The fact that approval of an NDA may be withdrawn without a prior hearing if it creates an imminent health hazard does not justify approving it in the first instance if the NDA is incomplete or inadequate in the data required to demonstrate safety and effectiveness and the adequacy of manufacturing procedures.

Since the amendment to § 314.110(d) was proposed, FDA has received at least 16 requests to file NDA's over protest. New drug applications that reach this stage may present issues that are complex and may involve voluminous or technical material. Each of these factors has reemphasized the need for more than 60 days for agency response. The change to allow 90 days will make the regulations more realistic.

3. One comment said the 90-day limit should be extended to include new animal drugs under § 514.110 (21 CFR 514.-110), where no time limit currently exists.

The Commissioner is considering this suggestion. If he concludes that such a change in the new animal drug regulations is warranted, it will be the subject of a future FEDERAL REGISTER notice.

4. One comment proposed that a second notice and comment period be added to the rulemaking process.

The Commissioner finds that the current procedures for interested persons to comment on proposed amendments to the regulations are sufficient, and any additional period for submitting comments would needlessly prolong the rulemaking process without providing any significant public benefit.

5. The Commissioner also provides the following information: A request that an NDA be filed over protest is an option set forth in the regulatory scheme applicable to new drug procedures (21 CFR Part 314) that an applicant may choose instead of the option of amending the application by submitting more data in response to the stated deficiencies. Although this has been generally understood within the drug industry, there have been instances in which an applicant both submitted data to amend the NDA and requested that the NDA be filed over protest. This points out the need to clarify § 314.110(d) to show that these are alternative options. Although not included in the proposal, this clarifying language is included in this regulation.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)) and under authority delegated to the Commissioner (21 CFR 5.1), § 314.110 is amended by revising paragraph (d) and adding new paragraph (e), to read as follows:

§ 314.110 Reasons for refusing to file applications.

* * * * *

(d) If an applicant disputes the finding that his application is incomplete or inadequate and, therefore, may not be filed, he may, instead of submitting additional data, make written request that the previously submitted application be filed over protest. Such request shall be submitted to the Assistant Director for Regulatory Affairs (HFD-30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

(e) Upon receipt of a written request to file an application over protest, the Food and Drug Administration shall consider the application filed and shall reevaluate the application. Within 90 days of the date of receipt of such written request by the Assistant Director for Regulatory Affairs, or such additional period as may be agreed upon by the parties, the application shall be approved, or the applicant shall be given hearing pursuant to § 314.200 on the written notice of an opportunity for a question of whether there are grounds for denying approval pursuant to section 505(d) of the act.

Effective date: This regulation shall be effective December 29, 1977.

(Sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355).)

NOTE.—The Commissioner has considered the economic impact of the regulation and no major economic impact has been found, as defined in Executive Order 11821, as amended by Executive Order 11949, OMB Circular A-107, and guidelines issued by the Department of Health, Education, and Welfare. Copies of the economic impact assessment are on file with the Hearing Clerk, Food and Drug Administration.

Dated: November 21, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-34039 Filed 11-28-77;8:45 am]

[7550-01]

Title 29—Labor

CHAPTER X—NATIONAL MEDIATION BOARD

PART 1209—PUBLIC OBSERVATION OF NATIONAL MEDIATION BOARD MEETINGS

AGENCY: National Mediation Board.

ACTION: Notice of Interim Rulemaking.

SUMMARY: The interim regulations replace Section 1209 of the National Mediation Board Rules. The interim regulations allow the Board to utilize the expedited procedures of the Sunshine Act to close deliberations exempt from public observation and qualifying for closure by expedited procedures. The interim regulations continue to provide for closure by regular procedures of other deliberations exempt from public observation.

DATES: Effective on an interim basis on November 29, 1977. Written comments received on or before December 29, 1977.

ADDRESS: Written comments should be addressed to Mr. Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board, Washington, D.C. 20572.

FOR FURTHER INFORMATION CONTACT:

Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board, Telephone 202-523-5920.

SUPPLEMENTARY INFORMATION: These interim regulations are issued pursuant to the authority of 5 U.S.C. 552b (g) and 44 Stat. 577, as amended (45 U.S.C. 151 et seq.).

By direction of the National Mediation Board.

Dated: November 22, 1977.

ROWLAND K. QUINN, Jr.,
Executive Secretary.

29 CFR, Chapter X, is amended by substitution of the following for the existing Part 1209:

AUTHORITY: 5 U.S.C. 552b(g), 44 Stat. 577, as amended (45 U.S.C. 151 et seq.).

§ 1209.01 Scope and purpose.

(a) The provisions of this part are intended to implement the requirements of section 3(a) of the Government in the Sunshine Act, 5 U.S.C. 552b.

(b) It is the policy of the National Mediation Board that the public is entitled to the fullest practicable information regarding its decisionmaking processes. It is the purpose of this part to provide the public with such information while protecting the rights of individuals and the ability of the agency to carry out its responsibilities.

§ 1209.02 Definitions.

For purposes of this part:

(a) The terms "Board" or "agency" mean the National Mediation Board, a collegial body composed of three members appointed by the President with the advice and consent of the Senate.

(b) The term "meeting" means the deliberations of at least two members of the Board where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations required or permitted or with respect to any information proposed to be withheld under by 5 U.S.C. 552b(d) or (e)/5 U.S.C. 552b(c).

§ 1209.03 Conduct of National Mediation Board business.

Members shall not jointly conduct or dispose of agency business other than in accordance with this part.

§ 1209.04 Open meetings.

Every portion of every Board meeting shall be open to public observation, except as otherwise provided by § 1209.05 of this Part.

§ 1209.05 Closing of meetings; reasons therefor.

(a) Except where the Board determines that the public interest requires otherwise, meetings, or portions thereof, shall not be open to public observation where the deliberations concern the issuance of a subpoena, the Board's participation in a civil action or proceeding or an arbitration, or the initiation, conduct or disposition by the Board of any matter involving a determination on the record after opportunity for a hearing, or any court proceedings collateral or ancillary thereto.

(b) Except where the Board determines that the public interest requires otherwise, the Board also may close meetings, or portions thereof, when the deliberations concern matters or information falling within the scope of 5 U.S.C. 552b (c)(1) (secret matters concerning national defense or foreign policy); (c)(2) (internal personnel rules and practices); (c)(3) (matters specifically exempted from disclosure by stattue); (c)(4) (trade secrets and commercial or financial information obtained from a person and privileged or confidential); (c)(5) (matters of alleged criminal conduct or formal censure); (c)(6) (personal information where disclosure would cause a clearly unwarranted invasion of personal privacy); (c)(7) (certain materials or information from investigatory files compiled for law enforcement purposes); or (c)(9)(B) (disclosure would significantly frustrate implementation of a proposed agency action).

§ 1209.06 Action necessary to close meetings; record of votes.

A meeting shall be closed to public observation under § 1209.05, only when a majority of the members of the Board who will participate in the meeting vote to take such action.

(a) When the meeting deliberations concern matters specified in § 1209.05(a), the Board members shall vote at the beginning of the meeting, or portion thereof, on whether to close such meeting, or portion thereof, to public observation, and on whether the public interest requires that a meeting which may properly be closed should nevertheless be open to public observation. A record of such vote, reflecting the vote of each member of the Board, shall be kept and made available to the public at the earliest practicable time.

(b) When the meeting deliberations concern matters specified in § 1209.05 (b), the Board shall vote on whether to close such meeting, or portion thereof, to public observation, and on whether the public interest requires that a meeting which may properly be closed should nevertheless be open to public observation. The vote shall be taken at a time sufficient to permit inclusion of information concerning the open or closed status of the meeting in the public announcement thereof. A single vote may be taken with respect to a series of meetings at which the deliberations will concern the same particular matters where subsequent meetings in the series are scheduled to be held within thirty days after the initial meeting. A record of such vote, reflecting the vote of each member of the Board, shall be kept and made available to the public within one day after the vote is taken.

(c) Whenever any person whose interests may be directly affected by deliberations during a meeting, or a portion thereof, requests that the Board close that meeting, or portion thereof, to public observation for any of the reasons specified in 5 U.S.C. 552b(c)(5) (matters of alleged criminal conduct or formal censure), (c)(6) (personal information where disclosure would cause a clearly unwarranted invasion of personal privacy), or (c)(7) (certain materials or information from investigatory files compiled for law enforcement purposes), the Board members participating in the meeting, upon request of any one member of the Board, shall vote on whether to close such meeting, or a portion thereof, for that reason. A record of such vote, reflecting the vote of each member of the Board participating in the meeting, shall be kept and made available to the public within one day after the vote is taken

(d) After public announcement of a meeting as provided in § 1209.07 of this part, a meeting, or portion thereof, announced as closed may be opened or a meeting, or portion thereof, announced as open may be closed, only if a majority of the members of the Board who will participate in the meeting determine by a recorded vote that Board business so requires and that an earlier announcement of the change was not possible. The change made and the vote of each member on the change shall be announced publicly at the earliest practicable time.

(e) Before a meeting may be closed pursuant to § 1209.05 the General Counsel of the Board shall certify that in his or her opinion the meeting may properly be closed to public observation. The certification shall set forth each applicable exemptive provision for such closing. The certification shall be retained by the agency and made publicly available as soon as practicable.

§ 1209.07 Notice of meetings; public announcement and publication.

(a) A public announcement setting forth the time, place and subject matter of meetings or portions thereof closed to public observation pursuant to the provisions of § 1209.05(a) of this part, shall be made at the earliest practicable time.

(b) Except for meetings closed to public observation pursuant to the provisions of § 1209.05(a) of this part, the agency shall make public announcement of each meeting at least 7 days before the scheduled date of the meeting. The announcement shall specify the time, place and subject matter of the meeting, whether it is to be open to public observation or closed, and the name, address and phone number of an agency official designated to respond to requests for information about the meeting. The 7 day period for advance notice may be shortened only upon a determination by a majority of the members of the Board who will participate in the meeting that agency business requires that such meeting be called at an earlier date, in which event the public announcement shall be made at the earliest practicable time. A record of the vote to schedule a meeting at an earlier date shall be kept and made available to the public.

(c) Within one day after a vote to close a meeting, or any portion thereof, pursuant to the provisions of § 1209.05(b) of this part, the agency shall make publicly available a full written explanation of its action closing the meeting, or portion thereof, together with a list of all persons expected to attend the meeting and their affiliation.

(d) If after a public announcement required by paragraph (b) of this section has been made, the time and place of the meeting are changed, a public announcement of such changes shall be made at the earliest practicable time. The subject matter of the meeting may be changed after public announcement thereof only if a majority of the members of the Board who will participate in the meeting determine that agency business so requires and that no earlier announcement of the change was possible. When such a change in subject matter is approved a public announcement of the change shall be made at the earliest practicable time. A record of the vote to change the subject matter of the meeting shall be kept and made available to the public.

(e) All announcements or changes thereof issued pursuant to the provisions of paragraphs (b) and (d) of this section, or pursuant to the provisions of § 1209.06(d), shall be submitted for publication in the FEDERAL REGISTER immediately following their release to the public.

(f) Announcement of meetings made pursuant to the provisions of this section shall be posted on a bulletin board maintained for such purpose at the Board's offices, 1425 K Street, N.W., Washington, D.C. Interested individuals or organizations may request the Executive Secretary, National Mediation Board, Washington, D.C. 20572 to place them on a mailing list for receipt of such announcements.

§ 1209.08 Transcripts, recordings or minutes of closed meetings; retention; public availability.

(a) For every meeting or portion thereof closed under the provisions of § 1209.05, the presiding officer shall prepare a statement setting forth the time and place of the meeting and the persons present, which statement shall be retained by the agency. For each such meeting or portion thereof there also shall be maintained a complete transcript or electronic recording of the proceedings, except that for meetings closed pursuant to § 1209.05(a) the Board may, in lieu of a transcript or electronic recording, maintain a set of minutes fully and accurately summarizing any action taken, the reason therefor and views thereof, documents considered, and the members' vote on each roll call vote.

(b) The agency shall maintain a complete verbatim transcript, a complete electronic recording, or a complete set of minutes for each meeting or portion thereof closed to public observation, for a period of at least one year after the close of the agency proceeding of which the meeting was a part, but in no event for a period less than two years after such meeting.

(c) The agency shall make promptly available to the public copies of transcripts, electronic recordings or minutes maintained as provided in paragraphs (a) and (b) of this section, except to the extent the items therein contain information which the agency determines may be withheld pursuant to the provisions of 5 U.S.C. 552b(c).

(d) Upon request in accordance with the provisions of this paragraph and except to the extent they contain information which the agency determines may be withheld pursuant to the provisions of 5 U.S.C. 552b(c), copies of transcripts or minutes, or transcriptions of electronic recordings including the identification of sneakers, shall be furnished subject to the payment of duplication costs in accordance with the schedule of fees set forth in § 1208.06 of the Board's Rules, and the actual cost of transcription. Reauests for copies of transcripts or minutes, or transcriptions of electronic recordings of Board meetings shall be directed to the Executive Secretary, National Mediation Board, Washington, D.C. 20572. Such requests shall reasonably identify the records sought and include a statement that whatever costs are involved in furnishing the records will be acceptable or, alternatively, that costs will be acceptable up to a specified amount. The Board may determine to require prepayment of such costs.

§ 1209.09 Requests for records under Freedom of Information Act.

Requests to review or obtain copies of agency records other than notices or records prepared under this part may be pursued in accordance with the Feedom of Information Act (5 U.S.C. 552). Part 1208 of the Board's Rules addresses the requisite procedures under that Act.

§ 1209.10 Capacity of public observers.

The public may attend open Board meetings for the sole purpose of observation. Observers may not participate in meetings unless expressly invited or otherwise interfere with the conduct and disposition of agency business. When a portion of a meeting is closed to the public, observers will leave the meeting room upon request to enable discussion of the exempt matter therein under consideration.

[FR Doc.77-34180 Filed 11-28-77;8:45 am]

[4810-25]

Title 31—Money and Finance: Treasury

SUBTITLE A—OFFICE OF THE SECRETARY OF THE TREASURY

PART 4—EMPLOYEES' PERSONAL PROPERTY CLAIMS

Maximum Dollar Limit

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: To amend the Treasury Department's regulations at 31 CFR Part 4, "Employees' Personal Property Claims," by raising the maximum dollar limit the Department may pay in settlement of an employee's claim to conform with the Military and Civilian Employees Act of 1964, 31 U.S.C. 241-243, as amended by Section 1(a) of Pub. L. 93-455, October 18, 1974. The 1974 amendment raised the limit to $15,000.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Ronald Levy, Attorney-Adviser, Office of the General Counsel, Department of the Treasury, Washington, D.C. 20220, telephone 202-566-2327.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 553(b) the Department finds that notice and public procedure are unnecessary as the regulations are being amended solely to conform with law.

Accordingly, Title 31 § 4.1 of the Code of Federal regulations is amended by deleting "$6,500" and by inserting "$15,000" in lieu thereof.

WILLIAM J. BECKHAM, Jr.,
Assistant Secretary, Administration.

NOVEMBER 22, 1977.

[FR Doc.77-34171 Filed 11-28-77;8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 821-8]

PART 205—NOISE EMISSION STANDARDS FOR MEDIUM AND HEAVY TRUCKS

Interim Warranty

AGENCY: Environmental Protection Agency.

ACTION: Interim Noise Emissions Warranty for Medium and Heavy Trucks.

SUMMARY: This notice is intended to notify all medium and heavy duty truck manufacturers of the Agency's determination that subject to the conditions set forth in the letter, manufacturers may offer the alternate warranty for incomplete vehicles pending final judicial resolution of the warranty issue.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard G. Kozlowski, Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency, Washington, D.C. 20460, 703-557-7470.

SUPPLEMENTARY INFORMATION: Copies of the letter presented below have been sent to all vehicle manufacturers subject to 40 CFR Part 205, Subpart B, Transportation Equipment Noise Emission Controls, Medium and Heavy Trucks ("the truck regulation"). The letter arose out of discussions with counsel for General Motors Corporation and International Harvester Company, parties to the ongoing litigation over the truck regulation. The letter sets forth an alternate warranty that may be used for incomplete vehicles on an interim basis by vehicle manufacturers subject to the truck regulation.

All vehicle manufacturers subject to the truck regulation may use the alternate warranty subject to the conditions set forth in the letter. Use of the alternate warranty constitutes acceptance of the conditions set forth in the letter.

The letter:

The Environmental Protection Agency has determined that, subject to the conditions set forth below, the attached language ("the alternate warranty") may be used for incomplete vehicles on an interim basis by vehicle manufacturers subject to the requirements of 40 CFR Part 205, Subpart B, to meet the requirement of the "Noise Emissions Warranty" as set forth in 40 CFR § 205.58-1 ("the existing warranty").

This alternate warranty may be used only on an interim basis, i.e., until no more than sixty (60) days following final judicial resolution of the warranty issue raised by General Motors and International Harvester in *Chrysler Corp. et al.* v. *EPA* (C.A.D.C. No. 76-1569, 76-1575, 76-1576, 76-1582), and only subject to the following conditions:

The alternate warranty may only apply to incomplete vehicles, i.e., those vehicles which, after they leave the vehicle manufacturer's control, have further manufacturing operations, other than the addition of readily attachable components, applied to them before they are ready for commercial use. The existing warranty must apply to all other vehicles.

If final judicial resolution of the warranty issue raised in the aforementioned litigation substantially affirms the scope of the existing warranty, then it is the responsibility of the vehicle manufacturer to notify those purchasers to whom the alternate warranty was provided that the existing warranty applies retroactively; specifically, that all warranty claims will be honored as if the existing warranty had been supplied to the ultimate purchaser at the time of sale.

Dated: November 23, 1977.

MARVIN B. DURNING,
Assistant Administrator for Enforcement.

INCOMPLETE VEHICLE NOISE EMISSIONS WARRANTY

[Name of vehicle manufacturer] warrants to the first person who purchases this vehicle for purposes other than resale and to each subsequent purchaser that this vehicle, as manufactured by [name of vehicle manufacturer] was designed, built and equipped to conform at the time it left [name of vehicle manufacturer]'s control with all applicable U.S. EPA Noise Control Regulations.

This warranty covers this vehicle as designed, built and equipped by [name of vehicle manufacturer], and is not limited to any particular part, component or system of the vehicle manufactured by [name of vehicle manufacturer]. Defects in design assembly or in any part, component or system of the vehicle as manufactured by [name of vehicle manufacturer], which at the time it left [name of vehicle manufacturer]'s control, caused noise emissions to exceed Federal standards, are covered by this warranty for the life of the vehicle.[1]

[FR Doc.77-34243 Filed 11-28-77;8:45 am]

[4110-08]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 35—HOSPITAL AND STATION MANAGEMENT

Subpart E—Contributions for the Benefit of Patients

AGENCY: Public Health Service, Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: This rulemaking codifies hospital rules currently in practice in the Public Health Service. The language of Section 321 of the Public Health Service Act requires that rules concerning this section be made "pursuant to regulations." Section 321 provides, pursuant to regulations, for the control, management, and operation of all institutions, hospitals, and stations of the Service. Further, it provides that, pursuant to regulations, there will be care, treatment, and hospitalization of patients. The Public Health Service is often asked to accept contributions for the benefit of its patients from other patients, relatives of patients, employees, visitors, and the general public. These regulations govern the acceptance of such contributions, report of and accounting for contributions; define donors and acceptable contributions; and describe allowable expenditures of cash contributions.

EFFECTIVE DATE: These regulations are effective November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Lowell Peart, Building 31, room 3B07, 9000 Rockville Pike, Bethesda, Md. 20014, 301-496-4606.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of April 1, 1977 (42 FR 17500-17501) the Public Health Service proposed rules on contributions for the benefit of patients. Previously the means by which various installations of the PHS handled such contributions was left largely to their discretion. Procedures were described by various internal administrative issuances. In reviewing a proposed change in such an internal directive at the National Institutse of Health, the HEW Office of the General Counsel advised that Section 321 required such rules to be made pursuant to regulations.

Comments were invited on the proposed rules and one was received. The commenter asked whether the term "station" means something different than "hospital". The term is included to maintain consistency with Section 321 of the Public Health Service Act which states "The Surgeon General, pursuant to regulations, shall—(a) Control, manage, and operate all institutions, hospitals, and stations of the Service * * *" and to cover situations where there may be patients in a research station of the Service which is not connected with a hospital and is not an outpatient clinic. The commenter suggested that the paragraph on acceptance of contributions be reworded to make clear that the "officer in charge" refers to the person directly in charge of the hospital. The word "directly" will not be included because (1) this is inconsistent with the term "officer in charge" which is used uniformly throughout Part 35 and (2) its use may appear to set a limit on a matter of administrative delegation which is best left to the managers of individual PHS facilities. The commenter also called attention to two editorial errors. These have been corrected.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 21, 1977.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: November 21, 1977.

HALE CHAMPION,
Acting Secretary.

Accordingly, Part 35 of Title 42 of the Code of Federal Regulations is amended by adding the following new subpart E.

Subpart E—Contributions for the Benefit of Patients

AUTHORITY: Sec. 215, 58 Stat. 690, as amended, 63 Stat. 835 (42 U.S.C. 216); sec. 321, 58 Stat. 695, as amended, 62 Stat. 1017 (42 U.S.C. 248).

Subpart E—Contributions for the Benefit of Patients

§ 35.61 Applicability.

This subpart sets forth the policies and procedures governing the acceptance and administration of contributions of money or property intended solely for the benefit of all patients in a ward or unit or a particular hospital or station of the Public Health Service, excluding outpatient clinics. Such contributions are distinguishable from (a) monies or other valuables belonging to specific patients which are accepted and held in custody for the convenience of the patient until such time as he or she wishes to withdraw them, and (b) gifts to the United States to support Public Health Service functions under section 501 of the Public Health Service Act or other statutory provisions, which may be accepted and administered only in accordance with such statutory provisions or other applicable laws.

§ 35.62 Acceptance of contributions.

(a) The officer in charge of a hospital or station or his delegate may accept contributions of money or personal property which are donated for the general benefit of all patients within the hospital or station (or a ward or unit thereof) without further specification or conditions as to use. Contributions tendered subject to conditions by the donor, such as expenditure or use only on behalf of certain patients or for specific purposes, may not be accepted.

(b) Contribution of money or property shall be accepted in writing.

§ 35.63 Report of and accounting for contributions.

(a) Contributions of money accepted pursuant to § 35.62 (hereinafter referred to as "patient fund") will be treated consistently with Federal deposit rules and as supplemented with appropriate procedures of the facility. This regulation is not intended to exclude contributions for the benefit of patients from proper accountability and control of funds and property.

(b) Contributions of property accepted pursuant to § 35.62 shall be recorded and accounted for in the same manner as other property of a similar kind maintained in the hospital or station, but with suitable identification so that it can be distinguished from government-owned property.

§ 35.64 Donors.

Authorized contributions may be accepted from patients, employees and other individuals, and agencies and organizations.

§ 35.65 Acceptable personal property.

Contributions of personal property which may be accepted pursuant to § 35.62 include, but are not limited to, recreational equipment, furniture, radios and television sets. After its useful life, any cash proceeds realized upon disposition of such property shall be deposited to the credit of the patient fund and shall be available for expenditure pursuant to § 35.66(c).

§ 35.66 Expenditure of cash contributions.

(a) Officials authorized to accept contributions shall not maintain control over the actual obligation or expenditure of such monies.

(b) Only those officers or employees specifically designated in writing by the officer in charge for such purpose may obligate and expend monies from the patient fund. The names of officials so designated shall be provided to the relevant fiscal control office.

(c) Subject to availiability of sufficient funds, monies in the patient fund may be expended for materials, services or activities which contribute to the well-being or morale of patients, including but

[1] The scope of this warranty is currently the subject of litigation. The coverage of this warranty may be broadened to extend to the completed vehicle, whether or not completed by [name of vehicle manufacturer], or the warranty may otherwise be altered, depending upon the outcome of the litigation.

not limited to provision of reading and entertainment materials, recreation activities, and, in appropriate cases, necessary financial support (including travel expenses, meals, and lodging) of relatives, guardians, or friends of patients to enable such persons to be available for the patient's comfort and support.

(d) Officers in charge may issue such additional instructions, not inconsistent with this subpart, as may be necessary to implement its provisions.

[FR Doc.77-34091 Filed 11-28-77;8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21362; RM-2881]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Louisa; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a first Class A FM channel to Louisa, Virginia. The channel assignment will provide for an FM station which will furnish a first full-time local aural broadcast service to the community.

EFFECTIVE DATE: January 3, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: November 17, 1977.

Released: November 21, 1977.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Louisa, Va.). Report and order (Proceeding Terminated) (42 FR 42700).

By the Chief, Broadcast Bureau. 1. The Commission herein considers the *Notice of Proposed Rule Making*, 42 FR 42700, in the above-captioned proceeding, instituted in response to a petition filed by Louisa County Broadcasting Co. ("petitioner"). The petition proposed the assignment of Channel 288A as a first FM channel to Louisa, Virginia. Petitioner filed supporting comments in which it reaffirmed its intention to apply for the channel, if assigned.

2. Louisa (pop. 633), seat of Louisa County (pop. 14,044)[1] is located approximately 80 kilometers (50 miles) northwest of Richmond, and 40 kilometers (25 miles) east of Charlottesville, Va. There is no local aural broadcast service in Louisa or Louisa County. Channel 288A could be assigned to Louisa in conformity with the minimum distance separation requirements.

3. In support of its proposal, petitioner submitted information with respect to Louisa and its need for a first full-time local aural broadcast service. It expects to provide service to 20,500 people, of whom 8,200 would be receiving their second FM service.

4. We have given careful consideration to the proposal and believe that Channel 288A should be assigned to Louisa, Virginia. An interest has been shown for its use, and it would be in the public interest as it would provide the community and Louisa County with a first local aural broadcast service and the area with a needed additional service.

5. Authority for the adoption of the amendment contained herein appears in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's Rules.

6. Accordingly, *it is ordered*, that effective January 3, 1978, section 73.202 (b) of the Commission's Rules, the FM Table of Assignments, is amended as it pertains to the community listed below:

City:	*Channel No.*
Louisa, Va	288A

7. *It is further ordered*, that this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-34212 Filed 11-28-77;8:45 am]

[1] Population figures are taken from the 1970 U.S. Census.

[4310-55]

Title 50—Wildlife and Fisheries

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Listing of the Atlantic Salt Marsh Snakes as a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Atlantic salt marsh snake (*Nerodia fasciata taeniata*) to be a Threatened species. This action is being taken because of the threats of habitat modification and resulting hybridization, and provides Federal protection for the species. The Atlantic salt marsh snake is known only from coastal areas of Brevard, Volusia, and Indian River Counties in Florida.

DATES: This rule becomes effective on December 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On June 2, 1977, the Service published a proposed rulemaking in the FEDERAL REGISTER (42 FR 28165-28166) advising that sufficient evidence was on file to support a determination that the Atlantic salt marsh snake was a Threatened Species pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531 et seq. That proposal summarized the factors thought to be contributing to the likelihood that this snake could become Endangered within the foreseeable future, specified the prohibitions which would be applicable if such a determination were made, and solicited comments, suggestions, objections and factual information from any interested person. Section 4(b)(1)(A) of the Act requires that the Governor of each State or Territory, within which a resident species of wildlife is known to occur, be notified and be provided 90 days to comment before any such species is determined to be a Threatened species or an Endangered species. A letter was sent to Governor Askew of the State of Florida on June 17, 1977, notifying him of the proposed rulemaking for the Atlantic salt marsh snake. On this same date, a memorandum was sent to the Service Directorate and affected Regional personnel, and letters were sent to other interested parties.

No official comments were received from Governor Askew. However, Colonel R. M. Brantley replied for the Florida Game and Fresh Water Fish Commission and indicated full support for the proposal as published in the FEDERAL REGISTER.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the FEDERAL REGISTER prior to adding any species to the List of Endangered and Threatened Wildlife and Plants.

In the June 2, 1977, FEDERAL REGISTER proposed rulemaking (42 FR 28165-28166) and associated June 7, 1977, Press Release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All public comments received during the period June 2, 1977, to September 23, 1977, were considered.

In addition to the comments received from Colonel Brantly, comments were received from eight individuals and representatives of various organizations.

F. Wayne King (N.Y. Zoological Society) commented on behalf of the staff of the Society and supported the pro-