[Airspace Docket No. 77-EA-29]

PART 71—DESIGNATION OF CONTROLLED AIRSPACE

Revocation of Transition Area: Wurtsboro, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will decontrol airspace in the Wurtsboro, N.Y., Terminal Area by revoking the transition area. The runway 5 instrument procedure has been cancelled as of March 31, 1977, thereby nullifying the need for the transition area.

EFFECTIVE DATE: May 19, 1977.

ADDRESSES: Copies of this Final Rule may be obtained from Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke the designated Wurtsboro, N.Y., Transition Area. There is no longer any need for this controlled airspace.

Under the circumstances presented, the FAA concludes that this is a regulation which is relieving and creates no additional burden on any person. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 30 days after its publication.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective May 19, 1977, as follows:

1. Revoke the Wurtsboro, N.Y., Transition Area.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, New York, on April 29, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-13556 Filed 5-11-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 7485]

PART 33—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE ACT OF OCTOBER 19, 1976

Constructive Filing of Waivers of Exemption From Social Security Taxes by Certain Tax-Exempt Organizations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Interim regulations.

SUMMARY: This document provides temporary regulations relating to the constructive filing of waivers of exemption from social security taxes by certain tax-exempt organizations. Changes to the applicable tax law were made by the Act of October 19, 1976. These regulations affect certain tax-exempt organizations which have paid social security taxes without filing a certificate waiving their exemption from those taxes. In addition, the temporary regulations promulgated by this document serve as a notice of proposed rulemaking by which the rules contained therein are proposed to be prescribed as final regulations.

DATES: The temporary regulations are effective with respect to services performed after 1950, and the final regulations are proposed to be effective with respect to services performed after 1950. Written comments and requests for a public hearing must be delivered or mailed by June 27, 1977.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Leonard T. Marcinko, Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. (Attention: CC:LR:T) (202-566-3926).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains temporary regulations relating to constructive filing of waivers of exemption by certain tax-exempt organizations under section 3121 (k) of the Internal Revenue Code of 1954, as amended by the Act of October 19, 1976 (Pub. Law 94-563, 90 Stat. 2655). These regulations add a new part 33, Temporary Employment Tax Regulations Under the Act of October 19, 1976, to title 26 of the Code of Federal Regulations. In addition, the regulations promulgated in this document are proposed to be prescribed as final Employment Tax Regulations (26 CFR Part 31) under section 3121(k) of the Internal Revenue Code of 1954.

EXPLANATION OF PROVISIONS

The employees of certain tax-exempt organizations are excluded from social security coverage unless the employing organization files with the Internal Revenue Service a certificate waiving its exemption from social security taxes. Prior to the enactment of Pub. Law 94-563, a large number of tax-exempt organizations and their employees had been paying Federal Insurance Contributions Act (FICA) taxes without having filed certificates waiving their exemption from these taxes. The purpose of Pub. Law 94-563 was to validate the social security coverage of the employees.

CONSTRUCTIVE FILING OF WAIVER CERTIFICATE WHERE NO REFUND OR CREDIT OF TAXES HAS BEEN ALLOWED

Section 3121(k)(4) of the Code, as added by Pub. Law 94-563, applies to a tax-exempt organization which paid FICA taxes for a period involving three or more consecutive calendar quarters without filing a waiver certificate. If this period did not terminate before the end of the third quarter of 1973, and if the organization did not obtain a refund or credit of the taxes before September 9, 1976, the organization will be deemed under section 3121(k)(4) to have filed a certificate waiving its exemption from FICA taxes. The interim regulations make it clear that a refund or credit of those taxes was "obtained" prior to September 9, 1976, only if the taxpayer account of the organization or any of its employees was credited by the Internal Revenue Service before that date.

The interim regulations provide that in determining whether an organization has erroneously paid FICA taxes for three or more consecutive calendar quarters, any quarter during which an application for the organization's tax-exempt status was pending with the Internal Revenue Service will not be counted. This permits an organization to pay FICA taxes while awaiting determination of its tax-exempt status, without being automatically covered by section 3121(k)(4) if such status is later granted retroactively. The interim regulations also provide that where an organization is deemed to have filed a waiver certificate under section 3121(k)(4) but has not paid FICA taxes for one or more quarters covered by the deemed filed certificate, the due date for filing the returns and for paying the taxes for those quarters is August 1, 1977.

CONSTRUCTIVE FILING WHERE REFUND OR CREDIT HAS BEEN ALLOWED

Section 3121(k)(5) of the Code, also added by Pub. Law 94-563, applies to organizations that would have been covered by section 3121(k)(4) if they had not received a refund or credit of FICA taxes prior to September 9, 1976. An organization in this situation will be deemed to have filed a waiver certificate on April 18, 1977, covering all employees for whom FICA taxes were paid, unless it files an actual retroactive waiver certificate on or before April 18, 1977.

An organization which is deemed to have filed a waiver certificate on April 18, 1977, will be solely liable for all social security taxes due for the period prior to April 1, 1977. The employees have no liability for the payment of any portion of these taxes.

In certain circumstances, an employee of an organization deemed to have filed on April 18 may elect additional retroactive social security coverage for quarters for which FICA taxes were paid and refunded or credited but which are prior to the effective date of the deemed-filed certificate. If all required conditions are satisfied, the employee can obtain additional coverage by filing a request and making full repayment of the taxes under section 3101 for the additional quarters.

ACTUAL FILING OF WAIVER BY APRIL 18, 1977

An organization which obtained a refund or credit of FICA taxes before September 9, 1976, may file an actual waiver certificate on or before April 18, 1977. This waiver certificate must be effective retroactively to cover the period of the refund or credit received (or 20 quarters, if less). Also, it must be accompanied by a list of those employees if any) who concur in the filing of the certificate. An organization which files such a retroactive waiver certificate must afford all eligible employees an opportunity to obtain the retroactive social security coverage. Taxes due for the period prior to the quarter in which a waiver certificate is filed or deemed filed under 3121(k)(5) may be paid in installments over an extended period of time.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adoption of the final regulations proposed in this document, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of this regulation was Leonard T. Marcinko of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations. Accordingly, a new Part 33, Temporary Employment Tax Regulations under the Act of October 19, 1976, is added to title 26 of the Code of Federal Regulations, and the following temporary regulations are adopted:

§ 33.1 Constructive filing of waivers of exemption from social security taxes by certain tax-exempt organizations.

(a) *Constructive filing of waiver certificate where no refund or credit has been allowed.* (1) This paragraph applies to an organization if all of the following four conditions are met.

(i) The organization is one described in section 501(c)(3) of the Internal Revenue Code of 1954, which is exempt from income tax under section 501(a) of the Code.

(ii) The organization did not file a valid waiver certificate under section 3121(k)(1) of the Internal Revenue Code of 1954 (or the corresponding provision of prior law) as of the later of October 19, 1976, or the end of the third calendar quarter of the period referred to in subdivision (iii) of this subparagraph.

(iii) The taxes imposed by sections 3101 and 3111 of the Code were paid with respect to remuneration paid by the organization to its employees, as though such certificate had been filed, during any period that includes all or part of each of at least three consecutive calendar quarters and that did not terminate before the end of the third calendar quarter of 1973. These three quarters shall not include any quarter during any part of which an application for a ruling or determination letter recognizing an organization's tax-exempt status was pending with the Internal Revenue Service. In addition, for an organization required by paragraph (a)(2)(i) of § 1.508-1 (Income Tax Regulations) to apply for recognition of section 501(c)(3) status, the three calendar quarters referred to in the first sentence of this subdivision shall only include quarters after the quarter in which a ruling or determination letter recognizing its tax-exempt status is issued to such organization.

(iv) The Internal Revenue Service did not allow (or erroneously allowed) a refund or credit of any part of the taxes paid as described in subdivision (iii) of this subparagraph with respect to remuneration for services performed on or after July 1, 1973. For purposes of the previous sentence, a refund or credit which would have been allowed, even if a valid waiver certificate filed under section 3121(k)(1) had been in effect, shall be disregarded. A refund or credit will be regarded as having been erroneously allowed if it was credited by the Internal Revenue Service to the taxpayer account of the organization or any of its employees on or after September 9, 1976, even though it was properly made under the law in effect when made.

(2)(i) An organization to which this paragraph applies shall be deemed to have filed a valid waiver certificate under section 3121(k)(1) (or the corresponding provision of prior law) for purposes of section 210(a)(8)(B) of the Social Security Act and section 3121(b)(8)(B). The waiver certificate shall be deemed to have been filed on the first day of the period described in subparagraph (1)(iii) of this paragraph and shall be effective on the first day of the calendar quarter in which such period began. However, such waiver is effective only with respect to remuneration for services performed after 1950.

(ii) The waiver certificate shall be deemed to have been accompanied by a list containing the signature, address, and social security number (if any) of each employee with respect to whom the taxes imposed by section 3101 and 3111 were paid as described in subparagraph (1)(iii) of this paragraph. Each such employee shall be deemed to have concurred in the filing of the certificate for purposes of section 210(a)(8)(B) of the Social Security Act and section 3121(b)(8)(B). A statement containing the name, address, and employer identification number of the organization, and the name, last known address, and social security number (if any) of each employee described in the preceding sentence shall be filed by the organization at the request of the Internal Revenue Service.

(iii) The services of all employees entering or reentering the employ of an organization on or after the first day following the close of the calendar quarter in which the organization is deemed to have filed the waiver certificate, performed on or after the day of such entry or reentry, shall be covered by the certificate.

(3) For purposes of computing interest under section 6601 and additions to tax under section 6651, where an organization is deemed under this paragraph to have filed a waiver certificate but the taxes imposed by section 3101 or 3111 for one or more quarters covered by such certificate are unpaid, the due date for filing returns of these taxes and for paying these taxes shall be August 1, 1977. For purposes of section 6651 (relating to additions to tax for failure to file return or pay tax), whether or not an organization's failure to pay these taxes by August 1, 1977, is due to reasonable cause shall be determined on a case-by-case basis. In appropriate cases, unanticipated financial hardship caused by this section shall constitute reasonable cause.

(b) *Constructive filing of waiver certificate where refund or credit has been allowed and new certificate is not filed.* (1) This paragraph applies to an organization which meets two conditions. First, it must be an organization to which paragraph (a) of this section would apply but for its failure to satisfy the requirement of paragraph (a)(1)(iv) of this section because a refund or credit of taxes was allowed before September 9, 1976. Second, it must not have filed an actual valid waiver certificate under section 3121(k)(1) in accordance with the requirements of paragraph (c) of this section.

(2) An organization to which this paragraph applies shall be deemed, for purposes of section 210(a)(8)(B) of the Social Security Act and section 3121(b)(8)(B), to have filed a valid waived cer-

tificate under section 3121(k)(1) on April 18, 1977. Such certificate shall be effective for the period beginning on the first day of the first calendar quarter with respect to which the refund or credit referred to in subaragraph (1) of this paragraph was allowed (or, if later, on July 1, 1973).

(3) If an organization is deemed under this paragraph to have filed a waiver certificate on April 18, 1977, the provisions of paragraph (a)(2)(ii) of this section (relating to employees covered by a deemed-filed waiver certificate) shall apply. Such certificate shall supersede any certificate which may have been actually filed by such organization prior to that date.

(4) Where an organization is deemed under this paragraph to have filed a waiver certificate on April 18, 1977, the due date for the return and payment of the taxes imposed by sections 3101 and 3111 for wages paid prior to April 1, 1977, with respect to services constituting employment by reason of such certificate shall be August 1, 1977. However, see paragraph (d) of this section which permits the payment of these taxes in installments. Such taxes (along with the amount of any interest paid in connection with the refund or credit described in subparagraph (1) of this paragraph) shall be a liability of such organization, payable from its own funds. No portion of such taxes (or interest) shall be deducted from the wages of (or otherwise collected from) the individuals who performed such services, and those individuals shall have no liability for the payment thereof.

(5) This subparagraph allows certain employees of organizations covered under this paragraph to obtain social security coverage for periods prior to those covered by a deemed-filed waiver certificate. To qualify under this subparagraph, all of the following conditions must be met.

(i) An individual performed service, as an employee of an organization deemed under this paragraph to have filed a waiver certificate under section 3121(k)(1), at any time prior to the period for which such certificate is effective.

(ii) The taxes imposed by sections 3101 and 3111 were paid with respect to remuneration paid for such service, but such service (or any part thereof) does not constitute employment (as defined in section 210(a) of the Social Security Act and section 3121(b)) because the applicable taxes so paid were refunded or credited (otherwise than through a refund or credit which would have been allowed if a valid waiver certificate filed under section 3121(k)(1) had been in effect) prior to September 9, 1976.

(iii) Any portion of such service (with respect to which taxes were paid and refunded or credited as described in subdivision (ii) of this subparagraph) would constitute employment (as so defined) if the organization had actually filed under section 3121(k)(1) a valid waiver certificate effective as provided in paragraph (c)(2) of this section (with such individual's signature appearing on the accompanying list).

If this subparagraph applies, the remuneration paid for the portion of such service described in subdivision (iii) of this subparagraph shall be deemed to constitute remuneration for employment (as defined in section 210(a) of the Social Security Act and section 3121(b)), where such individual files a request (in the manner and form, and with such official as may be prescribed by regulations under title II of the Social Security Act), accompanied by full repayment of the taxes which were paid under section 3101 with respect to such remuneration and were refunded or credited. In any case where remuneration paid by an organization to an individual is deemed under this subparagraph to constitute remuneration for employment, such organization shall be liable (notwithstanding any other provision of the Code) for repayment of any taxes which it paid under section 3111 with respect to such remuneration and which were refunded or credited to it. Any interest received by the organization or its employees in connection with a refund or credit with respect to such taxes shall be remitted with the repayment of taxes pursuant to this subparagraph.

(c) *Actual filing of waiver certificate by April 18, 1977, where refund or credit has been allowed.* (1) An organization may file an actual waiver certificate in accordance with subparagraphs (2) and (3) of this paragraph if it is an organization to which paragraph (a) of this section would apply but for its failure to meet the condition set forth in paragraph (a)(1)(iv) of this section.

(2) An organization described in subparagraph (1) of this paragraph may file an actual waiver certificate on or before April 18, 1977. This certificate must be effective for the period beginning on or before the first day of the first calendar quarter with respect to which a refund or credit described in paragraph (b)(1) of this section was allowed (or, if later, with the first day of the earliest calendar quarter for which such certificate may be in effect under section 3121(k)(1)(B)(iii)). Such waiver certificate must be accompanied by a list described in section 3121(k)(1)(A), containing the signature, address, and social security number of each concurring employee (if any).

(3) Such a waiver certificate shall be valid only if the organization complies with the following notification requirements and, on or before August 1, 1977, files (with the service center of the Internal Revenue Service with which the waiver certificate is filed) a certification that it has complied with these notification requirements. However, these requirements shall be conclusively presumed to have been met with respect to any employees who concur in the filing of the waiver certificate.

(i) Written notification of the option to obtain social security coverage for the retroactive period covered by the waiver certificate shall be given to all current and former employees of the organization with respect to whose remuneration taxes imposed by sections 3101 and 3111 were paid for any part of the period covered by the waiver certificate. For purposes of the preceding sentence, in the case of a former employee a mailing of notification to his or her last known address shall constitute delivery to the former employee. This notification must be given at least 30 days prior to the date by which the employee is required to inform the organization whether he elects the retroactive social security coverage.

(ii) The notification required by this subparagraph must state the earliest date for which the waiver certificate is effective and the date by which the employee must inform the organization of a decision to elect the retroactive coverage. In addition, the notification must advise the employee how to obtain information as to the quarters of social security coverage to be obtained and any taxes or interest for which the employee will be liable if the election is made. The organization must provide this information to any interested employee at least 14 days prior to the last day on which such employee may inform the organization of his election.

(iii) If the notification results in any employee electing the retroactive coverage whose signature did not appear on the list of concurring employees which accompanied a previously filed waiver certificate, the certification to be supplied on or before August 1, 1977, must be accompanied by a special amendment to that list. Any employee whose name appears on this special amended list shall be treated as if his name appeared on the list of concurring employees filed with the waiver certificate. The preceding sentence shall only apply with respect to amended lists of concurring employees filed to comply with the requirements of this subparagraph.

(4) Any interest received in connection with a refund or credit described in paragraph (b)(1) of this section must be repaid on or before August 1, 1977, with respect to each employee who concurs in the filing of a waiver certificate pursuant to this paragraph. Notwithstanding the provisions of paragraph (c)(4) of § 31.3121(k)-1, if such interest is repaid on or before August 1, 1977, the waiver certificate shall be considered filed on the date it was originally furnished to the Internal Revenue Service.

(d) *Installment payment of taxes for retroactive coverage under section 3121 (k)(5).* This paragraph applies where an organization files a waiver certificate under section 3121(k)(1) on or before April 18, 1977, in accordance with the provisions of paragraph (c) of this section, or is deemed to have filed such a certificate under paragraph (b)(2) of this section. In such a case, the taxes due under sections 3101 and 3111 (together with any additions to tax or interest other than interest described in paragraph (c)(4) of this section) by reason of such certificate, for any period prior to the first day of the calendar quarter in which the certificate is actually or deemed filed, may be paid in quarterly installments over an appropriate period of time, as determined by the district director. In determining the appropriate period of time, the district director shall exercise forbearance and, to the extent possible, grant the organization an installment agreement that will allow it sufficient funds to carry out its basic mission. If any installment is not paid on or before the date fixed for its payment, the total unpaid amount shall become payable immediately and shall be paid upon notice and demand.

(e) *Application of certain provisions to cases of constructive filing.* (1) Except as provided in subparagraphs (2) and (3) of this paragraph, all of the provisions of section 3121(k) (other than subparagraphs (B), (F), and (H) of section 3121(k)(1) and the regulations thereunder (including the provisions requiring the payment of taxes under sections 3101 and 3111 with respect to the services involved), shall apply with respect to any certificate which is deemed to have been filed under paragraph (a) or (b) of this section, in the same way they would apply if the certificate had been actually filed on that day under section 3121(k)(1).

(2) The provisions of section 3121(k)(1)(E) shall not apply unless the taxes described in paragraph (a)(1)(iii) of this section were paid by the organization as though a separate certificate had been filed with respect to one or both of the groups to which such provisions relate.

(3) The action of the organization in obtaining the refund or credit described in paragraph (b)(1) of this section shall not be considered a termination of such organization's coverage period for purposes of section 3121(k)(3).

(4) Any organization which is deemed to have filed a waiver certificate under paragraph (a) or (b) of this section shall be considered for purposes of section 3102(b) to have been required to deduct the taxes imposed by section 3101 with respect to the services involved.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

JOHN L. WITHERS,
Acting Commissioner of Internal Revenue.

Approved: May 6, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-13500 Filed 5-9-77;10:05 am]

Title 32—National Defense

CHAPTER XIX—CENTRAL INTELLIGENCE AGENCY

PART 1900—PUBLIC ACCESS TO DOCUMENTS AND RECORDS AND DECLASSIFICATION REQUESTS

Freedom of Information

AGENCY: Central Intelligence Agency.

ACTION: Final rule.

SUMMARY: This rule amends CIA regulations governing access to records under the Freedom of Information Act by clarifying and updating the term "records" so that it includes machine readable materials and those documents and records furnished by other agencies, foreign governments, or international organizations and held by the CIA. Also, under this rule, a request under the Act for documents or records originated by CIA, which is referred to CIA by another agency, shall be considered a Freedom of Information request to the CIA. It will be processed in accordance with CIA regulations, as of the time that it is received by CIA, and CIA will respond directly to the requester, making it unnecessary for a requester to submit requests to both agencies. Similarly, a request directed to CIA that concerns documents or records originated by another agency will be transferred by CIA to the originating agency for their determination and direct response to the requester.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Gene F. Wilson, Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505, 703-351-7486.

SUPPLEMENTARY INFORMATION: Interested persons have been afforded an opportunity to participate in the making of these amendments by a notice of proposed rulemaking issued February 3, 1977 and published in the FEDERAL REGISTER, Vol. 42, No. 28, on February 10, 1977. No comments were received in response to the notice. These amendments are the same as those published in the notice.

Accordingly, 32 CFR Part 1900 is amended as follows:

§ 1900.3 [Amended]

1. In § 1900.3 paragraph (g) is amended by inserting the words "machine readable materials" between the word "photographs" and the words "and other documentary materials" and by deleting paragraphs (4) and (5).

2. Section 1900.11 is amended by revising paragraph (d) to read as follows:

§ 1900.11 Freedom of information communications; requirements as to form.

* * * * *

(d) Any request or communication to an agency other than the Central Intelligence Agency which requests or concerns documents or records originated by the CIA, and which is transferred by that agency to the CIA, shall be considered a Freedom of Information request to the CIA for that referred document as of date of receipt by the CIA of the referral, and shall be processed pursuant to regulations. CIA will respond directly to the requester.

3. In § 1900.43 a new paragraph (c) is added to read as follows:

§ 1900.43 Reviewing records.

* * * * *

(c) In the event located records are determined to have originated with another government agency, the Coordinator shall notify the requester of such fact and shall expeditiously forward such records or a description thereof to the originating agency for their determination and direct response to the requester.

Dated: April 30, 1977.

JOHN F. BLAKE,
Deputy Director for Administration, Central Intelligence Agency.

[FR Doc.77-13513 Filed 5-11-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1165-2-18]

PART 209—ADMINISTRATIVE PROCEDURES

Reimbursement for Advance Non-Federal Participation in Civil Works Projects

AGENCY: Office of the Chief of Engineers, Department of the Army.

ACTION: Final rule.

SUMMARY: This regulation establishes general policies, outlines procedures to be followed in reaching an agreement with an eligible non-Federal entity, and provides guidance on the provisions of such an agreement for reimbursement of advance non-Federal participation in Civil Works projects. These instructions will implement the provisions of Section 215 of the Flood Control Act of 1968. These requirements are intended to improve and expedite action resulting from non-Federal requests.

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard J. Rusnack, Construction-Operations Division, Civil Works Directorate, Office of the Chief of Engineers, Washington, D.C. 20314, 202-693-6909.

SUPPLEMENTARY INFORMATION: Since this regulation only provides procedural guidance to Corps of Engineers field personnel on the implementation of Public Law 90-483, notice of proposed rulemaking and the procedures thereto are considered unnecessary.

NOTE.—The Chief of Engineers has determined that this rule does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Statutory Authority Pub. L. 90-483)

Dated: April 29, 1977.

ALFRED F. LAWRENCE, Jr.,
Colonel, Corps of Engineers, Acting Executive.

Section 209.345 including Appendix A is added to 33 CFR Part 209 as follows.

§ 209.345 Water Resource Policies and Authorities.

REIMBURSEMENT FOR ADVANCE NON-FEDERAL PARTICIPATION IN CIVIL WORKS PROJECTS

(a) *Purpose.* This Regulation gives general instructions on use of Section 215 of the Flood Control Act of 1968 (Pub. L. 90-483) to reimburse a non-Federal public body for construction of part of an authorized Federal project. It establishes general policies, outlines procedures to be followed in reaching an agreement with an eligible non-Federal entity, and provides guidance on the provisions of such an agreement. All authorized projects are subject to this Act and Regulation.

(b) *Applicability.* This regulation applies to all field operating agencies having Civil Works responsibilities.

(c) *References.* (1) Section 215, FCA of 1968 (Pub. L. 90-483, 42 U.S.C. 1962d-5a). (APP A, this regulation).

(2) Senate Document No. 10, 90th Congress, 1st Session, "Study of Federal Reimbursement Policy for Work by States and other Non-Federal Entities on Authorized Water Resources Projects."

(3) Section 221, FCA of 1970 (Pub. L. 91-611, 42 U.S.C. 1962d-5b).

(4) ER 405-2-680.

(5) ER 1140-2-301

(6) ER 1180-1-1, (para. A-310, App. A)

(d) *General Policy.* (1) The specific limitations put upon the allotment of funds authorized by Section 215 indicate that only limited use should be made of the authority. It will, therefore, be Corps of Engineers policy to restrict the use of this authority to cases that meet all of the following conditions: (i) The work, even if the Federal Government does not complete the authorized project, will be separately useful or will be an integral part of a larger non-Federal undertaking that is separately useful; (ii) the work done by the non-Federal entity will not create a potential hazard; (iii) approval of the proposal will be in the general public interest; (iv) only work commenced after project authorization and execution of an agreement pursuant to this Regulation will be eligible for reimbursement or credit; (v) proposed reimbursement will not exceed the amount that the District Engineer considers a reasonable estimate of the reduction in Federal expenditures resulting from construction of the project component by the non-Federal entity.

(2) Before finally approving any agreement under Section 215, the Chief of Engineers will inform the Secretary of the Army and the Chairman (Senate and House), Subcommittee on Public Works, Committee on Appropriations of the proposed arrangements. The Chief of Engineers will not sign an agreement until Secretarial and Committee concurrences are obtained.

(3) Section 215 authority will not be used where it might appear to circumvent the intent of Congress. It will not, for example, be used to initiate work on projects to which Congressional committees have indicated general opposition or refused to provide requested funds, or to accelerate portions of work on which construction has already been commenced by the Federal Government.

(4) Section 215 (f) authorizes a specific allotment of funds to reimburse non-Federal entities for work accomplished under the Section. No allotment has been established, nor is one proposed at this time. Until one is, and firm procedures are established, any agreement with a non-Federal entity shall call for reimbursement, or for credit against required contributions, only when construction funds for the Federal project which incorporates the part constructed by the non-Federal entity are appropriated and allocated.

(5) The non-Federal entity will normally be required to develop the design memorandum, engineering plans, and specifications for the work it proposes to undertake. Subject to policies established in ER 1140-2-301, as modified in paragraph (e)(2) of this section, the District Engineer may provide engineering services with funds advanced by the non-Federal entity if he determines it to be impracticable for the entity to obtain the services elsewhere. Non-Federal engineering and overhead costs for the part of the Federal project that the non-Federal entity proposes to construct will be part of the reimbursement agreement.

(6) The agreement shall include local cooperation items required by the project authorization and by Section 221, FCA of 1970.

(7) Reimbursement of non-Federal work under Section 215 is not applicable to small projects authorized under the general authority of Section 107, Public Law 86-645, as amended, (33 U.S.C. 577); Section 205, Public Law 858, 80th Congress, as amended, (33 U.S.C. 701s); and Section 103, Public Law 87-874, as amended, (33 U.S.C. 426g); and Section 14, Public Law 79-526 (33 U.S.C. 701r).

(e) *Procedures.* (1) Non-Federal entities desiring reimbursement under Section 215 for constructing part of an authorized Federal project should confer with the District Engineer and submit a written proposal to him. This proposal will form the basis for consulting, as needed, with OCE and for deciding whether the proposal meets the policy criteria of paragraph (d) of this section, and whether to continue under the procedures below and what sequence to follow.

(2) If Federal preconstruction planning funds are not available to the project and it is considered impractical for the non-Federal entity to prepare a partial design memorandum and/or plans and specifications, the draft agreement may propose that this work be accomplished by the Corps of Engineers through an advance of non-Federal funds for this purpose. Certain advances of funds will be necessary, in any event, to cover other costs which are required on the part of the Corps of Engineers. Paragraph 11 of ER 1140-2-301 requires that requests to the Appropriations Committees for approval of advances of funds should normally be submitted to the Committees by non-Federal interests outside of Corps of Engineers channels. An exception to this procedure will be made in the case of Section 215 proposals in that the request for approval of advances will be made a part of the request to the Committees for approval of the overall arrangement referred to in paragraph (d)(2) of this section. Thus, proposed advances of funds for the following purposes will be clearly set forth in the draft agreement: (i) preparation of a partial design memorandum and/or plans and specifications, (ii) Corps review of design scheduled for accomplishment by local interests, and (iii) periodic and final inspections.

(3) The District Engineer will submit for review an unsigned draft agreement to OCE. All agreements will be prepared for the signature of the Chief of Engineers.

(4) The District Engineer will be notified of any changes in the draft agreement that the Chief of Engineers may require, and will negotiate a final agreement with the non-Federal entity. After signature of the agreement by the non-Federal entity, the District Engineer will forward three copies to HQDA (DAEN-CWO-C) WASH DC 20314, for signature by the Chief of Engineers.

(5) Upon receipt from OCE of the fully executed agreement, the District Engineer will transmit the signed agreement to the non-Federal entity.

(6) The Division Engineer will review the (partial) design memorandum, and, if it meets the relevant criteria in paragraph (d)(1) of this section, will submit it to OCE with recommendations on whether or not the work may proceed subject to reimbursement under the agreement.

(7) The Division Engineer will approve plans and specifications.

(8) The non-Federal entity will award contract.

(9) The District Engineer will conduct periodic and final inspections.

(10) Upon completion of the local work, the District Engineer will certify the cost data, and that performance has been in accordance with the agreement.

(f) *Agreements.* Agreements under Section 215 should follow the general format presented in paragraph (c)(6) of this section, adapted as warranted by the specific case. Each agreement shall:

(1) Expire 3 years after the date of execution if the non-Federal entity has not commenced the work contemplated by the agreement.

(2) State the time allowed for completion of the work. A reasonable time shall be allowed, but normally not over 2 construction seasons.

(3) Fully describe the work to be accomplished by the non-Federal entity and specify the manner in which it will be carried out.

(4) The agreement will specify that reimbursement by the Federal Government will not exceed $1,000,000.

(5) Provide for necessary review of designs, plans, and specifications, by the District Engineer.

(6) Provide for examination and review of proposed contracts and for inspection of the work by the District Engineer for conformance with the terms of the agreement.

(7) State fully the basis on which reimbursement or credit shall be determined, and provide for the final adjustment when the balance of the Federal project is constructed. If the improvement proposed by the non-Federal entity includes work that will not become a part of the Federal project, the means of determining the part eligible for reimbursement shall be fully defined.

(8) State that such reimbursement shall depend upon appropriation of funds applicable to the project and shall not take precedence over other pending projects of higher priority.

(9) Specify that reimbursement or credit for non-Federal work shall apply only to that work undertaken after execution of the agreement. The term "work" shall include advance engineering and design as well as actual construction.

(10) State that the agreement is not to be construed as committing the United States to reimbursement if the Federal project is not undertaken, of if the Federal project should be modified in such a way that the work performed by the non-Federal entity does not constitute a part thereof.

(11) Contain applicable equal employment clauses from Armed Services Procurement Regulations.

(g) *Nature and amount of reimbursement.* (1) The non-Federal entity may be reimbursed by a payment of cash, or, preferably, by reductions in any non-Federal contribution to the Federal project that may have been required by the legislation authorizing it, or by a combination of cash and such reductions.

(2) The amount of reimbursement shall equal the approved expenditures made by the non-Federal entity for work that would have been accomplished at Federal expense if the entire project were carried out by the Corps of Engineers, and as covered in the agreement under paragraphs (f)(7) and (f)(10) of this section. The amount of reimbursement will not exceed, however, the amount that the District Engineer finds to be a reasonable estimate of the reduction in Federal expenditure resulting from construction by the non-Federal entity.

APPENDIX A.—PUBLIC LAW 90-483, 90TH CONGRESS, S. 3710, AUGUST 13, 1968

An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purpose. (82 Stat. 731).

* * * * *

SEC. 215. (a) The Secretary of the Army, acting through the Chief of Engineers, may, when he determines it to be in the public interest, enter into agreement providing for reimbursement to States or political subdivisions thereof for work to be performed by such non-Federal public bodies at water resources development projects authorized for construction under the Secretary of the Army and the supervision of the Chief of Engineers. Such agreements may provide for reimbursement of installation costs incurred by such entities or an equivalent reduction in the contributions they would otherwise be required to make, or in appropriate cases, for a combination thereof. The amount of Federal reimbursement, including reductions in contributions, for a single project shall not exceed $1,000,000.

(b) Agreements entered into pursuant to this section shall (1) fully describe the work to be accomplished by the non-Federal public body, and be accompanied by an engineering plan if necessary therefor; (2) specify the manner in which such work shall be carried out; (3) provide for necessary review of design and plans, and inspection of the work by the Chief of Engineers or his designee; (4) state the basis on which the amount of reimbursement shall be determined; (5) state that such reimbursement shall be dependent upon the appropriation of funds applicable thereto or funds available therefor, and shall not take precedence over other pending projects of higher priority for improvements; and (6) specify that reimbursement or credit for non-Federal installation expenditures shall apply only to work undertaken or Federal projects after project authorization and execution of the agreement, and does not apply retroactively to past non-Federal work. Each such agreement shall expire three years after the date on which it is executed if the work to be undertaken by the non-Federal public body has not commenced before the expiration of that period. The time allowed for completion of the work will be determined by the Secretary of the Army, acting through the Chief of Engineers, and stated in the agreement.

(c) No reimbursement shall be made, and no expenditure shall be credited, pursuant to this section, unless and until the Chief of Engineers or his designee, has certified that the work for which reimbursement or credit is requested has been performed in accordance with the agreement.

(d) Reimbursement for work commenced by non-Federal public bodies no later than one year after enactment of this section, to carry out or assist in carrying out projects for beach erosion control, may be made in accordance with the provisions of section 2 of the Act of August 13, 1946, as amended (33 U.S.C. 426f). Reimbursement for such work may, as an alternative, be made in accordance with the provisions of this section, provided that agreement required herein shall have been executed prior to commencement of the work. Expenditures for projects for beach erosion control commenced by non-Federal public bodies subsequent to one year after enactment of this section may be reimbursed by the Secretary of the Army, acting through the Chief of Engineers, only in accordance with the provisions of this section.

(e) This section shall not be construed (1) as authorizing the United States to assume any responsibilities placed upon a non-Federal body by the conditions of project authorization, or (2) as committing the United States to reimburse non-Federal interests if the Federal project is not undertaken or is modified so as to make the work performed by the non-Federal Public body no longer applicable.

(f) The Secretary of the Army is authorized to allot from any appropriations hereafter made for civil works, not to exceed $10,000,000 for any one fiscal year to carry out the provisions of this section. This limitation does not include specific project authorizations providing for reimbursement.

* * * * *

[FR Doc.77-13553 Filed 5-11-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER H—UTILIZATION AND DISPOSAL

[FPMR Amendment H-99]

UTILIZATION, DONATION, AND DISPOSAL OF CERTIFIED AND NONCERTIFIED ELECTRONIC PRODUCTS

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation sets forth policy and procedures which provide for the utilization, donation, and disposal of certified and noncertified electronic products. The Department of Health, Education, and Welfare is responsible for policy and procedures governing the safety of radiation-emitting electronic products. It is their opinion that certain electronic products subject to safety performance standards may not be fully reconditioned or tested to determine whether the products are adulterated, misbranded, or dangerous prior to placement into the property disposal process. This amendment takes the necessary action to amend the FPMR accordingly.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Procedures Management Division, Office of Customer Service and Support, Federal Supply Service, General Services Administration, Washington, DC 20406, 703-557-1914.

PART 101-43—UTILIZATION OF PERSONAL PROPERTY

The table of contents for Part 101-43 is amended by adding the following new entry:

Subpart 101-43.3—Utilization of Excess

Section 101-43.313-12 is added as follows:

§ 101–43.313–12 Noncertified electronic products.

(a) For the purpose of this section "noncertified electronic product" means any excess or exchange/sale electronic product for which there is an applicable radiation safety performance standard prescribed or hereafter prescribed by the Food and Drug Administration (FDA) under 21 CFR 1020 and which the manufacturer has not certified as meeting such standard. The noncertification may be due to either (1) manufacture of the product before the effective date of the standard or (2) the product was exempted from the applicable standard and is so labeled.

(b) Excess or exchange/sale electronic items for which radiation safety performance standards are prescribed by FDA under 21 CFR 1000 shall be made available for transfer to Federal agencies in accordance with the provisions of § 101–43.311 and this § 101–43.313–12. Standard Form 120, Report of Excess Personal Property (illustrated at § 101–43.4902), shall identify the items as noncertified electronic products and shall contain a statement that the items may not be in compliance with applicable radiation safety performance standards prescribed by FDA under 21 CFR 1000. Excess property catalogs and bulletins circulated by GSA offering such items shall advise Federal agencies of the potential danger of using the items unless they are upgraded to meet Federal radiation safety standards.

(c) Transfers of noncertified electronic products among Federal agencies shall be accomplished:

(1) As set forth in § 101–43.315; and

(2) By Standard Form 122, Transfer Order Excess Personal Property (illustrated at § 101–43.4906), or any other approved GSA transfer order form certified by the transferee that he:

(i) Is aware of the potential danger in using the item without a radiation test to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR 1000; and

(ii) Agrees to accept the item from the holding agency under the conditions cited in paragraph (c)(2)(i) of this section.

PART 101–44—DONATION OF PERSONAL PROPERTY

The table of contents for Part 101–44 is amended by adding the following new entries:

Subpart 101–44.3—Donation for Educational, Public Health, and Civil Defense, Including Research or Public Airport Purposes

Section 101–44.324 is added as follows:

§ 101–44.324 Donation of certified and noncertified electronic products.

(a) For the purpose of this section "certified electronic product" means any excess electronic product that has been determined by GSA to be surplus to the needs and responsibilities of all Federal agencies, and which bears the manufacturer's certification label or tag (21 CFR 1010.2) that the product meets applicable radiation safety performance standards prescribed by the Food and Drug Administration under 21 CFR 1020. "Noncertified electric products" are electronic products of a type subject to but manufactured before the effective date of such FDA performance standards; for example, an old model TV set or an electronic product which has been exempted from an applicable standard and is so labeled.

(b) Surplus certified and noncertified electronic products not required for transfer as excess personal property to Federal agencies in accordance with the provisions of § 101–43.313–12 shall be made available for donation for educational, public health, civil defense, and public airport purposes pursuant to the provisions of § 101–44.304, as follows:

(1) Pursuant to the provisions of § 101–44.324(c) in the case of noncertified:

(i) Color and black and white television receivers;

(ii) Microwave ovens;

(iii) Diagnostic X-ray systems and their major components;

(iv) Cabinet X-ray systems;

(v) Laser products; or

(vi) Any other electronic products for which FDA promulgates a performance standard; and

(2) Pursuant to the provisions of § 101–44.324(d) in the case of:

(i) Noncertified microwave ovens;

(ii) Certified and noncertified diagnostic X-ray systems and their major components;

(iii) Certified and noncertified cabinet X-ray systems; or

(iv) Noncertified laser products; and

(3) Only under conditions of destructive salvage in the case of noncertified cold-cathode gas discharge tubes.

(c) Donation of electronic products designated in (b)(1) of this section shall be accomplished as provided in § 101–44.304 provided the donee:

(1) Is appropriately warned that the item may not be in compliance with applicable radiation safety performance standards prescribed by FDA under 21 CFR 1000;

(2) Agrees the Government shall not be liable for personal injuries to, disabilities of, or death of the donee or the donee's employees, or to any other person arising from or incident to the donation of the item, its use, or final disposition; and

(3) Agrees to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the item, its use, or final disposition.

(d) Whenever donations of electronic products designated in (b)(2) of this section are for educational, public health, civil defense, or public airport purposes, or to service educational activities, HEW, DOD, or FAA, as applicable, shall: (1) Provide the applicable State radiation control agency in which the donee is located (see § 101–45.4926) with a copy of the donation document (SF 123, Application for Donation of Surplus Personal Property) and include the name and address of the donee and a description of the item or items donated and (2) require that the donee certifies on SF 123 that he:

(i) Is aware of the potential danger in using the product without a radiation test to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR 1000, and agrees to accept the item from the holding agency for donation under those conditions;

(ii) Agrees the Government shall not be liable for personal injuries to, disabilities of or death of the donee, the donee's employees, or to any other person arising from or incident to the donation of the item, its use, or final disposition; and

(iii) Agrees to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the domination of the item, its use, or final disposition.

Subpart 101–44.5—Donation of Property to Public Bodies

Section 101–44.502–3 is added as follows:

§ 101–44.502–3 Certified and noncertified electronic products.

Whenever any item of the type defined under § 101–44.324 is donated to a public body in accordance with the provisions of this subpart, the head of the agency authorized to make the donation shall be responsible for the same safeguards, notifications, and certifications required by § 101–44.324.

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

The table of contents for Part 101–45 is amended by adding the following new entries:

Subpart 101–45.3—Sale of Personal Property

Section 101–45.309–11 is added as follows:

§ 101–45.309–11 Certified and noncertified electronic products.

(a) For the purpose of this section "certified electronic product" means any surplus or exchange/sale electronic product which bears the manufacturer's certification label or tag (21 CFR 1010.2) indicating that the product meets applicable radiation safety performance standards prescribed by the Food and Drug Administration under 21 CFR 1000. "Noncertified electronic products" are electronic products of a type subject to but manufactured before the effective date of such FDA performance standards; for example, an old model TV set or an electronic product which has been exempted from an applicable standard and is so labeled.

(b) The sale of the following certified and noncertified exchange/sale and surplus electronic products which are not required for transfer or donation shall be accomplished in accordance with the provisions of § 101-45.304 and the special conditions of sale in this § 101-45.309-11:

(1) Noncertified color and black and white television receivers;

(2) Noncertified microwave ovens;

(3) Certified and noncertified diagnostic X-ray systems and their major components;

(4) Certified and noncertified cabinet X-ray systems;

(5) Noncertified laser products;

(6) Noncertified cold-cathode gas discharge tubes under conditions of scrap or salvage; and

(7) Any other noncertified electronic product for which FDA may promulgate a performance standard.

(c) The invitations for bids shall contain a notice to bidders substantially as follows:

Purchasers are warned that the item purchased herewith may not be in compliance with Food and Drug Administration radiation safety performance standards prescribed under 21 CFR 1000, and use may constitute a potential for personal injury unless modified. The purchaser agrees that the Government shall not be liable for personal injuries to, disabilities of, or death of the purchaser, the purchaser's employees, or to any other person arising from or incident to the purchase of this item, its use, or disposition. The purchaser shall hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the purchase or resale of this item. The purchaser agrees to notify any subsequent purchaser of this property of the potential for personal injury in using this item without a radiation survey to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR Part 1000.

(d) Within 30 calendar days following award, the selling agency shall provide the State radiation control agency for the State in which the buyer is located (see § 101-45.4926) with a written notice of the award that includes the name and address of the purchaser and the description of the item sold.

Subpart 101-45.49—Illustrations

Section 101-45.4926 is added as follows:

§ 101-45.4926 State radiation control agencies.

ALABAMA

Director, Division of Radiological Health, Alabama State Department of Public Health, State Office Building, Montgomery, AL 36130.

ALASKA

Commissioner, Alaska Department of Environmental Conservation, Pouch O, Juneau, AK 99801.

ARIZONA

Executive Director, Arizona Atomic Energy Commission, 1601 West Jefferson Street, Phoenix, AZ 85007.

ARKANSAS

Director, Division of Radiological Health, Arkansas Department of Health, 4815 West Markham Street, Little Rock, AR 72201.

CALIFORNIA

Chief, Radiological Health Section, California Department of Health, Building No. 8, 714 P Street, Sacramento, CA 95814.

COLORADO

Director, Division of Occupational and Radiological Health, Colorado Department of Health, 4210 East 11th Avenue, Denver, CO 80220.

CONNECTICUT

Assistant Director of Compliance (Ionizing Radiation), Connecticut Department of Environmental Protection, State Office Building, Hartford, CT 06115.

DELAWARE

Program Director, Office of Radiation Safety, Division of Public Health, Delaware Department of Health and Social Services, Jesse S. Cooper Memorial Building, Capitol Square, Dover, DE 19901.

DISTRICT OF COLUMBIA

Chief, Bureau of Institutional Hygiene and Radiological Health, Bureau of Public Health Engineering, Department of Environmental Services, DC General Hospital, Box 97, Washington, DC 20003.

FLORIDA

Administrator, Radiological and Occupational Health Section, Division of Health, Florida Department of Health and Rehabilitative Services, P.O. Box 210, Jacksonville, FL 32201.

GEORGIA

Director, Radiological Health Unit, Georgia Department of Human Resources, State Office Building, Atlanta, GA 30334.

HAWAII

Chief, Noise and Radiation Branch, Hawaii Department of Health, P.O. Box 3378, Honolulu, HI 96801.

IDAHO

Chief, Radiation Control Section, Idaho Department of Health and Welfare, Statehouse, Boise, ID 83720.

ILLINOIS

Chief, Division of Radiological Health, Illinois Department of Public Health, 535 West Jefferson Street, Springfield, IL 62761.

INDIANA

Director, Division of Radiological Health, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, IN 46206.

IOWA

Chief, Hazardous Substance Section, Iowa State Department of Environmental Quality, 3920 Delaware Street, P.O. Box 3326, Des Moines, IA 50316.

KANSAS

Director, Radiation Control Program, Kansas Department of Health and Environment, Forbes AFB, Building 740, Topeka, KS 66620.

KENTUCKY

Director, Radiological Health Program, Kentucky State Department for Human Resources, Capitol Annex, Frankfort, KY 40601.

LOUISIANA

Director, Division of Radiation Control, Louisiana Board of Nuclear Energy, P.O. Box 44033, Capitol Stations, Baton Rouge, LA 70804.

MAINE

Commissioner, Maine Department of Health and Welfare, State House, Augusta, ME 04330.

MARYLAND

Chief, Division of Radiation Control, Maryland Department of Health and Mental Hygiene, State Office Building, 301 West Preston Street, Baltimore, MD 21201.

MASSACHUSETTS

Assistant to the Commissioner (Radiological Health), Massachusetts Department of Public Health, 80 Boylston Street, Room 940, Boston, MA 02116.

MICHIGAN

Chief, Radiation Division, Michigan Department of Public Health, 3500 North Logan Street, Lansing, MI 48914.

MINNESOTA

Chief, Section of Radiation Control, Minnesota Department of Health, 717 Delaware Street, S.E., Minneapolis, MN 55440.

MISSISSIPPI

Supervisor, Radiological Health Unit, Mississippi State Board of Health, P.O. Box 1700, Jackson, MS 39205.

MISSOURI

Director, Bureau of Radiological and Occupational Health, Missouri Division of Health, State Office Building, Jefferson City, MO 65101.

MONTANA

Chief, Radiological and Occupational Health Program, Montana Department of Health and Environmental Sciences, Cogswell Building, Helena, MT 59601.

NEBRASKA

Director, Division of Radiological Health, Nebraska Department of Health, Lincoln Building, 1003 O Street, Lincoln, NE 68508.

NEVADA

Supervisor, Radiological Health, Nevada Department of Health and Welfare, 201 South Fall Street, Carson City, NV 89701.

NEW HAMPSHIRE

Director, State Radiation Control Agency, New Hampshire Department of Health and Welfare, State Laboratory Building, Hazen Drive, Concord, NH 03301.

NEW JERSEY

Chief, Bureau of Radiation Protection, New Jersey Department of Environmental Protection, P.O. Box 1390, John Fitch Plaza, Trenton, NJ 08625.

NEW MEXICO

Chief, Radiological and Occupational Health and Air Quility Control Section, New Mexico Environmental Improvement Agency, P.O. Box 2348, Santa Fe, NM 87501.

NEW YORK

Director, Bureau of Radiological Health, New York State Department of Health, 845 Central Avenue, Albany, NY 12206.

NORTH CAROLINA

Head, Radiation Protection Branch, North Carolina Department of Human Resources, P.O. Box 12200, Raleigh, NC 27605.

NORTH DAKOTA

Director, Division of Environmental Engineering, Radiological Health Program, North Dakota State Department of Health, Capitol Building, Bismarck, ND 58501.

OHIO

Engineer-in-Charge, Radiological Health Unit, Ohio Department of Health, P.O. Box 118, Columbus, OH 43216.

OKLAHOMA

Chief, Occupational and Radiological Health Service, Oklahoma Department of Health, N.E. 10th and Stonewall Streets, Oklahoma City, OK 73105.

OREGON

Director, Radiological Control Service, Oregon State Health Division, P.O. Box 231, Portland, OR 97207.

PENNSYLVANIA

Director, Bureau of Radiological Health, Pennsylvania Department of Environmental Resources, P.O. Box 2063, Harrisburg, PA 17120.

PUERTO RICO

Director, Radiological Health Program, Puerto Rico Department of Health, 1306 Ponce de Leon Avenue, Stop 16, Santurce, PR 00908

RHODE ISLAND

Director of Health, Rhode Island Department of Health, Health Department Building, Davis Street, Providence, RI 02908.

SOUTH CAROLINA

Director, Division of Radiological Health, South Carolina Department of Health and Environmental Control, 137 J. Marion Sims Building, Columbia, SC 29201.

SOUTH DAKOTA

Secretary of Health, South Dakota Department of Health, State Capitol, Pierre, SD 57501.

TENNESSEE

Director, Division of Occupational and Radiological Health, Tennessee Department of Public Health, 727 Cordell Hull Building, Sixth Avenue, North, Nashville, TN 27219.

TEXAS

Director, Division of Occupational Health and Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, TX 78756.

UTAH

Chief, Radiation and Occupational Health Section, Utah Division of Health, 44 Medical Drive, Salt Lake City, UT 84113.

VERMONT

Director, Division of Occupational Health, Radiological Health Program, Vermont Department of Health, P.O. Box 607, Barre, VT 05641.

VIRGINIA

Director, Bureau of Industrial Hygiene and Radiological Health, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219.

VIRGIN ISLANDS

Director, Division of Environmental Health, Virgin Islands Department of Health, Charlotte Amalie, St. Thomas, VI 00801.

WASHINGTON

Chief, Radiation Chemical and Physical Hazards Section, Washington Department of Social and Health Services, P.O. Box 1788, Olympia, WA 98504.

WEST VIRGINIA

Director, Bureau of Industrial Hygiene, Radiological Health Program, West Virginia Department of Health, 1800 East Washington Street, Charleston, WV 25305.

WISCONSIN

Chief, Radiation Protection Section, Wisconsin Department of Health and Social Services, P.O. Box 309, Madison, WI 53701.

WYOMING

Radiological Health Specialist, Wyoming Department of Health and Social Services, New State Office Building, Cheyenne, WY 92001.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 25, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-13614 Filed 5-11-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20664; FCC 77-288]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 87—AVIATION SERVICES

Making Available to Aeronautical Utility Mobile Stations, Under Certain Conditions, All the ATC Frequencies Listed in Section 87.401

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: These Amendments of the Commission's rules allow aeronautical utility mobile stations to operate on any air traffic control frequency for authorized communications. This will allow a particular station to communicate with FAA aeronautical radio stations in conformity with FAA practices. The rule making was instituted at the request of FAA.

EFFECTIVE DATE: June 13, 1977.

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

FOR FURTHER INFORMATION CONTACT:

John Hays, Aviation and Marine Division, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION: Adopted: April 27, 1977.

Released: May 9, 1977.

In the matter of amendment of Parts 2 and 87 of the Commission's rules to make available to aeronautical utility mobile stations, under certain conditions, all the ATC frequencies listed in § 87.401.

1. A Notice of Proposed Rule Making in the above-captioned matter was released on November 5, 1975, and was published in the FEDERAL REGISTER on November 12, 1975 (40 FR 52745). The time for filing comments and reply comments has expired and timely comments were filed by Aeronautical Radio, Inc. (ARINC) and the Federal Aviation Administration (FAA). Subsequently, the Aircraft Owners and Pilots Association (AOPA) submitted a letter commenting on this rule making which will be considered in view of the importance of this rule making to the persons represented by them. Furthermore, this rule making was coordinated directly with the FAA to resolve questions as to definitions and operational problems.

2. Under present Commission rules, aeronautical utility mobile stations may only be assigned one or more of the fourteen frequencies listed in § 87.431 which are also shown in §§ 87.183(i) and 87.401(a) as available for use as air traffic control frequencies on a secondary basis. The FAA, however, has authorized its FAA flight service stations to communicate with this class of station on certain other ATC frequencies listed in §§ 87.183(i) and 87.401(a). The ATC frequencies are allocated for civil aviation use and are assigned to both government and non-government radio stations for communication in the ATC system which is administered by the FAA.

3. Aeronautical utility mobile stations are licensed for use aboard non-government maintenance, police, fire, emergency and other vehicles which operate on runways at airports having airdrome control towers or FAA flight service stations and are limited to communications involving the management of ground traffic by the airdrome control station located at the control tower or the FAA flight service station. Although the Commission, in most instances, will continue to assign to these stations one or more of the fourteen frequencies presently listed in section 431, this rule making will permit the assignment in special cases of other ATC frequencies to allow a particular station to communicate with FAA aeronautical radio stations in conformity with FAA practices. These ATC frequencies listed in §§ 87.183(i) and 87.401(a) will only be assigned after direct coordination with the FAA.

4. In their comments the AOPA contends that since FAA flight service stations do not control any airports, they cannot control aeronautical utility mobile stations. It is true that FAA flight service stations can only provide advisory information to aircraft which includes wind direction and velocity, favored or designated runways, altimeter settings, known traffic, notices to airmen, airport taxi routes, airport traffic patterns, and instrument approach procedures. They cannot control air traffic and have no traffic authority over ground vehicles. However, this does not prevent the Commission from permitting them to control communications with ground vehicles. Considering the importance of