(i) for a certificate of public convenience and necessity to engage in air transportation, or (ii) to amend, modify, renew, or transfer a certificate or to abandon a route or a part thereof, is $200. The fee will be refunded, on request, if the application is withdrawn prior to hearing, is dismissed under the stale-application rule of § 302.911 of this chapter, is dismissed pursuant to the denial of consolidation rule of § 302.12(e) of this chapter, or is otherwise dismissed by the Chief Examiner prior to hearing under the authority delegated to him in § 385.10(b) of this chapter.

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(Sec. 204(a), Federal Aviation Act of 1958; 72 Stat. 743; 49 U.S.C. 1324(a); 5 U.S.C. 140)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 69-8755; Filed, July 24, 1969; 8:50 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 7176]

PART 13—PROHIBITED TRADE PRACTICES

Alleghany Pharmacal Corp. et al.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service:* 13.170–74 Reducing, nonfattening, low-calorie, etc.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Final order reinstating cease and desist order, Alleghany Pharmacal Corp. et al., New York, N.Y., Docket 7176, June 17, 1969]

In the Matter of Alleghany Pharmacal Corp., a Corporation, and Harry Evans and Vincent J. Lynch, Individually, and Chester Carity, Individually and as an Officer of Said Corporation

Order dismissing an amended complaint issued November 15, 1965, and reinstating the suspended order of November 7, 1958, 23 F.R. 10506, which prohibited a New York City distributor of drugs from deceptively advertising its weight-reducing preparation, "Hungrex with P.P.A."

The final order is as follows:

It is ordered, That the amended complaint issued on November 15, 1965, be dismissed as to all respondents without prejudice to the right of the Commission to take such further action in the future as may appear to be appropriate.

It is further ordered, That the order to cease and desist issued by the Commission November 7, 1958, remain in effect as to all respondents named therein.

Issued: June 17, 1969.

By the Commission.

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

[F.R. Doc. 69-8701; Filed, July 24, 1969; 8:46 a.m.]

[Docket No. C-1556]

PART 13—PROHIBITED TRADE PRACTICES

Gineros & Boronico, Inc., et al.

Subpart—Invoicing Products Falsely: § 13.1108 *Invoicing products falsely:* 13.1108–45 Fur Products Labeling Act. Subpart—Misbranding or Mislabeling: § 13.1185 *Composition:* 13.1185–30 Fur Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–30 Fur Products Labeling Act. Subpart—*Neglecting, Unfairly or Deceptively, To Make Material Disclosure:* § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–35 Fur Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Gineros & Boronico, Inc., et al., New York, N.Y., Docket C-1556, July 8, 1969]

In the Matter of Gineros & Boronico, Inc., a Corporation, and Spero Gineros and Constantine Boronico, Individually and as Officers of Said Corporation

Consent order requiring a New York City manufacturing furrier to cease misbranding and falsely invoicing its fur products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Gineros & Boronico, Inc., a corporation, and its officers, and Spero Gineros and Constantine Boronico, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Representing, directly or by implication, on labels that the fur contained in any fur product is natural when the fur contained therein is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

2. Failing to affix labels to fur products showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Representing, directly or by implication, on invoices that the fur contained in the fur products is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

3. Setting forth information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: July 8, 1969.

By the Commission.

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

[F.R. Doc. 69-8702; Filed, July 24, 1969; 8:46 a.m.]

[Docket No. C-1555]

PART 13—PROHIBITED TRADE PRACTICES

Orvil D. Percifield et al.

Subpart—Advertising falsely or misleadingly: § 13.50 *Dealer or seller assistance;* § 13.60 *Earnings and profits;* § 13.70 *Fictitious or misleading guarantees;* § 13.175 *Quality of product or service.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1608 *Dealer or seller assistance;* § 13.1615 *Earnings and profits;* § 13.1647 *Guarantees;* § 13.1715 *Quality.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Orvil D. Percifield trading as Northwest Chinchilla Co., Portland, Oreg., Docket C-1555, July 2, 1969]

In the Matter of Orvil D. Percifield, Also Known as Orville D. Percifield, an Individual Trading and Doing Business as Northwest Chinchilla Co., Formely Known as The Chinchilla Guild of America, Pacific Northwest Division

Consent order requiring a Portland, Oreg., distributor of chinchilla breeding stock to cease making exaggerated earning claims, misrepresenting the quality of its stock, deceptively guaranteeing the fertility of its stock, and misrepresenting its services to purchasers.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Orvil D. Percifield, also known as Orville D. Percifield, an individual trading and doing business as Northwest Chinchilla Co., formerly known as The Chinchilla Guild of America, Pacific Northwest Division, or trading and doing business under any other name or names, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of chinchilla breeding stock or any other products, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that:

1. It is commercially feasible to breed or raise chinchillas in homes, basements, garages, or spare buildings, or other quarters or buildings unless in immediate conjunction therewith it is clearly and conspicuously disclosed that the represented quarters or buildings can only be adaptable to and suitable for the breeding and raising of chinchillas on a commercial basis if they have the requisite space, temperature, humidity, ventilation, and other environmental conditions.

2. Breeding chinchillas as a commercially profitable enterprise can be achieved without previous knowledge or experience in the breeding, caring for, and raising of such animals.

3. Each female chinchilla purchased from respondent and each female offspring will produce successive litters of one to four live offspring at 111-day intervals.

4. The number of litters or sizes thereof produced per female chinchilla is any number or range thereof; or representing, in any manner, the past number or range of numbers of litters or sizes produced per female chinchilla of purchasers of respondent's breeding stock unless in fact the past number or range of numbers represented are those of a substantial number of purchasers and accurately reflect the number or range of numbers of litters or sizes thereof produced per female chinchilla of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

5. Pelts from the offspring of respondent's chinchilla breeding stock sell for an average price of $30.90 per pelt; or that pelts from the offspring of respondent's breeding stock generally sell from $15 to $60 each.

6. Chinchilla pelts from respondent's breeding stock will sell for any price, average price, or range of prices; or representing, in any manner, the past price, average price or range of prices of purchasers of respondent's breeding stock unless in fact the past price, average price or range of prices represented are those of a substantial number of purchasers and accurately reflect the price, average price or range of prices realized by these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

7. Purchasers of respondent's chinchilla breeding stock will receive top quality chinchillas or that respondent's chinchilla breeding stock has a market value of $350 each or any other price or range of prices unless respondent's purchasers do actually receive chinchillas of the represented market value, price or range of prices.

8. Each female chinchilla purchased from respondent and each female offspring produce at least three live young per year.

9. The number of live offspring produced per female chinchilla is any number or range of numbers; or representing, in any manner, the past number or range of numbers of live offspring produced per female chinchilla of purchasers of respondent's breeding stock unless in fact the past number or range of numbers represented are those of a substantial number of purchasers and accurately reflect the number or range of numbers of live offspring produced per female chinchilla of these purchasers under circumstances similar to those of the purchasers to whom the representation is made.

10. A purchaser starting with six mated pairs of respondent's chinchillas will have, from the sale of pelts, a gross income, earnings or profits of $5,760 at the end of the fifth year after purchase.

11. Purchasers of respondent's breeding stock will realize earnings, profits, or income in any amount or range of amounts; or representing, in any manner, the past earnings, profits, or income of purchasers of respondent's breeding stock unless in fact the past earnings, profits or income represented are those of a substantial number of purchasers and accurately reflect the average earnings, profits or income of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

12. Breeding stock purchased from respondent is warranted or guaranteed without clearly and conspicuously disclosing in immediate conjunction therewith the nature and extent of the guarantee, the manner in which the guarantor will perform and the identity of the guarantor.

13. Breeding chinchillas by mated pairs will produce more or better quality offspring than by polygamous breeding.

14. Chinchillas are hardy animals or are not susceptible to disease.

15. Purchasers of respondent's chinchilla breeding stock joining The Chinchilla Guild of America will, because of the services offered by that organization, be able to raise chinchillas with pelts selling for an average price of $45 per pelt, or for any other amount in excess of that usually received by members of said Guild; or misrepresenting, in any manner, the benefits, gains, or advantages afforded members of said Guild or members, participants, or affiliates of any other organization or group.

16. Respondent will purchase all or any of the chinchilla offspring or pelts thereof raised by purchasers of respondent's breeding stock for $80 a pair unless respondent does in fact so purchase such offspring or pelts for the represented price; or that respondent will purchase said offspring or pelts for any other prices unless respondent does, in fact, purchase all the offspring or pelts offered by said purchasers at the prices and on the terms and conditions represented; or representing, in any manner, that respondent will purchase chinchilla offspring raised by customers unless respondent does in fact purchase such offspring.

17. The "Guild Quality" standard of live chinchilla evaluation is an accepted standard in the chinchilla industry for determining the quality of chinchilla breeding stock; or misrepresenting, in any manner, the standards or the acceptance or recognition of standards in the chinchilla industry for the evaluation or grading of chinchillas or the pelts therefrom.

18. Approximately 75 percent of all chinchillas raised from chinchilla breeding stock purchased from respondent will be of Guild quality; or misrepresenting, in any manner, the number or proportion of chinchillas from respondent's or any other breeding stock which will be of a stated grade or quality.

19. Respondent doing business as Northwest Chinchilla Co. or under any other trade or corporate name or as an individual has been in the chinchilla business for more than 20 years; or misrepresenting, in any manner, the length of time respondent individually or through any corporate or other device has been in business.

20. Chinchillas or chinchilla pelts are in great demand; or that purchasers of respondent's breeding stock can expect to be able to sell the offspring or the pelts of the offspring of respondent's chinchillas because said chinchillas or pelts are in great demand.

21. Purchasers investing $4,000 in respondent's chinchillas will make $25,000 in profit 2 years after the purchase of respondent's chinchillas.

22. Purchasers investing any amount or range of amounts will make any amount, or range of amounts in profit in any number of years or interval of time after the purchase of respondent's chinchillas; or representing, in any manner, the past profit or range of profits purchasers investing any amount or range of amounts will make in any number of years or interval of time after purchase of respondent's chinchillas unless, in fact, the past profit or range of profits represented are those of a substantial number of purchasers and accurately reflect the average profit or range of profits of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

23. The assistance or advice furnished to purchasers of respondent's chinchilla

breeding stock by respondent or The Chinchilla Guild of America will assure purchasers of successfully breeding or raising chinchillas as a commercially profitable enterprise.

B. Misrepresenting, in any manner, the assistance, training, services or advice supplied by respondent to purchasers of his chinchilla breeding stock.

C. Misrepresenting, in any manner, the earnings or profits to purchasers or the quality or reproduction capacity of any chinchilla breeding stock.

D. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondent's products or services, and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

Issued: July 2, 1969.

By the Commission.

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

[F.R. Doc. 69-8703; Filed, July 24, 1969; 8:46 a.m.]

[Docket No. C-1550]

PART 13—PROHIBITED TRADE PRACTICES

Slifka Fabrics et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-40 Federal Trade Commission Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68) [Cease and desist order, Slifka Fabrics et al., New York, N.Y., Docket C-1550, July 2, 1969]

In the Matter of Slifka Fabrics, a Partnership, and Joseph Slifka and Sylvia Slifka, Individually and as Copartners Trading as Slifka Fabrics

Consent order requiring a New York City converter and importer of fabrics to cease misbranding and falsely invoicing its wool products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Slifka Fabrics, a partnership, and Joseph Slifka and Sylvia Slifka, individually and as copartners trading as Slifka Fabrics, or under any other name or names, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Slifka Fabrics, a partnership, and Joseph Slifka and Sylvia Slifka, individually and as copartners trading as Slifka Fabrics, or under any other name or names, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, sale or distribution of wool products, or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the character or amount of the constituent fibers contained in such products, on invoices or shipping memoranda applicable thereto or in any other manner.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: July 2, 1969.

By the Commission.

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

[F.R. Doc. 69-8704; Filed, July 24, 1969; 8:46 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-355; Order 384]

MISCELLANEOUS AMENDMENTS TO CHAPTER

JULY 17, 1969.

Takeover or relicensing of licensed projects, new application requirements relating to Federal development, electric coordination, water quality, historical and archeological properties, procedural changes.

On December 19, 1968, the Commission issued a notice of proposed rule making in this proceeding (33 F.R. 20052, Dec. 31, 1968) wherein it proposed to amend Part 16, of the regulations under the Federal Power Act and to delete § 2.6 of the rules of practice and procedure with respect to the takeover of projects by the United States or relicensing of projects to non-Federal entities as a result of the amendment of the Federal Power Act, Public Law 90-451 (82 Stat. 616). The Commission additionally proposed to amend §§ 4.41 and 4.40 of the regulations under the Federal Power Act prescribing certain new application requirements relating to Federal development, electrical coordination, water quality, and historical and archeological properties. Also proposed were certain amendments of §§ 4.31 and 4.50 hereinafter set forth.

The proposed amendments, which provide new procedures for the processing of applications covering expiring licenses of hydroelectric projects, will permit the Commission, in a single proceeding to determine whether a project should be relicensed or recommended for Federal takeover. New procedures are also provided for the filing of applications for nonpower licenses which have been provided for in the amendment of section 15 of the Act.

Proposed requirements for additional information will enable the Commission to explore more fully in both original and renewal licensing proceedings all considerations bearing on comprehensive development under section 10(a) of the Federal Power Act. These include economic and financial feasibility, the multiple purpose uses of streams, hydraulic and electrical coordination of a project with other projects and systems, water quality control, pollution abatement, recreational development, fish and wildlife conservation, development of aesthetic values, and preservation of historical and archeological properties.

Twenty-two responses have been received to the Commission's notice[1] suggesting a number of modifications of the proposed rules. A number of these suggestions as hereinafter discussed will re-

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[1] (1) U.S. Department of the Interior, National Park Service.
(2) Idaho Fish and Game Department.
(3) Wisconsin Valley Improvement Co.
(4) Montana Power Co.
(5) Northeast Utilities Service Co.
(6) Southern California Edison Co.
(7) New England Power Co.
(8) Union Electric Co.
(9) U.S. Department of the Interior, Office of the Secretary.
(10) Virginia Electric and Power Co.
(11) Alabama Power Co.
(12) Georgia Power Co.
(13) Utah Power & Light Co.
(14) Pacific Gas & Light Co.
(15) Public Service Co. of New Hampshire.
(16) Consolidated Papers, Inc.
(17) The Washington Water Power Co.
(18) Pennsylvania Power & Light Co.
(19) Idaho Power Co.
(20) Pacific Power & Light Co.
(21) American Public Power Association.
(22) U.S. Department of Agriculture, Forest Service.

sult in improved terms of Commission regulations. Those not adopted were considered to be unnecessary or lacking in merit.

We are revising that part of § 16.3, which provides that Licensees whose licenses expire within 3 years must file applications for new licenses in accordance with the newly prescribed regulations within 6 months of the issuance of this rule, by extending the 3-year period to 3½ years. Licensees whose licenses expire shortly after the 3-year period will thus have at least 6 months within which to file. For Applicants who have already filed under existing provisions we are providing 6 months in which to supplement their applications in accordance with the new regulations. It has been suggested that a 6-month period within which to prepare an application for license is insufficient. While there may exist individual situations in which upon the filing of a prior request, a brief extension may be shown to be warranted, we believe that a 6-month period should normally be adequate. It has also been suggested that persons who are not presently licensees but seek to be licensed to takeover and operate a project, should for power or nonpower purposes be subject to the same time requirements for filing their applications as licensees. We have provided a 6-month period after a licensee has filed during which nonlicensee applicants may file, recognizing that such parties who might otherwise not choose to compete with an existing licensee for a new license, may be motivated to file if adequate redevelopment or coordination is not proposed by the licensee, or in the absence of any application by licensee.

Section 16.5 dealing with annual licenses, has been modified in accordance with some of the comments to make clear that an annual license will be automatically issued by the Secretary until final Commission action has been taken upon any application by an existing licensee for a new license.[2]

A number of comments dealt with the provisions of § 16.6. The proposed rule did not permit the incorporation by reference of certain exhibits previously filed in order to provide for completely self contained applications in takeover and relicensing proceedings. Upon review of the proposed rule, however, we agree that an exception should be made with respect to Exhibit A which, if the Applicant is a corporation, consists of the charter or certificate and articles of incorporation, with all amendments thereto, and may be voluminous. We have provided an appropriate exception in § 16.6(a) as well as in § 4.31. We have likewise provided in § 4.31 for the deferral of the filing of final Exhibits F and K in the case of unconstructed projects. Some of the comments urge deferral of information to be required by § 16.6 (b) and (e) of the proposed rule. It is contended for instance, that information on severance damages[3] would not be necessary where a project is relicensed to an existing licensee. Such a contention overlooks the possibility that an application by a nonlicensee or a takeover recommendation, may be filed in the proceeding. We wish to stress, as we did in hearings before the Congress in support of Public Law 90-451, that this Commission must have adequate information on all subjects relating to the takeover or relicensing of hydroelectric projects in order for the Commission to fulfill its responsibilities of passing upon relicensing to the original licensee, or recommending Federal takeover, or licensing the project to a new entity, in a single proceeding.

In response to several comments on § 16.6(b), we have modified the language with respect to fair value, net investment and severance damages. It has been suggested that § 16.6(d), requiring a statement as to why additional project capacity, "if feasible" is not proposed to be installed, is ambiguous in that capacity, which could feasibly be installed from an engineering standpoint, may be infeasible, at least at the time of relicensing, on the basis of valid economic considerations. This is quite true, and we recognize that in many, if not most, cases where the existing licensee believes technically feasible additional capacity is not presently economic from the standpoint of its company, analysis will show it is also not required by a comprehensive plan of waterway development undertaken either by the existing licensee or some other interested party. But it is important in such circumstances that the existing licensee, who will be in the best position to make the initial evaluation of the question, provide the Commission and other interested parties with a detailed statement of the reasons for his conclusions on the matter.[4] We shall therefore clarify the rule to point out that the statement with respect to additional capacity is required wherever the installation thereof is technically feasible.

The suggestion in some of the comments that § 16.6(e) be made applicable to nonlicensee applicant is not adopted as that section specifically seeks to elicit information from an existing licensee on how it would be affected by takeover or relicensing to another.

Section 16.7 was the subject of particular interest to the Forest Service, Department of Agriculture in its comments since there are a number of small projects located on National Forest lands which represent potential nonpower developments over which the Forest Service may wish to exercise regulatory supervision. In response to the comments of the Forest Service we have expanded the language of § 16.7 to indicate that as a temporary license, the nonpower license is subject to termination at any time after the license is issued upon showing by an agency that it is authorized and willing to assume adequate regulatory supervision. Moreover, we shall provide that in the case of projects located on the public lands or reservations of the United States, where there is no pending application for relicensing as a powerplant, such a showing may be made by the agency having authority over such lands during the proceedings upon an application for a nonpower license itself, since in such circumstances the necessity for our issuing any nonpower license may be obviated.[5]

The Forest Service raises questions concerning the language of section 15 (b), added to section 15 of the Act by Public Law 90-451, appearing to authorize the Commission to issue nonpower licenses "on its own motion". As we understand this language, it authorizes the Commission in its discretion, to tender a nonpower license to an applicant for a power license "whenever it finds in conformity with a comprehensive plan for improving or developing a waterway or waterways for beneficial public uses all or part of any licensed project should no longer be used or adapted for power purposes." Nothing in the language or legislative history of Public Law 90-451 indicates that this authority supersedes the existing authority of the Forest Service to issue Special Use Permits for nonpower purposes and we anticipate no conflict with the Forest Service in this regard.

It has been suggested that the term "regulatory supervision" taken from section 15(b), added by Public Law 90-451, should be defined. Precise definition is undesirable for purposes of the regulations as we do not now have before us an experience base of factual situations which should be recognized in any precise definitional statement. For present purposes, we believe it sufficient to note what is intended generally is administrative control over the lands and facilities concerned. It would be our intent that a

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[2] With respect to the provisions of § 16.5 it should be noted that section 9(b) of the Administrative Procedure Act (5 U.S.C. 558c) provides that when a timely and sufficient application for a new license has been filed in accordance with agency rules a license with reference to a continuing activity does not expire until the application has been finally determined by the agency.

[3] It should be noted that § 16.6(b)(4) relating to severance damages does not require the precise amount claimed, but rather the basis for such a claim.

[4] In this respect, we point out that the alternatives available to the Commission are not limited to a renewal of a project license upon condition that the licensee install new capacity then, or pursuant to some schedule for the future, or turning the entire project over to a new entity. The Act also provides authority for the separate licensing of individual project works of a complete development. Thus, for example, where otherwise appropriate, an additional generating unit or other facility could be separately licensed to a new party while the remainder of the project is relicensed to the original licensee.

[5] There conceivably may be situations where even in such circumstances a Commission license for nonpower use will be beneficial to the nonlicensee applicant to permit him to take advantage of the right under section 15(b) of the Act to take over the project works at the net investment price. This would, of course, be considered by the Commission in determining whether to exercise its discretion to terminate the proceeding.

statement by officials of the local, State or Federal Government body in question that it possessed such continuing authority would satisfy the provisions of section 15(b) and these regulations. For example, we anticipate that in the case of public lands falling under the authority of the Departments of Agriculture or Interior, the relevant statements would be filed by officials of these Departments stating their authority and legal capacity to act in respect to the lands involved.

The Department of the Interior has requested that § 16.8 be changed to provide a period of 9 months in lieu of 6 months during which a Federal agency may file a recommendation for takeover, after notice of an application for relicensing has been issued. We are acceding to this request and likewise extending the time for the filing of a reply to the recommendation, as suggested in several comments, to 4 months which is believed to be adequate.

Several comments with reference to §§ 16.8 and 16.9 express the need to provide an opportunity for oral argument and rehearing, as well as for the notice and opportunity for hearing prescribed by the Act, prior to the transmittal of a Commission takeover recommendation to Congress. The parties to a takeover or relicensing proceeding will have an opportunity pursuant to our rules of practice and procedure to petition the Commission for oral argument, whenever they believe it appropriate for any reason, and to seek reconsideration of any action recommending takeover to the Congress. We agree, however, that, prior to the submission of any such takeover recommendation to the Congress, the licensee and other interested parties should have an opportunity to seek reconsideration and § 16.9 has been modified [6] to so provide.

It has also been suggested that provision should be made for furnishing the Congress with the licensee's views with respect to takeover at the time the Commission transmits its recommendation. Presumably, such views and those of other interested parties will be set forth in the Commission's report to Congress, and any order on reconsideration; to the extent the licensee or any other party believes his views have not been properly reflected, he is of course free to make such additional presentation to the Congress as he deems fit. Additionally, the record and any pleadings on the matter before the Commission will be available for Congress' consideration should it so desire. We believe to provide, by rule, for the submission of anything more would be unnecessary and impractical.

In response to several comments we have clarified the language of § 16.10 to make it more consistent with the governing statutory language, and certain language of § 16.11 erroneously suggesting that the two year notice of takeover provided in section 14 of the Act could be shortened by Congress, has been deleted. It is contended in several comments that the statutory 2-year notice period is too short to permit the licensee to make other arrangements. While there may be circumstances where it will be impossible or impractical to have the United States or a new licensee take possession of the project within 2 years of final determination by the Congress or the Commission's notice thereof, in which event the Commission will be free to specify the appropriate later date, we believe that the normal notice period specified in these rules should be the statutory minimum of 2 years. We agree, however, with the suggestion that the time in which to file claims for compensation after issuance of notice of congressional takeover should be enlarged and have, accordingly, changed the 3-month period in § 16.11 to 6 months.

One comment with respect to § 16.12 makes reference to the absence of provisions for renewal of minor part licenses not subject to takeover. This category of licenses, consisting primarily of transmission facilities, are generally not subject to section 14 or 15 of the Act and in a number of cases involve situations which under our consistent practice over the past 30 years either would not be licensed at all or would be licensed as part of a complete project. However, since there are a number of such licenses which the Commission will undoubtedly find appropriate for relicensing and the existing licensees should, in any event, have a procedure through which they can seek new licenses, we have included minor part licenses not subject to section 14 of the Act within the category of licenses to which § 16.12 applies.

We have added § 16.13 making § 4.31 (Acceptance for Filing or Rejection of Applications), as revised herein, applicable to license applications filed under Part 16 of the regulations.

The Office of the Secretary of Interior and the National Park Service of the Department of the Interior have, in their respective comments, suggested somewhat similar revisions to the proposed amendment to the language of § 4.40(k) of the Commission's regulations dealing with historical and archeological properties. The language of the rules has been revised to meet the suggestions in these comments.

Several comments suggested that the proposed requirements under Exhibit H relating to water quality may be unnecessary in some situations. We recognize, of course, that certain projects will have a lesser effect on water quality than others and that the information furnished will so indicate. We believe it important, however, that the Commission obtain all available information which an applicant can furnish on the project's effect upon the water quality of the stream. We are, however, making some minor modifications to Exhibit H which will serve to more clearly specify the information desired and to avoid duplication of similar information provided in Exhibit R or S.

A number of the comments received were critical of proposed Exhibit T on grounds that it purportedly puts a positive burden upon an applicant to show a negative with respect to Federal takeover or development, and, as such, may indicate a Commission view that Federal development or takeover should be recommended unless it can be factually demonstrated that the applicant can do a superior job. This misconceives the purpose of Exhibit T, which is solely to seek information from the licensee to aid the Commission in making the determination, required of it either on initial licensing or relicensing, whether to recommend Federal development.

The procedures established by the Commission pursuant to the congressional mandate that it consider in a single proceeding the alternatives of relicensing or a takeover recommendation, would properly be subject to criticism if we failed to seek information from the potential or existing licensee itself as to why it believed it, rather than an agency of the Federal Government, should be authorized to construct, operate and maintain the project in the future. Moreover, we consciously left the details to be included in the statement to the applicant, speaking instead only in the general terms of the language of sections 10(a) and 7(b),[7] in recognition of the fact that much of the factual support will be included in other portions of the filing and that the applicant should be given full rein to present such data and argumentation on the point as it sees fit.

A number of comments question the necessity for, or comprehensiveness of, the proposed new Exhibit U. That exhibit seeks, for applications for new unconstructed projects and for relicensing of existing projects, detailed information as to the relationship of the existing and proposed power output of the project to the needs of the licensee's system and the systems of the region in which the project is, or is to be, located with which the licensee's system is, or could be, interconnected or coordinated on an economic basis. To the extent that these comments reflect a belief that any consideration of the nature of the proposed power utilization of a licensed project is irrelevant to our licensing responsibility

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[6] Since any recommendation to the Congress is necessarily a nonfinal action which cannot by itself affect the licensee's rights, in the absence of subsequent congressional legislation we do not believe such action, unlike final Commission action granting or denying a license, would be subject to rehearing or judicial review under section 313 of the Act. In fact, since a recommendation by the Commission is not a legal prerequisite to congressional takeover, it cannot even be characterized as an essential interlocutory step in such action.

[7] There has been some question raised as to the use of the language "these public programs" in the last phrase of the description of Exhibit T in the proposed rule. Our objective was to indicate our recognition that in reaching our determination whether "the development of any water resources for public purposes should be undertaken by the United States" under sections 7(b) or 7(c) of the Act, the comprehensive development standards of section 10(a) must necessarily be applied. The word "programs" was inadvertently substituted for the statutory word "purposes" and this has been corrected.

as long as the power can be economically absorbed in the licensee's system, they are based upon an overly restrictive view of our duties to insure that licensed projects are "best adapted to a comprehensive plan for improving or developing a waterway * * * for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water power development and for other public uses * * *". See Udall v. FPC, 387 U.S. 428, cf., Red Lion Broadcasting Co. v. Federal Communications Commission, ------ U.S. ------, 37 U.S. Law Week 4509, 4517. (U.S. Sup. Ct., 1969). We agree, however, that the significance of such information will vary with the magnitude of the potential power output of the project, and are accordingly modifying the exhibit to provide that it will not be applicable, except upon special request, to projects having or proposing to have less than 25,000 kilowatts installed capacity. We have also modified the language of the exhibit to make clear that it is applicable to all of the power output of a project sought to be relicensed, and that among the data to be supplied is information with respect to the dependable capacity of the project.

Several of the comments, while recognizing the general validity of the inquiry into the nature of the power utilization, question its scope particularly to the extent it requires the applicant to explore the potential utilization of the power developed, or which could be developed, by other systems with which the applicant's system could be, but is not presently, interconnected and coordinated. We recognize, of course, that the range of the systems with which an applicant's system theoretically could be electrically interconnected and coordinated are extensive and for this reason limited the scope of the inquiry to those whom the applicant could reasonably believe could, in the event of interconnection and coordination, utilize project power upon an economic basis. We do not believe, however, as some of the comments suggest, that such inquiry should be limited to systems which have previously expressed an interest in securing project power. An applicant seeking to utilize the Nation's waterways for the development of power has an obligation to look beyond its own needs to those of the region in which it operates, Western Massachusetts Electric Co. 39 FPC 723, 734–35, 40 FPC 300. For from being merely an unwelcome burden we are convinced that the reasonable regional planning required to be detailed by the exhibit will, in most cases, be beneficial to the prospective licensee, as well as the general public.

The Commission finds:

The amendments hereinafter set forth are necessary and appropriate for carrying out the provisions of the Federal Power Act.

The Commission acting pursuant to the provisions of the Federal Power Act, as amended, particularly sections 4(e), 7(c), 9, 10(a), 14, 15, and 309 thereof (41 Stat. 1065, 1068, 1071, 1072; 49 Stat. 884, 858, 82 Stat. 616; 16 U.S.C. 797(e), 802, 803, 807, 808, 825h) orders:

(A) Part 16, Subchapter (B), Chapter I, Title 18, Code of Federal Regulations is amended by substituting therefore a new Part 16 as follows:

PART 16—PROCEDURES RELATING TO TAKEOVER AND RELICENSING OF LICENSED PROJECTS

AUTHORITY: The provisions of this Part 16 issued under Federal Power Act, secs. 7(c), 14, 15, 309 (16 U.S.C. 800, 807, 808, 825h).

§ 16.1 Purpose and coverage.

This part implements the amendments of sections 7(c), 14, and 15 of Part I of the Federal Power Act, as amended, enacted by Public Law 90–451, 82 Stat. 616, approved August 3, 1968. It applies to projects subject to sections 14 and 15 of the Federal Power Act including projects for which a nonpower license may be issued. Procedures are provided for the filing of applications for either power or nonpower licenses for projects whose licenses are expiring. A license for a power project issued to either the original licensee or another licensee is referred to in this part as a "new license" and a license for a nonpower project as a "non-power license". Also provided are procedures for the filing of recommendations for takeover by Federal departments or agencies and applications for renewal of licenses not subject to section 14.

§ 16.2 Public notice of projects under expiring license.

In order that there should be adequate notice and opportunity to file timely applications for a license, the Commission's Secretary will give notice of the expiration of license of a project (except transmission line and minor projects) 5 years in advance thereof in the same manner as provided in section 4(f) of the Act. The Secretary shall upon promulgation of the rules herein give notice, as provided in section 4(f) of the Act, of all whose license terms have expired since January 1, 1968, or which will expire within 5 years of the effective date of this rule. In addition, the Commission each year will publish in its annual report and in the FEDERAL REGISTER a table showing the projects which will expire during the succeeding 5 years. The table will list these licenses according to their expiration dates and will contain the following information: (a) License expiration date; (b) licensee's name; (c) project number; (d) type of principal project works licensed, e.g., dam and reservoir, powerhouse, transmission lines; (e) location by State, county, and stream; also by city or nearby city when appropriate; and (f) plant installed capacity.

§ 16.3 When to file.

(a) An existing licensee must file an application for a "new license" or "non-power license" or a statement of intention not to file an application for a "new license" no earlier than 5 years and no later than 3 years prior to the expiration of its license, except that, where the license will expire within 3½ years of the issuance of this part, such applications or statements shall be filed within 6 months from the effective date of this part. Applicants which have applications pending which were filed under previous Commission regulations shall supplement their applications in accordance with pertinent provisions of this part within 6 months of the effective date of this part.

(b) Any other person or municipality may file an application for a "new license" or "non-power license" within 5 years of the expiration of the license, but in no event, unless authorized by the Commission, later than 6 months after issuance of notice of the filing of an application or statement by the licensee under § 16.4 or 2½ years before the expiration of the license, whichever is earlier.

(c) Any application submitted after the expiration of the time specified herein for filing must be accompanied by a motion requesting permission to file late, which motion shall detail the reasons of good cause why the application was not timely filed and how the public interest would be served by its consideration.

§ 16.4 Notice upon filing of application.

When any timely application or statement within the meaning of § 16.3 is received, or when the Commission grants any motion for consideration of a late filed application, notice of receipt thereof will be furnished the applicant, and public notice will be given in the same manner as provided in sections 4(f) and 15(b) of the Act (49 Stat. 838; 41 Stat. 1072; 82 Stat. 616; 16 U.S.C. 797, 808) §§ 1.37 and 2.1 of this chapter, the Fish and Wildlife Coordination Act, 48 Stat. 401, as amended, 16 U.S.C. 661 et seq., and by publication in the FEDERAL REGISTER.

§ 16.5 Annual licenses.

No application for annual license need be filed nor will such application be accepted under section 15 of the Act. An existing licensee making timely filing for a new license will be deemed to have filed for an annual license. If the Commission has not acted upon an application by licensee for a new license at the expiration of the license term, by the issuance of an order granting, denying or dismissing it, an annual license shall be issued by notice of the Secretary.

§ 16.6 Applications for new license for projects subject to sections 14 and 15 of the Federal Power Act and all other major projects.

(a) Each application for a new license hereunder shall conform in form to § 131.2 of this chapter, and shall set forth in appropriate detail all information and exhibits prescribed in §§ 4.40 through 4.42 of this chapter, inclusive and in § 4.51 of this chapter, as well as additional information specified in paragraphs (b) through (e) of this section, except that Exhibit A may be incorporated in an application by reference where one applicant files applications for several projects, one of which already contains an Exhibit A or in any case where applicant has filed an Exhibit A within 10 years preceding the filing of the application, and that Exhibits N and O as specified in § 4.41 of this chapter need only be filed as provided in paragraph (c) of this section. An original and fourteen conformed copies of the application and all accompanying exhibits shall be submitted to the Commission plus one additional conformed copy for each interested State Commission.

(b) An application for a "new license" hereunder shall include a statement showing the amount which Licensee estimates would be payable if the project were to be taken over at the end of the license term pursuant to the provisions of sections 14 and 15 of the Federal Power Act. This statement shall include estimates of: (1) Fair value; (2) net investment; and (3) severance damages. (This subsection is not applicable to State, municipal, or nonlicensee applicants.)

(c) If the applicant proposes project works in addition to those already under license, the maps, plans, and descriptions of the project works (Exs. I, J, L and M) shall distinguish the project works or parts thereof which have been constructed from those to be constructed. Exhibits N and O shall also be included in the application relating to new construction.

(d) Applicant shall furnish its plans for the future modification or redevelopment of the project, if any, and shall set forth in detail why technically feasible, additional capacity is not proposed for installation at the time of relicensing.

(e) Applicant shall file a statement on the effect that takeover by the United States or relicensing to another applicant would have upon the supply of electric energy to the system with which it is interconnected, the rates charged its customers, the licensee's financial condition, and taxes collected by local, State, and Federal Governments. (This subsection is not applicable to State, municipal or nonlicensee applicants.)

§ 16.7 Application for nonpower license.

Each application for "non-power license" shall generally follow the form prescribed in § 131.6 of this chapter, except for subsections 7 and 8 thereof. It shall be accompanied by Exhibits K, L, R, and S prepared as described in section 4.41, and shall include the information specified in paragraphs (a) through (c) of this section. Unless otherwise specified, an original and 14 conformed copies of the application and all accompanying exhibits shall be submitted with one additional conformed copy for each interested State commission. Additional information may be requested by the Commission if desired.

(a) Applicant shall furnish a description of the nonpower purpose for which the project is to be utilized and a showing of how such use conforms with a comprehensive plan for improving or developing a waterway or waterways for beneficial uses, including a statement of the probable impact which conversion of the project to nonpower use will have on the power supply of the system served by the project.

(b) Applicant shall identify the State, municipal, interstate or Federal agency, if any, which is authorized or willing to assume regulatory supervision over the land, waterways and facilities to be included within the nonpower project. (If there is such an agency, applicant shall forward one copy of the application to such agency.)

(c) Applicant shall submit a proposal for the removal or other disposition of power facilities of the project.

A "non-power license" shall be effective until such time as in the judgment of the Commission a State, municipal, interstate, or Federal agency is authorized and willing to assume regulatory supervison over the land, waterways, and facilities included within the "non-power license" or until the project structures are removed. Such State, municipal, interstate or Federal agency may petition the Commission for termination of a "non-power license" at any time. Where the existing project is located on the public lands or reservations of the United States, and there is no application for relicensing as a power project either by the original licensee or some other entity, or a takeover recommendation, the Commission may, in its discretion, and upon a showing by the agency having jurisdiction over the lands or reservations that it is prepared to assume requisite regulatory supervision for the nonpower use of the project, terminate the proceeding without issuing any license for nonpower use.

§ 16.8 Departmental recommendation for takeover.

A recommendation that the United States exercise its right to take over a project may be filed by any Federal department or agency no earlier than 5 years and no later than 2 years prior to the expiration of the license term; *Provided, however*, That such recommendation shall not be filed later than 9 months after the issuance of a notice of application for a new license. Departments or agencies filing such recommendations shall thereby become parties to the relicensing-takeover proceeding. An original and 14 copies of the recommendation shall be filed together with one additional copy for each interested State commission. The recommendation shall specify the project works which would be taken over by the United States, shall include a detailed description of the proposed Federal operation of the project, including any plans for its redevelopment and shall indicate how takeover would serve the public interest as fully as non-Federal development and operation. It shall also include a statement indicating whether the agency making the recommendation intends to undertake operation of the project. A copy of the recommendation shall be served upon the licensee by the Commission's Secretary. Any applicant for a new license covering all or part of the project involved in the takeover recommendation shall have 120 days within which to serve a reply to the recommendation upon the Commission with copies to any parties in the proceeding.

§ 16.9 Commission recommendation to Congress.

If the Commission, after notice and opportunity for hearing concludes upon departmental recommendation, a proposal of any party, or its own motion, that the standards of section 10(a) of the Act would best be served if a project whose license is expiring is taken over by the United States, it will issue its findings and recommendations to this, effect, and after any modification thereof, upon consideration of any application for reconsideration, made in conformity with the provisions of § 1.34 of this chapter governing applications for rehearing, forward copies of its findings and recommendations to the Congress.

§ 16.10 Motion for stay by Federal department or agency.

If the Commission does not recommend to the Congress that a project be taken over, a Federal department or agency which has filed a timely recommendation for takover as provided in this part may, within thirty (30) days of issuance of an order granting a license, file a motion, with copies to the parties in the proceeding, before the Commission requesting a stay of the license order. Upon the filing of such a motion, the license order automatically will be stayed for 2 years from the date of issuance of the order, unless the stay is terminated earlier upon motion of the department or agency requesting the stay or by action of Congress. The Commission will notify Congress of any such stay. Upon expiration or termination of the stay, including any extension thereof by act of Congress, the Commission's license order shall automatically become effective in accordance with its terms. The Commission will notify Congress of each license order which has become effective by reason of the expiration or termination of a stay.

§ 16.11 Procedures upon congressional authorization of takeover.

A determination whether or not there is to be a Federal takeover of a project would ultimately be made by Congress through the enactment of appropriate legislation. If Congress authorizes takeover, the Secretary will immediately give the licensee not less than 2 years' notice in writing of such action. Within 6 months of issuance of such notice the licensee shall present to the Commission any claim for compensation consistent with the provisions of section 14 of the Federal Power Act and the regulations of the Commission.

§ 16.12 Renewal of minor or minor part licenses not subject to sections 14 and 15.

Licensees whose minor or minor part licenses are not subject to sections 14 and 15 of the Act and wish to continue operation of the project after the end of the license term shall file an application for a "new license" 1 year prior to the expiration of their original license in accordance with applicable provisions of part 4 of this chapter.

§ 16.13 Acceptance for filing or rejection of application.

Acceptance for filing or rejection of applications under this part shall be in accordance with the provisions of §4.31 of this chapter.

PART 2—GENERAL POLICY AND INTERPRETATIONS

§ 2.6 [Deleted]

(B) Part 2, Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations is amended by deleting therefrom § 2.6.

PART 4—LICENSES, PERMITS, AND DETERMINATION OF PROJECT COSTS

(C) Part 4, Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. Section 4.40 is amended by substituting new provisions for § 4.40(k) and redesignating the current paragraph (k) as (l) as follows:

§ 4.40 Contents.

* * * * *

(k) A description of any historical or archeological properties listed in the National Register established under the provisions of Public Law 89-665 (80 Stat. 915) or under consideration or eligible for listing in the National Register which are or may be affected by the project. The National Register is contained in the FEDERAL REGISTER of February 25, 1969, Part 2 of this chapter (34 F.R. 2580), and is updated on the first Tuesday of each month thereafter. Inquiries with respect to properties under consideration or eligible for listing may be directed to the State Liaison Officer, a list of which is included in the FEDERAL REGISTER of February 25, 1969.

(l) Other data which the Applicant may consider pertinent

2. Section 4.41 is amended by revising Exhibit H and adding Exhibits T and U to § 4.41 as follows:

§ 4.41 Required exhibits.

* * * * *

Exhibit H. A statement of the proposed operation of the project works during times of low, normal, and flood flows on the stream, including a statement of reservoir elevations and the minimum flow proposed to be released, during the recreation season and periods of low water, and, to the extent possible, full exposition of any proposed use of the project for the conservation and utilization in the public interest of the available water resources for the purposes of power, navigation, irrigation, reclamation, flood control, recreation, fish, wildlife, and municipal water supply. A statement of the effect, if any, the project would have on water quality, in the reservoir or downstream, plans for maintaining or improving water quality and a statement on the extent of consultation and cooperation with Federal, State, and local agencies having responsibilities for water quality control. A statement as to whether in relation to existing and proposed future projects in the same or related watersheds, the fullest practicable utilization of the water, storage possibilities and head available will be made possible. Furnish operating rule for reservoirs with draw-down and usable storage; State criteria for determining spillway capacity. To the extent that aspects of water quality, referred to herein, related to fish and wildlife and recreation are covered in Exhibit S or in Exhibit R, respectively, a specific reference to Exhibit S or Exhibit R will suffice.

* * * * *

Exhibit T. A statement setting forth why the development and operation of the project by applicant rather than the Federal Government would be best adapted to a comprehensive plan for improving or developing the waterway or waterways within the meaning of section 10(a) of the Act and why the development of the water resources by the Federal Government is not necessary to achieve these public purposes. (This exhibit is not required in applications for relicensing of State or municipal projects.)

Exhibit U. This exhibit shall (unless specially requested during the course of processing of an application) be applicable to applications for projects both on initial licensing and relicensing, having or proposing to have 25,000 kilowatts or more of capacity. It shall consist of a detailed statement showing the manner in which any power or energy developed or to be developed by the project, or in the case of an application for relicensing of an existing project, any additional power or energy proposed to be developed, will be utilized, and the manner in which any additional power or energy that could be economically developed might be utilized: (a) As a part of applicant's electric system; (b) as a part of the electric systems of others with which applicant electrically interconnects and coordinates; and (c) as a part of the electric systems of others with which applicant could electrically interconnect and coordinate upon an economic basis.

Among the details to be so provided, the exhibit shall identify by FPC rate schedule designation (or furnish as a part of the exhibit, if not on file with the Commission, including any agreements) all of the undertakings of the applicant to interconnect and coordinate its generation and transmission facilities with those of others for purposes of sales, purchases, or exchanges of various types of capacity, energy, transmission, or other servicing including, but not necessarily limited to, all requirements service, partial requirements service, hydrostorage and hydrothermal pumped back operations, economy energy transactions, equipment maintenance scheduling, reserve sharing, frequency control and point to point or displacement deliveries of electric power and energy.

The exhibit shall inter alia state the following: (1) Nature and extent of the applicant's consultation with other electric systems, power pools, or power planning groups in formulating its plan for development and utilization of the optimum output of the project, including the disposition of excess power and energy from the project to others than the applicant and the terms of any such disposition; (2) the nature and extent of applicant's activities in correlating the generating and transmission capability of the project with the needs and resources of its system and of other interconnected systems. Such statements shall set forth full details of the load, generation, and time periods employed. With respect to information on dependable capacity required in Exhibit I, applicants shall furnish a summer and winter load curve either on a weekly or monthly basis, showing the contribution that the project would make to the dependable capacity on the applicant's system as well as the regional system load on which it would or could be used and indicating any change in dependable capacity of the project with load growth at appropriate intervals from and after the date of the application or initial operation.

3. Section 4.50 is amended to provide an exception to the requirement of Exhibits T and U with respect to applications for certain constructed projects by adding the following paragraph to § 4.50:

§ 4.50 Contents.

* * * * *

Exhibits T and U. These exhibits shall not be required for applications for original licenses on constructed projects.

4. Section 4.31 is amended to read as follows:

§ 4.31 Acceptance for filing or rejection of applications.

(a) When an application which conforms to the requirements of § 1.15 of this chapter is received, it will be given a filing number. Notice of receipt thereof and filing number given thereto will be furnished applicant and notices will be given in accordance with the requirements of section 4 of the Act (49 Stat. 839; 16 U.S.C. 797), § 1.37 of this chapter, and the Fish and Wildlife Coordination Act, 48 Stat. 401, as amended 16 U.S.C. 611 et seq. Notice will also be given to the appropriate office of the Department of the Interior as to the public lands affected, if any, so that withdrawals from entry may be recorded, unless such action has been taken in connection with a preliminary permit. An application in order to be acceptable for processing must contain the information required pursuant to §§ 4.40 through 4.51, inclusive, as well as, any additional information required, as appropriate, except that: (a) Exhibit A may be incorporated in an application by reference where an applicant files applications for several projects one of which already contains an Exhibit A or in any case where applicant has filed an Exhibit A within 10 years preceding the filing of the application, and (b) for unconstructed projects, final Exhibits F and K may be filed subsequent to the issuance of the license as prescribed therein.

(b) An applicant may be required to furnish additional information required pursuant to these sections at such time as the Secretary directs. Failure to furnish the required information will constitute grounds for rejection of the application by the Secretary as provided by § 1.14 of this chapter. The Commission may require as a condition of license that the licensee furnish additional or revised exhibits by a specified time. Failure to furnish such information within the time specified, or an extension thereof granted by the Commission, shall constitute a violation of the license and cause for action under section 26 of the Federal Power Act.

(D) These amendments shall become effective September 2, 1969.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-8686; Filed, July 24, 1969; 8:45 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965——)

Subpart P—Certification and Recertification; Requests for Payment

PROGRAMS FOR HOSPITAL INSURANCE BENEFITS AND SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR AGED

On January 25, 1969, there was published in the FEDERAL REGISTER (34 F.R. 1254) a notice of proposed rule making with a proposed amendment to Subpart P of Regulations No. 5. The proposed amendment would add new sections to the subpart to set forth policies and procedures for requesting payment under the programs for hospital insurance benefits and supplementary medical insurance benefits for the aged pursuant to title XVIII of the Social Security Act. Interested persons were given the opportunity to submit within 30 days, data, views, or arguments with regard to the proposed new sections. The 30-day period has passed and no comments have been received. Accordingly, the amendment is, as proposed, adopted, subject to the following changes:

1. Paragraphs (a) and (b) of § 405.1667 have been clarified with respect to where providers of services shall file claims and requests for payment.

2. Paragraph (a) of § 405.1672 has been changed to set forth more specifically the circumstances under which payment for a nonparticipating hospital's reasonable charges for covered emergency hospital services may be made directly to the entitled individual.

3. Paragraph (a)(2) and Example 2 of § 405.1675 have been modified to reflect that an enrolled individual may assign a claim for a supplementary medical insurance benefit to the person or organization furnishing the services even if the enrolled individual has paid part of the bill amounting to as much as or more than the full reasonable charge to such person or organization. The assignment, upon acceptance by the physician or supplier, is deemed valid and the reasonable charge shall be the full charge.

(Secs. 1102, 1814, 1815, 1833, 1835, 1842, 1871, 49 Stat. 647, as amended, 79 Stat. 294, as amended, 79 Stat. 297, 79 Stat. 302, 303, 309, 331, as amended; sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 1302, 1395 et seq.)

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER.

Dated: July 3, 1969.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: July 17, 1969.

ROBERT H. FINCH,
Secretary of Health, Education, and Welfare.

Subpart P of Regulations No. 5 (20 CFR 405.1601 et seq.) is amended by revising the heading and adding §§ 405.1660–405.1694 to read as set forth below.

Subpart P—Certification and Recertification; Requests for Payment

* * * * *

Sec.
405.1660 Payment on behalf of the individual; general.
405.1662 Form used for claiming payment.
405.1663 Individual's request for payment.
405.1664 Persons authorized to request payment.
405.1665 Evidence of authority to execute a request for payment.
405.1666 Signature by representative of the participating provider or hospital.
405.1667 Submitting claim for payment and request for payment.
405.1672 Individual's request for direct payment; general.
405.1674 Individual's request for direct payment; evidence describing services.
405.1675 Assignment of right to receive payment under the supplementary medical insurance benefits plan.
405.1678 Direct payment or assignment of payment; prescribed form.
405.1679 Execution of claim for payment.
405.1680 Payment pursuant to physician's authorization to accept assignment and receive payment on his behalf.
405.1683 Payment on the basis of a paid bill; individual dies before receiving direct payment.

Sec.
405.1684 Payment on the basis of an unpaid bill; individual dies before receiving direct payment or assigning payment.
405.1685 Payment to qualified organizations that pay bills on behalf of enrollees.
405.1686 Organizations qualified to receive payment for benefits on behalf of enrollee.
405.1692 Time limitation for claiming payment.
405.1693 Definition of claim for purposes of time limitation.
405.1694 Extension of time limitation.

§ 405.1660 Payment on behalf of the individual; general.

(a) *Hospital insurance benefits.* Where an individual is entitled to hospital insurance benefits, payment based on reasonable cost is made on his behalf to a participating provider of services (or in some cases to a nonparticipating hospital for emergency services) for covered inpatient hospital services (see §§ 405.116, 405.152, and 405.153), post-hospital extended care services (see § 405.125), post-hospital home health services (see § 405.131), and outpatient hospital diagnostic services furnished before April 1968 (see §§ 405.145 and 405.152). Effective with respect to services furnished on or after April 1, 1968, coverage of outpatient hospital diagnostic services is included as "medical and other health services" under the supplementary medical insurance benefits plan.

(b) *Supplementary medical insurance benefits.* Where an individual is entitled to supplementary medical insurance benefits, payment based on reasonable cost is made on his behalf to a participating provider of services (or to a hospital which has elected to claim payment for emergency services) for covered home health services (see § 405.233 et seq.) and medical and other health services (see §§ 405.231 and 405.249) furnished by, or under arrangements made by, such provider of services or hospital. (See § 405.1680 relating to billing for services furnished by a physician.)

(c) *Claim for payment.* A claim for payment for services described in paragraph (a) or (b) of this section must be submitted by the participating provider or the hospital which has elected to claim payment for emergency services, and the individual or an authorized person acting on his behalf must request, in writing, that such payment be made (see §§ 405.1663 and 405.1667).

§ 405.1662 Form used for claiming payment.

A claim for payment under the hospital insurance benefits program or the supplementary medical insurance plan shall be submitted by a participating provider of services or a hospital which has elected to claim payment for emergency services on a form designated by the Social Security Administration and executed in accordance with such instructions as are prescribed by the Administration (see § 422.510 of Part 422 of this chapter).