the plan so provides, any person or group of persons may serve in more than one fiduciary capacity, including serving both as trustee and administrator. Conversely, fiduciary responsibilities not involving management and control of plan assets may, under section 405(c)(1) of the Act, be allocated among named fiduciaries and named fiduciaries may designate persons other than named fiduciaries to carry out such fiduciary responsibilities, if the plan instrument expressly provides procedures for such allocation or designation.

FR-13 Q: If the named fiduciaries of an employee benefit plan allocate their fiduciary responsibilities among themselves in accordance with a procedure set forth in the plan for the allocation of responsibilities for operation and administration of the plan, to what extent will a named fiduciary be relieved of liability for acts and omissions of other named fiduciaries in carrying out fiduciary responsibilities allocated to them?

A: If named fiduciaries of a plan allocate responsibilities in accordance with a procedure for such allocation set forth in the plan, a named fiduciary will not be liable for acts and omissions of other named fiduciaries in carrying out fiduciary responsibilities which have been allocated to them, except as provided in section 405(a) of the Act, relating to the general rules of co-fiduciary responsibility, and section 405(c)(2)(A) of the Act, relating in relevant part to standards for establishment and implementation of allocation procedures.

However, if the instrument under which the plan is maintained does not provide for a procedure for the allocation of fiduciary responsibilities among named fiduciaries, any allocation which the named fiduciaries may make among themselves will be ineffective to relieve a named fiduciary from responsibility or liability for the performance of fiduciary responsibilities allocated to other named fiduciaries.

FR-14 Q: If the named fiduciaries of an employee benefit plan designate a person who is not a named fiduciary to carry out fiduciary responsibilities, to what extent will the named fiduciaries be relieved of liability for the acts and omissions of such person in the performance of his duties?

A: If the instrument under which the plan is maintained provides for a procedure under which a named fiduciary may designate persons who are not named fiduciaries to carry out fiduciary responsibilities, named fiduciaries of the plan will not be liable for acts and omissions of a person who is not a named fiduciary in carrying out the fiduciary responsibilities which such person has been designated to carry out, except as provided in section 405(a) of the Act, relating to the general rules of co-fiduciary liability, and section 405(c)(2)(A) of the Act, relating in relevant part to the designation of persons to carry out fiduciary responsibilities.

However, if the instrument under which the plan is maintained does not provide for a procedure for the designation of persons who are not named fiduciaries to carry out fiduciary responsibilities, then any such designation which the named fiduciaries may make will not relieve the named fiduciaries from responsibility or liability for the acts and omissions of the persons so designated.

FR-15 Q: May a named fiduciary delegate responsibility for management and control of plan assets to anyone other than a person who is an investment manager as defined in section 3(38) of the Act so as to be relieved of liability for the acts and omissions of the person to whom such responsibility is delegated?

A: No. Section 405(c)(1) does not allow named fiduciaries to delegate to others authority or discretion to manage or control plan assets. However, under the terms of sections 403(a)(2) and 402(c)(3) of the Act, such authority and discretion may be delegated to persons who are investment managers as defined in section 3(38) of the Act. Further, under section 402(c)(2) of the Act, if the plan so provides, a named fiduciary may employ other persons to render advice to the named fiduciary to assist the named fiduciary in carrying out his investment responsibilities under the plan.

FR-16 Q: Is a fiduciary who is not a named fiduciary with respect to an employee benefit plan personally liable for all phases of the management and administration of the plan?

A: A fiduciary with respect to the plan who is not a named fiduciary is a fiduciary only to the extent that he or she performs one or more of the functions described in section 3(21)(A) of the Act. The personal liability of a fiduciary who is not a named fiduciary is generally limited to the fiduciary functions, which he or she performs with respect to the plan. With respect to the extent of liability of a named fiduciary of a plan where duties are properly allocated among named fiduciaries or where named fiduciaries properly designate other persons to carry out certain fiduciary duties, see question FR-13 and FR-14.

In addition, any fiduciary may become liable for breaches of fiduciary responsibility committed by another fiduciary of the same plan under circumstances giving rise to co-fiduciary liability, as provided in section 405(a) of the Act.

FR-17 Q: What are the ongoing responsibilities of a fiduciary who has appointed trustees or other fiduciaries with respect to these appointments?

A: At reasonable intervals the performance of trustees and other fiduciaries should be reviewed by the appointing fiduciary in such manner as may be reasonably expected to ensure that their performance has been in compliance with the terms of the plan and statutory standards, and satisfies the needs of the plan. No single procedure will be appropriate in all cases; the procedure adopted may vary in accordance with the nature of the plan and other facts and circumstances relevant to the choice of the procedure.

Signed at Washington, D.C. this 3rd day of October 1975.

JAMES D. HUTCHINSON,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.75-27156 Filed 10-6-75;1:12 pm]

Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

PART 210—FEDERAL RECURRING PAYMENTS THROUGH FINANCIAL ORGANIZATIONS BY MEANS OTHER THAN BY CHECK

Payment to Recipients

On April 14, 1975, there was published in the FEDERAL REGISTER (40 FR 16669), a notice of proposed rulemaking to amend Title 31 of the Code of Federal Regulations by the addition of a new Part 210 to govern the making of recurring payments by the Federal Government to recipients by means other than by check. This Part would prescribe a new method for making payments involving the preparation by the Government of magnetic tapes reflecting the necessary data to accomplish payment to recipients who have chosen to be paid by credit to their accounts in financial organizations. Delivery of the data by the Government to the Federal Reserve Bank would constitute an issuance by the Government of orders for the payment of money which would be made available by the Federal Reserve Banks, using Federal Reserve distribution systems, to those financial organizations which have been designated by recipients and which have agreed to participate in this system and to accept payments for the recipients. Federal Reserve Banks would make the dollar amounts of such orders available to the financial organizations which would in turn credit the funds to the recipients' accounts on the books of the financial organizations.

Participation in this program of payments made through financial organizations rather than directly to recipients would be voluntary for recipients and financial organizations, and as applied to recipients and financial organizations would be based on the completion by each of its part of a Standard Authorization Form. However, after execution of such Form, the method of payments, whether by check pursuant to Parts 209[1] and 240 of this title or by means other than check pursuant to this Part, is optional with the Government and the financial organization. The option of payment by Government check directly to recipients would remain with recipients.

Interested parties were given 60 days from the date of publication of the notice to comment on the proposed regulation. Numerous comments were received both during and after the notice period from trade associations representing the financial community, individual financial organizations, interested Federal agencies, and representatives of the Federal Reserve Board and the Federal Reserve Banks. The Treasury Department considered all of the issues raised by these comments, and, where appropriate, modified the proposed regulations in order to accommodate suggestions made in those comments.

The principal differences between the final regulation and the proposed regulation are as follows:

1. The definition of "Recurring payment" in proposed § 210.2(h) was amended by the addition of the parenthetical phrase "(or allotment therefrom)" after the phrase "or other payment" to make clear that an allotment from a "recurring payment" is separate and distinct from the payment from which it is deducted and is itself a recurring payment.

2. The definition of "Standard Authorization Form" in proposed § 210.2(j) was

[1] The Department of the Treasury will shortly publish a notice of proposed rulemaking to amend Part 209, to provide conformity and consistency with the new Part 210.

amended to provide that only the Treasury Department, as opposed to any program agency, can prescribe a "Standard Authorization Form."

3. Proposed § 210.4(h) provided that any change in the title of an account would terminate a Standard Authorization Form in which that account was designated. Under the final § 210.4(h), only a change in the title of an account which would cause a program agency to review the deposit of a recurring payment to that account terminates the Standard Authorization Form. Further, in situations where the Standard Authorization Form is terminated by a change in the account title, a financial organization can continue to credit payments to that account after a new Standard Authorization Form has been executed (§ 210.7(f)(i)).

4. Proposed § 210.6(c), which provided that the Government could recall a credit payment at any time prior to the payment date, was eliminated from the final regulations as being, in some cases, unduly burdensome to financial organizations. The elimination of this section does not preclude the Government from notifying a financial organization to withhold a credit payment nor relieve the financial organization of the duty of making a reasonable effort to comply with such notice.

5. Proposed § 210.7 was modified, *inter alia*, with the substitution of a new subsection (e). The requirement in the proposed subsection (e)—that the financial organization notify the program agency of "any event actually known by it" which would preclude crediting of an account—was eliminated since it placed the duty of making difficult factual decisions on individual financial organizations. It is believed that § 210.7(f) will provide adequate notice to the Government in such situations. The new subsection (e) was added to more clearly specify what information in the credit payment the financial organization can rely on, and the procedures to be followed if financial organizations are unable to credit the proper account based on this information.

6. Proposed § 210.7(f)(iii) and (iv) were modified, the former since proposed § 210.7(e) was eliminated, and the latter since the only notice of termination to the financial organizations in most cases will be the failure to receive an expected credit payment.

7. Proposed § 210.9 was modified by the addition of a sentence defining the term "knowledge" used in § 210.9(a)(ii). Other modifications were made in this section to clarify the financial organization's (1) duty to recover withdrawn credit payments and (2) responsibilities with respect to funds still in the account.

8. In § 210.10(b) there was added an indemnification of the financial organization by the United States up to the amount of the credit payment in situations where the financial organization is rendered liable because it acted on incorrect information in a credit payment.

Other, less significant changes were made in various other sections of the Part.

Accordingly, Subchapter A, Chapter II, Title 31 of the Code of Federal Regulations is, as of January 1, 1976, amended by the addition of a new Part, designated Part 210, to read as follows:

Sec.
210.1 Scope of regulations.
210.2 Definitions.
210.3 Federal Reserve Banks.
210.4 Recipients.
210.5 Program agencies.
210.6 The Government.
210.7 Financial organizations.
210.8 Timeliness of action.
210.9 Death or legal incapacity of recipients or death of beneficiaries.
210.10 Liability of, and acquittance to, the United States.

AUTHORITY: 5 U.S.C. 301; 12 U.S.C. 391; Title 31, U.S.C., and other provisions of law.

§ 210.1 Scope of regulations.

This Part governs the making of recurring payments by the Government, by means other than by check, through Federal Reserve Banks and financial organizations to recipients maintaining accounts at such financial organizations.

§ 210.2 Definitions.

As used in this Part, unless the context otherwise requires:

(a) "Federal Reserve Bank" means any Head Office or Branch Office of any such Bank, acting as Fiscal Agent of the United States.

(b) "Financial organization" means any bank, savings bank, savings and loan association or similar institution, or Federal or State chartered credit union, which was affirmatively indicted to a Federal Reserve Bank its preparedness to receive credit payments under this Part.

(c) "Government" means the Government of the United States, the Department of the Treasury, a Federal disbursing office, and a program agency which has made arrangements with the Department of the Treasury to make payments under this Part, or any of them.

(d) "Credit payment" means an order for the payment of money issued by the Government under this Part to pay a recurring payment. A credit payment may be contained on (1) a letter, memorandum, telegram, computer print out or similar writing, or (2) any form of communication other than voice, which is registered upon magnetic tape, disc or any other medium designed to capture and contain in durable form conventional signals used for the electronic communication of messages.

(e) "Payment date" means the date specified for a credit payment. Such date is the date on which the funds specified in the credit payment are to be available for withdrawal from the recipient's account with the financial organization specified by such recipient, and on which such funds are to be made available to the financial organization by the Federal Reserve Bank with which the financial organization maintains or utilizes an account. If the payment date is not a business day for the financial organization receiving a credit payment, or for the Federal Reserve Bank from which it received such payment, then the next succeeding business day for both shall be deemed to be the payment date.

(f) "Recipient" means a person entitled to receive recurring payments from the Government.

(g) "Beneficiary" means a person other than a recipient who is entitled to receive the benefit of all or part of a recurring payment from the Government.

(h) "Recurring payment" means any Federal Government benefit, annuity, or other payment (or allotment therefrom), including any payment of salary, wages, or pay and allowances, which is made at regular intervals.

(i) "Program agency" means any agency which makes recurring payments, and includes any department, agency, independent establishment, board, office, commission or other establishment in the executive, legislative, or judicial branch of the Government, any wholly-owned or controlled Government corporation, and the municipal government of the District of Columbia.

(j) "Standard Authorization Form" means the authorization form prescribed by the Department of the Treasury for the recurring payment for execution by (1) a recipient, and (2) a financial organization maintaining an account for such recipient.

§ 210.3 Federal Reserve Banks.

(a) Each Federal Reserve Bank as Fiscal Agent of the United States shall receive credit payments from the Government and shall make available and pay such credit payments to financial organizations, and shall otherwise carry out the procedures and conduct the operations contemplated under this Part. Each Federal Reserve Bank may issue operating circulars (sometimes referred to as operating letters or bulletins) not inconsistent with this Part, governing the details of its credit payment handling operating and containing such provisions as are required and permitted by this Part.

(b) The Government by its action of issuing and sending any credit payment contained in the media specified in § 210.2(d) hereof shall be deemed to authorize the Federal Reserve Banks (1) to pay such credit payment to the debit of the general account of the United States Treasury on the payment date, and (2) to handle and act upon such credit payment.

(c) Upon receipt of a credit payment, a Federal Reserve Bank shall, if the credit payment is directed to a financial organization which maintains or utilizes an account on the books of another Federal Reserve Bank, forward such credit payment to such other Federal Reserve Bank. The Federal Reserve Bank on whose books the financial organization or its designated correspondent maintains an account shall deliver or make available such credit payment to such financial organization not later than the close of business for such financial organization on the business day prior to

the payment date on the medium as agreed to by such Federal Reserve Bank and financial organization.

(d) A financial organization by its action in maintaining or utilizing an account at a Federal Reserve Bank shall be deemed to authorize that Federal Reserve Bank to credit the amount of the credit payment to the account on its books of such financial organization or its designated correspondent maintaining an account with the Federal Reserve Bank.

(e) A Federal Reserve Bank receiving a credit payment from the Government shall make the amount of such credit payment available for withdrawal from the account on its books, referred to in § 210.3(d) above, at the opening of business on the payment date.

(f) Each Federal Reserve Bank shall be responsible only to the Department of the Treasury and shall not be liable to any other party for any loss resulting from such Federal Reserve Bank's actions under this Part.

§ 210.4 Recipients.

(a) In order for a recipient to receive a recurring payment by means of direct deposit of the amounts of credit payments under this Part, at a financial organization of the recipient's choosing and to an account the title of which includes the recipient's name, the recipient shall execute the applicable portion and deliver to such financial organization the Standard Authorization Form prescribed by the Department of the Treasury for such recurring payments. A recipient shall be responsible for any inaccuracy in the data entered by such recipient on such Standard Authorization Form.

(b) In executing a Standard Authorization Form, a recipient (1) designates the financial organization and the account on the books of such financial organization to which the amounts of the credit payments shall be credited, (2) is deemed to agree to the provisions of this Part, and (3) authorizes the program agency to terminate any previously executed Standard Authorization Form or any other inconsistent payment instructions applicable to the relevant recurring payment.

(c) A recipient shall execute a separate Standard Authorization Form for each type of recurring payment made hereunder. If a recipient wishes to direct a recurring payment to a different account or financial organization, the recipient shall execute a new Standard Authorization Form.

(d) A recipient may at any time authorize the program agency to terminate a Standard Authorization Form by notifying such program agency.

(e) The death or legal incapacity of a recipient or the death of a beneficiary shall terminate a Standard Authorization Form issued with respect to a recurring payment.

(f) A recipient of a recurring payment may request only that a credit payment be in the full amount of such recurring payment and be credited to one account on the books of a financial organization. Except as authorized by law or other regulations, the procedures set forth in this Part shall not be used for effectuating an assignment of a recurring payment.

(g) A recipient may be required by local law or by financial organization procedures to have the execution of a Standard Authorization Form notarized.

(h) A change in the title of an account on the books of a financial organization which (1) removes the name of the recipient, (2) removes or adds the name of a beneficiary, or (3) alters the interest of the beneficiary in the account shall terminate any Standard Authorization Form in which that account is designated, and shall require the execution of a new Standard Authorization Form before further credit payments may be credited to that account.

§ 210.5 Program agencies.

The program agency will maintain the data necessary for authorization of credit payments and shall make such data available for the issuance of such credit payments in sufficient time for the Government, in performing its disbursing function, to carry out its responsibilities under this Part. Such data shall be certified by the program agency's certifying officer in accordance with 31 U.S.C. 82c.

§ 210.6 The Government.

(a) In performance of its disbursing functions, the Government will, in accordance with the provisions of this Part, issue and direct credit payments to the Federal Reserve Bank on whose books the financial organization named therein maintains or utilizes an account in sufficient time for the Federal Reserve Bank to carry out its responsibilities under this Part.

(b) Procedural instructions for the guidance of the Government and Federal Reserve Banks in the implementation of these regulations will be issued by the Department of the Treasury.

§ 210.7 Financial organizations.

(a) A financial organization's execution of a Standard Authorization Form shall constitute its agreement to the terms of this Part with respect to each credit payment received by it pursuant to such Standard Authorization Form. Regardless of whether it has executed a Standard Authorization Form, a financial organization's acceptance and handling of a credit payment issued pursuant to this Part shall constitute its agreement to the provisions of this Part.

(b) A financial organization in executing a Standard Authorization Form shall be responsible for (1) the completeness and accuracy of the data entered by it in its portion of the Standard Authorization Form, and (2) verifying that the depositor account number entered by the recipient on the Standard Authorization Form corresponds to an account bearing the name of the recipient.

(c) A financial organization wishing to terminate the agreement evidenced by a Standard Authorization Form shall do so by giving written notice to the recipient. Such termination shall become effective thirty days after the financial organization has sent such notice to the recipient.

(d) A financial organization receiving a credit payment shall credit the amount of such credit payment to the designated account of the recipient on its books, and it shall make such amount available for withdrawal or other use by the recipient not later than the opening of business on the payment date. If the credit payments or any related documentation received by the financial organization from a Federal Reserve Bank do not balance, are incomplete, are clearly erroneous on their face, or are incapable of being processed, the financial organization, after assuring itself that neither it nor any of its agents is responsible, shall immediately notify such Federal Reserve Bank in order that it may deliver corrected material to such financial organization.

(e) A financial organization receiving a credit payment shall credit the amount of such credit payment to the account indicated by the depositor account number information specified in the credit payment. If the financial organization is unable to credit the account indicated in the credit payment based upon the depositor account number information specified, and is further unable to credit the account designated by the recipient based upon other information contained in the credit payment, it shall promptly return the credit payment to the Federal Reserve Bank with a statement identifying the reason therefor.

(f) A financial organization shall promptly return to the Government through the Federal Reserve Bank any relevant credit payment received by such financial organization:

(1) After termination of a Standard Authorization Form pursuant to § 210.4 (h) and before the execution of a new Standard Authorization Form;

(2) After termination of a Standard Authorization Form pursuant to § 210.7 (c) has become effective;

(3) After the death or legal incapacity of the recipient or death of the beneficiary; or

(4) After the closing of the recipient's account.

(g) A financial organization to which a credit payment is sent under this Part does not thereby become a Government depositary and shall not advertise itself as one because of that fact.

(h) Each financial organization by its action of handling a credit payment shall be deemed to warrant to the Government that it has handled such credit payment in accordance with this Part. In addition to the liability which may be imposed pursuant to § 210.9, if the foregoing warranty is breached, the financial organization shall indemnify the Government for any loss sustained by the Government, but only to the extent that such loss was the result of such breach. Except as provided in this section, and § 210.9, a

financial organization shall not be liable under this Part to any party for its handling of a credit payment.

§ 210.8 Timeliness of action.

If, becaue of circumstances beyond its control, the Government, a Federal Reserve Bank, or a financial organization shall be delayed beyond the applicable time limits (including the payment date) provided by this Part, the operating circuliars of the Federal Reserve Banks, or applicable law in taking any action with respect to a credit payment, the time within which such action shall be completed shall be extended for such time after the cause of the delay ceases to operate as shall be necessary to take or complete the action, *provided* the Government, the Federal Reserve Bank, or the financial organization exercises such diligence as the circumstances require.

§ 210.9 Death or legal incapacity of recipients or death of beneficiaries.

(a) When, because of the death or legal incapacity of a recipient or the death of a beneficiary, one or more credit payments should have been returned to the Government, a financial organization shall be accountable to the Government for the total amount of any such credit payments: *Provided, however,* That if:

(1) Such amount, or any part thereof, is not available in the recipient's account; and

(2) The financial organization did not have, at the time of the deposit and withdrawal, knowledge of the recipient's death or legal incapacity, or the beneficiary's death, and

(3) The financial organization has made every practicable administrative effort to recover the amount which is not available in the recipient's account;

the financial organization shall be accountable only for:

(i) The amount available in the recipient's account and the amount recovered by it, plus

(ii) The amount not recovered by it, or an amount equal to the credit payments received by it within 45 days after the death or legal incapacity of the recipient or the death of the beneficiary, whichever is the lesser amount.

(b) A financial organization shall be deemed to have knowledge of the death or legal incapacity of a recipient or the death of a beneficiary when such information is brought to the attention of an individual in the financial organization who handles credit payments, or when such information would have been brought to such individual's attention if the financial organization had exercised due diligence. The financial organization will be considered to have exercised due diligence only if it maintains procedures for immediately communicating such information to the appropriate individuals, and complies with such procedures.

§ 210.10 Liability of, and acquittance to, the United States.

(a) The United States shall be liable to a recipient for the failure to credit the proper amount of a recurring payment to the appropriate account of the recipient as required by this Part. Such liability shall be limited to the amount of such recurring payment.

(b) The United States shall be liable to the financial organization, up to the amount of the credit payment, for a loss sustained by the financial organization as a result of its crediting the amount of the credit payment to the account specified in the credit payment, if the financial organization has handled such credit payment in accordance with this Part. The foregoing does not extend to credit payments received by the financial organization after the death or legal incapacity of the recipient or death of the beneficiary, in which event § 210.9 shall govern.

(c) The crediting of the amount of a credit payment to the appropriate account of a recipient on the books of the appropriate financial organization shall constitute a full acquittance to the United States for the amount of such payment.

INFLATION IMPACT CERTIFICATION

Pursuant to the provisions of OMB Circular No. A-107, dated January 28, 1975, it is hereby certified that upon due consideration and application of the Treasury Identification Criteria[1] the proposed regulation entitled "Federal Recurring Payments Through Financial Organizations By Means Other Than By Check", has not been determined to be a major proposal requiring an evaluation of its inflationary impact and that such an evaluation has not been performed.

Dated: October 3, 1975.

[SEAL] DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.75-27153 Filed 10-8-75;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 207—NAVIGATION REGULATIONS

Cooper River and Tributaries, Charleston, South Carolina

On 17 July 1975, the Department of the Army, acting through the Chief of Engineers, published proposed regulations to govern the use and navigation of restricted areas in the Cooper River and its tributaries at Charleston, South Carolina.

The comment period for this regulation expired on 18 August 1975. There were no objections to the proposed restricted areas. However, the coordinates published in the FEDERAL REGISTER under paragraph (a) (3) (i) in 33 CFR 207.164b were incorrect, and have been corrected in this final regulation.

The Department of the Army, acting through the Chief of Engineers is publishing the final regulations as follows:

Section 207.164b(a) (3) is revised.

§ 207.164b Cooper River and tributaries at Charleston, South Carolina; restricted areas.

(a) *The Areas* * * *

(3) That portion of Cooper River extending from the mouth of Goose Creek to Red Bank Landing, a distance of approximately 4.8 miles and the tributaries to Cooper River within the area inclosed by the following arcs and their intersections:

(i) Radius=8255' center of Radius Latitude 32°55'45" N., Longitude 79°56' 23" W.

(ii) Radius=3790' center of Radius Latitude 32°55'00" N., Longitude 79°55' 41" W.

(iii) Radius=8255' center of Radius Latitude 32°55'41" N., Longitude 79°56' 15" W.

(iv) Radius=8255' center of Radius Latitude 32°56'09" N., Longitude 79°56' 19" W.

* * * * *

Dated: September 19, 1975.

Approved:

MARTIN R. HOFFMANN,
Secretary of the Army.

[FR Doc.75-27157 Filed 10-8-75;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 441-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Massachusetts; Correction

Section 52.1124, Review of new sources and modifications, was promulgated in the February 25, 1974, FEDERAL REGISTER (39 FR 7281), prior to the revocation of the then existing section 52.1124, Control Strategy: Nitrogen dioxide. As a result, the revocation of § 52.114 which appeared May 8, 1974 (39 FR 16346), applied to both sections. This action was not intended to revoke § 52.1124, Review of new sources and modifications. The resulting deficiency is corrected by repromulgating § 52.1124, Review of new sources and modifications, as it appeared in the February 25, 1974, FEDERAL REGISTER (39 FR 7281).

Dated: Ocotber 3, 1975.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

[FR Doc.75-27235 Filed 10-8-75;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

REVISION OF CHAPTER 9 TO REFLECT THE ENERGY REORGANIZATION ACT OF 1974

Correction

In FR Doc 75-26202 appearing at page 46802 in the issue for Tuesday, October 7, 1975, in the preamble, third col-

[1] As contained in the "Proposed Treasury Identification Criteria: Inflation Impact Statements, Revision of 8/15/75."

umn, the eighteenth line should read, "3, 5, 6, 8, 9, 10, and 11 are still in full force" and the effective date should read, "These procurement regulations are effective October 7, 1975."

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5543; Arizona 6351]

ARIZONA

Modification of Stock Driveway Withdrawal

By virtue of the authority contained in section 10 of the Act of December 29, 1916, 39 Stat. 865; 43 U.S.C. 300 (1970), it is ordered as follows:

The departmental order of March 18, 1918, creating Stock Driveway Withdrawal No. 10 (Arizona No. 1), is hereby modified to the extent necessary to permit the location of a right-of-way under sec. 2477, U.S. Revised Statutes, 43 U.S.C. 932 (1970), by Navajo County Board of Supervisors, on the following described lands, as delineated on a map numbered "70002-006" on file with the Bureau of Land Management in Arizona 6351, for construction of a public road.

GILA AND SALT RIVER MERIDIAN

T. 11 N., R. 22 E.,
Sec. 12, NW¼NW¼NE¼

The area described in the right-of-way aggregates approximately 0.67 of an acre.

JACK O. HORTON,
Assistant Secretary of the Interior.

OCTOBER 2, 1975.

[FR Doc.75-27140 Filed 10-8-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20490; FCC 75-1073]

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

Various Procedural Requirements for the Domestic Public Radio Services

1. On May 29, 1975, we initiated this proceeding by issuance of a Notice of Proposed Rulemaking, 40 FR 24021, for the purpose of promulgating in Parts 21 and 43 of the Commission's Rules new regulations to implement the use of new application forms and procedures, clarify application requirements, and institute various other modifications designed to simplify and improve our processing of common carrier radio applications.

2. One of the goals of this proceeding is to lay the basis for the automatic data processing (ADP) of common carrier microwave radio applications. Because ADP requires, among other things, a complete technical data base, we proposed to clarify our technical requirements by the implementation of new rules and application forms[1] in time for the submission of renewal applications in the microwave radio services for the next renewal period beginning February 1, 1976. Consequently, to accomplish this goal, we have decided to adopt these new technical requirements in a First Report and Order, leaving for future consideration the more complex issues of permissive facility changes; the fifty percent non-affiliation requirement for television relay service; licensing jurisdiction over Multipoint Distribution Service carriers; and the reporting of actual construction costs. Comments related to these subjects will be considered in a subsequent Report and Order.

3. Comments were filed July 25, 1975 by 12 parties; American Telephone and Telegraph (AT&T); American Television and Communications Corp. (ATC); GTE Service Corp. (GTE); Micro-TV, Inc. (Micro); Multipoint Microwave Common Carrier Association (MMCCA); National Association of Radio-telephone Systems (NARS); National Association of Regulatory Utility Commissioners (NARUC); Southern Pacific Communications Corp. (SPCC); Taft Broadcasting Corp. (Taft); Multipoint Distribution Systems, Inc., and Double B Radio, Inc.; and United States Transmission Systems, Inc. (USTS). Reply comments were receeved from GTE and MCI Telecommunications Corp. (MCI).

4. In general, the comments supported the proposed rules being considered by this Report and Order, but minor language changes were suggested and some questions were raised concerning reference to previously filed material, financial demonstration by large carriers, and the necessity of filing revised technical information with the 1976 renewals. These questions, and others believed to be of significance, are discussed below. We have considered also numerous other suggestions and proposals involving matters of less substantial nature, but rather than specifically discussing them here, we have modified the rules as considered appropriate.

5. GTE, Micro, MMCCA, and Taft objected the prohibition of the cross referencing to previously filed technical data (Section 21.31). SPCC on the other hand, supported our proposal, citing the time consuming experience of following a "chain" of cross references in order to locate previously filed exhibits. We have also noticed this phenomenon, as well as the discovery that the information cross referenced is often hopelessly out of date. However, we have modified our proposal to allow specific cross reference to lengthy exhibits which have been previously filed. But we cannot allow cross reference to specific technical data because this will be "keypunched" directly into the data base from the application form.

6. The Commission proposed to exempt large carriers with annual revenues in excess of one million dollars and a good credit rating from the requirement of filing balance sheets with each radio application. NARS opposed the proposal, contending that it was inconsistent with Section 308(b) of the Communications Act [47 U.S.C. § 308(b)] and created an unwarranted presumption since a favorable credit rating does not necessarily mean financial qualifications to construct and operate a radio station. Our proposal, however, creates no such presumption since it is clear under Section 21.15(a) that all applicants must demonstrate their financial ability. Section 21.15(c) is intended to exempt large carriers, most of which are closely regulated telephone companies, from the administrative burden of filing balance sheets with each set of radio applications where such a proposal may require a relatively small investment compared to the overall financial resources of the carrier. To clarify this, however, we are adapting a suggestion by GTE that § 21.15(c) specifically cross reference the reporting requirements of Part 43 to which such carriers are subject.

7. Only GTE protested proposed § 21.709(d) which would require microwave renewal applications to include all of the technical parameters of a station (as licensed) listed on page one of FCC Form 435. Claiming that the Commission does not appreciate the administrative burden, GTE suggests that the Commission undertake a careful study to justify the costs of this requirement. Although we understand that the collection of this data will require some extra effort on the part of licensees, we do not believe the requirement will be overly burdensome, particularly since it will require only a one time effort. With this information, the Commission will not only implement ADP procedures to do much of the processing of the many microwave radio applications received each year (thus improving service on applications), but this information will become a central data bank which will be made available to assist in prior coordination and frequency management. Consequently, we think that it will have substantial benefit which outweighs the one-time administrative inconvenience to the licensees.

8. Certain other changes deserve brief mention. Although proposed § 21.8 set forth all of the standard application forms used in Domestic Public Radio Services, we have rearranged this information into four sections (§§ 21.7, 21.9, 21.10 and 21.11) in the interests of clarity. Upon suggestion of NARUC, we have included (with minor changes suggested by SPCC) as § 21.13(f) the language of § 21.15(c)(4), although we will deal with

[1] By *Order*, 53 F.C.C. 2d 536 (1975), we implemented the use of a new form, FCC Form 435, for application for construction permit in the microwave services. With this Report and Order we are implementing the use of a new form, FCC Form 436, for application for license in the microwave services. This latter form has been approved by the General Accounting Office.

its applicability to MDS in a later Report and Order. GTE objected to the filing of detailed maintenance information for each of its stations, and § 21.15(e) (1) has been changed to require a more general description. AT&T and GTE objected to the deletion of present § 21.113 (which defines station location) and we have recodified this provision as § 21.14(j). We have also made numerous minor changes believed appropriate.

9. Accordingly, *it is hereby ordered*, That pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, [47 U.S.C. §§ 154(i), 303], Part 21 of the Commission's Rules and Regulations IS AMENDED, as set forth below, effective December 1, 1975.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: September 23, 1975.

Released: October 6, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Part 21 of Chapter I, Title 47, of the Code of Federal Regulations is amended to read as follows:

1. Subparts A and B of the Table of Contents to Part 21 are revised and Subpart C amended to read as follows:

Subpart A—General

Subpart B—Applications and Licenses

GENERAL FILING REQUIREMENTS

PROCESSING OF APPLICATIONS

Subpart C—Technical Standards

2. Section 21.0 is revised to read as follows:

§ 21.0 Scope and authority.

(a) The purpose of the rules and regulations in this part is to prescribe the manner in which portions of the radio spectrum may be made available for the use of radio for domestic common carrier communication operations which require transmitting facilities on land.

(b) The rules in this part are issued pursuant to the authority contained in Titles I through III of the Communications Act of 1934, as amended, which vest authority in the Federal Communications Commission to regulate common carriers of interstate and foreign communications and to regulate radio transmissions and issue licenses for radio stations.

(c) Unless otherwise specified, the section numbers referenced in this part are contained in Chapter I, Title 47, of the Code of Federal Regulations.

§ 21.1 [Redesignated and Reserved]

3. Section 21.1 (Definitions) is redesignated as § 21.2 and § 21.1 is marked [Reserved].

§ 21.10 [Redesignated]

4. Section 21.10 (Eligibility for station license) is redesignated as § 21.4.

5. Section 21.11 (Station authorization required) is redesignated as § 21.3 and is revised to read as follows:

§ 21.3 Station authorization required.

(a) No person shall use or operate in the Domestic Public Radio Services any apparatus for the transmission of energy or communications or signals by radio except under and in accordance with, an appropriate authorization granted by the Federal Communications Commission.

(b) Except for mobile stations, and except when the Commission finds under the rules of this Part that the public interest, convenience, or necessity would be served by waiver of this requirement, no radio license shall be issued for the operation of any station unless a permit for its construction has been granted by the Commission. No construction or modification of a station may be commenced without a construction permit, a modified construction permit, or other authority issued by the Commission for the exact construction or modification to be undertaken, except as may be specifically provided for in other sections of this part.

(c) Upon the completion of construction or continued construction of any station pursuant to the terms of a construction permit and upon the filing of an application for license or modification of license, the Commission shall issue a license or modified license to the lawful holder of the permit for the operation of the station, provided that no cause or circumstance has arisen or first come to the knowledge of the Commission since the granting of the permit which would, in the judgment of the Commission, make the operation of such station against the public interest.

(d) No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby.

6. Section 21.12 is redesignated as § 21.5 and is revised to read as follows:

§ 21.5 Formal and informal applications.

(a) Except for an authorization under any of the proviso clauses of Section 308 (a) of the Communications Act of 1934 [47 U.S.C. § 308(a)], the Commission may grant only upon written application received by it, the following authorization: construction permits; station licenses; modifications of construction permits or licenses; renewals of licenses; transfers and assignments of construction permits or station licenses, or any right thereunder.

(b) Except as may be otherwise permitted by this Part, a separate written application shall be filed for each instrument of authorization requested. Applications may be:

(1) "Formal applications" where the Commission has prescribed in this Part a standard form; or

(2) "Informal applications" (normally in letter form) where the Commission has not prescribed a standard form.

(c) An informal application will be accepted for filing only if:

(1) A standard form is not prescribed or clearly applicable to the authorization requested;

(2) It is a document submitted, in duplicate, with a caption which indicates clearly the nature of the request, radio service involved, location of the station, and the application file number (if known); and

(3) It contains all the technical details and informational showings required by the rules and states clearly and completely the facts involved and authorization desired.

7. Section 21.13 is redesignated as § 21.6 and revised to read as follows:

§ 21.6 Filing of applications, fees, and numbers of copies.

(a) As prescribed by §§ 21.7, 21.9, 21.10 and 21.11 of this Part, standard formal application forms applicable to the Domestic Public Radio Services (other than Maritime Mobile) may be obtained from either: (1) Federal Communications Commission, Washington, D.C. 20554; or (2) any of the Commission's field operations offices, the addresses of which are listed in § 0.121.

(b) Applications for radio station authorizations shall be submitted for filing to: Federal Communications Commission, Washington, D.C. 20554.

(c) All correspondence or amendments concerning a submitted application shall clearly identify the radio service, the name of the applicant, station location, and the Commission file number (if known) or station call sign of the application involved, and may be sent directly to the Common Carrier Bureau.

(d) Except as otherwise specified, all applications, amendments, and correspondence shall be submitted in duplicate, including exhibits and attachments thereto, and shall be signed as prescribed by § 1.743.

(e) Each application shall be accompanied by the appropriate fee prescribed by, and submitted in accordance with, Subpart G of Part 1 of this chapter.

8. A new § 21.7 is added to read as follows:

§ 21.7 Standard application forms for point-to-point microwave radio, local television transmission, and multipoint distribution services.

(a) *Authority to construct a new station, to modify an existing construction permit, or to modify licensed facilities.* FCC Form 435 ("Application for New or Modified Common Carrier Microwave Radio Station Construction Permit Under Part 21") shall be submitted and granted for each station involved prior to commencement of any proposed station construction or modification, except for facility changes for which FCC Form 436 is prescribed in paragraph (c) of this section.

(b) *License to cover facilities constructed in accordance with Construction Permit.* FCC Form 436 ("Application for a New or Modified Common Carrier Microwave Radio Station License Under Part 21") shall be filed:

(1) Prior to the expiration date of the construction permit (See § 21.34(a));

(2) Upon completion of construction or modification of a station in exact accordance with the terms and conditions set forth in the construction permit; and,

(3) Upon satisfactory completion of equipment tests under § 21.212(a).

(c) *Modification of license not requiring a prior construction permit.* Modification of a license may be effected without a prior construction permit by filing FCC Form 436 in the following circumstances:

(1) To request only the following modifications of license prior to the expiration of the license:

(i) The correction of erroneous information on a license which does not involve a major change (i.e., a change which would be classified as a major amendment as defined by § 21.23);

(ii) The deletion of licensed facilities; or

(iii) Changes in the terms or conditions of a license (e.g., changes in the obstruction marking and lighting requirements of an antenna supporting structure); or

(2) To license permissible changes which do not require prior authorization.

(d) *Authorization of temporary fixed stations or block assignment of radio frequencies.* FCC Forms 435 and 436 shall be submitted simultaneously for each mobile or fixed station to be installed and operated at various temporary locations within a specified area, or for block assignment or radio frequencies as set forth hereinafter in the applicable subparts of these rules.

§ 21.8 [Reserved]

9. Section 21.8 is marked Reserved.

10. A new § 21.9 is added to read as follows:

§ 21.9 Standard application forms for Domestic Public Land Mobile Radio and Rural Radio Services.

(a) *Authority to construct a new base, auxiliary test or fixed station, to modify an existing construction permit or to modify licensed facilities.* Except for facility changes for which FCC Form 403 is prescribed in paragraph (d), FCC Form 401 ("Application for New or Modified Common Carrier Radio Station Construction Permit Under Parts 21 and 25") shall be submitted for each station in the following categories of station construction or modification:

(1) Each base station.

(2) Each auxiliary test station, unless the auxiliary test station is located at the same place as the base station, in which case only one combined application need be filed.

(3) Each fixed station. If the equipment utilized is of such design as to comprise a packaged unit which is ready for installation and use with only nominal construction, FCC Form 403 may be filed together with FCC Form 401 for the simultaneous licensing of the proposed facilities.

(b) *License to cover facilities construction in accordance with construction permit.* FCC Form 403 ("Application for Radio Station License or Modification Thereof Under Parts 21, 23, or 25") shall be filed:

(1) Prior to the expiration date of the construction permit (see also § 21.34(a));

(2) Upon completion of construction or installation of a station in exact accordance with the terms and conditions set forth in the construction permit; and

(3) Upon satisfactory completion of equipment tests in accordance with § 21.212(a).

(c) *License for mobile station.* FCC Form 401 shall be filed as an application for mobile station license (since no construction permits are issued for mobile stations), subject to the following:

(1) Authority for a base station licensee to serve land mobile or airborne units to be licensed in the name of the carrier may be requested on the FCC Form 401 for the base station construction permit, except that additional mobile units for a licensed station may be applied for on FCC Form 403 as provided for in paragraph (d) of this section. The information should clearly specify the maximum number of mobile units to be placed in operation within the license period.

(2) Application for a license for land mobile or airborne stations submitted by persons who propose to become subscribers to a common carrier service for public correspondence shall specify the maximum number of mobile units expected to be placed in operation within the ensuing license period. Such applications shall also be accompanied by the supplemental showing set forth in § 21.15(i)(2) of this part.

(d) *Modification of station license not requiring a construction permit.*— Prior to the expiration of a license, an FCC Form 403 may be filed to request authority to make only those categories of changes to an existing station as listed below:

(1) Increase in number of mobile units;

(2) Change of control point (beyond the boundary of the city, borough, town, or community where the control point is authorized);

(3) Additional control points;

(4) New dispatching agreement;

(5) Authority to service vessels;

(6) Certain waiver requests, namely §§ 21.118(d)(2); 21.205(h)(3); 21.208(g)(2);

(7) Change in or additional emission;

(8) Request to delete or change antenna obstruction markings;

(9) Change in points of communications (Rural Radio Service);

(10) Correction of coordinates;

(11) Change of an authorized frequency; or

(12) Addition of frequencies for mobile transmitters.

(e) *Authorization of mobile units of Canadian Registry to operate in the United States.* FCC Form 410 shall be filed. (Copies of this form may also be obtained from the Director Telecommunications Regulation Branch, Department of Communications, Ottawa, Ontario, Canada.)

(f) *Authorization to operate U.S. mobile units in Canada.* A mobile station with a valid license issued by the Commission may obtain authority to operate in Canada upon filing an application ("Application for Registration for Radio Station Licensee of U.S.A.") with the Director Telecommunications Regulation Branch, Department of Communications, Ottawa, Ontario, Canada.

11. A new § 21.10 is added to read as follows:

§ 21.10 Special application requirements for the domestic public land mobile radio and rural radio services.

(a) All applicants for base, auxiliary test, and fixed stations in the specified regional areas listed in paragraph (b) of this section must accompany FCC Form 401 with FCC Form 425 for the application to be considered complete.

(b) The following areas are considered specified Regional Areas:

(1) The Chicago Regional Area consists of the counties listed below:

ILLINOIS

1. Boone
2. Bureau
3. Carroll
4. Champaign
5. Christian
6. Clark
7. Coles
8. Cook
9. Cumberland
10. De Kalb
11. De Witt
12. Douglas
13. Du Page
14. Edgar
15. Ford
16. Fulton
17. Grundy
18. Henry
19. Iroquois
20. Jo Daviess
21. Kane
22. Kankakee
23. Kendall
24. Knox
25. Lake
26. La Salle
27. Lee
28. Livingston
29. Logan
30. Macon
31. Marshall
32. Mason
33. McHenry
34. McLean
35. Menard
36. Mercer
37. Moultrie
38. Ogle
39. Peoria
40. Platt
41. Putnam
42. Rock Island
43. Sangamon
44. Shelby
45. Stark
46. Stephenson
47. Tazewell
48. Vermilion
49. Warren
50. Whiteside
51. Will
52. Winnebago
53. Woodford

INDIANA

1. Adams
2. Allen
3. Benton
4. Blackford
5. Boone
6. Carroll
7. Cass
8. Clay
9. Clinton
10. De Kalb
11. Delaware
12. Elkhart
13. Fountain
14. Fulton
15. Grant
16. Hamilton
17. Hancock
18. Hendricks
19. Henry
20. Howard
21. Huntington
22. Jasper
23. Jay
24. Kosciusko
25. Lake
26. Lagrange
27. La Porte
28. Madison
29. Marion
30. Marshall
31. Miami
32. Montgomery
33. Morgan
34. Newton
35. Noble
36. Owen
37. Parke
38. Porter
39. Pulaski
40. Putnam
41. Randolph
42. St. Joseph
43. Starke
44. Steuben
45. Tippecanoe
46. Tipton
47. Vermillion
48. Vigo
49. Wabash
50. Warren
51. Wells
52. White
53. Whitley

IOWA

1. Cedar
2. Clinton
3. Dubuque
4. Jackson
5. Jones
6. Muscatine
7. Scott

MICHIGAN

1. Allegan
2. Barry
3. Berrien
4. Branch
5. Calhoun
6. Cass
7. Clinton
8. Eaton
9. Hillsdale
10. Ingham
11. Ionia
12. Jackson
13. Kalamazoo
14. Kent
15. Lake
16. Mason
17. Mecosta
18. Montealm
19. Muskegon
20. Newaygo
21. Oceana
22. Ottawa
23. St. Joseph
24. Van Buren

OHIO

1. Defiance
2. Mercer
3. Paulding
4. Van Wert
5. Williams

WISCONSIN

1. Adams
2. Brown
3. Calumet
4. Columbia
5. Dane
6. Dodge
7. Door
8. Fond du Lac
9. Grant
10. Green
11. Green Lake
12. Iowa
13. Jefferson
14. Juneau
15. Kenosha
16. Kewaunee
17. Lafayette
18. Manitowoc
19. Marquette
20. Milwaukee
21. Outagamie
22. Ozaukee
23. Racine
24. Richland
25. Rock
26. Sauk
27. Sheboygan
28. Walworth
29. Washington
30. Waukesha
31. Waupaca
32. Wauahara
33. Winnebago

12. A new § 21.11 is added to read as follows:

§ 21.11 Miscellaneous forms shared by all domestic public radio services.

(a) *Licensee qualifications.* FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be filed in both of the following instances for each radio service and shall be kept current under § 1.65:

(1) As required by other application forms; and

(2) Annually no later than January 31 for the end of the preceding calendar year by licensees or permittees (except for individual mobile subscribers to a common carrier service), if public service was offered at any time during that calendar year.

(b) *Additional time to construct.* FCC Form 701 ("Application for Additional Time to Construct Radio Station") shall be filed in duplicate by a permittee prior to the expiration date of each construction permit to be extended. However, Form 701 need not be filed if a permittee has requested in FCC Form 401 or 435 additional time to construct incidental to a modification of construction permit.

(c) *Renewal of station license.* Except for renewal of special temporary authorizations, FCC Form 405 ("Application for Renewal of Station License") must be filed in duplicate by the licensee between thirty (30) and sixty (60) days prior to the expiration date of the license sought to be renewed. Whenever a group of station licenses in the same radio service are to be renewed simultaneously, a single "blanket" application may be filed to cover the entire group, if the application identifies each station by call sign and station location and if two copies are provided for each station affected. Applicants should note also any special renewal requirements under the rules for each radio service.

(d) *Assignment of permit or license.* FCC Form 702 ("Application for Consent to Assignment of Radio Station Construction Permit or License for Stations in Services Other than Broadcasting"), shall be submitted to assign voluntarily (as by, for example, contract or other agreement) or involuntarily (as by, for example, death, bankruptcy, or legal disability) the station authorization. In the case of involuntary assignment (or transfer of control) the application should be filed within 10 days of the event causing the assignment (or transfer of control). In addition, FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be submitted by the proposed assignee unless such assignee has a current and substantially accurate report on file with the Commission. Upon consummation of an approved assignment, the Commission shall be notified by letter of the date of consummation.

(e) *Partial assignment of license or permit.* (1) In the microwave services, authorization for assignment from one company to another of only a part or portions of the facilities (transmitters) authorized under an existing construction permit or license (as distinguished from an assignment of the facilities in their entirety), may be granted upon an application: (i) by the assignee on FCC Form 435 or 436 as the situation requires; and (ii) by the assignor on FCC Form 436 for deletion of the assigned facilities, indicating concurrence in the request. Where the assigned facilities are to be incorporated into an existing licensed station, the assignee shall only file an FCC Form 436. Where a new station is to be established, FCC Forms 435 and 436 shall be submitted by the assignee. The assignment shall be consummated within 60 days from the date of authorization. In the event that consummation does not occur, FCC Form 436 shall be filed to return the assignor's authorization to its original condition.

(2) In the Domestic Public Land Mobile Radio and Rural Radio Services, the same procedure as specified above shall apply except that FCC Forms 401 and 403 shall be used in lieu of FCC Forms 435 and 436.

(f) *Transfer of control of corporation holding a permit or license.* FCC Form 704 ("Application for Consent to Transfer of Control of Corporation Holding

Common Carrier Radio Station Construction Permit or License"), shall be submitted in order to voluntarily or involuntarily transfer control (*de jure* or *de facto*) of a corporation holding any construction permits or licenses. In addition, FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be submitted by the proposed transferee unless said transferee has a current and substantially accurate report on file with the Commission. Upon consummation of an approved transfer, the Commission shall be notified by letter of the date thereof.

§ 21.12 [Reserved]

13. Section 21.12 is marked Reserved.

14. A new § 21.13 is added to read as follows:

§ 21.13 General application requirements.

(a) Each application for a construction permit or for consent to assignment or transfer of control shall:

(1) Disclose fully the real party (or parties) in interest, including (as required (a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant;

(2) Demonstrate the applicant's legal, financial, technical, and other qualifications to be a permittee or licensee;

(3) Submit the information required by the Commission's Rules, requests, and application forms;

(4) State specifically the reasons why a grant of the proposal would serve the public interest, convenience, and necessity;

(5) Be maintained by the applicant substantially accurate and complete in all significant respects in accordance with the provisions of § 1.65 of this Chapter; and

(6) Show compliance with the special requirements applicable to each radio service and make all special showings that may be applicable (e.g. those required by §§ 21.100(d), 21.103, 21.501, 21.505, 21.506, 21.516, 21.608, 21.609, 21.700, 21.706, 21.900, etc.).

(b) Where documents, exhibits, or other lengthy showings already on file with the Commission contain information which is required by an application form, the application may specifically refer to such information, if:

(1) The information previously filed is over one 8½ by 11" page in length, and all information referenced therein is current and accurate in all significant respects under § 1.65 of this chapter; and

(2) The reference states specifically where the previously filed information can actually be found, including mention of:

(i) The radio service and station call sign or application file number whenever the reference is to stations files or previously filed applications;

(ii) The title of the proceeding, the docket number, and any legal citations, whenever the reference is to a docketed proceeding.

However, questions on an application form which call for specific technical data, or which can be answered by a "yes" or "no" or other short answer shall be amended as appropriate and shall not be cross-referenced to a previous filing.

(c) In addition to the general application requirements of §§ 21.13 through 21.17 of this Part, applicants shall submit any additional documents, exhibits, or signed written statements of fact:

(1) As may be required by the other Parts of the Commission's Rules, and the other subparts of Part 21 (particularly Subpart C and those subparts applicable to the specific radio service involved); and

(2) As the Commission, at any time after the filing of an application and during the term of any authorization, may require from any applicant, permittee, or licensee to enable it to determine whether a radio authorization should be granted, denied, or revoked.

(d) Except when the Commission has declared explicitly to the contrary, an informational requirement does not in itself imply the processing treatment or decisional weight to be accorded the response.

(e) All applicants are required to indicate at the time their application is filed whether or not the application is a "major action" as defined by § 1.1305 of the Commission's Rules. If answered affirmatively, the requisite environmental statement as prescribed in § 1.1311 must be filed with the application.

(f) Where required by applicable local law, an applicant shall include a copy of the franchise or other authorization issued by appropriate regulatory authorities. If no such local requirement exists, or if Commission authority is a prerequisite for such authorization, a statement to this effect shall be included in the application.

(g) Whenever an individual applicant, or a partner (in the case of a partnership) or a full time manager (in the case of a corporation) will not actively participate in the day-to-day management and operation of proposed facilities, the applicant will submit a statement containing the reasons therefor and disclosing the details of the proposed operation, including a demonstration of how control over the radio facilities will be retained by the applicant.

§ 21.14 [Reserved]

15. Section 21.14 is deleted and marked Reserved.

16. Section 21.15 is revised to read as follows:

§ 21.15 Technical content of applications.

Applications for construction permits shall contain all technical information required by the application form and any additional information necessary to fully describe the proposed construction and to demonstrate compliance with all technical requirements of the rules governing the radio service involved (see Subparts C, F, G, H, I, J and K as appropriate). The following paragraphs describe a number of general technical requirements.

(a) Applicants proposing a new station location (including receive-only stations and passive repeaters) shall indicate whether the station site is owned. If it is not owned, its availability for the proposed radio station shall be demonstrated. Under ordinary circumstances this requirement will be considered satisfied if the site is under lease or under written option to buy or lease, or in the case of land under U.S. Government control, written confirmation of site availability from the appropriate Government agency has been received. Where any lease or agreement to use land limits or conditions in any way the applicant's access or use of the site to provide public service, a copy of the lease or agreement (which clearly indicates the limitations) shall be filed with the application.

(b) Applicants proposing to construct or modify a radio station on a site located on land under the jurisdiction of the U.S. Forest Service, U.S. Department of Agriculture, or the Bureau of Land Management, U.S. Department of the Interior, must supply the information and follow the procedure prescribed by § 1.70 of this chapter.

(c) Each application involving a new or modified antenna supporting structure or passive facility, the addition or removal of an antenna, or the repositioning of an authorized antenna must be accompanied by a vertical profile sketch of the total structure depicting its structural nature and clearly indicating the ground elevation (above mean sea level) at the structure site, the overall height of the structure above ground (including obstruction lights when required, lightning rods, etc.) and, if mounted on a building, its overall height above the building. All antennas on the structure must be clearly identified and their heights above-ground (measured to the center of radiation) clearly indicated. In addition, the height to the upper tip of the antenna shall be indicated for those operating in the Domestic Public Land Mobile Radio Service, Rural Radio Service and Multipoint Distribution Service.

(d) Each application proposing a new antenna structure or modification of an existing one so as to change its overall height shall include a statement indicating whether or not FAA notification is required. If notification is required, the applicant should include with the application a copy of the FAA study regarding potential hazard to aviation. If the applicant has not received the FAA study, the application should include the name used in the FAA notification, the location of the FAA regional office involved and the date of the notification. [Complete information as to rules concerning the construction, marking and lighting of antenna structures is contained in Part 17 of this chapter. See also § 21.111 if the structure is used by more than one station.]

(e) An applicant proposing construction of one or more new stations or mod-

ification of existing stations where substantial changes in the operation or maintenance procedures are involved must submit a showing of the general maintenance procedures involved to insure the rendition of good public communications service. The showing should include but need not be limited to the following:

(1) A general description of the technical personnel responsible for the day-to-day operation and maintenance of the facilities.

(2) Location and telephone number (if known) of the maintenance center for a point to point microwave system. In lieu of providing the location and telephone number of the maintenance on a case by case basis, a carrier may file a complete list for all operational stations with the Commission and the Engineer-In-Charge of the appropriate radio district on an annual basis or at more frequent intervals as necessary to keep the information current.

(3) A general description of the routine maintenance procedures to be followed and a description of the procedures to be followed for non-routine repair during outages. Include a description of the test equipment available.

(4) The manner in which technical personnel are made aware of a malfunction at any of the stations and the appropriate time required for them to reach any of the stations in the event of an emergency. If fault alarms are to be used, the items to be alarmed shall be specified as well as the location of the alarm center.

(5) Indicate whether maintenance personnel will be on duty for all hours of station operation. If not, submit information specifying the method for identifying and correcting system malfunctions when maintenance personnel are not on duty.

(f) If the maintenance for one or more radio stations is to be accomplished by contractural arrangement with an entity unrelated to an applicant, permittee or licensee, the application shall contain a copy of the agreement or contract which shall demonstrate that:

(1) The maintenance is accomplished according to general instructions provided for by the applicant;

(2) The applicant retains effective control over the radio facilities and their operation; and

(3) The applicant assumes full responsibility for both the quality of service and for contractor compliance with the Commission's Rules.

(g) Each application for construction permit for a developmental authorization shall be accompanied by pertinent supplemental information as required by § 21.405 in addition to such information as may be specifically required by this section.

(h) Each application in the Point-to-Point Microwave Radio, Local Television Transmission, Multipoint Distribution Services and Rural Radio Services which proposes to establish a new permanently located, fixed communication facility (e.g. a transmitting site, receiving site, passive reflector or passive repeater), or to make changes or corrections in the location of such a facility already authorized, shall be accompanied by a topographic map (a U.S. Geological Survey Quadrangle or map of comparable detail and accuracy) with the location of the proposed facility accurately plotted and identified thereon. This map should not be cropped so as to delete pertinent border information and must be submitted in the same number of copies as the application it accompanies. (Map requirements for the Domestic Public Land Mobile Radio Service are specified in the application form.)

(i) In the Domestic Public Land Mobile Radio Service each application shall contain, as appropriate, the following information:

(1) Each application for construction permit for base station which proposes to establish a new communication facility, make changes in area of coverage of a station already authorized, or install additional transmitters shall describe the antenna transmission line type, length and radio frequency power transmission losses, together with a description and power loss of all other devices in addition to the transmission line, between the output of the transmitter and the antenna radiating system expressed in decibels.

(2) All applications for new or additional facilities shall identify any other pending applications in this service for new or additional facilities for the same general geographic area that applicant, or any principal thereof, may be a party to or have an interest in, either directly or indirectly.

(3) An application for land or airborne mobile units to be licensed in the name of a person who is not the licensee of the base station with which the mobile units will be associated in the Domestic Public Land Mobile Radio Service shall be accompanied by the information indicated in § 21.13(a) and 21.13(c) together with an affirmative showing that:

(i) The mobile units for which authorization is sought are for the applicant's own use;

(ii) Definite arrangements have been made for the requested number of mobile units to obtain communication service, upon the frequencies requested, through the base stations specifically identified in the application;

(iii) Specific arrangements, the details of which should be set forth, have been made for installation, technical service and maintenance of the mobile units by licensed first- or second-class radio operators; and

(iv) The mobile units will be operated primarily in the area or areas, or both, through the base stations specifically identified in the application and more particularly detailed in subparagraph (2) of this paragraph.

(j) Each application for construction permit for a base station in the Domestic Public Land Mobile Radio Service which proposes to establish a new communication facility or make changes in the area of coverage of a station already authorized shall be accompanied by technical engineering information with respect to:

(1) Type of antenna polarization used.

(2) Type of antenna used, including type number and manufacturer thereof.

(3) Antenna power gain expressed in decibels.

(4) Antenna radiation pattern (on letter size polar coordinate paper) showing the antenna power gain distribution in the horizontal plane expressed in decibels.

(5) Orientation of directional antenna array, expressed in degrees of azimuth, with respect to true north.

(6) Antenna height above average terrain for each of the eight radials specified in paragraph (j)(8)(ii) of this section. (See also § 21.115.)

(7) Antenna transmission line type, length and radio frequency power transmission losses, together with a description and power loss of all other devices in addition to the transmission line, between the output of the transmitter and the antenna radiating system expressed in decibels.

(8) Topographic maps (see also § 21.116) showing thereon:

(i) Exact station location.

(ii) Location of radials used in determining elevation of average terrain.

(9) Effective radiated power for all eight radials specified in paragraph (j)(8)(ii) of this section.

(k) The location of the transmitting antenna shall be considered to be the station location. Applications for stations at specified fixed locations shall describe the transmitting antenna site and each passive reflector or passive repeater site by their geographical coordinates and also by conventional reference to street number, landmark, etc. In the fixed point-to-point services authorized under this part, the site of each terminal receiving antenna location shall be described by geographical coordinates. All such coordinates shall be specified in terms of degrees, minutes and seconds to the nearest second of latitude and longitude.

§ 21.16 [Reserved]

17. Section 21.16 is deleted and marked Reserved.

18. Section 21.17 is revised to read as follows:

§ 21.17 Demonstration of financial qualifications.

(a) Each application for authority to construct a new station or substantially modify an existing station shall demonstrate the applicant's financial ability to meet the realistic and prudent:

(1) Estimated costs of proposed construction and other initial expenses; and

(2) Estimated operating expenses for a reasonable period of time, depending upon the nature of service proposed and the degree of business uncertainty or risk. (E.g., the proposal of a new or somewhat speculative service with a higher degree of business uncertainty would require a showing for a longer time period.)

(b) Except as provided in paragraph (c) of this section, each application shall demonstrate an applicant's financial ability, under paragraph (a) of this section by submitting the following financial information, the information required by paragraph (e) of this section, and whatever other information or details the Commission may require:

(1) A balance sheet current within ninety (90) days of the date of the application and copies of any financial commitments (such as, for example, loan agreements and service contracts) in support of the proposed facilities; and

(2) Whenever the submissions of paragraph (b)(1) of this section do not satisfy paragraph (a) of this section, the applicant shall submit additional information (e.g. a current income statement, and, for the period of proposed construction plus an initial year of operation, a statement of projected revenues and expenses, a statement of projected sources and application of funds, etc.) as is necessary to demonstrate financial ability.

(c) An applicant need not submit the financial information required by paragraph (b)(1) of this section, if paragraph (a) of this section can be clearly satisfied by an exhibit demonstrating that the applicant had operating revenues of $1 million or more for the previous year, has filed annual (or monthly) reports under Part 43 of this chapter and maintains as of the date of the application a credit rating equivalent to, or better than, either a Standard & Poor's Rating of "BBB" or a Moody's Bond Rating of "Baa."

(d) Each application for an assignment of a license (or permit), or for the transfer of control of a corporation holding a license (or permit), shall demonstrate the financial ability of the proposed assignee or transferee to acquire and operate the facilities by submitting adequate financial information under the guidelines specified in this section, as appropriate.

(e) The following additional information shall be submitted on any form of intended credit arrangement or equity placement:

(1) The details of any loan or other form of credit arrangement intended to be utilized to finance the proposed construction, acquisition, or operation of the requested facilities including such information as the identity of the creditor (or creditors), letters of commitment, terms of the transaction, and a statement that paragraph (f) of this section is complied with; and

(2) The details of any sale or placement of any equity or other form of ownership interest.

(f) In addition to the disclosures required by paragraph (d) of this section, any loan or other credit arrangement providing for a chattel mortgage or secured interest in any proposed radio station facility must include a provision for a minimum of ten (10) days prior written notification to the licensee or permittee, and to the Commission, before any such equipment may be repossessed under default provision of the agreement.

§§ 21.18 and 21.19 [Reserved]

19. Sections 21.18 and 21.19 are deleted and marked Reserved.

20. Section 21.20 is revised to read as follows:

§ 21.20 Defective applications.

(a) Unless the Commission shall otherwise permit, an application will be unacceptable for filing and will be returned to the applicant with a brief statement as to the omissions or discrepancies if:

(1) The application is defective with respect to completeness of answers to questions, informational showings, execution, or other matters of a formal character; or

(2) The application does not substantially comply with the Commission's rules, regulations, specific requests for additional information, or other requirements.

(b) Some examples of common deficiencies which result in defective applications under paragraph (a) of this section are:

(1) The application is not properly executed;

(2) The submitted filing fee is insufficient under § 1.1113 of this chapter;

(3) The application does not demonstrate how the proposed radio facilities will serve the public need or interest;

(4) The application does not demonstrate compliance with the special requirements applicable to the radio service involved (e.g. noted in § 21.13(a)(6) of this chapter);

(5) The application does not demonstrate the availability of the proposed site of a new facility;

(6) The application does not include the environmental showing required for a "major action" under § 1.1305 of this chapter;

(7) The application does not include U.S. Forest Service or Bureau of Land Management certification of site availability under § 1.70 of this chapter whenever a proposed new or modified facility is to be located on land under the jurisdiction of these agencies;

(8) The application is filed after the "cut-off" date prescribed in § 21.30 of this part;

(9) The application proposes the use of a frequency not allocated to such use; or

(10) In the Domestic Public Land Mobile Radio Service failure to provide specific answers as required to Items 1, 5, 7, 8, 10, 17, 18, 19, 20, or 26 of FCC Form 401 (answers by cross reference are not acceptable—see § 21.13(b)), or failure to propose type accepted equipment (except for developmental applications).

(c) Applications considered defective under paragraph (a) of this section may be accepted for filing if:

(1) The application is accompanied by a request which sets forth the reasons in support of a waiver of (or an exception to), in whole or in part, any specific rule, regulation, or requirement with which the application is in conflict; or

(2) The Commission, upon its own motion, waives (or allows an exception to), in whole or in part, any rule, regulation or requirement.

(d) If an applicant is requested by the Commission to file any documents or any supplementary or explanatory information not specifically required in the prescribed application form, a failure to comply with such request within a specified time period will be deemed to render the application defective and will subject it to dismissal.

21. Section 21.34 is revised to read as follows:

§ 21.34 Forfeiture and termination of station authorization.

(a) A construction permit shall be automatically forfeited if the station is not ready for operation within the term of the construction permit (as evidenced by the commencement of service tests as specified by § 21.212), or within such additional time as may be authorized by the Commission (upon receipt of an appropriate and timely filed application), unless prevented by causes not under the control of the permittee. Where so forfeited, the Commission will consider a petition for reinstatement of a construction permit only where:

(1) It is filed within 30 days of the expiration of the construction permit;

(2) Good cause is shown for the failure to apply for an extension of the permit prior to its expiration date; and

(3) Where it is accompanied by an appropriate application for extension of time to construct or modification of construction permit.

(b) A license shall be automatically forfeited upon the expiration date specified therein unless prior thereto an application for renewal of such license has been filed with the Commission. An application for renewal filed after the expiration date of the license will be considered only if:

(1) It is filed within 30 days of such expiration date;

(2) It explains the failure to timely file a renewal application is submitted; and

(3) It describes procedures which have been established to insure timely filings in the future.

(c) A special temporary authorization shall automatically terminate upon the expiration date stated therein or upon failure of the carrier to comply with any special terms or conditions set forth therein. Operation may be extended beyond such termination date only upon specific authorization by the Commission.

22. The first two sentences of paragraph (c) of § 21.108 are revised to read as follows:

§ 21.108 Directional antennas.

* * * * *

(c) Fixed stations (other than temporary fixed) operating at 2,500 MHz or

higher shall employ transmitting and receiving antennas meeting the appropriate performance Standard A indicated below, except that in areas not subjected to frequency congestion, antennas meeting performance Standard B may be used subject to the liability set forth in § 21.109(c). Additionally, the main lobe of each antenna operating below 5,000 MHz shall have minimum power gain of 36 dBi over an isotropic antenna; at or above 5,000 MHz the minimum gain shall be 38 dBi. * * *

23. Change the title of § 21.109 and add a new paragraph (d) to read as follows:

§ 21.109 Antenna and antenna structures.

* * * * *

(d) No replacement or change of antenna or antenna structure shall be effected without prior authorization from the Commission except as provided for under this section.

24. The last sentence of § 21.111 is amended to read as follows:

§ 21.111 Simultaneous use of common antenna structure.

* * * * *

Provided, however, That each permittee, licensee or user of any such structure is responsible for maintaining the structure, and for painting and illuminating the structure when obstruction marking is required by the Commission. (See § 21.15(d) and § 21.109(b).)

25. Section 21.113 is revised to read as follows:

§ 21.113 Quiet zones.

Quiet zones are those areas where it is necessary to restrict radiation so as to minimize possible impact on the operations of radio astronomy or other facilities that are highly sensitive to radio frequency interference. The areas involved and procedures required are as follows:

(a) In order to minimize possible harmful interference at the National Radio Astronomy Observatory site located at Green Bank, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory site at Sugar Grove, Pendleton County, West Virginia, any applicant for a station authorization other than mobile, temporary base, or temporary fixed seeking authorization for a new station or to modify an existing station in a manner which would change either the frequency, power, antenna height or directivity, or location of such a station within the area bounded by 39°15′ N. on the north, 78°30′ W. on the east, 37°30′ N. on the south, and 80°30′ W. on the west shall, at the time of filing such application with the Commission, simultaneously notify the Director, National Radio Astronomy Observatory, Post Office Box No. 2, Green Bank, West Virginia 24944, in writing, of the technical particulars of the proposed operation. Such notification shall include the geographical coordinates of the antenna, antenna height, antenna directivity (if any), proposed frequency, type of emission, and power. In addition, the applicant shall indicate in his application to the Commission the date notification was made to the Observatory. After receipt of such applications, the Commission will allow a period of twenty (20) days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the 20-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

(b) In order to minimize possible harmful interference at the Table Mountain Radio Receiving Zone of the Research Laboratories of the Department of Commerce located in Boulder County, Colorado, applicants for new or modified radio facilities in the vicinity of Boulder County, Colorado are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that field strengths at 40°07′50″ N. latitude, 105°14′40″ W. longitude, resulting from new assignments (other than mobile stations) or from the modification or relocation of existing facilities do not exceed the following values:

	Field strength (mV/m) in authorized bandwidth of service	Power flux density [1] (dBW/m²) in authorized bandwidth of service
Below 540 kHz	10	−65.8
540 to 1600 kHz	20	−59.8
1.6 to 470 MHz	10	2−65.8
470 to 800 MHz	30	2−56.2
Above 800 MHz	1	2−85.8

[1] Equivalent values of power flux density are calculated assuming free-space characteristic impedance of 376.7=120 ohms.

[2] Space stations shall conform to the power flux density limits at the earth's surface specified in appropriate parts of the FCC rules, but in no case should exceed the above levels in any 4 kHz band for all angles of arrival.

(1) Advance consultation is recommended particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether coordination is recommended:

(i) All stations within 1.5 statute miles;

(ii) Stations within 3 statute miles with 50 watts or more effective radiated power (ERP) in the primary plan of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 10 statute miles with 1 kW or more ERP in the primary plan of polarization in the azimuthal direction of Table Mountain Radio Receiving Zone;

(iv) Stations within 50 statute miles with 25 kW or more ERP in the primary plan of polarization in the azimuthal direction of Table Mountain Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, NOAA/OT/NBS, Time and Frequency Division, Boulder Laboratories, Boulder, Colo. 80302; telephone 303–499–1000, extension 3542 or 3294, in advance of filing their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Department of Commerce or proceedings to modify any authorization which may be granted which, in fact, delivers a signal at the reference point in excess of the field strength specified herein.

26. Paragraph (d) of § 21.118 is revised to read as follows:

§ 21.118 Transmitter construction and installation.

* * * * *

(d) Each base station in these services is required to have:

(1) At least one control point (see § 21.515); and

(2) A person on duty at the control point who is in charge of the station's operations during the normal rendition of service (see § 21.205). The location of an authorized control point may not be moved beyond the boundary of the city, borough, town or community without prior Commission approval. Any associated changes made in the dispatching arrangements should accompany the application for change in such cases.

27. Section 21.119 is revised to read as follows:

§ 21.119 Limitation on use of transmitters for other services.

Transmitters licensed for operation in services governed by this part may not be concurrently licensed or used for non-common carrier communication purposes. However, mobile units may be concurrently licensed or used for non-common carrier communication purposes provided that the transmitter is type-accepted for use in each service.

28. Section 21.501(f) is redesignated 21.501(f)(1) and a new section 21.501(f)(2) is added to read as follows:

§ 21.501 Frequencies.

* * * * *

(f) * * *

(2) Each application requesting authority to establish operations on frequencies in the 72–76 MHz band shall be accompanied by:

(i) A showing that the applicant agrees to eliminate any harmful interference which may be caused by his operation to television reception on either channel 4 or 5, and if said interference cannot be eliminated within 90 days of the time the matter is first brought to his attention by the Commission, operation of the

interfering fixed station will be immediately discontinued.

(ii) In cases where it is proposed to locate a 72–76 fixed station less than 80, but more than 10, miles from the site of a television transmitter operating on either channel 4 or 5, or from the post office of a community in which such channels are assigned but not in operation, a showing shall be made as to the number of family dwelling units (as defined by the U.S. Bureau of Census) located within a circle centered at the location of the proposed fixed station (family dwelling units 70 or more miles distant from the television station antenna site are not to be counted (the radius of which shall be determined by use of charts entitled, "Chart for Determining Radius From Fixed Station in 72–76 MHz Band to Interference Contour Along Which 10 Percent of Service from Adjacent Channel Television Station Would Be Destroyed" (Charts for television channels 4 and 5 are set forth in § 21.103).

(iii) In cases where more than 100 family dwelling units are contained within the circle (determined according to paragraph (f) (2) of this section), the number of dwelling units therein shall be stated and a factual showing made that:

(A) The proposed site is the only suitable location.

(B) It is not feasible, technically or otherwise, to use other available frequencies.

(C) The applicant has a definite plan, which should be disclosed, to control any interference that might develop to television reception from his operations.

(D) The applicant is financially able and agrees to make such adjustments in the television receivers affected as may be necessary to eliminate interference caused by his operations.

* * * * *

29 Paragraphs (a) and (b) of § 21.706 are revised to read as follows:

§ 21.706 Supplementary showing required with applications.

(a) Each application for initial installation of a radio station in this service, or for installation of equipment to provide additional service, or for authority to communicate with new points, shall be accompanied by a statement showing how the proposal will serve the public interest, convenience and necessity. Such statement must include information concerning:

(1) The nature and type of services to be rendered (e.g. telephone/telegraph, private line voice/data, television transmission, etc.)

(2) The cities or communities to be served including the number of circuits to be established. Where multiple cities are to be served, specify by diagram or other appropriate means the circuit cross section between service points.

(3) Projected future circuit growth anticipated between service points and indicate the source of such projections.

(4) Where the construction of radio facilities is dependent upon the specific requirements of one or several customers of a limited class (e.g. those desiring television signals), the need for facilities should be supported by an order for service from each such customer.

(b) Where specific information required by paragraph (a) of this section has been submitted in connection with applications filed under Part 63 of this chapter, duplicate information in support of applications submitted pursuant to this part is not required provided appropriate references are made therein. The information submitted in connection with paragraph (a) of this section shall not be considered to replace any requirement to acquire authority for channelizing pursuant to Section 214 of the Communications Act.

* * * * *

30. Section 21.709 is amended by the addition of a new paragraph (d) to read as follows:

§ 21.709 Renewal of station licenses.

* * * * *

(d) Each applicant for renewal of license for a term commencing between January 1, 1976 and January 1, 1981 shall submit with the application all of the technical parameters of the station (as licensed) listed on page 1 of FCC Form 435. If the same information has previously been submitted for the station on a Form 435, this requirement will be waived. Applicants are urged to file this information on punched cards in accordance with the Commission publication *Punched Card Format for Common Carrier Microwave Applications.* (Copies of this publication may be obtained through the Common Carrier Bureau.)

[FR Doc.75-27158 Filed 10-8-75;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 275]

PART 1115—ISSUANCE OF SECURITIES, ASSUMPTION OF OBLIGATIONS AND FILING OF CERTIFICATES AND REPORTS

Expanded Definition of Term "Securities"; Denial of Petitions for Reconsideration

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D.C., on the 5th day of September 1975.

It appearing, That the Commission, on the date hereof, has made and filed its report in this proceeding upon further consideration setting forth its conclusions and findings and reasons therefor, which report is hereby referred to and made a part hereof:

It is ordered, That the term "securities" as found in section 20a of the Interstate Commerce Act be henceforth interpreted as including, among other things, those instruments specifically enumerated in section 20a(2) as well as other evidences of interest in or indebtedness of carriers, which include, but are not limited to advances payable to an affiliated company, loan agreements, credit agreements, mortgages, chattel mortgaes, deeds of trust, equipment trusts, security agreements, and purchase agreements of property having a useful life in excess of 1 year whose terms provide for other than full payment at the time of consummation, but shall not at this time be interpreted to include agreements entered into for the sole purpose of acquiring motor carrier operating motor carrier operating equipment.

It is further ordered, That the terms "assume any obligation or liability" as found in section 20a of the Interstate Commerce Act be henceforth interpreted as including an advance of funds to an affiliated company.

It is further ordered, That the petitions for reconsideration of that part of the Commission's August 16, 1973 (38 FR 23953, 24903; Sept. 5, 1973, Sept. 11, 1973) order adopting amendments to Part 1115 of Subchapter B of Chapter X of Title 49 of the Code of Federal Regulations (the text of such amendments being set forth in appendix C to the Commission's report of this date) be, and they are hereby, denied.

It is further ordered, That this order shall become effective December 8, 1975.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy of this notice in the Office of the Secretary of this Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.[1]

[SEAL] ROBERT L. OSWALD, *Secretary.*

APPENDIX C

The following additions to Form OP-F-200 (formerly Form BF-6) were adopted by the Commission in its 1973 report and order in this proceeding: [2]

Item 1(c).—A statement clearly outlining the measures taken by a carrier, and its subsidiaries or affiliates, to insure that compliance with section 10 of the Clayton Antitrust Act (15 U.S.C. 20) has been achieved with respect to the proposed financing and all nonsecurity financing entered into in the current year of the application and the 2 previous calendar years.

Item 2(d).—Applicant shall file a list of the amounts, terms, and purposes of all nonsecurity financing for the current year and 2 previous calendar years, by separate category, including, but not limited to, conditional sale contracts, chattel mortgages, security agreements, mortgages, deeds of trust loan agreements in the nature of standby credit agreements, credit agreements, and advances.

The terms of each category of nonsecurity financing shall include the interest rate, terms of repayment, collateral pledged as security therefor, material restrictions of

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[1] Appendix A, Petitioners, and Appendix B, Summary of Representative Arguments and Proposals of the Parties, are filed as part of the original document.

[2] Amendments were originally filed as part of the original document in the issue of Sept. 5, 1973; 38 FR 23953.

such arrangements, as well as a detailed breakdown as to the use of the proceeds or credit thus obtained, specifically identifying uses for noncarrier purposes.

Item 2(e).—Applicant shall file the following:

(i) Consolidated balance sheet and a consolidated income statement for applicant and its subsidiaries, showing inter-company eliminations.

(ii) A balance sheet and income statement for each of applicant's subsidiaries, or if this is not possible, a statement listing the annual net income and stockholders' equity (net worth) of each of the subsidiaries.

(iii) Applicant's pro forma income statement showing its forecasted revenues, expenses, and net income for the 12 months following the application date.

(iv) Applicant's cash flow statement for the 12 months preceding the filing of the application and its forecasted cash flow statement for the 12 months subsequent to such filing. These statements should show opening cash on hand, receipts by categories, disbursements by items, and cash balance at the end of the period, with a breakdown of funds flowing to and from carrier subsidiaries.

[FR Doc.75-27225 Filed 10-8-75;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Amendment Listing the Snail Darter as an Endangered Species

Background. On January 20, 1975, Joseph P. Congleton, Zygmunt J. B. Plater, and Hiram G. Hill, Jr., petitioned the Department of the Interior to list the snail darter (*Percina* (*Imostoma*) sp.) from the Little Tennessee River, as an endangered species according to the expedited emergency procedures of section 4(f)(2)(B)(ii) of the Endangered Species Act of 1973. This petition, and accompanying supportive data, were examined by the Fish and Wildlife Service which determined that sufficient evidence existed to warrant a review of the status of these species. A notice to that effect was placed in the FEDERAL REGISTER on March 10, 1975 (40 FR 11618). Simultaneously, the Governor of Tennessee was notified of the review, and was requested to supply data on the status of the species in his State.

As a result of this review, the Director of the Fish and Wildlife Service found that there are sufficient data to warrant a proposed rulemaking that the snail darter be listed as an endangered species. This proposed rulemaking was published in the FEDERAL REGISTER on June 17, 1975 (40 FR 25597). Interested persons were invited to submit written comments on the proposal to the Director no later than August 18, 1975.

Summary of Comments. Sixteen comments were received. Portions relevant to the biological status of the snail darter are summarized as follows:

(1) Twelve persons completely supported the proposed rulemaking. These included several ichthyologists and biology professors who felt it was a valid species and did need protection. Also among these were several concerned citizens decrying the possible destruction of the species which is threatened by the Tellico Dam.

(2) There were three letters opposing the listing of the snail darter as "endangered," none of which was relevant to the biological evaluation.

(3) A letter and attached appendices were received from the Tennessee Valley Authority, the agency sponsoring the construction of Tellico Dam. The Tennessee Valley Authority is opposed to listing the snail darter as an Endangered species. Quoted below are the specific objections raised by TVA in their extensive comments and appendices:

1. Listing of this fish would have no valid basis since the taxonomic status of the fish has not been determined, there is no known publication of its description, and it has never been classified as a new and distinct species.

2. Clearly, no present threat exists to the snail darter which would justify shortcutting the customary scientific procedures. There has been no systematic or adequate study of the range of this fish. There is, however, scientific opinion that the fish undoubtedly exists elsewhere in the Tennessee River system, unaffected by the Tellico project. In light of this, the statement in the notice that impoundment of Tellico "would result in total destruction of the snail darter's habitat" is in error.

3. Listing the snail darter would not enhance the likelihood that this fish would survive and therefore would not further the purposes of the Endangered Species Act. As a part of the Tellico project, TVA and others already are undertaking a scientifically recognized program to conserve the snail darter.

4. For the foregoing reasons, it is clear that the Endangered Species Act does not require, nor indeed does it even permit, the Secretary's proposed listing. In light of this we do not believe that the Fish and Wildlife Service should inject itself into the long-standing controversy surrounding the wisdom of the Tellico project. Tellico is a lawfully authorized federal project which has been under construction since March 1967. It has been repeatedly funded by Congress, over objections of opponents, and impoundment is presently scheduled for January 1977. Its environmental consequences, including specifically its effect on undescribed species of darters which were thought to be rare and endangered, were fully described and considered in TVA's Environmental Impact Statement for the project. The sufficiency of that statement and the reasonableness of the TVA Board's decision to proceed after enactment of the National Environmental Policy Act has been litigated and upheld by both the United States District Court for the Eastern District of Tennessee and the Sixth Circuit Court of Appeals. Subsequent to such litigation, Congress, with full knowledge of the project's environmental impacts, has continued to appropriate money for completion. In light of this exhaustive review of the project, including specifically a consideration of its effect on possibly rare and endangered species of fish, no worthwhile purpose could possibly be served by listing the snail darter as "endangered" solely because "The proposed impoundment of water behind the proposed Tellico Dam would result in total destruction of the snail darter's habitat," as stated in your notice. We believe the likely result would be more time-consuming and meritless litigation.

In summary, TVA believes that there is no scientific basis to support listing the snail darter, there is no environmental need for such action, and that nothing positive would be accomplished.

The Director has considered the above comments as well as the appendices accompanying such comments. The Director has also considered other information obtained by the Fish and Wildlife Service subsequent to the proposed rulemaking. The following response to the Tennessee Valley Authority's comments is based on all information available at this time.

1. The original data submitted in the petition to list the snail darter as an endangered species could reasonably be read to suggest that the snail darter was a distinct species in danger of extinction throughout its range. Comments received on the FEDERAL REGISTER notice of March 12, 1975, to review the status of the species, in no way suggested otherwise and provided additional evidence to warrant a proposed rulemaking. Subsequent to the proposed rulemaking, we received additional data in the form of an unpublished manuscript, in which the species was described, further substantiating the validity of the snail darter as a distinct species. The manuscript has been reviewed and accepted by a panel of ichthyologists at the Smithsonian Institution, and approved by them for publication in the *Proceedings of the Biological Society in Washington*. The expected publication date of the description of the snail darter is December 1975, or January 1976.

The Fish and Wildlife Service is proceeding with the formal listing of the snail darter, *Percina* (*Imostoma*) sp., as an endangered species because biological evidence indicates that it is a valid species in danger of extinction. The Service acknowledges the lack of a published formal description of the snail darter with the designation of a name-bearing holotype at this time. The Service also recognizes the fact that the snail darter is a living entity which is genetically distinct and reproductively isolated from other fishes. Section 3 (11) of that Act states that "the term 'species' includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature". The weight of scientific opinion recognizes the snail darter as a distinct species. To delay its listing as endangered until the formalities of a species description and its publication are completed would thwart the purpose of the Endangered Species Act.

2. More than 1,000 collections in recent years and additional earlier collections from central and east Tennessee have not revealed the presence of the snail darter outside the Little Tennessee River. The TVA has conducted numerous fish population studies throughout the Tennessee River Basin since the 1930's, and none of these studies apparently

yielded specimens of the snail darter. The snail darter was probably more widespread prior to the impoundment of most of the large rivers of east Tennessee, but how widespread is uncertain. Despite all efforts to locate additional snail darter populations in rivers and creeks other than the Little Tennessee River, to date there have been no reported findings.

The Tellico Project, now under construction, would completely inundate the entire range and only known established population of the snail darter. The sponsoring agency offers only opinion rather than specific scientific evidence that the snail darter has been found to exist elsewhere. The agency does not deny that the Tellico project will completely inundate the habitat of the only known established population of the fish.

3. The purposes of the Endangered Species Act of 1973 as stated in Section 2(b) are "to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species * * *". The TVA has formulated and begun to implement a program in which snail darters are being transplanted from the Little Tennessee River into the Hiwassee that there may be biological and other River. That the snail darter does not already inhabit the Hiwassee River, despite the fact that the fish has had access to it in the past, is a strong indication that there may be biological and other factors in this river that negate a successful transplant. In addition, the TVA has presented us with little evidence that they have carefully studied the Hiwassee to determine whether or not these biological and other factors exist. The TVA program also does not provide for the conservation of the ecosystem upon which the only known established population of snail darter depends.

4. The TVA's Tellico Project Environmental Impact Statement was finalized prior to the passage of the Endangered Species Act of 1973. While the Statement did include a discussion of the endangered species which might occur in the project area, the snail darter was not discovered until the fall of 1973 and thus was not included in the discussion of endangered species in the Environmental Impact Statement. Also, all litigation of the Tellico project occurred prior to the discovery of the snail darter. In light of the above, we have no evidence to indicate that the Tennessee Valley Authority has given adequate consideration to the snail darter with respect to the Tellico project.

The Service is aware of the Congressional authorization of the Tellico project. In section 2(a) of the Endangered Species Act of 1973, Congress did find and declare that * * * "(1) various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation * * *". The intent of Congress was to insure that endangered and threatened species are conserved, by responsibly integrating the well-being of such species into all Federal actions that could affect them and providing a means whereby such species can continue to exist. This was specified in Section 2(c) of the Act, which states that "* * * it is further declared to be the policy of Congress that all Federal departments and agencies shall utilize their authorities in furtherance of the purposes of this Act". Section 7 of the Act further delineates the responsibilities of all Federal departments and agencies in implementing the Endangered Species Act of 1973.

The Director has considered the above comments as well as the evidence accompanying such comments. The Director has also considered other information obtained by the Service, both before and after the proposed rulemaking. Taken together, the evidence as a whole indicates that the snail darter of the Little Tennessee River should indeed be listed as an endangered species for the reasons discussed hereafter.

Discussion. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. § 1533(a)(1)) establishes the following criteria for determining whether a species should be listed as an endangered species:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence.

Specifically, with regard to the snail darter, present evidence suggests that only condition (1) is pertinent. Major factors affecting this condition include, but are not limited to, the following:

1. The present or threatened destruction, modification, or curtailment of its habitat or range. The snail darter *Percina (Imostoma)* sp. is known only from portions of gravel shoals in the main channel of the Little Tennessee River between River Miles 4 and 17 in Loudon County, Tennessee. River Miles 4 and 17 are shown on a map entitled "Tellico Project," prepared by the Tennessee Valley Authority (TVA), Bureau of Water Control Planning, August 1965 (map 65–MS–453 K 501). River Mile 17 is 2 river miles below the U.S. Highway 411 bridge over the Little Tennessee River, and is near Rose Island; River Mile 4 is 1½ miles below Davis Ferry.

In this area the snail darter occurs only in the swifter portions of shoals over clean gravel substrate in cool, low-turbidity water. Food of the snail darter is almost exclusively snails which require a clean gravel substrate for their survival. The proposed impoundment of water behind the proposed Tellico Dam would result in total destruction of the snail darter's habitat.

2. Overutilization for commercial, sporting, scientific, or educational purposes. Not applicable.

3. Disease or predation. Not applicable.

4. The inadequacy of existing regulatory mechanisms. Not applicable.

5. Other natural or manmade factors affecting its continued existence. Not applicable.

For the reasons stated above, it is hereby determined that the snail darter (*Percina (Imostoma)* sp.) is an endangered species within the meaning of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543).

Accordingly, Part 17 of Chapter I, Title 50, Code of Federal Regulations, is amended as set forth below, and will be effective on November 10, 1975.

Dated: October 6, 1975.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

1. Amend Section 17.11(i) by adding the following to the list of "Fishes," after the entry for "Darter, Okaloosa; *Etheostoma, okaloosae*":

§ 17.11 Endangered and threatened wildlife.

* * * * *

(i) * * *

Species			Range				
Common Name	Scientific Name	Population	Known Distribution	Portion of Range where Threatened or Endangered	Status	When Listed	Special Rules
FISHES							
*	*	*	*	*	*		*
Darter, snail	*Percina (Imostoma)* sp.	n.s.	U.S.A.: Little Tennessee River, Loudon County, Tennessee.	Entire.	E.	12	n.s.
*	*	*	*	*	*		*

2. Add footnote 12 to read:

[12] 40 FR 47506; October 9, 1975.

[FR Doc.75-27171 Filed 10-8-75;8:45 am]

PART 32—HUNTING

National Wildlife Refuges in Certain States

The following special regulations are issued and are effective on November 1, 1975.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

ALABAMA

WHEELER NATIONAL WILDLIFE REFUGE

Hunting of geese, ducks, and coots on the Wheeler National Wildlife Refuge, Alabama, is suspended for the 1975–76 season due to a serious decline in numbers of wintering geese in the refuge area.

FLORIDA

CHASSAHOWITZKA NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Chassahowitzka National Wildlife Refuge, Florida, is permitted only on the area designated by signs as open to hunting. The open area, comprising 2,500 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of ducks and coots subject to the following special conditions:

(1) *Open Season:* Hunting will be permitted only on Wednesdays through Sundays during the regular waterfowl season.

(2) *Daily Bag Limits:* Same as prescribed by State and Federal regulations.

(3) *Permits:* A National Wildlife Refuge Hunting Permit is required for all persons hunting in the area. Permit may be obtained by appearing in person at refuge headquarters at 8 a.m. to 4:30 p.m., Monday through Friday or by mail.

(4) *Juveniles:* Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(5) *Entry:* Hunters must follow the routes of travel within the refuge that are designated by posting by the officer-in-charge. The routes of travel for airboats to and from the public hunting area are shown on a map available at refuge headquarters. While traveling to and from the hunting area, hunters must have guns unloaded and cased.

(6) *Blinds:* Only temporary blinds constructed of native vegetation are permitted.

(7) *Dogs:* The use of dogs is encouraged to retrieve dead and wounded birds. Dogs must be under control at all times.

(8) *Airboats:* A Federal permit is required for the use of airboats on the area. Airboats must be equipped with an exhaust muffler. Airboat permits may be obtained by applying in person at refuge headquarters, 4½ miles south of Homosassa Springs, Florida, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

(9) Decoys will be retrieved by owners at the end of each day's hunt.

(10) Boats and hunting equipment and all game bagged will be presented for inspection to refuge agents or other wildlife enforcement officers upon request.

LOXAHATCHEE NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on Loxahatchee National Wildlife Refuge, Florida, is permitted only on the area designated by signs as open to hunting. This open area, comprising 29,000 acres, is delineated on a map available at the refuge headquarters, Boynton Beach, Florida, and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks and coots and subject to the following special conditions:

(1) *Daily Bag Limits:* See State regulations. Note: Only ducks and coots may be taken on the refuge.

(2) *Open Season:* See State regulations.

(3) *Daily Shooting Hours:* One-half hour before sunrise to sunset.

(4) All hunters must possess a refuge permit to hunt on Loxahatchee National Wildlife Refuge. This permit is available at refuge headquarters. Mail requests will be honored until the opening of the waterfowl hunting season.

(5) All air-thrust boat operators must possess a valid refuge permit for operating on Loxahatchee Refugee. This permit is available at refuge headquarters.

(6) *Entry to Refuge:* Hunters are required to enter and leave the refuge from the headquarters landing or the S-39 landing (Loxahatchee Recreation Area). Air-thrust boats may be launched at the headquarters landing only. Use of the refuge is limited to the hours from one and one-half hours before sunrise to one hour after sunset. Hunters must use the designated routes of travel to and from the hunting area. These routes are those portions of Canal 40 and Canal 39 (Hillsboro Canal) immediately east and south of the hunting area. The refuge marsh near headquarters and S-39 landing lying between the hunting area and said portions of the above canals may also be used for travel. No hunting is permitted in these canals or the marsh off-sets.

(7) *Firearms:* Ducks and coots may be taken only by shotguns ten gauge or smaller. All other types of firearms are prohibited year-round. The possession or use of shotgun shells with larger than No. 4 shot is prohibited. Hunters must carry unloaded shotguns that are dismantled or cased over the routes stated under Item 6 in travelling to and from the hunting area.

(8) *Hunting Dogs:* Hunters are permitted to use dogs for the purpose of retrieving dead or wounded birds.

(9) *All Boats:* For safety reasons all boats must display a light when travelling to and from the hunting area when travelling in darkness. All boats operating within the public hunting area are required to fly a flag 12" by 12" ten feet above the bottom of the boat.

(10) *Blinds:* Only temporary blinds constructed of native vegetation are permitted.

(11) *Posted Areas:* The public hunting area has been designated by red signs with black lettering. Other signs designate closed areas.

(12) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

MERRITT ISLAND NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Merritt Island National Wildlife Refuge, Florida, is permitted only on the areas designated by signs as open to hunting. These open areas are delineated on a map available at the refuge headquarters, Merritt Island National Wildlife Refuge, Florida and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks and coots subject to the following special conditions:

(1) Hunting is allowed Wednesday through Sunday during the State waterfowl season except no hunting on Christmas Day.

(2) Shooting hours are from legal starting time until noon.

(3) Use of steel (iron) shot is required in hunt areas 1 and 4. Possession of lead shot is prohibited in areas 1 and 4.

(4) Shooting within 10 feet of any refuge dike or road (except in Area 1) is prohibited.

(5) Air-thrust boats are not permitted on the refuge.

(6) Hunting from permanent blinds is prohibited in Areas 2, 3 and 4.

(7) Hunters under 18 years of age must be accompanied by an individual 21 years of age or older.

(8) No overnight camping is allowed.

(9) A general refuge hunting permit is required and must be carried on the hunter's person at all times.

PUBLIC HUNTING AREA NO. 1

(1) A certificate showing successful completion of the Florida Game and Fresh Water Fish Commission's Hunter Safety Course is required.

(2) Hunting is from established blinds only and a daily permit is required. See hunting and permit information available at Refuge Headquarters.

(3) Hunters must have a boat and/or retriever to apply for this area.

(4) Steel (iron) shot is required.

PUBLIC HUNTING AREA NO. 2

(1) A maximum of 200 permits will be issued daily throughout the season. See hunting and permit information available at the Refuge Headquarters for specifics on drawing.

(2) No shooting is permitted from or across the railroad right-of-way or any paved road.

(3) Area south of the railroad track is closed to hunting.

PUBLIC HUNTING AREA NO. 3

(1) Access is permitted by using designated dikes and/or by boat only.

PUBLIC HUNTING AREA NO. 4

(1) A certificate showing successful completion of the Florida Game and Fresh Water Fish Commission's Hunter Safety Course is required.

(2) A maximum of 100 permits will be issued daily throughout the season. See hunting and permit information available at the Refuge Headquarters for specifics on drawing.

(3) Vehicles are prohibited from traveling on any dikes and must park in designated areas.

(4) Steel (iron) shot is required.

GEORGIA

EUFAULA NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Eufaula National Wildlife Refuge, Georgia, is permitted only on the area designated by signs as open to hunting. This open area, comprising 770 acres, is delineated on a map available at the refuge headquarters, Eufaula, Alabama, and from the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks and coots subject to the following special conditions:

(1) Hunting will be permitted only on Saturdays. Hunting hours will be from one-half hour before sunrise to 11:30 a.m. during the waterfowl season.

(2) Hunters must hunt only from designated blinds provided and located by refuge personnel. Shooting is not permitted outside of designated blind zone.

(3) Guns must be unloaded while being transported on the refuge and while being carried to and from the blinds.

(4) Each hunter is limited to one box of 12-gauge shells in his possession. Only shells containing steel shot will be permitted and these may be purchased at the check-in station at cost.

(5) Hunters are required to check in and out of the hunt area and must present all bagged game for inspection.

(6) A refuge permit is required. A blind fee of $6 per blind will be charged at the time the permits are issued prior to each day's hunt.

(7) Applications for reservations for refuge permits must be received by the Refuge Manager, Eufaula Refuge, Eufaula, Alabama, prior to 12 noon, Friday, October 31, 1975. Successful applicants will be determined by an impartial drawing on Monday, November 3, 1975.

(8) Hunters under 17 years of age must be accompanied by an adult 21 years of age or older.

(9) Blind reservations are nontransferable.

SAVANNAH NATIONAL WILDLIFE REFUGE

Public hunting of ducks, coots, and snipe on the Savannah National Wildlife Refuge, Georgia, is permitted only on the area delineated on the Public Hunt Area map which is available at the refuge headquarters, Hardeeville, South Carolina, and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, coots, and snipe, subject to the following conditions:

(1) Daily bag limits are the same as State regulations for ducks, coots, and snipe. Hunters are cautioned against killing, shooting at, or molesting any species of wildlife other than those listed.

(2) Hunting will be permitted only on Thursday, Friday, and Saturday, from one-half hour before sunrise to 12 o'clock noon during the season set by State regulations. Note: Snipe season opens at different dates than ducks and coots but will close on the refuge on the same date.

(3) Hunting will not be permitted in or on Front, Middle, and Back Rivers, nor closer than 50 yards to the shoreline of these rivers.

(4) Hunters will not be permitted to enter the hunting area sooner than one and one-half hours before sunrise.

(5) Guns must be unloaded while being carried to and from the hunting area. Shot size larger than number 4 will not be permitted on the refuge.

(6) Only temporary blinds constructed of native materials are permitted. Hunters must build their own blinds and furnish their own boats and decoys.

(7) Dogs used to retrieve waterfowl must be under control at all times.

(8) Season permits *must* be carried on person while hunting. Permits may be obtained in person from the refuge manager or by mailing an application to refuge headquarters.

(9) Hunting questionnaire must be completed and returned to Refuge Manager, Savannah National Wildlife Refuge, within 30 days following the end of the season. Failure to comply may result in suspension of future hunting privileges.

(10) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

LOUISIANA

LACASSINE NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, and coots is permitted only on the area designated by signs as open to hunting. The open area comprises 6,400 acres and is delineated on a map available at the refuge headqurters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable Federal and State regulations subject to the following special conditions:

(1) All hunters must have a Federal refuge hunting permit in their possession in order to hunt on the refuge. Permits will be issued from October 15 on through the entire duck hunting season.

(2) Hunting is restricted to 12 gauge shotguns and iron shot shells only. No lead shot shell or other gauge shotguns will be permitted on the refuge. Iron shot shells will be available at the hunt area. No limit on quantity.

(3) *Hunting Season:* November 1 to 30, 1975, and December 11, 1975, to January 3, 1976. Hunting permitted five half-days per week, Wednesday through Sunday. No hunting on Mondays or Tuesdays, and no hunting on December 25.

(4) *Shooting Hours:* One half-hour before sunrise until 11 a.m. Hunters may enter the hunting area two hours before legal shooting time and must depart the refuge by 12 noon.

(5) Hunting is restricted to ducks, geese, and coots. No other species of birds, mammals, or reptiles may be shot or taken on the refuge.

(6) Hunters under 17 years of age must be accompanied by a responsible adult. No more than two youth hunters per each adult hunter will be permitted.

(7) Hunting parties may not blind-up and hunt closer than 100 yards apart. The first hunter(s) at a pond or blind site are the holders of that site until they complete their hunt; other parties must move away from them at least 100 yards.

(8) Firearms must be encased or dismantled when carried in transit through refuge canals.

(9) Temporary blinds made of native vegetation are permitted but they may *not* contain boards, lumber, poles or wire. Portable blinds may be carried in for each hunt.

(10) Use of retriever dogs is permitted and encouraged, but they must be under control of hunter at all times.

(11) Livestock, furbearers, and trapping equipment present in the hunting areas shall not be molested or disturbed by hunters.

(12) Hunters must station themselves a minimum of 50 yards inland from refuge canals.

(13) Running lights are required on all boats using refuge canals before sunrise. Life jackets must be *worn* by all juvenile hunters while travelling on refuge waters.

SABINE NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, and coots on the Sabine National Wildlife Refuge is permitted only in areas designated by signs as open to hunting. These areas, comprising approximately 10,000 acres, are delineated on a map available at refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Waterfowl hunting shall be in accordance with all applicable State and Federal regulations including the following special conditions:

(1) All hunters must have a Federal refuge hunting permit in their possession in order to hunt on the refuge. Permits will be issued from October 15 through the duck hunting season.

(2) Hunting is restricted to 12 gauge shotguns and iron shot shells only. *No* lead shot shell or other gauge shotguns will be permitted on the refuge. Iron shot shells will be available for sale at the hunt area. No limit on quantity.

(3) *Hunting Season:* November 1 to 30, 1975, and December 11, 1975 to January 3, 1976. Hunting permitted five half-days per week, Wednesday through Sunday. No hunting on Mondays or Tues-

days, and no hunting on December 25.

(4) *Shooting Hours:* One-half hour before sunrise until 11 a.m. Hunters may enter the hunting area two hours before legal shooting time and must depart the refuge by 12 noon.

(5) Hunting is restricted to ducks, geese, and coots. No other species of birds, mammals, or reptiles may be shot or taken on the refuge.

(6) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(7) Hunting parties may not blind-up and hunt closer than 100 yards apart. The first hunter(s) at a pond or blind site are the holders of that site until they complete their hunt; other parties must move away from them at least 100 yards.

(8) Firearms must be encased or dismantled when carried in transit through refuge canals.

(9) Temporary blinds made of native vegetation are permitted, but they may *not* contain boards, lumber, poles or wire. Portable blinds may be carried in for each hunt.

(10) Use of retriever dogs is permitted and encouraged, but they must be under control at all times.

(11) Livestock, furbearers, and trapping equipment present in the hunting areas shall not be molested or disturbed.

(12) Hunters must station themselves a minimum of 50 yards inland from refuge canals.

(13) Running lights are required on all boats using refuge canals before sunrise. Life jackets must be *worn* by all juvenile hunters while travelling on refuge waters.

(14) Hunters are required to show any waterfowl bagged to one of the refuge agents before leaving the area and must complete a questionnaire.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Noxubee National Wildlife Refuge, Mississippi, is permitted only on the area designated by signs as open to hunting. The open area of 520 acres is delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of ducks and coots subject to the following special conditions:

(1) Hunting will be permitted only on Mondays, Wednesdays and Saturdays from one-half hour before sunrise to 12 noon during the periods December 6, 1975 through January 20, 1976.

(2) The use of boats with electric motors is permitted within the hunting area.

(3) The construction of blinds is not permitted.

(4) Hunters will not be permitted to enter the hunting area sooner that 45 minutes before legal shooting hours.

(5) No hunter may take more than 16 shotgun shells into the hunting area.

(6) No shooting will be permitted from the levee or the open water area immediately adjacent to the levee.

(7) All hunters are required to check in and out at the designated check station.

(8) Lead shot may not be used in the waterfowl hunting area. Iron shot shells will be available for purchase at the check station.

(9) Permit required. A limited number of permits will be available. Applications will be accepted by mail or in person at the refuge office during the period October 1–31, 1975.

(10) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

NORTH CAROLINA

MATTAMUSKEET NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, and coots on the Mattamuskeet National Wildlife Refuge, North Carolina, is suspended during the 1975–76 waterfowl hunting season owing to the continued serious decline of Canada geese wintering in the Mattamuskeet area.

OCTOBER 1, 1975.

ROY R. VAUGHN,
Acting Regional Director.

[FR Doc.75-27141 Filed 10-8-75;8:45 am]

PART 33—SPORT FISHING

Medicine Lake National Wildlife Refuge, Mont.

The following special regulation is issued and is effective on October 9, 1975.

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

MONTANA

MEDICINE LAKE NATIONAL WILDLIFE REFUGE

Sport fishing by rod, reel, pole and set lines, including use of live bait on the Medicine Lake National Wildlife Refuge, Medicine Lake, Montana, is permitted on all of Medicine Lake from December 1, 1975, through March 31, 1976, inclusive. Sport fishing is permitted from June 15, through September 15, 1976, inclusive, but only on the area designated by signs as open to fishing. This open area comprises 800 acres and is delineated on maps available at refuge headquarters, 3 miles southeast of Medicine Lake, Montana 59247 and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver, Colorado 80225. Sport fishing shall be in accordance with all applicable State Regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 31, 1976.

JAY R. BELLINGER,
Refuge Manager, Medicine Lake National Wildlife Refuge, Medicine Lake, Montana 59247.

OCTOBER 3, 1975.

[FR Doc.75-27142 Filed 10-8-75;8:45 am]

PART 81—CONSERVATION OF ENDANGERED AND THREATENED SPECIES OF FISH, WILDLIFE, AND PLANTS—COOPERATION WITH THE STATES

Applications for Financial Assistance

OCTOBER 2, 1975.

On April 28, 1975, a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 18447) to formalize procedures governing applications by States for Federal financial assistance under Section 6, "Cooperation with the States," of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).

Forty-five days were given within which any person wishing to do so could file written comments, suggestions or objections pertaining to the proposed regulations with the Director, U.S. Fish and Wildlife Service. All comments with respect to the proposed revision were given due consideration.

Thirty-one comments were received from 27 States and four other agencies. Seventeen States and one agency had no objection to the proposed rulemaking as written. With one exception, the remaining comments received relevant to the proposed regulations were for changes that would depart from the clear meaning of the Act.

After consideration of all relevant material presented by interested persons, the proposed rulemaking is hereby adopted as final regulations, subject to the following change set forth below:

1. The word "of" is added in § 81.3 (d) following the word "share" to correct an omission.

Accordingly, 50 CFR Part 81 is revised as set forth below.

Effective date. This regulation shall be effective on October 9, 1975.

Signed at Washington, D.C. on October 1, 1975.

F. V. SCHMIDT,
Acting Director, U.S. Fish and Wildlife Service.

Sec.
81.1 Definitions.
81.2 Cooperation with the States.
81.3 Cooperative Agreement.
81.4 Allocation of funds.
81.5 Information for the Secretary.
81.6 Project Agreement.
81.7 Availability of funds.
81.8 Payments.
81.9 Assurances.
81.10 Submission of documents.
81.11 Divergent opinions over project merit.
81.12 Contracts.
81.13 Inspection.
81.14 Comprehensive plan alternative.

AUTHORITY: Endangered Species Act of 1973, section 6(h), 87 Stat. 884, 16 U.S.C. 1531-43, Pub. L. 93-205.

§ 81.1 Definitions.

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

(a) *Agreements.* Signed documented statements of the actions to be taken by the State(s) and the Secretary in furthering the purposes of the Act. They include:

(1) A Cooperative Agreement entered into pursuant to section 6(c) of the Endangered Species Act of 1973 and containing provisions found in section 6(d)(2) of the Act.

(2) A Project Agreement which includes a statement as to the actions to be taken in connection with the conservation of endangered or threatened species, benefits derived, cost of actions, and costs to be borne by the Federal Government and by the States.

(b) *Conserve, conserving, and conservation.* The use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Endangered Species Act of 1973 are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

(c) *Endangered species.* Any species which is in danger of extinction throughout all or a significant portion of its range (other than a species of the Class Insecta as determined by the Secretary to constitute a pest whose protection under the provisions of The Endangered Species Act of 1973 would present an overwhelming and overriding risk to man).

(d) *Fish or wildlife.* Any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

(e) *Plant.* Any member of the plant kingdom, including seeds, roots, and other parts thereof.

(f) *Program.* A State-developed plan for the conservation and management of all species of fish and wildlife that exist in the wild in that State during any part of their life which are endangered or threatened, which includes goals, objectives, strategies, action, and funding necessary to be taken to accomplish the objectives on an individual basis.

(g) *Secretary.* The Secretary of the Interior or his authorized representative.

(h) *Species.* This term includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.

(i) *State.* Any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(j) *State agency.* The State agency or agencies, department, board, commission, or other governmental entity which is responsible for the management and conservation of fish or wildlife resources within a State.

(k) *Threatened species.* Any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range, as determined by the Secretary.

(l) *Project.* A subsantial undertaking to conserve the various species of fish or wildlife and plants facing extinction.

(m) *Act.* The Endangered Species Act of 1973, Pub. L. 93-205, 16 U.S.C. 1531 et seq.

(n) *Project segment.* An essential part or a division of a project, usually separated as a period of time, occasionally as a unit of work.

(o) *Resident species.* For the purposes of the Endangered Species Act of 1973, a species is resident in a State if it exists in the wild in that State during any part of its life.

§ 81.2 Cooperation with the States.

The Secretary is authorized by the Act to cooperate with any State which establishes and maintains an adequate and active program for the conservation of endangered and threatened species. In order for a State program to be deemed an adequate and active program, the Secretary must find and reconfirm, on an annual basis, that:

(a) Authority resides in the State agency to conserve resident species of fish and wildlife determined by the State agency or the Secretary to be endangered or threatened;

(b) The State agency has established an acceptable conservation program, consistent with the purposes and policies of the Act, for all resident species of fish and wildlife in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

(c) The State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of fish and wildlife;

(d) The State agency is authorized to establish programs, including the acquisition of land or aquatic habitat or interests therein, for the conservation of resident endangered or threatened species; and

(e) Provisions are made for public participation in designating resident species of fish and wildlife as endangered or threatened.

§ 81.3 Cooperative Agreement.

Upon determination by the Secretary that a State program is adequate and active, the Secretary shall enter into an Agreement with the State. A Cooperative Agreement is necessary before a Project Agreement can be approved for endangered or threatened species projects. It must be reconfirmed annually to reflect new laws, species lists, rules or regulations, and programs, and to demonstrate that the program is still active and adequate. Further, such agreement must contain:

(a) The actions that are to be taken by the Secretary and the State;

(b) The benefits that are expected to be derived in connection with the conservation of endangered or threatened species;

(c) The estimated cost of these actions; and

(d) The share of such costs to be borne by the Federal Government and by the State.

§ 81.4 Allocation of funds.

The Secretary shall allocate funds, appropriated for the purpose of carrying out Section 6, to various State programs using the following as the basis for his determination:

(a) The international commitments of the United States to protect endangered or threatened species;

(b) The readiness of a State to proceed with a conservation program consistent with the objectives and purposes of the Act;

(c) The number of endangered and threatened species within a State;

(d) The potential for restoring endangered and threatened species within a State; and

(e) The relative urgency to initiate a program to restore and protect an endangered or threatened species in terms of survival of the species.

§ 81.5 Information for the Secretary.

Before any Federal funds may be obligated for any project to be undertaken in a State, the State must have entered into a Cooperative Agreement with the Secretary pursuant to Section 6(c) of the Act.

§ 81.6 Project Agreement.

(a) Subsequent to the establishment of a Cooperative Agreement pursuant to § 81.3, the Secretary may further agree with the States to provide financial assistance in the development and implementation of acceptable projects for the conservation of endangered and threatened species. Financial agreements will consist of an Application for Federal Assistance and a Project Agreement. Such agreements' continued existence, and continued financial assistance under such agreements, shall be contingent upon the continued existence of the Cooperative Agreement described in § 81.3, above.

(b) The Application for Federal Assistance will show the need for the project, the objectives, the expected benefits and results, the approach, the period of

time necessary to accomplish the objectives, and both the Federal and State costs.

(c) To meet the requirements of the Act, the Application for Federal Assistance shall certify that the State agency submitting the project is committed to its execution and that it has been reviewed by the appropriate State officials and is in compliance with other requirements of the Office of Management and Budget Circular No. A-95 (as revised).

(d) The Project Agreement will follow approval of the Application for Federal Assistance by the Secretary. The mutual obligations by the cooperating agencies will be shown in this agreement executed between the State and the Secretary. An agreement shall cover the financing proposed in one project segment and the work items described in the documents supporting it.

(e) The form and content for both the Application for Federal Assistance and the Project Agreement are provided in the Federal Aid Manual.

§ 81.7 Availability of funds.

Funds allocated to a State are available for obligation during the fiscal year for which they are allocated and until the close of the succeeding fiscal year. For the purpose of this section, obligation of allocated funds occurs when a Project Agreement is signed by the Secretary, or his authorized representative, attesting to his approval.

§ 81.8 Payments.

The payment of the Federal share of costs incurred in the conduct of activities included under a Project Agreement shall be in accordance with Treasury Circular 1075.

(a) Federal payments under the Act shall not exceed 66⅔ percent of the program costs as stated in the agreement; except, the Federal share may be increased to 75 percent when two or more States having a common interest in one or more endangered or threatened species, the conservation of which may be enhanced by cooperation of such States, enter jointly into an agreement with the Secretary.

(b) The State share of program costs may be in the form of cash or in-kind contributions, including real property, subject to standards established by the Secretary as provided in Federal Management Circular 74-7.

(c) Payments under the Endangered Species Act, including such preliminary costs and expenses as may be incurred in connection with projects, shall not be made unless all documents that may be necessary or required in the administration of this Act shall have first been submitted to and approved by the Secretary. Payments shall be made for expenditures reported and certified by the State agencies. Payments shall be made only to the State office or official designated by the State agency and authorized under the laws of the State to receive public funds of the State.

(d) Vouchers and forms provided by the Secretary and certified as therein prescribed, showing amounts expended and the amount of Federal Aid funds claimed to be due on account thereof, shall be submitted to the Secretary by the State agency.

§ 81.9 Assurances.

The State must assure and certify that it will comply with all applicable Federal laws, regulations, and requirements as they relate to the application, acceptance, and use of Federal funds for projects under the Act in accordance with Federal Management Circular 74-7.

§ 81.10 Submission of documents.

Papers and documents required by the Act or by regulations in this part shall be deemed submitted to the Secretary from the date of receipt by the Director of the U.S. Fish and Wildlife Service.

§ 81.11 Divergent opinions over project merits.

Any difference of opinion about the substantiality of a proposed project or appraised value of land to be acquired are considered by qualified representatives of the Secretary and the State. Final determination in the event of continued disagreement rests with the Secretary.

§ 81.12 Contracts.

The State may use its own regulations in obtaining services providing that they adhere to Federal laws and the requirements provided by Federal Management Circular 74-7. The State is the responsible authority without recourse to the Secretary regarding settlement of contractual issues.

§ 81.13 Inspection.

Supervision of each project by the State shall include adequate and continuous inspection. The project will be subject to periodic Federal inspection.

§ 81.14 Comprehensive plan alternative.

In the event that the State elects to operate under a comprehensive fish and wildlife resource planning system, the Cooperative Agreement will be an attachment to the plan. No Application for Federal Assistance will be required since the documentation will be incorporated in the plan. However, the continued existence of the comprehensive plan, and Federal financing thereunder, will be contingent upon the continued existence of the Cooperative Agreement described in § 81.3, above.

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Title 4—Accounts

CHAPTER I—GENERAL ACCOUNTING OFFICE

SUBCHAPTER D—TRANSPORTATION

TRANSPORTATION SERVICES FOR THE ACCOUNT OF THE UNITED STATES

Payments to Carriers and Forwarders

Public Law 93-604 authorized the transfer from the General Accounting Office to the General Services Administration of the function of auditing and adjusting payments to carriers and forwarders furnishing transportation services for the account of the United States Government. The Comptroller General has determined that it is appropriate that responsibility for prescribing uniform procedures and forms for accounting for such payments be assumed by the General Services Administration, as an integral part of the responsibility for performing the audit. This determination results in the elimination of parts 51, 52, 53 and 54, except portions relating to statutory provisions vesting in the Comptroller General discretionary functions and to matters requiring uniform fiscal standards. New regulations pertaining to review of transportation settlements are being promulgated.

The regulatory material heretofore contained in Parts 51, 52, 53 and 54 will be published, to the extent to be continued, by the General Services Administration as a part of the Federal Property Management Regulations in Title 41 of the Code of Federal Regulations.

Accordingly, effective October 12, 1975, Parts 51, 52, 53, 54 and 55 are revoked, and new Parts 51, 52 and 53 are promulgated as follows:

PART 51—DETERMINATIONS

Sec.
51.1 Scope of part.
51.2 Standard forms and procedures.

AUTHORITY: 42 Stat. 25, as amended; 31 U.S.C. 52. Interpret or apply sec. 112, 64 Stat 835; 31 U.S.C. 66.

§ 51.1 Scope of part.

This part contains basic determinations by the Comptroller General as to the extent he deems it necessary to continue or discontinue to exercise the authority to prescribe forms and uniform procedures provided in section 309, 42 Stat. 25, 31 U.S.C. 49.

§ 51.2 Standard forms and procedures.

It is determined that the prescribing of standard forms and procedures pertaining to payments for transportation services furnished for the account of the United States is so closely related to the audit of such payments and adjustment of claims pertaining thereto that it will generally be unnecessary for this function to be performed in the General Accounting Office upon transfer of the transportation audit to the General Services Administration. Standard forms and procedures may therefore be prescribed by the Administrator, General Services Administration, subject to consultation with the internal organization of the General Accounting Office assigned overview responsibility, except for the uniform standards and procedures necessary to permit performance of the discretionary functions vested by statute in the Comptroller General and other uniform fiscal requirements deemed necessary, as prescribed in part 52.