) In rendering its decision, the Commission will adopt, modify, or set aside the findings, conclusions, and rule or order contained in the initial decision, and will include in the decision a statement of the reasons or basis for its action and any concurring and dissenting opinions.

(c) In those cases where the Commission believes that it should have further information or additional views of the parties as to the form and content of the rule or order to be issued, the Commission, in its discretion, may withhold final action pending the receipt of such additional information or views.

(d) The order of the Commission disposing of adjudicative hearings under the Fair Packaging and Labeling Act will be published in the FEDERAL REGISTER and, if it contains a rule or regulation, will specify the effective date thereof, which will not be prior to the ninetieth (90th) day after its publication unless the Commission finds that emergency conditions exist necessitating an earlier effective date, in which event the Commission will specify in the order its findings as to such conditions.

§ 3.55 Reconsideration.

Within twenty (20) days after completion of service of a Commission decision, any party may file with the Commission a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the Commission. Any party desiring to oppose such a petition shall file an answer thereto within ten (10) days after service upon him of the petition. The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Commission.

Subpart G—Reports of Compliance

§ 3.61 Reports of compliance.

(a) In every proceeding in which the Commission has issued an order to cease and desist, each respondent named in such order shall file with the Commission, within sixty (60) days after service thereof, or within such other time as may be provided by the order, a report in writing, signed by the respondent, setting forth in detail the manner and form of his compliance with the order, and shall thereafter file with the Commission such further signed, written reports of compliance as it may require. Reports of compliance shall be under oath if so requested. Where the order prohibits the use of a false advertisement of a food, drug, device, or cosmetic which may be injurious to health because of results from its use under the conditions prescribed in the advertisement, or under such conditions as are customary or usual, or if the use of such advertisement is with intent to defraud or mislead, or where the order was issued under the Flammable Fabrics Act, or in any other case where the circumstances so warrant, the order may provide for an interim report stating whether and how respondents intend to comply to be filed within ten (10) days after service of the order. When court review of an order of the Commission is pending, the respondent shall file only such reports of compliance as the court may require. Thereafter, the time for filing report of compliance shall begin to run de novo from the final judicial determination, except that if no petition for certiorari has been filed following affirmance of the order of the Commission by a court of appeals, the compliance report shall be due the day following the date on which the time expires for the filing of such petition. The Commission will review such reports of compliance and will advise each respondent whether the actions set forth therein evidence compliance with the Commission's order.

(b) The Commission has delegated to the Directors and Assistant Directors of the Bureaus of Deceptive Practices, Restraint of Trade, and Textiles and Furs, without power of redelegation, the authority, for good cause shown, to extend the time within which reports of compliance with orders to cease and desist may be filed.

(c) Any respondent subject to a Commission order may request advice from the Commission as to whether a proposed course of action, if pursued by it, will constitute compliance with such order. The request for advice should be submitted in writing to the Secretary of the Commission and should include full and complete information regarding the proposed course of action. On the basis of the facts submitted, as well as other information available to the Commission, the Commission will inform the respondent whether or not the proposed course of action, if pursued, would constitute compliance with its order.

(d) The Commission may at any time reconsider its approval of any report of compliance or any advice given under this section and, where the public interest requires, rescind or revoke its prior approval or advice. In such event the respondent will be given notice of the Commission's intent to revoke or rescind and will be given an opportunity to submit its views to the Commission. The Commission will not proceed against a respondent for violation of an order with respect to any action which was taken in good faith reliance upon the Commission's approval or advice under this section, where all relevant facts were fully, completely, and accurately presented to the Commission and where such action was promptly discontinued upon notification of rescission or revocation of the Commission's approval.

Subpart H—Reopening of Proceedings

§ 3.71 Authority.

Except while pending in a U.S. court of appeals on a petition for review (after the transcript of the record has been filed) or in the U.S. Supreme Court, a proceeding may be reopened by the Commission at any time. Such a reopening may be either on the Commission's own initiative or on the request of any party to the proceeding.

§ 3.72 Reopening.

(a) *Before statutory review.* At any time prior to the expiration of the time allowed for filing a petition for review or prior to the filing of the transcript of the record of a proceeding in a U.S. court of appeals pursuant to a petition for review, the Commission may upon its own initiative and without prior notice to the parties reopen the proceeding and enter a new decision modifying or setting aside the whole or any part of the findings as to the facts, conclusions, rule, order, or opinion issued by the Commission in such proceeding.

(b) *After decision has become final.* (1) Whenever the Commission is of the opinion that changed conditions of fact or law or the public interest may require that a Commission decision containing a rule or order which has become effec-

tive, or an order to cease and desist which has become final by reason of court affirmance or expiration of the statutory period for court review without a petition for review having been filed, or a Commission decision containing an order dismissing a proceeding, should be altered, modified, or set aside in whole or in part, the Commission will serve upon each person subject to such decision (in the case of proceedings instituted under § 3.13, such service may be by publication in the FEDERAL REGISTER) an order to show cause, stating the changes it proposes to make in the decision and the reasons they are deemed necessary. Within thirty (30) days after service of such order to show cause, any person served may file an answer thereto. Any person not responding to the order within the time allowed may be deemed to have consented to the proposed changes.

(2) Whenever any person subject to a decision containing a rule or order which has become effective, or an order to cease and desist which has become final, is of the opinion that changed conditions of fact or law require that said rule or order be altered, modified, or set aside, or that the public interest so requires, such person may file with the Commission a petition requesting a reopening of the proceeding for that purpose. The petition shall state the changes desired, the grounds therefor, and shall include, when available, such supporting evidence and argument as will in the absence of a contest provide the basis for a Commission decision on the petition. Within thirty (30) days after service of such a petition, the Director of the appropriate bureau of the Commission shall file an answer.

(3) Whenever an order to show cause or petition to reopen is not opposed, or if opposed but the pleadings do not raise issues of fact to be resolved, the Commission, in its discretion, may decide the matter on the order to show cause or petition and answer thereto, or it may serve upon the parties (in the case of proceedings instituted under § 3.13, such service may be by publication in the FEDERAL REGISTER) a notice of hearing, setting forth the date when the cause will be heard. In such a case, the hearing will be limited to the filing of briefs and may include oral argument when deemed necessary by the Commission. When the pleadings raise substantial factual issues, the Commission will direct such hearings as it deems appropriate, including hearings for the receipt of evidence by it or by a hearing examiner. Unless otherwise ordered and insofar as practicable, hearings before a hearing examiner to receive evidence shall be conducted in accordance with Subparts B, C, D, and E of Part 3 of this chapter. Upon conclusion of hearings before a hearing examiner, the record and the hearing examiner's recommendations shall be certified to the Commission for final disposition of the matter.

PART 4—MISCELLANEOUS RULES

Sec.
4.1 Appearances.
4.2 Requirements as to form and filing of documents other than correspondence.
4.3 Time.
4.4 Service.
4.5 Fees.
4.6 Cooperation with other agencies.
4.7 Ex parte communications.
4.8 Availability of public information.
4.9 Public records.
4.10 Confidential information.
4.11 Release of confidential information.

AUTHORITY: The provisions of this Part 4 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46.

§ 4.1 Appearances.

(a) *Qualifications.* (1) Members of the bar of a Federal court or of the highest court of any State or Territory of the United States are eligible to practice before the Commission.

(2) Any individual or member of a partnership involved in any proceeding or investigation may appear on behalf of himself or of such partnership upon adequate identification. A corporation or association may be represented by a bona fide officer thereof upon a showing of adequate authorization.

(b) *Restrictions as to former members and employees.* (1) Except as specifically authorized by the Commission, no former member or employee of the Commission shall appear as attorney or counsel or otherwise participate through any form of professional consultation or assistance in any proceeding or investigation, formal or informal, which was pending in any manner in the Commission while such former member or employee served with the Commission.

(2) In cases to which subparagraph (1) of this paragraph is applicable, a former member or employee of the Commission may request authorization to appear or participate in a proceeding or investigation by filing with the Secretary of the Commission a written application therefor, disclosing the following relevant information: (i) The nature and extent of the former member's or employee's participation in, knowledge of, and connection with the proceeding or investigation during his service with the Commission; (ii) whether the files of the proceeding or investigation came to his attention; (iii) whether he was employed in the same bureau, division, or administrative unit in which the proceeding or investigation is or has been pending; (iv) whether he worked directly or in close association with Commission personnel assigned to the proceeding or investigation; (v) whether during his service with the Commission he was engaged in any matter concerning the individual, company, or industry involved in the proceeding or investigation.

(3) The requested authorization will not be given in any case (i) where it appears that the former member or employee during his service with the Commission participated personally and substantially in the proceeding or investigation, or (ii) where the application is filed within one (1) year after termination of the former member's or employee's service with the Commission and it appears that within a period of one (1) year prior to the termination of his service the former member or employee was officially responsible for the proceeding or investigation. In other cases, authorization will be given where the Commission is satisfied that the appearance or participation will not involve any actual or apparent impropriety.

(4) In any case in which a former member or employee of the Commission is prohibited under this section from appearing or participating in a Commission proceeding or investigation, any partner or legal or business associate of such former member or employee shall likewise be so prohibited, unless: (i) Such partner or legal or business associate files with the Commission an affidavit that in connection with the matter the services of the disqualified former member or employee will not be utilized in any respect and the matter will not be discussed with him in any manner, and that the disqualified former member or employee shall not share, directly or indirectly, in any fees or retainers received for services rendered in connection with such proceeding or investigation; (ii) the disqualified former member or employee files an affidavit stating that he will not participate in the matter in any manner, and that he will not discuss it with any person involved in the matter; and (iii) upon the basis of such affidavits, the Commission finds that the appearance or participation by the partner or associate would not involve any actual or apparent impropriety.

(c) *Notice of appearance.* Any attorney desiring to appear before the Commission or a hearing examiner on behalf of a person or party shall file with the Secretary of the Commission a written notice of his appearance, stating the basis of his eligibility under this section. No other application shall be required for admission to practice, and no register of attorneys will be maintained.

(d) *Standards of conduct; disbarment.* (1) All attorneys practicing before the Commission shall conform to the standards of ethical conduct required or practitioners in the courts of the United States and by the bars of which the attorneys are members.

(2) If for good cause shown, the Commission shall be of the opinion that any attorney is not conforming to such standards, or that he has been otherwise guilty of conduct warranting disciplinary action, the Commission may issue an order requiring such attorney to show cause why he should not be suspended or disbarred from practice before the Commission. The alleged offender shall be granted due opportunity to be heard in his own defense and may be represented by counsel. Thereafter, if warranted by the facts, the Commission may issue against the attorney an order of reprimand, suspension, or disbarment.

§ 4.2 Requirements as to form and filing of documents other than correspondence.

(a) *Filing.* Except as otherwise provided, all documents submitted to the Commission shall be addressed to and filed with the Secretary of the Commission: *Provided, however,* That in any instance informal applications or requests may be submitted directly to the official in charge of any office of the Commission or to the Director or Assistant Director of the appropriate bureau or office.

(b) *Title.* Documents shall clearly show the file or docket number and title of the action in connection with which they are filed.

(c) *Copies.* Twenty-five (25) copies of a notice of intention to appeal and of all briefs before the Commission shall be filed; twenty (20) copies of all other documents shall be filed, with the exception of notices of appearances and reports of compliance, as to which only two (2) copies of each need be filed.

(d) *Form.* (1) Documents filed with the Secretary of the Commission, other than briefs in support of appeals from initial decisions, shall be printed, typewritten, or otherwise processed in permanent form and on good unglazed paper.

(2) Briefs in support of appeals from initial decisions shall be printed or otherwise reproduced in equally clear and legible form.

(3) If printed, documents shall be on good unglazed paper seven (7) inches by ten (10) inches. The type shall not be less than ten (10) point adequately leaded. Citations and quotations shall not be less than ten (10) point single leaded, and footnotes shall not be less than eight (8) point single leaded. The printed line shall not exceed four and three-quarter (4¾) inches in length.

(4) If typewritten, documents shall be on paper not less than eight (8) inches nor more than eight and one-half (8½) inches by not less than ten and one-half (10½) inches nor more than eleven (11) inches.

(5) All documents must be bound on the left side. The left margin of each page must be at least one and one-half (1½) inches and the right margin at least one (1) inch.

(e) *Signature.* (1) One (1) copy of each document filed shall be signed by an attorney of record for the party or, in the case of parties not represented by counsel, by the party himself, or by a partner if a partnership, or by an officer of the party if it is a corporation or an unincorporated association.

(2) Signing a document constitutes a representation by the signer that he has read it, that to the best of his knowledge, information, and belief, the statements made in it are true, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may go forward as though the document had not been filed.

§ 4.3 Time.

(a) *Computation.* Computation of any period of time prescribed or allowed by the rules in this chapter, by order of the Commission or a hearing examiner, or by any applicable statute, shall begin with the first business day following that on which the act, event, or development initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or national holiday, or other day on which the office of the Commission is closed, the period shall run until the end of the next following business day. When such period of time, with the intervening Saturdays, Sundays, and national holidays counted, is seven (7) days or less, each of the Saturdays, Sundays, and such holidays shall be excluded from the computation. When such period of time, with the intervening Saturdays, Sundays, and national holidays counted, exceeds seven (7) days, each of the Saturdays, Sundays, and such holidays shall be included in the computation.

(b) *Extensions.* For good cause shown, the hearing examiner may, in any proceeding before him, extend any time limit prescribed or allowed by the rules in this chapter or by order of the Commission or the hearing examiner, except those governing the filing of interlocutory appeals and initial decisions and those expressly requiring Commission action. Except as otherwise provided by law, the Commission, for good cause shown, may extend any time limit prescribed by the rules in this chapter or by order of the Commission or a hearing examiner: *Provided, however,* That in a proceeding pending before a hearing examiner, any motion on which he may properly rule shall be made to him.

§ 4.4 Service.

(a) *By the Commission.* (1) Service of complaints, orders, and other processes of the Commission may be effected as follows:

(i) *By registered mail.* A copy of the document shall be addressed to the person, partnership, corporation, or unincorporated association to be served at his or its residence or principal office or place of business, registered, and mailed; or

(ii) *By delivery to an individual.* A copy thereof may be delivered to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation or unincorporated association to be served; or

(iii) *By delivery to an address.* A copy thereof may be left at the principal office or place of business of the person, partnership, corporation, or unincorporated association, or it may be left at the residence of the person or of a member of the partnership or of an executive officer or director of the corporation, or unincorporated association to be served.

(2) Documents other than complaints, orders, and other processes of the Commission, the service of which starts the running of prescribed periods of time provided or allowed by any of the rules or by any order of the Commission or a hearing examiner for the performance of some act or the occurrence of some event or development, shall be served in the same manner as complaints, orders, and other processes of the Commission.

(3) All other documents may be similarly served, or they may be served by certified or ordinary first-class mail.

(b) *By other parties.* Service of documents by parties other than the Commission shall be by delivering copies thereof as follows: Upon the Commission, by personal delivery or delivery by first-class mail to the office of the Secretary of the Commission; upon any other party, by delivery to the party. If the party is an individual or partnership, delivery shall be to such individual or a member of the partnership; if a corporation or unincorporated association, to an officer or agent authorized to accept service of process therefor. Delivery to a party other than the Commission means handing to the individual, partner, officer, or agent; leaving at his office with a person in charge thereof, or, if there is no one in charge or if the office is closed or if he has no office, leaving at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; or sending by mail.

(c) *Proof of service.* (1) When service is by mail, registered, certified, or ordinary first-class, it is complete upon delivery of the document by the post office.

(2) When a party is represented by a person qualified pursuant to § 4.1(a), and such representative has filed a notice of appearance as required by § 4.1 (c), any notice, order, or other process or communication required or permitted to be served upon a person or party shall be served upon such representative in addition to any other service specifically required by statute.

(3) When a party has appeared in a proceeding by a partner, officer, or attorney, service upon such partner, officer, or attorney of any document other than a complaint, order, or other process of the Commission shall be deemed service upon the party.

(4) The return post office receipt for a document registered and mailed, or the verified return or certificate by the person serving the document by personal delivery or ordinary mail, setting forth the manner of said service, shall be proof of the service of the document.

§ 4.5 Fees.

(a) *Deponents and witnesses.* Any person compelled to appear in person in response to subpoena shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

(b) *Presiding officers.* Officers before whom depositions are taken shall be entitled to the same fees as are paid for like services in the courts of the United States.

(c) *Responsibility.* The fees and mileage referred to in this section shall be paid by the party at whose instance deponents or witnesses appear.

§ 4.6 Cooperation with other agencies.

It is the policy of the Commission to cooperate with other governmental agencies to avoid unnecessary overlapping or duplication of regulatory functions.

§ 4.7 Ex parte communications.

(a) In an adjudicative proceeding, no person not employed by the Commission, and no employee or agent of the Commission who performs any investigative or prosecuting function in connection with the proceeding, shall communicate ex parte, directly or indirectly, with any member of the Commission, or the hearing examiner, or any employee involved in the decisional process in such proceeding, with respect to the merits of that or a factually related proceeding.

(b) In an adjudicative proceeding, no member of the Commission, hearing examiner, or employee involved in the decisional process of such proceeding, shall communicate ex parte, directly or indirectly, with any person not employed by the Commission, or with any employee or agent of the Commission who performs any investigative or prosecuting function in connection with the proceeding, with respect to the merits of that or a factually related proceeding.

(c) In an adjudicative proceeding, if an ex parte communication is made to or by any member of the Commission, the hearing examiner, or employee involved in the decisional process, in violation of paragraph (a) or (b) of this section, such member, hearing examiner, or employee, as the case may be, shall promptly inform the Commission of the substance of such communication and the circumstances thereof. The Commission will take such action thereon as may be considered appropriate.

(d) A request for information with respect to the status of an adjudicative proceeding shall not be deemed to be an ex parte communication prohibited by this section.

§ 4.8 Availability of public information.

(a) All of the public records of the Commission are available for inspection at the principal office of the Commission, and copies of some of those records are available at the field offices and the textile and fur field stations, on each business day from 8:30 a.m. to 5 p.m. As indicated in § 4.9, certain of those records are published periodically in official reports under the title "Federal Trade Commission Decisions"; copies of others may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at regularly established fees, and copies of others may be obtained without charge upon request to the Secretary of the Commission. Copies of all other identifiable public records of the Commission may be obtained pursuant to the provisions of paragraph (b) of this section.

(b) Reasonable facilities for copying and for producing copies are provided at each of the offices of the Commission. Subject to appropriate limitations and the availability of facilities, any person may copy without charge any of the public records available for inspection at each of those offices, or copies of any such records will be provided by the Commission to any person upon request in person and payment of the prescribed fees, or copies of any identifiable public records of the Commission will be provided by the Commission to any person upon written request. All written requests for copies of identifiable public records should be addressed to the Secretary of the Commission, should specify as clearly and accurately as reasonably possible the records desired, and should include the prescribed fees. In any instance the Commission, the Secretary of the Commission, or the official in charge of each office may restrict the use of the Commission's facilities to providing only one copy of any public record, or may refuse to permit the use of those facilities for copying or producing copies of records which are published or are publicly available at places other than the offices of the Commission, or may supply to any person only one copy of any record when copies thereof may be obtained from the Commission without charge.

(c) Except to the extent that copies are provided by the Commission without charge, copies of its public documentary records will be provided by the Commission to any person pursuant to the provisions of paragraph (b) of this section at the following fees (and, when appropriate, a reasonable search fee):

Mechanical reproduction:
- Pages up to 9" x 12"—30 cents each.
- Pages 12" x 18" (two 9" x 12" units)—40 cents each.
- Pages 18" x 24" (four 9" x 12" units)—60 cents each.

Photographic film and prints:
- Approximately 8" x 10½" (single weight paper)—$1.90 each (including negative).
- Extra prints—50 cents each.

Certifications:
- $2 additional for each certification.

Copies of other public records provided by the Commission will be at such fees as the Commission may determine in each instance fairly represent the costs involved. Copies of its public records will be provided by the Commission to other governmental agencies at no charge for small quantities, or with appropriate adjustments or charges when warranted by the circumstances.

§ 4.9 Public records.

(a) The records of the Commission are available for public inspection and copying except to the extent that they are exempted from public availability by the provisions of § 4.10. Records which are routinely available for public inspection and copying pursuant to the provisions of § 4.8, generally referred to in the rules in this chapter as the public records of the Commission, are listed insofar as practicable in a current index maintained at the principal office of the Commission. They include those referred to in the other paragraphs of this section, which also indicate where copies of the specified records may be obtained.

(b) Annually, subsequent to the end of the fiscal year, the Commission makes a report to Congress summarizing its work during the year. Such reports are available for inspection at each of the offices of the Commission and copies thereof may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(c) The Commission currently publishes in the FEDERAL REGISTER for the guidance of the public, descriptions of its organization and statements of its rules, procedures, policies, and administrative interpretations. In some instances, with the approval of the Director of the Federal Register, material and information which is otherwise readily available to the public with respect to such descriptions and statements is incorporated in the FEDERAL REGISTER by reference. Included in the material published by the Commission in the FEDERAL REGISTER, copies of which may be obtained without charge upon request to the Secretary of the Commission, are:

(1) Descriptions of its organization, including the places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, and obtain decisions;

(2) Statements of its general procedures and policies, its nonadjudicative procedures, its rules of practice for adjudicative proceedings, and its miscellaneous rules, including descriptions of the nature and requirements of all formal and informal procedures available;

(3) Cease and desist orders and orders of divestiture, industry guides, texts or digests of selected advisory opinions, and other administrative interpretations;

(4) Notices of proposed rulemaking proceedings and rules and orders issued in such proceedings; and

(5) Every amendment, revision, or repeal of any of the foregoing.

(d) The Commission publishes periodically in official reports under the title "Federal Trade Commission Decisions": the initial decisions of hearing examiners in adjudicative proceedings; the decisions of the Commission in adjudicative proceedings, including statements of the reasons or basis for its action and any concurring and dissenting opinions; significant orders and opinions on interlocutory matters in adjudicative proceedings; the decisions of the Commission in proceedings disposed of by the entry of consent orders to cease and desist; and texts or digests of selected advisory opinions.

(e) Included in the public records of the Commission which are routinely available for inspection and copying pursuant to the provisions of § 4.8, in addition to those referred to elsewhere in this section, are:

(1) A current index of opinions, orders, statements of policy and interpretations, staff manuals and instructions that affect any member of the public, and other public records of the Commission;

(2) A current record of the final votes of each member of the Commission in every agency proceeding;

(3) The petitions, applications, pleadings, briefs, and other records filed by the Commission with the courts in connection with adjudicative, injunctive, and

condemnation proceedings, and opinions and orders of the courts and the Commission in disposition thereof;

(4) The pleadings, motions, certifications and orders, and the transcripts of hearings, including public conferences, testimony, oral arguments, and other material made a part thereof, and exhibits and all documents received in evidence or made a part of the record in adjudicative proceedings (except testimony and exhibits placed in camera);

(5) Petitions filed with the Secretary of the Commission for the promulgation or issuance, amendment, or repeal of industry guides and of rules or regulations within the scope of § 1.11 of this chapter, including petitions for exemptions;

(6) Transcripts of hearings and written statements filed in connection therewith in all industry guides and rulemaking proceedings;

(7) Continuing guaranties filed under the Wool, Fur, Textile, and Flammable Fabrics Acts;

(8) Published reports by the staff or by the Commission on economic surveys and investigations of general interest;

(9) Registration statements and annual reports filed with the Commission by export trade associations, and bulletins, pamphlets, and reports with respect to such associations released by the Commission;

(10) Agreements containing orders to cease and desist after acceptance by the Commission;

(11) Releases from time to time through the Commission's Office of Information supplying additional information concerning the activities of the Commission, copies of which may be obtained without charge upon request to the Office of Information or to the Secretary of the Commission; and

(12) Reprints of the principal laws under which the Commission exercises enforcement or administrative responsibilities, which may be obtained without charge upon request to the Secretary of the Commission.

(f) Reports of compliance which are approved by the Commission as evidencing compliance with its orders to cease and desist pursuant to the provisions of § 3.61 of this chapter, and written assurances of voluntary compliance which are accepted under § 2.21 of this chapter (excluding matters disposed of under § 1.34 of this chapter) are available at the principal office of the Commission for inspection and copying, unless at the time a report of compliance or an assurance of voluntary compliance was filed the party filing it requested that it be classified as confidential, showing justification therefor, and the Commission, with due regard to statutory restrictions, its rules, and the public interest, granted the request.

§ 4.10 Confidential information.

(a) The records of the Commission which are exempt from availability for public inspection and copying pursuant to the provisions of § 4.8 include:

(1) Records related solely to the internal personnel rules and practices of the Commission;

(2) Trade secrets and names of customers and commercial or financial information obtained from any person which is customarily privileged or which is expressly received by the Commission in confidence, including the identities of holders of registered identification numbers issued by the Commission pursuant to § 1.32 of this chapter, and reports of compliance and assurances of voluntary compliance classified as confidential pursuant to § 4.9(f);

(3) Official minutes of Commission meetings;

(4) Interagency or intraagency memorandums or letters which would not be available by law to a private party in litigation with the Commission;

(5) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(6) Investigatory files compiled for law enforcement purposes except to the extent available by law to a private party, and testimony, exhibits, and other material placed in camera in adjudicative proceedings pursuant to § 3.45 of this chapter; and

(7) Such other files and records of the Commission as may be exempted from disclosure by statute or by Executive order.

(b) To the extent required to prevent clearly unwarranted invasions of personal privacy, the Commission may delete, with written explanation thereof, identifying details when it makes any of its records publicly available.

(c) All records, files, documents, memorandums, correspondence, exhibits, and information of whatever nature coming into the possession or within the knowledge of the Commission or any of its officers or employees in the discharge of their official duties which fall within the scope of the exemptions from public availability in paragraph (a) and the deletions in paragraph (b) of this section constitute the confidential records of the Commission. All other records and information of the Commission not clearly identifiable as public records pursuant to the provisions of § 4.9 and not listed in the current index of the public records of the Commission also constitute a part of its confidential records unless and until otherwise directed by the Commission. Except to the extent that the disclosure of information contained in the confidential records of the Commission is specifically authorized by the rules in this chapter or by the Commission, or to the extent that its use may become necessary in connection with adjudicative proceedings, it may be disclosed, divulged, or produced for inspection or copying only under the procedure set forth in § 4.11.

(d) Under section 10 of the Federal Trade Commission Act, any officer or employee of the Commission who shall make public any information obtained by the Commission and contained in its confidential records, without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and upon conviction thereof, may be punished by a fine not exceeding five thousand dollars ($5,000), or by imprisonment not exceeding 1 year, or by fine and imprisonment, in the discretion of the court.

§ 4.11 Release of confidential information.

(a) Upon good cause shown, the Commission may by order direct that certain records, files, papers, or information contained in its confidential records be made public or disclosed to a particular applicant. To the extent that copies of such records are provided by the Commission, the fees prescribed in § 4.8(c) will apply.

(b) Application by a member of the public for such disclosure shall be in writing, under oath, setting forth the interest of the applicant in the subject matter; a description of the specific information, files, documents, or other material, inspection of which is requested; whether copies are desired; and the purpose for which the information or material, or copies, will be used if the application is granted. Upon receipt of such an application the Commission will take action thereon, having due regard to statutory restrictions, its rules, and the public interest.

(c) In the event that information contained in the confidential records of the Commission is desired for inspection, copying, or use by another governmental agency, a request therefor may be made by the administrative head of the agency. Such request shall be in writing and shall describe the information or material desired, its relevancy to the work and function of the agency, and, if the production of documents or records or the taking of copies thereof is asked, the use which is intended to be made of them. The Commission will consider and act upon such requests, having due regard for statutory restrictions, its rules, and the public interest.

(d) Any officer or employee of the Commission who is served with a subpoena requiring the production of any document or record or the disclosure of any information which is designated in § 4.10 as a part of the confidential records of the Commission shall promptly advise the Commission of the service of such subpoena, the nature of the documents or information sought, and all relevant facts and circumstances. The Commission will thereupon enter such order or give such instructions as it shall deem advisable. If the officer or employee so served has not received instructions from the Commission prior to the return date of the subpoena, he shall appear in court and respectfully decline to produce the documents or records or to disclose the information called for, basing his refusal upon this paragraph.

Promulgated as of this date in pursuance of the action of the Federal Trade Commission on May 24, 1967, effective July 1, 1967.

Issued: May 24, 1967.

By direction of the Commission. Commissioner Elman concurs except for §§ 2.9 and 3.36. He states that in his opinion § 2.9 violates section 6(a) of the Administrative Procedure Act, which provides unqualifiedly that "Any person compelled to appear in person before any agency or representative thereof shall be accorded the right to be accompanied, represented, and advised by counsel * * *," and that § 3.36 serves no useful purpose, and will merely cause unnecessary delays in the conduct of adjudicative proceedings.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-6554; Filed, June 12, 1967; 8:45 a.m.]