independently your own merchandising policies with respect to matters such as sales prices, your own promotional devices, and customers for our products without interference by The Magnavox Co., and without jeopardy from such determination to your status as a Magnavox Dealer.

We wish also to make clear that we leave to each individual dealer the choice of whether to grant trade-in allowances in connection with the sale of Magnavox products, as well as the determination of the amount of any such allowance, subject only to the provisions of applicable fair trade laws.

For your information, we have enclosed a copy of this order.

Very truly yours,

EXHIBIT B—OFFICIAL MAGNAVOX LETTERHEAD

[Letter to Dealers in Jurisdictions Listed Below]

(Date) ----------

DEAR ----------:

This letter is to clarify any possible question as to your right to offer trading stamps in connection with the sale of Magnavox products.

Current [jurisdiction of addressee] law gives you complete discretion whether or not to use and distribute trading stamps* in connection with the sale of Magnavox products, and no policy of The Magnavox Co. is intended to restrict in any way whatsoever the exercise of that discretion.

Very truly yours,

To be sent to dealers in the following jurisdictions:

Alabama.	New Hampshire.
Alaska.	New Jersey.
California.	Ohio.*
District of Columbia.	Oklahoma.
Hawaii.	Pennsylvania.
Kansas.	Rhode Island.
Mississippi.	Texas.
Missouri.	Utah.
Montana.	Vermont.
Nebraska.	Virginia.
Nevada.	Wyoming.

EXHIBIT C—OFFICIAL MAGNAVOX LETTERHEAD

[Letter to Dealers in Jurisdictions Listed Below]

(Date) ----------

DEAR ----------:

We have been directed by the Federal Trade Commission to inform you that, pursuant to paragraph 2 of the enclosed consent order, [city or county] is to be treated as if it were a nonfair trade jurisdiction for a period of 2 years from [date].

Therefore, during this period we may not fair trade with you or provide you with suggested prices for any of your franchised locations in [city or county].

Very truly yours,

To be sent to dealers in the fair trade areas of the following Standard Metropolitan Statistical Areas, as defined in *Standard Metropolitan Statistical Areas*, Executive Office of the President, Bureau of the Budget (1967):

"Columbus, Georgia-Alabama."
"Fall River, Massachusetts-Rhode Island."
"Omaha, Nebraska-Iowa."
"Providence, Pawtucket, Warwick, Rhode Island-Massachusetts."
"St. Louis, Missouri-Illinois."
"Sioux City, Iowa-Nebraska."
"Texarkana, Texas-Arkansas."
"Washington, D.C.-Maryland-Virginia."

[FR Doc.71-10298 Filed 7-20-71;8:47 am]

*For dealers in Ohio, add: "as long as the value is not in excess of 3 percent of the price of the product,".

[Docket No. C-1940]

PART 13—PROHIBITED TRADE PRACTICES

Smith Setzer and Sons, Inc., et al.

Subpart—Boycotting seller-suppliers: § 13.302 *Boycotting seller-suppliers.* Subpart—Coercing and Intimidating: § 13.530 *Customers or prospective customers;* § 13.370 *Suppliers and sellers.* Subpart—Cutting off access to customers or market: § 13.535 *Contracts restricting customers' handling of competing products.* Subpart—Interfering with competitors of their goods—Competitors: § 13.1085 *Harassing.*

(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, Smith Setzer and Sons, Inc., et al., Catawba, N.C., Docket No. C-1940, June 7, 1971]

In the Matter of Smith Setzer and Sons, Inc., Smith Setzer and Sons of Virginia, Inc., and Smith Setzer & Sons, Inc., of Georgia, Corporations; and Ted L. Setzer, W. Neil Setzer, and Jerry Setzer, Individually and as Officers of Said Corporations

Consent order requiring three related respondents manufacturing and distributing various types of concrete well casings located in Catawba, N.C., Stony Creek, Va., and Watkinsville, Ga., to cease harassing and coercing purchasers of their products, refusing to sell to parties who have purchased from competitors, requiring that purchasers not deal with other suppliers, and requiring that respondents furnish their customers with copies of the order.

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

It is ordered, That respondents Smith Setzer and Sons, Inc., Smith Setzer and Sons of Virginia, Inc., and Smith Setzer & Sons, Inc., of Georgia, corporations, their officers, representatives, agents and employees, successors and assigns, directly or through any corporate or other device, and Ted L. Setzer, W. Neil Setzer, and Jerry Setzer, individually and as officers of said corporations, in connection with the manufacture, sale, or distribution of concrete well casings, in commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

(A) Inducing, or attempting to induce, the purchase of such products by harassing, threatening, coercing, or intimidating purchasers, or prospective purchasers thereof, including but not limited to, making threats to purchasers, or prospective purchasers, to run them out of business, or to cause them harm, financial, economic, or otherwise, or from taking affirmative steps to carry out such threats.

(B) Boycotting or refusing to sell to purchasers or prospective purchasers who have purchased any of their requirements of such products from competitors.

(C) Selling or making any contract, agreement, or understanding for the sale of such products on the condition, agreement, or understanding that the purchaser thereof shall not use, deal in, sell, or distribute products supplied by any other seller.

(D) Enforcing, or continuing in operation or effect, any requirement, condition, agreement, or understanding with any purchaser which is to the effect that such purchaser shall not use, deal in, sell, or distribute such products supplied by any other seller.

It is further ordered, That respondents notify all customers of concrete well casings, both present customers as well as others who have made purchases from respondents within the past three (3) years (or have communicated with respondents for that purpose), that they are free to purchase such products from respondents or from any other supplier, in any proportion or proportions they see fit, by means of a letter of notice enclosing a copy of this order and the decision relating thereto and containing the following wording, and, apart from the address of the customer and the signature of respondents, only such wording:

(Date) ----------

DEAR SIR:

The Federal Trade Commission has reason to believe that Smith Setzer & Sons, Inc., has denied to purchasers of concrete well casings the opportunity to buy such products from suppliers of their choice. While we do not admit that we have engaged in these activities, we have entered into a consent decree with the Commission.

As part of this decree, we have been directed to notify you that your firm is free to purchase concrete well casings from Smith Setzer & Sons, Inc., *or from any other supplier*, as you see fit. We stand ready to supply you whether or not you purchase all of your requirements from our firm. Any previous agreement or understanding to the contrary is hereby canceled.

We are sending you this notice by order of the Federal Trade Commission. We are also enclosing a copy of the Commission's Decision and Order concerning this matter.

Any violation of this order which is reported by anyone to the Federal Trade Commission, Sixth and Pennsylvania Avenue NW., Washington, DC 20580, will result in prompt corrective action by the Commission.

Signed ----------
(Respondents)

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in any corporate respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in any corporation which may affect compliance obligations arising out of the order.

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

Issued: June 7, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-10299 Filed 7-20-71;8:47 am]

Title 18—CONSERVATION OF POWER AND WATER

Chapter I—Federal Power Commission

[Docket No. R-393; Order No. 428-B]

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

Exemption of Small Producers From Regulation

JULY 15, 1971.

The Commission in Order No. 428 issued March 18, 1971 (36 F.R. 5598, March 25, 1971), in the above-entitled proceeding established a blanket certificate procedure for small producers. Small producers certificated thereunder shall be authorized to make small producer sales nationwide pursuant to existing and future contracts at the price specified in each such contract.

Applications for rehearing of Order No. 428 were filed by James M. Forgotson, Sr. (Forgotson), on March 31, 1971, Mobil Oil Corp. (Mobil) on April 14, 1971, Texaco, Inc. (Texaco), on April 15, 1971, Phillips Petroleum Co. (Phillips) on April 19, 1971, Warren Petroleum Corp. (Warren) on April 16, 1971, Independent Natural Gas Association of America (INGAA) on April 16, 1971, Kansas-Nebraska Natural Gas Co., Inc. (Kansas-Nebraska), on April 19, 1971, Consolidated Gas Supply Corp. (Consolidated) on April 19, 1971, El Paso Natural Gas Co. (El Paso) on April 19, 1971, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee) on April 16, 1971, and the Public Service Commission of the State of New York (New York) on April 19, 1971. By order issued April 29, 1971, the Commission provided for joint consideration of these applications for rehearing.

Some of the large producers claim that Order No. 428 casts a burden on them with respect to purchases from small producers which goes beyond the scope of the proposal in the notice issued July 23, 1970 (35 F.R. 12220, July 30, 1970), in this proceeding and is therefore invalid under section 4 of the Administrative Procedure Act (5 U.S.C. 553).

In the July 23 notice the Commission proposed to apply § 157.40 of its regulations, as revised therein, to sales made by a small producer to a large producer, but not to the resale of such gas by a large producer. Under that approach resales by large producers might have been limited to the rate ceiling and any moratorium prescribed by the Commission in each area, but the notice also specifically directed attention to the possibility of a problem in this regard and invited comments with respect thereto.

As a result of the arguments made by certain large producers in their comments that resales of gas purchased from small producers are entitled to the same treatment as small producer sales, the Commission in Order No. 428 provided relief to the large producers by permitting them to file for contractually authorized rate increases with respect to such resales, regardless of the ceiling or moratorium which would otherwise be applicable thereto. This modification alleviated some of the problems for large producers inherent in the original proposal, while at the same time providing adequate protection for consumers against unreasonable rates by setting a limitation on the rate level which would be accepted without refund obligation. Our actions, we believe, are in full compliance with the Administrative Procedure Act.

Warren contends it will be faced with the problem of purchasing gas from small producers which must be resold under old contracts containing prices that are not competitive with existing market values.[1] The order, according to Warren, places a large producer at a disadvantage since a pipeline may negotiate any price at the risk only of such price being found unreasonably high. Warren suggests elimination of this problem by allowing the large producer to pass on the additional cost incurred in the purchase of gas from a small producer under a new contract and to maintain its sales margin, irrespective of any price limitation in its resale contract. We have authority to remove contract price limitations under the Sierra doctrine.[2] But, the Sierra situation is not presented here. There is, however, nothing to preclude a large producer from renegotiating its resale contract if the purchaser is willing to do so.

Phillips states that even if a large producer is able to negotiate a new resale contract, it is still at a bargaining disadvantage with a pipeline because a pipeline may commence deliveries under budget-type arrangements as soon as a contract is negotiated with a small producer, while a large producer must wait for Commission action on its certificate application to resell gas under a new contract. Phillips urges the Commission to permit large producers to commence deliveries immediately and thereafter to advise the Commission of the purchase from a small producer and the resale of such gas to a pipeline pending action on its certificate application.

We think it desirable to help large producers maintain their competitive position with pipeline purchasers with respect to purchases of gas under new small producer contracts. Large producers, however, should be required to file a certificate application before commencing the resale of gas under a new contract. Consequently, we shall authorize large producers to resell gas purchased from small producers at any time after they have filed a certificate application pending action thereon, but any amounts collected for such resales in excess of the rate authorized in the certificate case shall be subject to refund with interest.

Mobil claims that Order No. 428 is not clear as to whether the small producer will have a refund obligation on deliveries subsequent to March 18, 1971, where its rate was in effect subject to refund prior to that date or where an above-ceiling increase is filed subsequent to that date. The blanket certificate authorized in our order will become effective as of May 2, 1971, at the earliest. Any refund obligation for the period prior to the effective date of a small producer's blanket certificate will be disposed of in the appropriate area proceeding. Consequently, in both of the situations referred to by Mobil, the small producer's rate will be subject to direct Commission regulation at least until May 2, 1971. However, on and after the effective date of its blanket certificate, the small producer is authorized to collect its contract rate for an existing sale without refund obligation, regardless of the rate on file for such sale prior to the effective date of its blanket certificate and without regard to whether such rate previously was being collected subject to refund.

Suggestions have been made to require small producers to inform their coowners and purchasers of their status as a small producer. In Order No. 428 small producers were required to serve their purchasers with copies of their applications. Aside from this requirement, we believe large producers and pipeline purchasers are in a better position to acquire and maintain this information as they have been required to do in the past in the Permian, Southern Louisiana and the Hugoton-Anadarko areas. We shall provide some assistance in this regard by appending to this order a list of all small producers who have received small producer certificates or who have applications pending as of April 30, 1971.[3] From time to time we shall update this list.

Small producers who receive blanket certificate authorization are required under § 157.40(c) to obtain abandonment authorization under section 7(b) of the Natural Gas Act for any sale made pursuant to § 157.40. This requirement applies to sales to either large producers or pipelines. It also applies upon the expiration of a new or existing sales contract which provides for termination after a given number of years as well as prior to the expiration of a contract. Nor does it make any difference whether the purchaser consents to the abandonment. Authorization is required in any event. Footnote 4 relating to abandonment authorization on page 7 of Order No. 428 (p. 5600 of Federal Register Document 71-4044 published at pages 5598-5602 in the issue dated March 25, 1971) is confusing

[1] Phillips makes a similar argument in its application for rehearing, and in an amendment to such application for rehearing filed untimely on May 3, 1971, Phillips refers to a specific situation where it is unable to compete with a pipeline purchaser for a small producer sale.

[2] F.P.C. v. Sierra Pacific Power Co., 350 U.S. 348.

[3] The list does not include small producers operating in the Appalachian and Illinois Basin areas. Appendix filed as part of original document.

on this latter point and inconsistent with the text on that same page. The words "the pipeline consents to abandonment or" should be deleted from line 4 of that footnote so as to clarify the matter. We shall also modify § 157.39 of the regulations (which now provides that §§ 157.23 through 157.30 do not apply to those independent producers who are subject to § 157.40) to accord with the provisions of Order No. 428. More specifically, we shall make the abandonment provisions of § 157.30 applicable to small producers covered by §157.40.

Consolidated claims there is some confusion as to whether those small producers in the Appalachian and Illinois Basin Areas who automatically received small producer certificates pursuant to Order No. 411 are required to apply for blanket certificates under the new provisions of § 157.40. They are not so required. As we indicated in Order No. 428, page 10, small producer certificates previously issued to small producers are deemed to cover as of May 2, 1971, all sales covered under the provisions of Order No. 428. However, any producer initiating service in the Appalachian and Illinois Basin Areas after May 2, 1971, the effective date of Order No. 428, and qualifying as a small producer would be required to file an application for a blanket certificate.

Consolidated also questions whether small producers in the Appalachian and Illinois Basin Areas who have been receiving the minimum rate, without the necessity of filing therefor, in accordance with Order No. 411, in lieu of a lower contract rate, are required as a result of footnote 5 on page 9 of Order No. 428 to make a filing for the minimum rate in that area. Those small producers who have been collecting the minimum rate in that area are not required to make any filing. The purpose of the footnote was not to require a filing where none was previously required, but to make it clear that a small producer would be entitled to the minimum rate authorized by the Commission in each area even though it had a blanket certificate.

New York objects to the provisions of § 157.40(d) pursuant to which a small producer who exceeds the 10 million Mcf annual limitation retains his status as a small producer until the Commission takes action. New York claims the slippage will be severe. They argue that, as a minimum, the Commission should provide for an automatic termination of the blanket certificate as of the time the cutoff figure is reached. This particular provision is the same as that adopted by the Commission in Order No. 308 after the issuance of the Permian decision in Opinion No. 468. There have been no problems under this provision thus far. Indeed, there has been only one instance where a small producer certificate was terminated. We also think it better to determine the appropriate cutoff date when action is taken to terminate the blanket certificate. In our view the use of the automatic cutoff date suggested by New York might cause serious problems for a small producer. Moreover, we think the cutoff date should be the date (April 1) small producers are required each year to report the volume of jurisdictional sales made in the prior year.

Forgotson contends the Commission lacks jurisdiction to issue Order No. 428. This position is based on his contention that the Supreme Court's determination in the Phillips case [4] that this Commission has jurisdiction over sales for resale in interstate commerce by independent producers, while constitutional then, is no longer constitutional.

Forgotson's position is unsound. The Supreme Court as recently as 1968 in the Permian Basin Area Rate Cases, 390 U.S. 747, by its affirmance of the just and reasonable rates determined by the Commission in Opinions Nos. 468 and 468–A reaffirmed by implication, at least, its jurisdictional holding in the Phillips case.

It has also been asserted that Order No. 428 is defective because the notice did not advise pipelines that their purchased gas costs relating to new small producer sales would be subject to review.[5] Implicit in this argument is the assumption that, in the absence of these provisions in our order, pipelines would be free to make purchases from small producers under new contracts at imprudent prices. With this assumption, we disagree. Ever since the passage of the Natural Gas Act in 1938, pipelines as regulated public utilities have been permitted to include in their cost of service only those operating expenses, including the cost of purchased gas, which are reasonable. While our order placed emphasis on that duty, it did not effectuate any basic change in the pipelines' obligations in this regard. These obligations would exist even if nothing had been said in the order.

Similar objections to the Commission's standard for limiting a pipeline's reduction and refund obligation under a tracking increase are also without merit. The Commission in the July 23 notice proposed to allow pipeline purchasers to file tracking increases of rate increases resulting from the issuance of blanket certificates, but the collection of these tracking increases was to be subject to reduction and refund. In response to Consolidated's claim that the collection should not be so conditioned, the Commission in Order No. 428 modified the original proposal so as to limit the reduction and refund obligation of tracking increases to those which reflect small producer prices for new sales above the standard set forth therein.[6] The standard also provides pipelines with a more concrete guide for their future actions than would exist in the absence thereof. Simply put, the Commission wanted the pipelines to know in advance the boundaries within which they could freely contract with small producers.

Both INGAA and Tennessee object to the provision which limits tracking increase filings to those situations where small producer rate increases, or such increases together with other increases authorized for tracking, affect a pipeline's cost of purchased gas by 1 mill or more. INGAA urges that a minimum dollar amount be fixed for each company, or, alternatively that the adjustment amount be reduced to one-tenth mill where a pipeline designs its rates to that tolerance. While Tennessee makes no specific recommendation, it does claim that the present limitation is unreasonable for large pipelines. To illustrate, it states that under the present limitation it will be required to absorb all small producer increases until it experiences an overall annual increase of approximately $1,200,000 in its purchased gas costs. In view of its many suppliers, its frequent changes in rates and changes in purchase patterns, the limitation imposed is of minor significance. In addition, any reduction in the 1-mill limitation would substantially increase the number of tracking filings made by a pipeline during the course of a year to the detriment of the pipeline's customers. Consequently we shall retain the 1-mill limitation.

Tennessee also inquires as to a pipeline's obligation in a situation where the operator of a producing property is a small producer who has a blanket certificate, but one of the nonsignatory working interest is a large producer with an interest above 12½ percent. The large producer in such circumstances is required to obtain certificate authorization under § 154.91 of the regulations and to file the small producer's contract as its own as well as its operating agreement with the small producer. If the large producer does not obtain certificate authorization, he is not authorized to make any jurisdictional sales.

In Order No. 428 we indicated that the blanket certificate of a small producer would apply to a sale by a nonsignatory small producer under a large producer's rate schedule. Tennessee asserts, however, that if a pipeline pays on the basis of the large producer's billing, it should not later be subjected to claims that the nonsignatory small producer who has been selling under the large producer's rate schedule is entitled to a higher rate. For this type of sale a small producer will not be permitted to collect a higher rate than the rate in effect under the large producer's rate schedule for any period prior to the date it notifies the large producer and the pipeline purchaser of its right to make the sale under its blanket certificate and the rate applicable thereto. However, a small producer who has filed for a small producer or blanket certificate prior to the issu-

[4] Phillips Petroleum Co. v. State of Wisconsin, 347 U.S. 672 (1954).

[5] The term "new small producer sale" includes, inter alia, gas sold by a small producer pursuant to a contract dated on or after Mar. 18, 1971, which replaces an expired contract or pursuant to a contract amendment dated on or after Mar. 18, 1971, modifying the terms of a contract dated prior to that date.

[6] There is no reduction or refund obligation with respect to increased purchased gas costs relating to rate increases authorized in existing small producer contracts.

ance of this order shall have 30 days from the date of issuance of this order within which to make the notification required herein, and if it does so, such notification shall be effective as of the effective date of its blanket certificate.

Tennessee contends that the Commission's action of providing that the blanket certificate would be effective as of May 2, 1971, if a small producer had filed an application prior to the issuance of Order No. 428 or if it files one on or before May 2, 1971, regardless of the date of Commission action, is illegal because it would result in retroactive increases for small producers. Tennessee also claims the procedure is unfair because there is no way a pipeline can track retroactively the effect of this obligation.

The purpose of our action was to assure the small producer that its effective date for exemption would not depend on the happenstance of the date of issuance of a blanket certificate. Nor is there any retroactivity involved since the filing must be made on or before the effective date. The fact that Commission action will not be taken until after the date of filing does not make the action taken illegal. Such action is similar to the action taken by the Commission on an increased rate filing when it permits such filing to become effective as of the date of filing. Furthermore, there is nothing in Order No. 428 to preclude a pipeline in these circumstances from tracking an increase of this nature.

El Paso has suggested an alternative procedure to the one adopted by us pursuant to which the Commission would take action within 60 days of the submittal of a new small producer contract by a pipeline. Under this approach the Commission would approve or disapprove the rate proposed, or, alternatively, indicate the proper rate level. During the 60-day review period the small producer would have the right to initiate deliveries without refund obligation and would be free after Commission action to terminate deliveries if it so desired.

The proposal does not go far enough. We want to facilitate the entry of the small producer into the interstate market and to assure the small producer that when he enters into a new contract, the provisions of that contract will not be subject to change. This can best be accomplished within the framework of the procedure we have adopted in Order No. 428.

Nor do we adopt El Paso's request that the first blanket certificates authorized under Order No. 428 be effective as of the first day of a calendar month, in lieu of May 2, 1971, to avoid costly and burdensome procedures in segregating purchases. We are reluctant at this stage to move the effective date back to May 1 and it would be inequitable to the small producers to push it forward to June 1. Moreover, the problems alluded to by El Paso are the same as those which arise each month when a producer places a higher rate into effect, subject to refund.

New York in its application for rehearing sought a stay of Order No. 428 until 30 days after the Commission's action on rehearing based on the assumption that the Commission might rescind or substantially modify that order but that it might not do so until after May 2, 1971, the effective date of the order. With minor modifications, Order No. 428 remains intact. There is thus no justification for granting a stay now.

A number of other matters have come to our attention which warrant some discussion here. Small producer certificates issued pursuant to Order No. 428 will be effective as of May 2, 1971, if an application therefor was filed on or before May 3, 1971,[1] and as of the date of filing if an application is filed subsequent to May 3, 1971. Following the filing of an application, temporary authorization is not necessary for a small producer to commence new jurisdictional sales or to collect the contract rate for existing or new sales as of May 2, 1971, or the date of filing the application, whichever is applicable. The blanket certificate, when issued, will provide all of the necessary authorization.

As provided in Order No. 428, those producers who received small producer certificates under the procedure in effect prior to the establishment of the new procedure in Order No. 428 are deemed as of May 2, 1971, without further order of the Commission, to have blanket certificate authorization under § 157.40(c) as now constituted.

In accordance with Order No. 428, small producers under favored-nation or other indefinite pricing clauses may charge the applicable area just and reasonable ceiling. The vintage of the gas involved will determine whether a small producer is entitled to the new or old gas ceiling. Where no just and reasonable determination is available, a small producer may charge the applicable area guideline initial rate ceiling, regardless of the vintage involved.

Finally, the blanket certificate authorization is applicable to jurisdictional sales made by a small producer from gas reserves acquired prior to the issuance of Order No. 428 by the purchase of developed reserves in place from a large producer. The problem sought to be solved in § 157.40(c) by the exclusion from blanket authorization of sales from certain gas reserves has no applicability to previously acquired reserves. However, for acquisitions of developed reserves in place made on or after the issuance of Order No. 428, a small producer must apply for separate certificate authorization for jurisdictional sales relating thereto regardless of whether the large producer who sold the reserves in place retained any rights or reversionary interest in the properties involved.

The Commission finds:

(1) The applications for rehearing set forth no further facts or principles of law which were not fully considered in Order No. 428 (36 F.R. 5598, Mar. 25, 1971), or which, having now been considered, warrant any modification of that order, except as hereinafter provided.

[1] Inasmuch as the filing deadline fell on May 2, a Sunday, it was extended to May 3 pursuant to § 1.13 of the Commission's rules of practice and procedure.

(2) The correction of footnote 4 in Order No. 428 (36 F.R. 5598 at 5600, Mar. 25, 1971) and the revision of § 157.39 of the Commission's regulations under the Natural Gas Act (18 CFR 157.39) prescribed in ordering paragraphs (B) and (C), infra, constitute a clarification and interpretation of Order No. 428, an existing order in this proceeding which was adopted in compliance with the requirements of 5 U.S.C. 553 after notice and opportunity to submit written comments which were received and considered by the Commission. Accordingly, further compliance with the notice, public procedure and effective date requirements of 5 U.S.C. 553 is unnecessary.

(3) The correction of footnote 4 in Order No. 428 (36 F.R. 5598 at 5600, Mar. 25, 1971) and the revision of § 157.39 of the Commission's regulations under the Natural Gas Act (18 CFR 157.39) prescribed in ordering paragraphs (B) and (C), infra, are necessary and appropriate for carrying out the provisions of the Natural Gas Act.

(4) Since the addition of paragraph (h) to section 157.40 of the Commission's regulations under the Natural Gas Act (18 CFR 157.40) prescribed in ordering paragraph (D), infra, is consistent with the prime purpose of the proposed rulemaking herein, further notice thereof is unnecessary.

The Commission, acting pursuant to the provisions of the Natural Gas Act, particularly sections 4, 5, 7, 16, and 19, 52 Stat. 822, 823, 824, 825, 830, and 831; 56 Stat. 83, 84; 61 Stat. 459; 15 U.S.C. 717c, 717d, 717f, 717o, 717r, orders:

(A) The applications for rehearing filed with respect to Order No. 428 (36 F.R. 5598, Mar. 25, 1971) and New York's request for a stay are denied.

(B) Federal Register Document 71-4044 published at pp. 5598–5602, Vol. 36, of the issue dated Thursday, March, 25, 1971, is corrected by deleting the words "the pipeline consents to abandonment or" in lines 4–5 of footnote 4, which footnote appears on p. 5600 at the bottom of the left-hand column.

(C) Part 157 of Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations is amended by revising § 157.39 to read:

§ 157.39 Applicability of §§ 157.23 through 157.30.

Sections 157.23 through 157.30 shall be applicable to independent producers as defined in § 154.91 of this chapter, but, with the exception of § 157.30, shall not apply to those independent producers who are subject to § 157.40.

(D) Part 157 of Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations is amended by adding paragraph (h) to § 157.40, as follows:

§ 157.40 Exemption of small producers from certain filing requirements.

* * * * *

(h) *Resale authorization for large producer.* A large producer who has filed on or after July 15, 1971, an application for a certificate of public convenience and necessity for the resale of natural

gas purchased from a small producer authorized to sell such gas pursuant to the blanket certificate provisions in paragraph (c) of this section may resell such gas at any time after the filing of its certificate application pending final Commission action thereon. Any amounts collected by a large producer for resales made pursuant to this paragraph in excess of the rate finally determined to be required by the public convenience and necessity for such resales shall be subject to refund with interest at 7 percent per annum.

(E) This order shall be effective upon issuance.

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

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-10314 Filed 7-20-71;8:50 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 71-89]

PART 11—PACKING AND STAMPING, MARKING; TRADEMARKS AND TRADE NAMES; COPYRIGHTS

Country of Origin Marking; Cast Iron Soil Pipe and Fittings; Correction

Treasury Decision 71-89 published in the FEDERAL REGISTER, March 24, 1971 (F.R. Doc. 71-3973; 36 F.R. 5465), is corrected as follows:

The reference to "the fourth sentence" in the amendment to § 11.10(a) is corrected to read "the seventh sentence."

[SEAL] MYLES J. AMBROSE, *Commissioner of Customs.*

[FR Doc.71-10329 Filed 7-20-71;8:48 am]

Title 20—EMPLOYEES' BENEFITS

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

[Regulations No. 4, further amended]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950——)

Place for Hearing

On April 3, 1971, there was published in the FEDERAL REGISTER (36 F.R. 6434) a notice of proposed rule making with proposed amendments to Subpart J of Regulations No. 4. The proposed amendments make explicit a longstanding Administration practice that hearings by hearing examiners of the Bureau of Hearings and Appeals are not conducted outside the United States, Puerto Rico, or the Virgin Islands, and provide, in general, that where a party residing outside these areas requests a hearing and does not indicate that he wishes to appear in person or through a representative before a hearing examiner, the hearing examiner may decide the case on the record. Interested persons were given the opportunity to submit within 30 days, data, views, or arguments with regard to the proposed amendments. No comments have been received. Accordingly, the amendments, as proposed, are adopted.

(Secs. 205 (a), (b), 221(d), 1102, 1869, and 1871, 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 79 Stat. 330, 331; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 405, 421, 1302, 1395 et seq.)

Effective date. These amendments shall be effective upon publication in the FEDERAL REGISTER (7-21-71).

Dated: July 2, 1971.

ROBERT M. BALL, *Commissioner of Social Security.*

Approved: July 15, 1971.

ELLIOT L. RICHARDSON, *Secretary of Health, Education, and Welfare.*

Regulations No. 4 are amended as set forth below:

1. Section 404.923 is revised to read as follows:

§ 404.923 Time and place of hearing.

The hearing examiner shall fix a time and a place within the United States for the hearing, written notice of which, unless waived by a party, shall be mailed to the parties at their last known addresses or given to them by personal service, not less than 10 days prior to such time. As used in this section and in § 404.934, the United States means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. Written notice of the objections of any party to the time and place fixed for a hearing shall be filed by the objecting party with the hearing examiner at the earliest practicable opportunity (before the time set for such hearing). Such notice shall state the reasons for the party's objection and his choice as to the time and place within the United States for the hearing. The hearing examiner may, for good cause, fix a new time and/or place within the United States for the hearing.

2. Section 404.934 is revised to read as follows:

§ 404.934 Right to appear and present evidence.

(a) *General.* Any party to a hearing shall have the right to appear before the hearing examiner, personally or by representative, and present evidence and contentions. If all parties are unwilling, unable, or waive their right to appear before the hearing examiner, personally or by representative, it shall not be necessary for the hearing examiner to conduct an oral hearing as provided in §§ 404.923 to 404.933, inclusive. A waiver of the right to appear and present evidence and allegations as to facts and law shall be made in writing and filed with the hearing examiner. Such waiver may be withdrawn by a party at any time prior to the mailing of notice of the decision in the case. Even though all of the parties have filed a waiver of the right to appear and present evidence and contentions at a hearing before the hearing examiner, the hearing examiner may, nevertheless, give notice of a time and place and conduct a hearing as provided in §§ 404.923 to 404.933, inclusive, if he believes that the personal appearance and testimony of the party or parties would assist him to ascertain the facts in issue in the case.

(b) *Record as basis for decision.* Where all of the parties have waived their right to appear in person or through a representative and the hearing examiner does not schedule an oral hearing, the decision shall be based on the record. Where a party residing outside the United States at a place not readily accessible to the United States does not indicate that he wishes to appear in person or through a representative before a hearing examiner, and there are no other parties to the hearing who wish to appear, the hearing examiner may decide the case on the record. In any case where the decision is to be based on the record, the hearing examiner shall make a record of the relevant written evidence, including applications, written statements, certificates, affidavits, reports, and other documents which were considered in connection with the initial determination and reconsideration, and whatever additional relevant and material evidence the party or parties may present in writing for consideration by the hearing examiner. Such documents shall be considered as all of the evidence in the case.

[FR Doc.71-10326 Filed 7-20-71;8:49 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Recodification of Certain New Animal Drug Regulations

Correction

In F.R. Doc. 71-9365 appearing at page 12608 in the issue of Friday, July 2, 1971, the reference to "§ 135b.6d(d)" appearing in the third line of the first paragraph should read "§ 135b.6(d)".

Chapter II—Bureau of Narcotics and Dangerous Drugs, Department of Justice

DRUG ABUSE PREVENTION AND CONTROL

Under the authority vested in the Attorney General by sections 201(a), 201(g), 202(d), 301, 302(f), 304, 305, 306(f), 307, 308, 501(b), 505, 511, 513, 704(c), 705, 1002, 1003, 1004, 1006, 1007(b), 1008(d), 1008(e), and 1015 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs, by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby orders that Parts 301, 302, 303, 304, 305, 306, 307, 308, 311, 312, and 316 of Title 21 of the code of Federal Regulations be amended as follows:

PART 301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

1. By substituting the word "Fee" for the word "Free" in the index to Part 301 at § 301.11.

2. By deleting the words "preclinical research (including quality)" from paragraph (b) of § 301.13.

3. By substituting the numbers "301.29" for the numbers "301.27" in the first sentence of § 301.21.

4. By adding the word "a" before the word "Certificate" in paragraph (a) of § 301.31.

5. By substituting the numbers "301.54" for the numbers "301.55" in the first sentence of paragraph (d) of § 301.48.

6. By revising paragraph (b) of §301.54 to read as follows:

§ 301.54 Request for hearing or appearance; waiver.

* * * * *

(b) Any person entitled to participate in a hearing pursuant to § 301.43 and desiring to do so shall, within 30 days of the date of publication of notice of the hearing in the FEDERAL REGISTER, file with the Director a written notice of his intention to participate in such hearing in the form prescribed in § 316.48 of this chapter. Any person filing a request for a hearing need not also file a notice of appearance.

* * * * *

7. By deleting the hyphen between the words "State" and "controlled" in paragraph (a) of § 301.74.

PART 302—LABELING AND PACKAGING REQUIREMENTS FOR CONTROLLED SUBSTANCES

8. By revising the "Authority" note to Part 302 and § 302.01 to include references to section 1008(d) of the Act. These should read as follows:

AUTHORITY: The provisions of this Part 302 issued under secs. 301, 305, 501(b), 1008(d), 84 Stat. 1253, 1256, 1271, 1289; 21 U.S.C. 821, 825, 871(b), 958(d).

§ 302.01 Scope of Part 302.

Requirements governing the labeling and packaging of controlled substances pursuant to sections 305 and 1008(d) of the Act (21 U.S.C. 825 and 958(d)) are set forth generally by those sections and specifically by the sections of this part.

9. By substituting the word "drum" for the word "drug" in the second sentence of paragraph (a) of § 302.02.

10. By deleting the words "schedules I and/or II, and" and replacing these words with the words "schedule I or II, or" in paragraph (a) of § 302.07.

PART 303—QUOTAS

11. By adding the word "individual" immediately before the words "manufacturing quotas" in the index to Part 303 at § 303.22.

12. By substituting the word "quota" for the word "quotas" at the end of paragraph (a) of §303.02.

13. By substituting the numbers "250" for the numbers "194" in the first sentence of paragraph (b) of § 303.12.

14. By revising § 303.22 as follows:

a. Adding the word "individual" immediately before the words "manufacturing quotas" in the title to the section.

b. Adding a comma immediately after the words "Code Number" in paragraph (a).

c. Adding the word "individual" immediately before the words "manufacturing quota" in the following places:

i. Paragraph (b)(1);

ii. Paragraph (c)(1); and

iii. Paragraph (c)(2).

15. By amending § 303.24 by substituting the words "an individual" for the word "a" immediately before the words "manufacturing quota" in paragraph (c).

16. By adding a comma immediately after the words "manufacturing quota" in the first sentence of paragraph (b) of § 303.25.

17. By adding the words "name and" immedately before the words "Bureau Controlled Substances" in the first sentence of § 303.27.

PART 304—RECORDS AND REPORTS OF REGISTRANTS

18. By revising the "Authority" note to Part 304 to correct references to the proper statutory sections of the Act. This should read as follows:

AUTHORITY: The provisions of this Part 304 issued under secs. 301, 307, 501(b), 1008(d), 1015, 84 Stat. 1253, 1258, 1259, 1271, 1289, 1291; 21 U.S.C. 821, 827, 871(b), 958(d), 965.

19. By substituting the word "part" for the word "Part" in § 304.01.

20. By substituting the word "part" for the word "Part", and the word "meanings" for the word "meaning", in the introductory paragraph to § 304.02, and by substituting the word "drum" for the word "drug" in the second sentence of paragraph (b) of § 304.02.

21. By substituting the word "approval" for the word "approved" immediately after the word "Bureau" in the first sentence of paragraph (a) of § 304.04.

22. By substituting the numbers "304.19" for the numbers "304.18" in both paragraph (a) and paragraph (b) of § 304.12.

23. By deleting paragraph (c)(5) of § 304.15.

24. By substituting the numbers "§§ 304.25 and 304.26" for the numbers "§ 304.25" at the end of paragraph (c) of § 304.21.

25. By amending § 304.22 as follows:

a. By adding the word "in" immediately after the words "form to be used" in paragraph (a) of the section.

b. By deleting the word "therefor" in paragraph (b)(6)(iii) and substituting the words "for such losses."

26. By substituting the word "analysts" for the word "analysis" in the title to § 304.27.

27. By substituting the numbers "235b" for the numbers "234b" at the end of the first sentence of paragraph (a) of § 304.32.

PART 305—ORDER FORMS

28. By revising the first parenthetical unit in paragraph (c) of § 305.06 to read as follows: "(e.g., 10-milligram tablet, 10-milligram concentration per fluid ounce or milliliter, or U.S.P.)".

29. By adding the word "as" immediately before the words "an importer" in the introductory paragraph of § 305.06.

30. By substituting the word "Copies" for the word "copies" in the third sentence of paragraph (a) of § 305.12.

31. By substituting the word "Copies" for the word "copies" in the second sentence of paragraph (a) of § 305.15, and by revising the first sentence of paragraph (b) of § 305.15 to read as follows: "A supplier may void part or all of an order on an order form by notifying the purchaser in writing of such voiding."

PART 306—PRESCRIPTIONS

32. By redesignating paragraphs (e), (e), and (f) of § 306.02 as paragraphs (e), (f), and (g) respectively.

33. By adding the word "the" between the words "notify" and "prescribing" in the second sentence of § 306.13.

PART 307—MISCELLANEOUS

34. By adding the numbers "21" before the letters "U.S.C." in the "Authority" next to Part 307.

PART 308—SCHEDULES OF CONTROLLED SUBSTANCES

35. By amending § 308.03 as follows:

a. By deleting the words "controlled substances code number" in the title and substituting the words "Controlled Substances Code Number."

b. In the first sentence of paragraph (a) by deleting the words "Controlled stituting the words "the substances or

words "Each controlled substance, or", by deleting the word "have" and substituting the word "has", and by deleting the words "such substances" and substituting the words "the subsetances or class."

36. By deleting from paragraph (d)(17) of § 308.11, in the paragraph beginning "$\Delta^{8,9}$ cis" the word "tetrahydrocannabonil" so that the paragraph will read "$\Delta^{8,9}$ cis or trans tetrahydrocannabinol, and its optical isomers." (Note: the word deleted ends in "bonil" and the word retained ends in "binol".)

37. By amending paragraph (e) of § 308.13 as follows:

a. By deleting the word "and" and substituting the word "or" in the following: Subparagraphs (1) through (7).

b. By deleting the words "and not more than 2.5 milligrams per dosage unit" from subparagraph (8).

38. By amending § 308.15 as follows:

a. By deleting from paragraph (b)(1) the words "and not more than 10 milligrams per dosage unit."

b. By deleting from paragraph (b)(2) the words "and not more than 5 milligrams per dosage unit."

c. By deleting from paragraph (b)(3) the words "and not more than 5 milligrams per dosage unit."

d. By deleting from paragraph (b)(5) the words "and not more than 5 milligrams per dosage unit."

39. By deleting the word "Washingtin" in paragraph (a) of § 308.31 and substitute the word "Washington".

40. By revising the last portion of the first sentence of paragraph (a) of § 308.32 to read as follows: "sections 305, 307, 308, 309, 1002, 1003, and 1004 of the Act (21 U.S.C. 825, 827–9, 952–4) for administrative purposes only."

41. By adding the word "the" between the words "If" and "petitioner" in the third sentence of paragraph (c) of § 308.44, and by deleting the parenthetical signs at the end of paragraph (e) of § 308.44 and substituting the word "for" for the word "or".

42. By deleting the numbers "316.42" in paragraph (a) of § 308.45 and substituting the numbers "316.47."

PART 311—REGISTRATION OF IMPORTERS AND EXPORTERS OF CONTROLLED SUBSTANCES

43. By adding the words "and method" after the word "Time" in the title to Part 311 at § 311.12.

44. By adding the words "and method" after the word "Time" in the title to § 311.12.

45. By revising § 311.28 by deleting the "(a)" at the beginning of the first paragraph, redesignating paragraphs (1) and (2) as "(a)" and "(b)" respectively, and redesignating paragraphs (i) and (ii) as "(1)" and "(2)" respectively.

46. By amending § 311.44 as follows:

a. By deleting the words "Controlled Substances" before the word "Act" in paragraphs (a) and (b) and paragraphs (d)(2) and (e)(2).

b. By deleting the word "registration" after the word "old" in the second sentence of paragraph (e) and substituting the words "Certificate of Registration."

47. By deleting the words "and by the procedure" immediately in paragraph (a) of § 311.51, after the numbers "§§ 311.52–311.53" and substituting the words "by the procedures," and by deleting the numbers "316.00" at the end of paragraph (a) of § 311.51 and substituting the numbers "316.67."

48. By adding the word "listed" between the words "substance" and "in", and by deleting the numbers "301.73" and substituting the numbers "301.57" in § 311.52.

49. By adding the word "listed" between the words "substance" and "in" in paragraph (a) of § 311.53.

PART 312—IMPORTATION AND EXPORTATION OF CONTROLLED SUBSTANCES

50. By deleting the numbers "1771" in the "Authority" note to Part 312 and substituting the numbers "1271".

51. By deleting the parenthetical sign immediately after the letters "i.e." in paragraph (a)(2) of § 312.12. This should read as follows: "exportation (i.e., the place".

52. By deleting the comma immediately after the word "Customs" in the fourth sentence of paragraph (a) of § 312.14, and by deleting the words "triplicate copy (Copy 3)" in paragraph (c) of § 312.14 and substituting the words "quadruplet copy (Copy 4)".

53. By deleting the word "Distribution" immediately before the word "Registration" in paragraph (b) of § 312.19.

54. By deleting the comma immediately after the word "Customs" in the second sentence of paragraph (a) of § 312.24.

55. By deleting the word "These" at the beginning of the second sentence of paragraph (d) of § 312.28 and substituting the word "There".

PART 316—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

56. By deleting the numbers "216.09" in paragraph (c) of § 316.05 and substituting the numbers "316.09".

57. By deleting the word "which" immediately after the word "magistrate" and substitute the word "and" in paragraph (a) of § 316.09, and by deleting the words "the Controlled Substances Act or the Controlled Substances Import and Export Act and the regulations promulgated under these Acts" and substituting the words "the Act and the regulations promulgated thereunder" at the end of paragraph (a)(2) of § 316.09.

58. By revising the address on the form § 316.47 to read as follows:

Director, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Washington, D.C. 20537. Attention: Hearing Clerk, Office of Chief Counsel.

59. By revising the address on the form in § 316.48 to read as follows:

Director, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Washington, D.C. 20537. Attention: Hearing Clerk, Office of Chief Counsel.

and by adding the words "(Name of person)" under the dotted lines immediately following the words "notice that" in the form, and by deleting the word "interested" immediately before the word "person" in paragraph (B) of the form.

61. By deleting the words "or with" immediately after the words "or by" in the first sentence in § 316.50.

62. By deleting the number "301.63" in paragraph (b) of § 316.58 and substituting the number "316.57."

63. By deleting the number "301.04 (b)" in the parenthetical unit in paragraph (a) of § 316.63 and substituting the number "316.46(b)".

64. By deleting the words "of Narcotics and Dangerous Drugs" immediately after the word "Bureau" in the second sentence of § 316.77.

This order is effective upon publication in the FEDERAL REGISTER (7–21–71). The Director invites public comments on these amendments, and proposals for other amendments and corrections to the regulations, and will consider such comments and proposals for amendatory purposes.

Dated: July 15, 1971.

JOHN FINLATOR,
Acting Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.71-10307 Filed 7-20-71;8:48 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGFR 71-73]

PART 110—ANCHORAGE REGULATIONS

Mississippi River Below Baton Rouge, La.

This amendment revises the description of the New Orleans general anchorage. This revision was made necessary by the discontinuance of the reference "Cutoff Light."

Since this amendment is an editorial change, it is exempt from notice of proposed rule making and public procedure thereon by 5 U.S.C. 553 and the amendment may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

Accordingly, 110.195(a) is amended by revising subparagraph (3) to read as follows:

§ 110.195 **Mississippi River below Baton Rouge, La., including South and Southwest Passes.**

(a) * * *

(3) *New Orleans general anchorage.* The New Orleans General Anchorage is