

Subpart B [Reserved]**Subpart C—Consent Order
Procedure****§ 2.31 Opportunity to submit a proposed consent order.**

(a) Where time, the nature of the proceeding, and the public interest permit, any individual, partnership, or corporation being investigated shall be afforded the opportunity to submit through the operating Bureau or Regional Office having responsibility in the matter a proposal for disposition of the matter in the form of a consent order agreement executed by the party being investigated and complying with the requirements of § 2.32, for consideration by the Commission in connection with a proposed complaint submitted by the Commission's staff.

(b) After a complaint has been issued, the consent order procedure described in this part will not be available except as provided in § 3.25(b).

[40 FR 15235, Apr. 4, 1975]

§ 2.32 Agreement.

Every agreement shall contain, in addition to an appropriate order, either an admission of the proposed findings of fact and conclusions of law submitted simultaneously by the Commission's staff or an admission of all jurisdictional facts and an express waiver of the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law. In addition, every agreement shall contain waivers of further procedural steps and of all rights to seek judicial review or otherwise to challenge or contest the validity of the order. The agreement shall also contain provisions that the complaint may be used in construing the terms of the order, and that no agreement, understanding, representation, or interpretation not contained in the order or the aforementioned agreement may be used to vary or to contradict the terms of the order; that the order shall have the same force and effect and may be altered, modified, or set aside in the same manner provided by statute for other orders; that the order shall become final upon service; that the agreement shall not become a

part of the public record unless and until it is accepted by the Commission; and, if the agreement is accepted, that the Commission will place the order contained therein on the public record for a period of sixty (60) days for the receipt and consideration of comments or views from any interested person; and that the Commission thereafter may either withdraw its acceptance of the agreement and so notify the other party, in which event it will take such other action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding. In addition, in appropriate circumstances the agreement may contain a statement that the signing thereof is for settlement purposes only and does not constitute an admission by any party that the law has been violated as alleged in the complaint.

[42 FR 3300, Jan. 18, 1977, as amended at 50 FR 53305, Dec. 31, 1985]

§ 2.33 Compliance procedure.

The Commission may in its discretion require that a proposed agreement containing an order to cease and desist be accompanied by an initial report signed by the respondent setting forth in precise detail the manner in which the respondent will comply with the order when and if entered. Such report will not become part of the public record unless and until the accompanying agreement and order are accepted by the Commission. At the time any such report is submitted a respondent may request confidentiality for any portion thereof with a precise showing of justification therefore, and the General Counsel with due regard to statutory restrictions, the Commission's rules, and the public interest will act upon such request.

[59 FR 34969, July 8, 1994]

§ 2.34 Disposition.

Upon receiving an executed agreement conforming with the requirements of § 2.32, the Commission may:

Accept it; reject it and issue its complaint; or take such other action as it may deem appropriate. If an agreement is accepted, the Commission will place