

SUMMARY: These amendments for canned green beans and canned wax beans, based on a proposal responding to comment from a packer, provide for a maximum liquid content requirement for vacuum-pack beans and a method for determining the quantity of liquid in the container. The confirmation of the effective date of revised canned green and wax bean standards is published elsewhere in this issue of the *FEDERAL REGISTER*, under FDA Docket No. 76S-0053.

EFFECTIVE DATES: Voluntary compliance, including any labeling changes: August 15, 1977. Mandatory compliance for all products initially introduced into interstate commerce: July 1, 1979. Objections by July 14, 1977.

ADDRESSES: Written objections to the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Prince G. Harrill, Bureau of Foods (HFF-411), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, DC 20204 (202-245-1164).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued in the *FEDERAL REGISTER* of April 19, 1976 (41 FR 16475), a proposal to amend the standards of identity (21 CFR 51.10) and quality (21 CFR 51.11) for canned green beans and canned wax beans to provide for a maximum liquid content requirement for vacuum-pack beans and a method for determining the quantity of liquid in the container. Sections 51.10 and 51.11 were subsequently combined and redesignated as § 155.120 (a) and (b), respectively, by recodification published in the *FEDERAL REGISTER* of March 15, 1977 (42 FR 14302).

No comments were received in response to the proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701 (e), 52 Stat. 1046 as amended, 70 Stat. 919 (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 155 is amended in § 155.120 by revising paragraphs (a) (4) (ii) and (b) (2) (i) to read as follows:

§ 155.120 Canned green beans and canned wax beans.

(a) * * *

(4) * * *

(b) The following shall be included as part of the name or in conjunction with the name of the food:

(a) A declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter.

(b) A declaration of any spice, seasoning, or garnishing that characterizes the product, e.g., "with added spice" or, in lieu of the word "spice," the common name of the spice, e.g., "seasoned with green peppers."

(c) The words "vacuum pack" or "vacuum packed" when the weight of the liquid in the container, as determined by the method prescribed in paragraph (b)

(2) (i) of this section is not more than 25 percent of the net weight, and the container is closed under conditions creating a high vacuum in the container.

(d) The name of the optional style of bean ingredient as set forth in paragraph (a) (2) (iii) of this section or, if a product consists of a mixture of such styles, the words "mixture of _____" the blank to be filled in with the names of the styles present, arranged in the order of decreasing predominance, if any, by weight of such ingredients. If the product consists of whole beans and the pods are packed parallel to the sides of the container, the word "whole" may be preceded or followed by the words "vertical pack," or if the pods are cut at both ends and are of substantially equal lengths, the words "asparagus style" may be used in lieu of the words "vertical pack." If the product consists of short cuts or diagonal short cuts, a numerical expression indicating the predominant length of cut in the finished food may be used in lieu of the word "short," e.g., "½ inch cut."

(b) * * *

(2) * * *

(i) Determine the gross weight of the container. Open and distribute the contents of the container over the meshes of a U.S. No. 8 circular sieve with openings of 2.36 millimeters (0.0937 inch), which has been previously weighed. The diameter of the sieve is 20.3 centimeters (8 inches) if the quantity of the contents of the container is less than 1.36 kilograms (3 pounds) and 30.5 centimeters (12 inches) if such quantity is 1.36 kilograms (3 pounds) or more. The bottom of the sieve is woven-wire cloth that complies with the specifications for such cloth set forth in the "Definitions of Terms and Explanatory Notes," p. xviii of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th ed., 1975. Without shifting the material on the sieve, incline the sieve 17 to 20 degrees to facilitate drainage. Two minutes after drainage begins, weigh the sieve and the drained material. Record in grams (ounces) the weight so found, less the weight of the sieve, as the drained weight. Dry and weigh the empty container and subtract this weight from the gross weight to obtain the net weight. Calculate the percent of drained liquid in the net weight.

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 14, 1977, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regu-

* Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044.

lation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: Except as to any provisions that may be stayed by the filing of proper objections, compliance with these regulations, including any required labeling changes, may begin August 15, 1977, and all products initially introduced into interstate commerce on or after July 1, 1979, shall comply. Notice of the filing of objections or lack thereof will be published in the *FEDERAL REGISTER*.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)).)

Dated: June 8, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

NOTE:—Incorporation by reference provisions approved by the Director, Office of the Federal Register, March 11, 1976. The referenced materials are on file in the Federal Register library.

[FR Doc. 77-16784 Filed 6-13-77; 8:45 am]

[Docket No. 76S-0053]

PART 155—CANNED VEGETABLES

Canned Green Beans and Canned Wax Beans; Confirmation of Effective Date of Amendments and Further Amendments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of revised standards of identity and quality for canned green beans and canned wax beans, published in the *FEDERAL REGISTER* of April 19, 1976 (41 FR 16454), to more closely conform the standards to international standards. (Appearing elsewhere in this issue of the *FEDERAL REGISTER* is a regulation, FDA Docket No. 76N-0053, amending the standards for canned green beans and canned wax beans to provide for "vacuum pack" bean products.)

EFFECTIVE DATES: Voluntary compliance, including labeling changes: June 14, 1977. Mandatory compliance for all products initially introduced into interstate commerce: July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Prince G. Harrill, Bureau of Foods (HFF-411), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204 (201-245-1164).

SUPPLEMENTARY INFORMATION:

The Commissioner of Food and Drugs issued in the FEDERAL REGISTER of April 19, 1976 (41 FR 16454) a final regulation revising the standards of identity (21 CFR 51.10) and quality (21 CFR 51.11) for canned green beans and canned wax beans in consideration of the "International Standard for Canned Green Beans and Canned Wax Beans" submitted to the United States by the Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission. The final regulation specified the types and styles of beans that may be packed under the names "canned green beans" and "canned wax beans," listed the optional ingredients that may be used, and designated how the products are to be labeled. In addition, the standard of quality listed the types of defects and numbers of defects that may not be exceeded if the products are to be marketed without being labeled substandard.

Sections 51.10 and 51.11 were combined and redesignated as § 155.120 (a) and (b), respectively, by recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302). Discussion of the amendments below is referenced to the current format.

Three comments were received in response to the April 19, 1976, final regulation. These were from Agripac, Inc., the National Canners Association, and the Food Science Department, Oregon State University. None of those responding requested a hearing, but merely suggested several changes in the final regulation.

The suggested changes and the Commissioner's conclusions about them are as follows:

1. Section 155.120(a)(2)(iii)(b) defines the style of pack "shoestring or sliced lengthwise or French style" as "pods sliced lengthwise or at an angle of less than 45° to the longitudinal axis." One comment said that snap beans "sliced at an angle of 30° cut" should more properly be labeled as "diagonal cuts." It maintained that the appearance and flavor of a pack cut at 30° vary considerably from beans sliced lengthwise. It further maintained that most buyers would not accept beans cut at even 15° as French style. The comment proposed that shoestring or sliced lengthwise or French style beans be defined simply as "sliced lengthwise." It also proposed to change the "less than 45°" to "less than 15°" as an acceptable, though less desirable, alternative.

The definition of the style "shoestring or sliced lengthwise or French style" set forth in the final regulation was adopted to be consistent with the Codex definition of the style. But the Commissioner

agrees that beans sliced at an angle of less than 45° to the longitudinal axis would be more properly labeled in the United States as diagonal cuts. Therefore, he is deleting the phrase "or at an angle of less than 45° to the longitudinal axis" from the definition set forth in § 155.120(a)(2)(iii)(b). The definition will read "pods sliced lengthwise."

2. One comment pointed out that, in contrast to the earlier FDA standards for green beans, the recently revised standard does not specifically provide for naming the variety of beans in connection with the name of the food. It stated that this omission is a matter of particular concern to canners of "Blue Lake" beans. The comment submitted that the failure to provide for the varietal name in conjunction with the term "beans" under the revised standard of identity for green beans is unreasonable and probably represents a drafting oversight. Therefore, it suggested that § 51.10 (d)(3)(ii) (now § 155.120(a)(4)(iii)(b)) be revised to read: "The name of the optional varietal type as specified in paragraph (b)(2) [(a)(2)(ii)] of this section, or the specific varietal name, e.g., 'Blue Lake Green Beans' or both."

The Commissioner agrees that the regulation should provide for the optional use of the varietal name of the green bean or wax bean in conjunction with the name of the food, and § 155.120(a)(4)(iii)(b) is revised accordingly.

3. One comment pointed out that there may be conflict in the standard of quality (§ 51.11 (now § 155.120(b))) between the statement of minimum standard of quality for tough strings, § 51.11 (a)(2) (now § 155.120(b)(1)(ii)), and the final sentence of the method for determining tough strings, § 51.11(b)(7) (now § 155.120(b)(2)(vii)). The comment suggested that § 51.11(a)(2) (now § 155.120(b)(1)(ii)), which states, "Not more than 5 percent by weight of the units may possess strings that will support the weight of 250 g (8.8 oz) for 5 seconds or longer," is correctly stated. It pointed out, however, that the last sentence of the official method set forth in § 51.11(b)(7) (now § 155.120(b)(2)(vii)) requires that the tough strings be assayed in terms of a count of strings per sample weight rather than by percent per sample weight. The comment also pointed out that the sample string count has no validity unless based on a standard unit count per unit sample. It suggested that the wording in the procedure for tough-string determination in § 51.11 (b)(6) and (b)(7) (now § 155.120(b)(2)(vi) and (vii)) be revised to retain bean unit and string identity so that as the individual strings are tested as tough, the corresponding units can be categorized as bean units containing tough strings.

The Commissioner agrees that, due to an oversight, the statement of minimum standard of quality for tough strings in § 51.11(a)(2) (now § 155.120(b)(1)(ii)) was expressed in terms of percent by weight as proposed by Codex, whereas the method described in § 51.11(b)(6) and (7) (now § 155.120(b)(2)(vi) and (vii)) required that tough strings be

assayed in terms of a count of strings per sample weight as set out in the standard being amended. He recognizes that the provisions are inconsistent and that one or the other must be changed. However, he has no data on the percentage method, so he cannot compare the two methods. Therefore, he is changing the language of § 51.11(a)(2) (now § 155.120(b)(1)(ii)) back to the original sample string count method (as set out in the standard being amended) to be consistent with the term used in § 51.11(b)(6) (now § 155.120(b)(2)(vi)). He realizes that this action results in creating a deviation from the Codex standard. If interested persons have data in regard to determining tough strings in beans on a percentage basis, the Commissioner invites submission of an appropriate petition supported by such data proposing a change in the method.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 155 is amended in § 155.120 by revising paragraphs (a)(2)(iii)(b), (a)(4)(iii)(b), and (b)(1)(ii) to read as follows:

§ 155.120 Canned green beans and canned wax beans.

- (a) * * *
- (2) * * *
- (iii) * * *
- (b) Shoestring or sliced lengthwise or French style. Pods sliced lengthwise.

- * * *
- (4) * * *
- (iii) * * *

(b) The name of the optional varietal type as specified in paragraph (a)(2)(ii) of this section, or the specific varietal name, e.g., "Blue Lake Green Beans", or both.

- * * *
- (b) * * *
- (1) * * *

(ii) In case there are present pods or pieces of pods 10.7 mm ($\frac{7}{16}$ -inch) or more in diameter, there are not more than 12 strings per 340 gm (12 ounces) of drained weight which will support 227 gm (one-half pound) for 5 seconds or longer.

Effective date: Compliance with §§ 51.10 and 51.11 promulgated in the FEDERAL REGISTER of April 19, 1976 (41 FR 16454), and subsequently recodified as § 155.120 (a) and (b), respectively (42 FR 14302), as amended herein, may begin June 14, 1977, and all products initially introduced into interstate commerce on or after July 1, 1979, shall fully comply.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)).)

Dated: June 8, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 77-16785 Filed 6-13-77; 8:45 am]

SUBCHAPTER G—COSMETICS

[Docket No. 75N-0005]

PART 701—COSMETIC LABELING

Hypoallergenic Cosmetic Products; Judicial Stay of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Judicial Stay of Effective Date.

SUMMARY: This document announces the judicial stay of the effective date for complying with the requirement for cosmetic products bearing the claim "hypoallergenic." The stay was ordered by the United States Court of Appeals for the District of Columbia Circuit, and it applies to the June 6, 1977 date for completion of testing for cosmetic products in commercial distribution on June 6, 1975.

EFFECTIVE DATE OF STAY: June 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Heinz J. Eiermann, Bureau of Foods (HFF-440), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, DC 20204 (202-245-1530).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is notifying interested persons that the United States Court of Appeals for the District of Columbia Circuit has stayed the June 6, 1977, effective date for complying with the requirement in § 701.100 (21 CFR 701.100) that cosmetic products bearing the claim "hypoallergenic," or other terms and phrases that imply that the product is less likely to cause adverse reactions than similar-use competitive products, be shown by scientific studies to cause fewer adverse reactions than defined reference products.

The final regulation was published in the *FEDERAL REGISTER* of June 6, 1975 (40 FR 24442), to be effective with respect to all cosmetics introduced into interstate commerce after July 7, 1975. The regulation provided that the requirement for scientific studies must be met by June 6, 1977, for cosmetic products in commercial distribution on June 6, 1975, and before "hypoallergenic" claims are made for products not in commercial distribution on June 6, 1975.

By notice published in the *FEDERAL REGISTER* of July 28, 1975 (40 FR 31606), the Commissioner of Food and Drugs administratively stayed the effectiveness of the regulation pending completion of a lawsuit brought in the United States District Court for the District of Columbia to declare the regulation invalid. However, the June 6, 1977 effective date for the completion of testing for products already in commercial distribution was not stayed. Subsequently, the district court upheld the regulation. *Almay, Inc. v. Weinberger*, 417 F. Supp. 758 (1976).

By notice published in the *FEDERAL REGISTER* of August 4, 1976 (41 FR 32583), FDA announced that the administrative

stay of the regulation would be discontinued effective September 3, 1976. Thereafter, the plaintiffs in the district court lawsuit sought a judicial stay of the regulation pending appeal. The application for a stay was denied on August 26, 1976. Accordingly, the requirements of the regulation became effective as of September 3, 1976, for all cosmetic products not in commercial distribution on June 6, 1975.

Oral argument on the appeal of the district court's decision was subsequently scheduled for June 9, 1977 (*Almay, Inc. v. Califano*, No. 76-1718 (D.C. Cir.)). On May 27, 1977, the appellants moved for "an order staying the effective date of the regulation under review until this Court can rule on the merits of the appeal."

On June 7, 1977, the Court of Appeals entered an order stating that the appellants' "motion for stay is granted pending further order of the Court."

The Commissioner interprets the order as applying only to the June 6, 1977 date for the completion of testing for cosmetic products in commercial distribution on June 5, 1976. Products not in commercial distribution as of that date have been required to comply with the regulation since September 3, 1976. The "effective date" that was sought to be stayed by the May 27 motion described above was referred to in the motion as "the June 6, 1977, date for completion of testing," a date that applies only to products in commercial distribution on June 6, 1975.

Accordingly, the Commissioner does not regard the judicial stay as affecting the requirement that products not in commercial distribution on June 6, 1975, comply with the regulation. Therefore, in § 701.100 "Hypoallergenic" and other claims of relative safety, the June 6, 1977 effective date in paragraph (h) (1) is stayed by order of the United States Court of Appeals pending further order of the Court.

Dated: June 9, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 77-16957 Filed 6-10-77; 9:59 am]

Title 24—Housing and Urban Development
SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-457]

PART 25—MORTGAGEE REVIEW BOARD

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The Secretary is revising membership of the Mortgagee Review Board responsible for withdrawing HUD approval from Mortgagees. The change is needed in part to improve the effectiveness of the Board and in part to reflect recent changes in HUD's organization.

EFFECTIVE DATE: June 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Henry Hubschman, Room 10222, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410 (202-755-5634).

SUPPLEMENTARY INFORMATION: In Part 25, published September 18, 1975 (40 FR 43026), the Secretary established a Mortgagee Review Board and gave it all powers necessary and incident to withdrawing approval from mortgagees engaged in mortgage insurance under the National Housing Act, 12 U.S.C. 1701. This Amendment to Part 25:

1. Reflects a recent merger of the Office of the Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner and the Office of the Assistant Secretary for Housing Management.

2. Includes as a Board member the Assistant Secretary for Administration, and

3. Names the Inspector General as a non-voting advisor to the Board.

Because this revision involves the Department's internal management, comment and public procedure are unnecessary under 5 U.S.C. 553 and 24 CFR Part 10. Moreover, good cause exists for making the amendment effective upon publication.

Findings of inapplicability with respect to Environment and Inflation are not required.

Accordingly, 24 CFR Part 25.2 is amended to read as follows:

§ 25.2 Composition of the Board:

(a) *Members.* The Board consists of the following members: The Assistant Secretary for Housing—Federal Housing Commissioner, Chairman; The General Counsel; The Assistant Secretary for Administration, or their designees.

(b) *Advisor.* The Inspector General, or designee, serves as a non-voting advisor to the Board.

Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Issued at Washington, D.C. June 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing
and Urban Development.

[FR Doc. 77-16850 Filed 6-13-77; 8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER R—IRRIGATION PROJECTS

SUBCHAPTER T—OPERATION AND MAINTENANCE

GENERAL IRRIGATION PROJECT REGULATIONS

Operation and Maintenance

JUNE 1, 1977.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The purpose of these regulations is to update existing regulations governing the operation and maintenance of Indian Irrigation Projects and to provide the Officer-in-Charge greater flexibility in the day-to-day operation of the Projects. The revision consolidates the regulations for all Indian Irrigation Projects in a new Part 191. It also provides that the Area Director announce the operation and maintenance rates and related information by public notice in the *FEDERAL REGISTER*. These operation and maintenance rates and related information will no longer be codified in the Code of Federal Regulations. As new rates are announced the corresponding sections in Part 221 of Title 25 of the Code of Federal Regulations will be deleted.

DATES: These regulations shall become effective July 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles P. Corke, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245; telephone number (202) 343-2287.

SUPPLEMENTARY INFORMATION: Beginning on page 39030 of the September 14, 1976, *FEDERAL REGISTER* (41 FR 39030), there was published a notice of proposed rulemaking. All interested persons were given 60 days to submit written comments, suggestions, or objections regarding the proposed revision.

Comments were received from the Wind River Water Users Association, the Shoshone and Arapaho Tribes, and from the Bureau of Indian Affairs Portland Area Director, the Flathead Project Engineer, and the Wind River Agency Superintendent. The suggestions were carefully reviewed. Corrections and changes were made as appropriate. The changes were made to simplify or to clarify, and are not considered to have significantly altered the proposed regulations as published.

The primary author of this document is Charles P. Corke, General Engineer (Hydrology), Bureau of Indian Affairs, Washington, D.C. 20245, telephone number (202) 343-2287.

Therefore Part 191 is revised to read as set forth below.

PART 191—OPERATION AND MAINTENANCE

Sec.	
191.1	Administration.
191.2	Irrigation season.
191.3	Domestic and stock water.
191.4	Farm units.
191.5	Delivery points.
191.6	Distribution and apportionment of water.
191.7	Application for and record of deliveries of irrigation water.
191.8	Surface drainage.
191.9	Structures.
191.10	Fencing.
191.11	Obstructions.
191.12	Rights-of-way.
191.13	Crops and statistical reports.
191.14	Carriage agreements and water rights applications.

Sec.	
191.15	Leaching water.
191.16	Excess water.
191.17	Delivery of water.
191.18	Service or farm ditches.
191.19	Operation and maintenance assessments.
191.20	Water users' ledgers.
191.21	Health and sanitation.
191.22	Complaints.
191.23	Disputes.

AUTHORITY: Secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U.S.C. 385. § 191.4(b) also issued under 34 Stat. 1024, 38 Stat. 583, and 68 Stat. 1026. Sections 191.4(a), 191.4(c), 191.16(b), and 191.17(f) also issued under sec. 11, 39 Stat. 142.

§ 191.1 Administration.

(a) The Agency Superintendent, Project Engineer or such official as authorized by the Area Director is the Officer-in-Charge of those Indian Irrigation Projects or units operated or subject to administration by the Bureau of Indian Affairs, whether or not each project or unit is specifically mentioned in this part. The Officer-in-Charge is fully authorized to administer, carry out, and enforce these regulations either directly or through employees designated by him. Such enforcement includes the refusal to deliver water.

(b) The Officer-in-Charge is authorized to apply to irrigation subsistence units or garden tracts only those regulations in this part which in his judgment would be applicable in view of the size of the units and the circumstances under which they are operated.

(c) The Officer-in-Charge is responsible for performing such work and taking any action which in his judgment is necessary for the proper operation, maintenance and administration of the irrigation project or unit. In making such judgments, the Officer-in-Charge consults with water users and their representatives, and with tribal council representatives, and seeks advice on matters of program priorities and operational policies. The Officer-in-Charge will be guided by the basic requirement that the operation will be so administered as to provide the maximum possible benefits from the project's or unit's constructed facilities. The operations will insure safe, economical, beneficial, and equitable use of the water supply and optimum water conservation.

(d) The Secretary of the Interior reserves the right to exercise at any time all rights, powers, and privileges given him by law, and contracts with irrigation districts within Indian Irrigation Projects. Close cooperation between the Indian tribal councils, the project water users and the Officer-in-Charge is necessary and will be to the advantage of the entire project.

(e) The Area Director, or his delegated representative, is authorized to fix as well as to announce, by proposed and final public notice published in the *FEDERAL REGISTER*, the annual operation and maintenance assessment rates for the irrigation projects or units within his area of responsibility. In addition to the rates, the notices will include such

information as is pertinent to the assessment, payment, and collections of the charges including penalties and duty of water.

(f) The rates will be based on a carefully prepared estimate of the cost of the normal operation and maintenance of the project. Normal operation and maintenance is defined for this purpose as the average per acre cost of all activities involved in delivering irrigation water and maintaining the facilities.

(g) San Carlos Irrigation Project, Arizona. The administration, rights obligations and responsibilities for the operation and maintenance of this project are set forth in the Repayment Contract dated June 8, 1931 as supplemented or amended, between the San Carlos Irrigation and Drainage District and the United States as authorized by the Act of June 7, 1924 (43 Stat. 475-476) and the Secretarial Order of June 15, 1933, titled "Order Defining Joint, District and Indian Works of the San Carlos Federal Irrigation Project: Turning over Operation and Maintenance of District Works to the San Carlos Irrigation and Drainage District." The regulations appearing in this subchapter apply only to the Indian lands works and in the San Carlos Irrigation Project unless specified otherwise, and should not be interpreted or construed as amending or modifying the District Contract or the Secretarial Order.

§ 191.2 Irrigation season.

The irrigation season, when water shall be available for irrigation, will be established by the Officer-in-Charge.

§ 191.3 Domestic and stock water.

Domestic or stock water will not be carried in the project's or unit's irrigation system when in the judgment of the Officer-in-Charge such practice will:

- Interfere with the operation and maintenance of the system.
- Be detrimental to or endanger the canal, lateral system and/or related structures.
- Adversely affect the stored water supply for irrigation.

§ 191.4 Farm units.

For the purpose of delivery of water and the administration of the project or unit, a farm unit is defined as follows:

(a) For the Blackfeet, Crow, Fort Belknap, and Fort Peck Irrigation Projects, Montana, and the Colville Irrigation Project, Washington:

(1) Forty (40) or more contiguous acres of land in single ownership with the exception that those original Indian allotments containing less than 40 irrigable acres of the same subdivision of the public land survey shall also be considered farm units.

(2) Forty (40) or more contiguous acres of Indian-owned land under lease to one party.

(3) Forty (40) contiguous acres in multiple ownership within the same forty (40) acre subdivision of the public land survey.

(b) For the Fort Hall Irrigation Project, Idaho:

(1) Twenty (20) or more contiguous acres of land in single ownership covered by one or more water rights contracts.

(2) Twenty (20) or more contiguous acres of Indian-owned land under lease to one party or being farmed by one Indian.

(3) Ten (10) or more contiguous acres of subdivided land in multiple ownership.

(c) For the Flathead Irrigation Project, Montana: A contiguous area of land in single ownership containing not less than one forty (40) acre subdivision of the public land survey, or the original allotment as established by the Secretary of the Interior and as recorded or amended in the records of the Bureau of Land Management. In the case of leased land, it is defined as a contiguous area under a single lease. For Bureau of Land Management regulations pertaining to Flathead Project, see 43 CFR 2211.8, Flathead Irrigation District, Montana.

(d) For the Wapato Irrigation Project (all units), Washington:

(1) Eighty (80) or more contiguous acres in single ownership at the time of the establishment of the delivery system, or when subsequent changes of ownership result in larger tracts under single ownership and the owner requests that this land be treated as a farm unit, whether covered by one or more water right contracts.

(2) Eighty (80) or more contiguous acres of Indian-owned land under lease to one person or being farmed by one Indian.

(3) Eighty (80) contiguous acres in multiple ownership: *Provided*, That such acreage shall be within the same eighty (80) acre subdivision of the U.S. public land survey.

(4) In all cases where an original Indian allotment consisted of less than eighty (80) contiguous acres, such original Indian allotment, whether (i) under single or multiple ownership and/or covered by one or more water right contracts, (ii) under lease to the same or different lessees, or (iii) farmed by one or more Indians, shall be treated as a farm unit.

(e) For all other projects or units: An original allotment, homestead, an assignment of unallotted tribal lands, or a contiguous, development lease area.

§ 191.5 Delivery points.

(a) Project operators will deliver irrigation water to one point on the boundary of each farm unit within the irrigation project. The Officer-in-Charge may establish additional delivery points when in his judgment it is impractical for the landowner to irrigate his farm unit from the one delivery point for such reasons as topography, isolation, or cost. When irrigation water is supplied from wells, the delivery point may be established at the well head. Where portions of a farm unit lie at an elevation too high to be watered by gravity flow from the normal elevation of water in the project distribution system, no change will be made in the water level elevation of the project system so as to place water on such land. Where such land has been included in the project, the landowner

may install and operate pumping equipment at his own expense to raise the water to such included land from a point designated by the Officer-in-Charge and in accordance with his specifications. If the landowner so installs pumping equipment and pays the construction and maintenance charges, the project will deliver the same amount of water per acre for this land as the project delivers at the delivery point for other lands on the project.

(b) If a farm unit for which a project delivery point has been established is subsequently subdivided into smaller units by the owner or owners of the farm unit, the following provisions apply:

(1) A plat or map of the subdivision must be recorded and a copy filed with the Officer-in-Charge. The plat or map must show how the irrigation water is to be delivered to the irrigable acres in the subdivision.

(2) No further extensions or alterations in the project's system will be provided officials to serve the subdivided units, except as agreed to by the Officer-in-Charge and at the landowner's expense.

(3) Any additional construction necessary to deliver irrigation water to these units must be mutually worked out between the original owner of the farm units and the new owners of the subdivided unit at their expense.

(4) The project will not bear any responsibility for the operation and maintenance of such internal systems, or the division of irrigation water after it is delivered to the established project delivery points.

(c) Where project points of delivery have been established for farm units which are to be combined under lease or ownership into a singular farm unit to be irrigated by means of a sprinkler or more efficient system, the Officer-in-Charge may approve the removal or relocation of project delivery facilities. Such reorganization shall be at the expense of the landowners or lessees in conformance with established project standards and a time schedule which will not disrupt water delivery service to others on the system.

(d) Where a reorganization has been approved and established as in § 191.5 (c), any reversion requiring reestablishment of removed or relocated project delivery facilities must be approved by the Officer-in-Charge and conform to established project standards and time schedules which will not disrupt water delivery service to other water users on the system. All expenses incurred shall be the responsibility of the landowners or lessees.

§ 191.6 Distribution and apportionment of water.

(a) The Officer-in-Charge will establish the method of and procedures for the delivery and distribution of the available irrigation water supply. He will endeavor to apportion the water at all times on a fair and equitable basis between all project water users entitled to the receipt of irrigation water.

(b) Any person who interferes with the flow of water in or from the project's

storage, carriage or lateral systems or opens or closes or in any other way changes the position of a headgate or any other water control structure without specific authority from the Officer-in-Charge or his designated representative will be subject to prosecution. Cutting a canal or lateral bank for the purpose of diverting water or placing an obstruction in such facilities in order to change the flow of water through a headgate will be considered a violation of this section.

(c) San Carlos Irrigation Project, Arizona.

(1) The portion of the project's common water supply available for the Indian lands will be distributed subject to beneficial use in equal per acre amounts to each acre under irrigation and cultivation, insofar as possible.

(2) All water users (Indian and non-Indian) will be notified at the beginning of the irrigation season of the amount of stored and pumped water available. An apportionment of this water will be recommended by the Officer-in-Charge of the irrigation project to the approval of the Area Director. Subsequent apportionments may be made if and when additional water is available.

(3) If it is determined by the Officer-in-Charge that there is water in excess of demands and available storage facilities, he will promptly notify all water users that such water is available. This water shall not be charged against the water apportionment of the land on which it is used.

(d) Uintah Irrigation Project, Utah.

(1) Water will be delivered to all lands under the Lakefork, Uintah and Whiterocks Rivers in accordance with the provisions of the decree of the Federal Court in the cases of the "United States v. Dry Gulch Irrigation Company, et al.," and the "United States v. Cedarview Irrigation Company, et al.," which decrees fix the maximum duty of three (3) acre-feet per acre for the period from March 1 to November 1 of each year. The rate of delivery will be substantially in accordance with the following schedule except that it may be modified by the Officer-in-Charge at such times as changed climatic conditions and the water supply indicate that such modification would be beneficial to the project:

Period	Acres per second-foot	Acres feet per acre
Mar. 1 to 18.....	None	None
Mar. 19 to 31.....	1,000	0.023
Apr. 1 to 10.....	800	.025
Apr. 11 to 20.....	400	.050
Apr. 21 to 30.....	200	.099
May 1 to 10.....	180	.110
May 11 to 20.....	135	.147
May 21 to 31.....	95	.229
June 1 to 20.....	70	.366
June 21 to 30.....	85	.233
July 1 to 10.....	90	.220
July 11 to 20.....	95	.208
July 21 to 31.....	100	.218
Aug. 1 to 10.....	133	.147
Aug. 11 to 20.....	155	.128
Aug. 21 to 31.....	175	.124
Sept. 1 to 10.....	195	.101
Sept. 11 to 30.....	220	.180
Oct. 1 to 10.....	220	.090
Oct. 11 to 20.....	300	.066
Oct. 21 to 31.....	600	.036
Total.....		3.000

(2) The rotation method will be used in distributing the water diverted from the Lakefork, Uintah and Whiterocks Rivers. Rotation schedules will be prepared under direction of the Officer-in-Charge and will be put into effect each season as soon as it is determined what acreage is to be irrigated. A written copy of the water schedule will be delivered to each water user showing the time that his turn starts on each tract and the duration of each turn.

(3) In the event a rotation system is adopted for lands receiving water from the Duchesne River, the same procedure will be used as for the lands under the Lakefork, Uintah and Whiterocks Rivers. The Officer-in-Charge will advise all water users sufficiently in advance of the time the rotation schedule will go into effect.

(c) Wapato Irrigation Project, Washington.

(1) To protect adjoining lands against seepage and erosion by the excess use of water on the bench lands of the Wapato-Satus Unit, the maximum delivery of water to the bench lands shall not exceed 4.5 acre-feet per acre per season.

(2) The rate of delivery to lands of the Satus 2 and Satus 3 subunits shall not exceed one (1) cubic foot per second for each 50 irrigated acres.

(3) The measurement and distribution of water for the lands on the Ahtanum Unit shall take place at the mutually advantageous points on the Ahtanum Main or Lower Canals. The conveyance of the water from these points of distribution to the irrigable acres of the farm units shall be entirely by and at the expense of the individual operators of the farms. However, when several such users join together to use one single channel for the conveyance of their water to the points of final diversion, they shall be jointly responsible for the channel of conveyance and the apportionment of the water to their respective farm units.

§ 191.7 Application for and record of deliveries of irrigation water.

(a) Except when rotation schedules have been established and are being followed, water users in requesting the delivery of water will so notify the Officer-in-Charge or his designated representative by such means and with such advance notice as may be required by system operations and as established by the Officer-in-Charge. The request shall indicate the time the water is to be delivered, the period of time it will be used, the rate of flow desired, and where the water will be used.

(b) It is the responsibility of the ditch-riders during the irrigation season to maintain records showing the beginning and ending time of each water delivery, the amount of such delivery, and the estimated acreage irrigated. Such records are to be filed at the irrigation project office at the end of the season.

(c) Water users on the Indian portion of the San Carlos Indian Irrigation Project will submit their requests for water to the Superintendent, Pima Agency.

§ 191.8 Surface drainage.

(a) The water users will be responsible for all waste water resulting from their irrigation practices and for its conveyance to project canals, drains, wasteways or natural drainage channels. Any expenses involved in doing this will be borne by the water user. Waste water may be emptied into project constructed ditches only at points designated by and in a manner approved by the Officer-in-Charge. In those situations involving two or more landowners and/or water users, it is their responsibility to work out a satisfactory arrangement among themselves for the conveyance of their waste water to project ditches or natural drainage channels.

(b) Waste water shall not be permitted to flow upon or collect in road or project rights-of-way. Failure to comply with this requirement could result in the Officer-in-Charge refusing the further delivery of water.

§ 191.9 Structures.

(a) All structures, including bridges or other crossings, which are necessary as a part of the project's irrigation and drainage system will be installed and maintained by the project.

(b) During the construction of a new irrigation project or the extension of an existing project, bridges, crossings or other structures may be built by the Officer-in-Charge for private use where justified by severance agreements or other practical considerations. Title to these structures may or may not be vested in the United States depending upon the agreement with the landowner. Structures built partially or wholly in lieu of severance damages may be required to be maintained by the landowner even though title remains with the United States.

(c) After a project is completed, additional structures crossing or encroaching on project canal, lateral or drain rights-of-way which are needed for private use may be constructed privately in accordance with plans approved by the Officer-in-Charge or by the project. In either case the cost of installing such structures will not be at the project's expense. Such structures will be constructed and maintained under revocable permits on proper forms issued by the Officer-in-Charge of the irrigation project to the party or parties desiring such structures.

(d) If it is determined that a crossing constructed for and by the project is no longer needed for operation and maintenance of the system, it should be removed. However, if a private party, corporation, State, or other Federal entity desires to use the crossing, it may be transferred to such entity by the Officer-in-Charge under a permit which relieves the United States from any further liability or responsibility for the crossing, including its maintenance. The following provisions pertain:

(1) Permits issued in such situations shall stipulate what is granted, and accepted by the permittee on the condition that the repair and maintenance of the

structure shall be the duty of the permittee or his successors without cost to the irrigation project.

(2) The permit shall further provide that if any such structure is not regularly used for a period of one year or is not properly maintained, the Officer-in-Charge may notify the person responsible for the structure's maintenance either to remove it or to correct any unsafe conditions within a period of 90 days.

(3) If the structure is not removed or the unsafe condition corrected within the time allowed, it may be removed by the Officer-in-Charge, the cost of such removal to be paid by the party responsible for the maintenance of the structure.

§ 191.10 Fencing.

Fences across project rights-of-way will not be constructed without the approval of the Officer-in-Charge. The granting of such approval shall be dependent upon proper installation so as not to interfere with the flow of water or the passage of project operators and equipment. In case an unauthorized fence is installed, the landowner shall be notified to remove it. If it is not removed within a reasonable period of time or satisfactory arrangements made with the Officer-in-Charge, it may be removed by project personnel at the landowner's expense.

§ 191.11 Obstructions.

No obstructions of any kind including service or farm ditches, will be permitted upon project rights-of-way. Due notice will be given to an operator or landowner to remove any obstructions. If not removed within a reasonable period of time after notice is given, an obstruction will be removed by project forces at the expense of the operator or landowner.

§ 191.12 Rights-of-way.

(a) Rights-of-way reserved for the project's irrigation system are of sufficient width to permit passage and use of equipment necessary for construction and proper operation and maintenance of the project's canals, laterals, and other irrigation works.

(b) In the construction of new irrigation projects or extension of existing projects, rights-of-way which have not been reserved across Indian lands will be obtained in accordance with Part 161 of this chapter.

§ 191.13 Crops and statistical reports.

An annual project crops and statistical report shall be prepared by the Officer-in-Charge. The landowner or farm unit operator shall cooperate in furnishing such information as requested.

§ 191.14 Carriage agreements and water right applications.

(a) Pine River Indian Irrigation Project, Colorado. If the Area Director determines that there is sufficient capacity in the project's carriage and/or distribution system in excess of that required by the project, he is authorized to enter into carriage agreements with non-project

water users to convey non-project water through project facilities for delivery to non-project lands.

(b) *Utah Indian Irrigation Project, Utah.* If the Superintendent determines that there is sufficient capacity in the irrigation project's carriage and/or distribution system in excess of that required by the project, he is authorized to enter into carriage agreements with non-project water users to convey non-project lands. The Superintendent is also authorized to enter into carriage agreements with private irrigation or ditch companies for the conveyance of project water through non-project facilities for delivery to isolated Indian lands that cannot be served from project facilities.

(c) *Wapato Irrigation Project, Washington.* The Project Engineer is authorized to execute water right applications submitted by landowners in the project on behalf of the Secretary of the Interior. Such applications should be submitted on the approved Departmental form.

§ 191.15 Leaching water.

(a) The Officer-in-Charge is authorized to furnish irrigation water for leaching purposes without the payment of operation and maintenance charges to any Indian trust land, or patent in fee land covered by a repayment contract, as an aid to improve land within the project that is impregnated by alkali or in the development of new project land.

(b) Delivery of such water will depend upon the availability of water and the preparation of a definite plan of operation by the land operator satisfactory to the Officer-in-Charge. In addition, the operator shall agree to meet such reasonable leaching and cropping activities as shall be prescribed by the Officer-in-Charge.

(c) If prompt and beneficial use of the leaching water is not made by or before July 1 of the season for which it is granted, the Officer-in-Charge may declare the leaching permit forfeited. The normal water charges will be considered as assessed and any delinquency enforced as though no leaching privilege had been granted.

(d) In the case of patent in fee lands no water will be delivered for leaching purposes until the annual construction costs, when assessed, are paid.

§ 191.16 Excess water.

(a) *General.* On those irrigation projects where a water duty or water quota has been established, each water user will be notified when his quota of water, as covered by the basic assessment and as announced in the public notice, has been delivered. In such cases additional irrigation water, if available, may be delivered providing the water user so requests it and agrees to pay for the excess water in accordance with the excess water provisions as set forth in the public notice.

(b) *Flathead Indian Irrigation Project, Montana.* (1) After an agreement has been reached by the Commissioners of the irrigation district and the Officer-

in-Charge as to the duty of water on individual tracts where water users claim excess requirements above the duty of water established for the project on account of porous or gravelly soils, the Officer-in-Charge is authorized to increase the quantity of water to be delivered to such tracts.

(2) The amount of water delivered in such cases will not exceed four (4) acre feet per assessable acre except in the Moiese Division where the amount shall not exceed six (6) acre feet providing there is sufficient water available in Lower Crow Reservoir without having to draw on the water supply for the Mission Valley Division.

(3) The charge for such water shall be at the same general rate as established for project land not having such a porous or gravelly condition.

§ 191.17 Delivery of water.

(a) Irrigation water will not be delivered until the annual operation and maintenance assessments are paid in accordance with the established annual rate schedule as set forth in the public notice issued by the Area Director. Under the following special circumstances, this rule may be waived and water delivered to:

(1) Trust and restricted lands farmed by the Indian owner when the Superintendent has certified that the operator is financially unable to pay the assessment and he has made arrangements to pay such assessments from the proceeds received from the sale of crops or from any other source of income. In such cases the unpaid charges will stand as a first lien against the land until paid but without penalty on account of delinquency.

(2) Non-Indian lands on which there is an approved deferred payment contract executed under the provisions of the Act of June 22, 1936 (49 Stat. 1803).

(3) Land on which an adjustment or cancellation of unpaid assessments has been recommended and final action is pending.

(b) Water will not be delivered to Indian trust or restricted lands that are under lease approved by the Secretary of the Interior or his authorized representative acting under delegated authority until the lessee has paid the annual assessed operation and maintenance charges.

(c) No water will be delivered to Indian trust land under a lease that has been negotiated by an Indian owner until the owner has paid the annual assessed operation and maintenance charges or has made satisfactory arrangements for their payment with the Superintendent who has so notified the Officer-in-Charge.

(d) Water will not be delivered to any lands within an irrigation district which has executed a repayment contract with the United States until all irrigation charges, as assessed, are paid in accordance with the terms and conditions of the contracts and the public notice as issued by the Area Director.

(e) All irrigation districts may make such rules and regulations as they may

find necessary in regard to the delivery of the water to water users within the district who are delinquent in their payments to the district of assessed irrigation charges. Such rules and regulations will be adhered to by the Officer-in-Charge when it appears to be in the best interests of the United States and the district to do so.

(f) Water will not be delivered to lands that are subject to construction assessments not paid in accordance with Part 211 of this chapter.

(g) *Flathead Indian Irrigation Project, Montana.*

(1) *Secretarial Water Right Holders.*

(i) For all acres recognized by the Secretary of the Interior as entitled to a "Secretarial Water Right", the Officer-in-Charge is authorized to carry such water in the project's carriage and distribution system and deliver it: *Providing*, The landowner holding such a right requests it and his land is so located that the water can be delivered without undue expense to the project. Before this service is provided, the landowner must also agree to pay a minimum of fifty (50) percent up to a maximum of one hundred (100) percent of the annual operation and maintenance charges as assessed against project lands in the same general area as his. Under such agreement the project will not be obligated to deliver more than that allowed for each acre of land under the Secretary's private water right findings less a proportionate share of the project's normal losses in transporting the water from the point of entry into the project's system to the point of delivery.

(ii) "Secretarial Water Rights" are defined as those rights allocated to Indian allotments by the Assistant Secretary of the Interior by his approval on November 25, 1921, of the findings of the Commission appointed by him to investigate the "private rights" on the Flathead Indian Reservation. Authority: Sec. 9, Act of May 29, 1908 (35 Stat. 449).

(2) *Pump Lands—Flathead Irrigation Project.* (i) The Officer-in-Charge is authorized to deliver irrigation water to lands (pump lands) within a project farm unit that are too high to be served from the project's gravity flow system: *Providing*, The holder of legal title to the lands so requests it in writing and agrees to have such land designated by the Secretary of the Interior or his authorized representative as a part of the irrigation project. Land so designated shall be subject to the assessment and payment of the pro rata per acre share of the project's construction, operation and maintenance costs the same as all other lands within the irrigation project in the same general area. In addition, such "pump lands" shall be obligated to pay an additional assessment on an annual basis as determined by the Officer-in-Charge to defray the cost of pumping the water from the Flathead River for those lands in the Mission Valley Division, and from the Little Bitterroot Lake for lands in the Camas Division.

(ii) At the time he submits the request, the landowner must also agree

in writing to include the "pump lands" in an existing irrigation district or a district that may be subsequently formed pursuant to the laws of the State of Montana. This will not apply to Indian trust or restricted lands as such lands cannot be included within an irrigation district.

(iii) A request for the inclusion of "pump lands" into the project will not be considered until the Officer-in-Charge determines that there is sufficient project water available to serve these lands without adversely affecting in any way the water entitlement of the designated project lands for which the project was designed and constructed.

(iv) All costs incidental to the pumping and distribution of the delivered water from the project farm unit delivery point to the "pump lands" shall be borne by the landowner.

§ 191.18 Service or farm ditches.

The service or farm ditches into which water is delivered from project canals or laterals must have ample capacity and be maintained by the water user in proper condition to receive water and convey it to be the place of use with a minimum of loss. Water delivery will be refused to such ditches not satisfactorily maintained. Project irrigation water shall be put to beneficial use.

§ 191.19 Operation and maintenance assessments.

(a) Operation and maintenance assessments will be levied against the acreage within each allotment, farm unit or tribal unit that is designated as assessable and to which irrigation water can be delivered by the project operators from the constructed works whether water is requested or not, unless specified otherwise in this section.

(1) *Colville Indian Irrigation Project, Washington.* Operation and maintenance assessments will be levied against all patent in fee and Indian trust lands to which water can be delivered for irrigation and for which an application for water has been made by the water user and approved by the Superintendent.

(2) *Wapato Irrigation Project-Toppenish-Simcoe Unit, Washington.* Operation and maintenance assessments will be levied against all lands which can be irrigated from the constructed works for which application for water is made annually and approved by the Project Engineer.

(b) Subdivided farm units.

(1) *General.* (i) Where farm units, as defined in § 191.4, have been subdivided into smaller units, the Area Director or such official as he may so delegate may, at his discretion, fix a higher operation and maintenance rate for such subdivided acreage than the rate fixed for the acreage in the original farm unit. In such cases the higher rate will also be announced in the annual public notice.

(ii) In the event higher rates are fixed for a subdivided farm unit, the individual owners thereof may obtain for

their lands the same rate as fixed for acreages within farm units not so divided by joining in a written contract with the other owners within the subdivided unit. Under such a contract, the various owners will appoint an agent in whom shall be vested full power and authority to enter into a contract with the Area Director, hereafter referred to as the Contracting Officer, or such official as he may so authorize, covering the water rights for the entire area of the several small acreages: *Provided, however,* Such contract must not represent less acreage than that included in the original farm unit unless a smaller unit has been established by project regulation as eligible for a subdivision contract: *And provided further,* That whether the contract involves acreage in one or more farm units, it must represent contiguous acreages.

(iii) The contract between the agent of the owners of the small tracts and the Contracting Officer shall be executed on or before February 1 of the year preceding the next irrigation season. The agent shall at the time of the execution of this contract, on a form approved by the Secretary of the Interior, furnish a certified copy of the contract executed by the several landowners of the subdivided tract appointing the agent to act in their behalf.

(iv) Any owner of a tract within a subdivided unit, with the written consent of the owners of a majority of the acreage, under a contract as set forth in paragraph (b)(1)(iii) of this section, may voluntarily withdraw from the contract by filing a written notice of his intent to withdraw with the Contracting Officer on or before February 1 of the year, such withdrawal is to be effective, together with the consent of the owners of the majority of the acreage endorsed thereon; *Provided,* That, the remaining acreage is contiguous; such withdrawal does not reduce the remaining acreage under the contract to less than the acreage included in the original farm unit before it was subdivided or less than the minimum acreage established on a project as eligible for a subdivision contract; and all irrigation charges due under said contract have been paid. Upon the receipt of said notice, the Contracting Officer, if the notice meets the requirements as herein provided, shall note his approval thereon and send a copy thereof to the agent of the landowners. Thereafter the land of the withdrawing owner shall no longer be subject to the contract.

(v) If one or more owners under a contract desire to withdraw, and if, by so doing, it would reduce the total remaining contiguous acreage under the contract to less than the total acreage included in the original farm unit, or the minimum eligible acreage established on the project, the contract can be terminated. However, before such a termination can be approved, a written notice from the owners of the majority of the acreage must be filed with the Contracting Officer indicating their consent to and requesting his approval of the termination. The notice must be filed on or

before February 1 of the year the termination is to become effective, and must include the payment of any irrigation charges then due under the existing contract. Upon the receipt of the written notice, the Contracting Officer shall note his approval thereon provided that the requirements set forth herein are satisfied. A copy of the approved notice will be given to the agent of the landowners concerned.

(2) *Fort Hall Irrigation Project.* The Superintendent, Fort Hall Agency, is authorized to approve contracts as set forth in this section as well as withdrawals or termination of such contracts. However, no contracts will be entered into if the total contiguous acreage is less than 10 acres.

(3) *Wapato Irrigation Project.* The Project Engineer is authorized to approve contracts as set forth in paragraph (b) of this section, as well as withdrawals or termination of such contracts. However, no contracts will be entered into if the total contiguous acreage is less than 40 acres.

§ 191.20 Water users' ledgers.

(a) Water user's ledgers will be maintained by the Officer-in-Charge on all irrigation projects or units where irrigation assessments are levied and collected. Separate entries shall be made in the ledger for each farm tract, and bills issued to the owner or owners of record. When payment is received, it will be credited to the proper ledger account.

(b) When Indian trust or restricted land is leased and the Officer-in-Charge has been so advised by the Superintendent, irrigation bills will be submitted to the lessee. Upon receipt of payment, it will be credited to the Indian owner or owners of record in the ledger account.

(c) On those projects where irrigation districts have been formed and have executed repayment contracts, irrigation bills will be rendered to the district. When payment is received, it will be credited to the proper ledger accounts.

§ 191.21 Health and sanitation.

Use of Government storage reservoirs, canals, laterals or drains for disposal of sewage and trash shall not be permitted under any circumstances. If such conditions occur, and project forces are unable to correct them, the Officer-in-Charge shall request the Area Director to arrange for the necessary legal action.

§ 191.22 Complaints.

All complaints must be made in writing to the Project Engineer or the Officer-in-Charge of the project.

§ 191.23 Disputes.

In case of a dispute between a water user and the Project Engineer or Officer-in-Charge of the project concerning the application of the regulations of this part or a decision rendered by such official, the water user within 30 days may appeal to the Area Director. Further appeals may be made to the Commissioner of Indian Affairs pursuant to Part 2 of this Chapter.

- PART 192—COLVILLE IRRIGATION PROJECT, WASHINGTON—[DELETED]
 PART 193—CROW IRRIGATION PROJECT, MONTANA—[DELETED]
 PART 194—FLATHEAD IRRIGATION PROJECT, MONTANA—[DELETED]
 PART 195—FLATHEAD, MISSION, AND JOCKO VALLEY IRRIGATION DISTRICTS, MONTANA—[DELETED]
 PART 196—FORT BELKNAP IRRIGATION PROJECT, MONTANA—[DELETED]
 PART 197—FORT HALL INDIAN IRRIGATION PROJECT, IDAHO—[DELETED]
 PART 198—FORT PECK INDIAN IRRIGATION PROJECT, MONTANA—[DELETED]
 PART 199—UINTAH IRRIGATION PROJECT, UTAH—[DELETED]
 PART 200—WAPATO IRRIGATION PROJECT, WASHINGTON—[DELETED]
 PART 201—WIND RIVER IRRIGATION PROJECT, WYOMING—[DELETED]

2. Parts 192-201 of Subchapter R, Chapter I, Title 25 of the Code of Federal Regulations are hereby deleted.

PART 221—OPERATION AND MAINTENANCE CHARGES

3. When new assessment rates and related information are announced by general notice in the FEDERAL REGISTER, the corresponding section of Part 221 will be deleted.

NOTE.—It is hereby certified that the economic and inflationary impacts of this final regulation have been carefully evaluated in accordance with Executive Order 11821.

RAYMOND V. BUTLER,
 Acting Deputy Commissioner of
 Indian Affairs.

[FR Doc.77-16866 Filed 6-13-77; 8:45 am]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart D—Special Target Group and Youth Programs and Other Special Programs

PROGRAM AGREEMENTS WITH PRIVATE PROFITMAKING ORGANIZATIONS

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: This rule amends requirements governing the award and administration of program funding agreements with private, profitmaking organizations under sections 301 and 304 of title III of the Comprehensive Employment and Training Act of 1973. Under the current regulations the Department's policy has been to apply the General Services Administration's regulations governing the procurement of property and services from commercial sources to funding agreements with private, profitmaking organizations under sections 301 and 304. The General Services Administration

regulations, however, were designed for use in the procurement of such things as typewriters, stationery, and guard services. It is evident that the "procurement" of employment and training activities is not procurement in the true sense of the word.

The purpose of this amendment is to enable the Department of Labor to use simpler and more appropriate methods whenever a program under section 301 or 304 does not primarily involve the procurement of property or services in the true sense of the word. Consistent with the policy of the Department of Labor to encourage increased private sector involvement in Federal employment and training programs, the intent of this amendment is to create conditions under which private employers will be more willing to participate in Department of Labor programs designed to help the unemployed, the underemployed, and the economically disadvantaged to prepare for and obtain gainful employment.

EFFECTIVE DATE: July 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Steven K. Puterbaugh, Office of National Programs (OCED), Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20213 (202-376-6093).

SUPPLEMENTARY INFORMATION:

REGULATIONS AFFECTED

In the FEDERAL REGISTER of March 12, 1976 (41 FR 10774), the Department of Labor published regulations governing employment and training programs for special target groups, youth programs, and other special programs authorized by sections 301 and 304 of title III of the Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839; Pub. L. 93-567, 88 Stat. 1845; and Pub. L. 94-444, 90 Stat. 1476).

These regulations were codified as a new Subpart D to 29 CFR Part 97. This rule amends certain provisions in Subpart D.

LEGAL AUTHORITY

Section 702(b) of the Comprehensive Employment and Training Act states, in part:

The Secretary may make such grants, contracts, or agreements, establish such procedures (subject to such policies, rules, and regulations as he may prescribe) * * * as he may deem necessary to carry out the provisions of this Act * * *.

Under this statutory provision, the Secretary of Labor is empowered to provide financial assistance for employment and training programs undertaken by private, profitmaking organizations and to prescribe the rules and conditions under which such assistance is given.

EFFECTS OF THIS REGULATION

This rule amends 29 CFR Part 97, Subpart D, by revising § 97.309 (b) and (c). The effect of this revision is to change the Secretary's policy by making the use of formal competition discre-

tionary rather than mandatory when the Department gives financial assistance for programs conducted by private, profitmaking organizations. It will, however, remain the policy of the Department of Labor to use competitive procedures whenever competition is in the best interests of the Government and whenever the award of funds is a bona fide procurement transaction for which sole-source contracting is inappropriate.

This rule also amends 29 CFR Part 97, Subpart D, by revising § 97.311(c) (13). The effect of this revision is to lift the strict requirement that proposals or funding applications submitted by non-governmental organizations be accompanied by a description of the general structure of the organization and a signed statement by a Certified Public Accountant attesting to the adequacy of the applicant's or proposer's financial management system. The new language, however, permits the Secretary of Labor to require these items whenever he or she perceives a need for them.

This rule also amends 29 CFR Part 97, Subpart D, by revising § 97.312(b) and deleting and reserving § 97.312 (c). The effect of the revision and the deletion is to permit the Secretary of Labor to consider unsolicited proposals and applications for program funding under sections 301 and 304, including those submitted by private, profitmaking organizations.

This rule also amends 29 CFR Part 97, Subpart D, by revising § 97.315(g). The effect of this revision is to give the Secretary of Labor discretion in selecting the legal instrument used to award financial assistance for programs conducted by private, profitmaking organizations. Until this time, the only instrument permitted was the contract. The Secretary will now be able to use a contract, grant, or other instrument, whichever is most appropriate in view of the nature of the agreement.

This rule also amends 29 CFR Part 97, Subpart D, by revising § 97.335(c). The effect of this revision is to change the Secretary's policy so that funding agreements which are made on a fixed price or fixed unit price basis will be exempted from the cost principles of the General Services Administration's procurement regulations at 41 CFR, Chapter 1, Subpart 1-15.2.

This rule also amends 29 CFR Part 97, Subpart D, by revising § 97.381. The effect of this revision is to remove the mandatory requirement that all program agreements with private, profitmaking organizations be subject to the Federal Procurement Regulations at 41 CFR Chapter 1. The Secretary of Labor will, however, continue to apply the Federal Procurement Regulations whenever the award of Federal funds is a bona fide procurement transaction.

TECHNICAL AMENDMENTS

Citation corrections are being made in §§ 97.324, 97.327, and 97.330.

EXEMPTIONS FROM RULEMAKING PROCEDURES

As these amendments relate to public property, loans, benefits, or contracts,

they have been excepted from the notice and comments provisions of the Administrative Procedure Act, 5 U.S.C. 553(a) (2). The general policy of the Department of Labor, as stated in 29 CFR 2.7, is not to use this exception as a basis for not giving opportunity for notice and comment before the publication of a final regulation. In this case, however, in view of the immediate need of unemployed, underemployed, and economically disadvantaged persons for job and training opportunities in the private sector, the Department has determined that it is in the public interest that these amendments not be delayed for the preparation, receipt, and evaluation of comments.

Although these amendments are being issued in final form, it remains the policy of the Department of Labor to solicit and consider comments on its regulations. Therefore, comments pertaining to these amendments will be received just as though this document were a proposal until 30 days after publication. The comments that are received during this period will be evaluated to determine if subsequent amendments are warranted. Meanwhile, the rules in this document shall remain in force.

Interested persons are invited to submit comments, data, or arguments to: Assistant Secretary for Employment and Training, United States Department of Labor, 6th and D Streets, NW., Washington, D.C. 20213. Attention: Administrator, Office of Comprehensive Employment Development.

Accordingly, 29 CFR Part 97, Subpart D, is amended as follows:

1. In § 97.309, paragraph (b) is revised by deleting the phrase "except under conditions described in paragraph (c) of this section", and paragraph (c) is revised to read as follows:

§ 97.309 Soliciting applications for Federal funds.

(c) When soliciting proposals from private, profitmaking organizations, the Secretary may issue a formal Request for Proposal.

2. In § 97.311, paragraph (c) (13) is revised to read as follows:

§ 97.311 Proposal or application format and content.

(c) * * *

(13) If the applicant or proposer is an organization other than an agency of government and if requested by the Department, a description of the general structure of the organization and a certified statement by a Certified Public Accountant attesting to the adequacy of the applicant's or proposer's financial management system.

3. In § 97.312, paragraph (b) is revised to read as follows and paragraph (c) is deleted and reserved:

§ 97.312 Review.

(b) The Secretary may review and consider for approval or acceptance any

unsolicited proposal or application for funds submitted by an eligible organization.

(c) [Reserved]

4. In § 97.315, paragraph (g) is revised to read as follows:

§ 97.315 Award.

(g) When the program sponsor is a private, profitmaking organization, the Secretary will determine the most appropriate instrument (contract, grant, or other type of agreement) to implement the program and award Federal funds.

§ 97.324 [Amended]

5. In § 97.324, the citation "§ 95.36" is corrected to read "§ 95.37."

§ 97.327 [Amended]

6. In § 97.327, the citation "§ 95.35" is corrected to read "§ 95.36."

§ 97.330 [Amended]

7. In § 97.330, the citation "40 U.S.C. 27a-5" is corrected to read "40 U.S.C. 276a-276a-5."

§ 97.335 [Amended]

8. In § 97.335, paragraph (c) is revised by adding at the end, thereof, the following clause: "except when the program agreement provides that payments to the program sponsor will be made on a fixed price or fixed unit price basis."

9. The heading that appears immediately before § 97.381 and § 97.381 itself, are revised to read as follows:

ADMINISTRATIVE STANDARDS FOR PROGRAM AGREEMENTS WITH PRIVATE, PROFIT-MAKING ORGANIZATIONS

§ 97.381 Administration.

Administrative standards and requirements for private, profitmaking organizations that are awarded program agreements under this subpart will be included in the terms and provisions of the program agreements.

Signed at Washington, D.C., this 26th day of May 1977.

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

[FR Doc. 77-16934 Filed 6-13-77; 8:45 am]

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Supplements to Vermont Plan; Correction

AGENCY: Occupational Safety and Health Administration.

ACTION: Correction.

SUMMARY: This document contains a correction to the description of Vermont's public sector programs which appeared in the approval notice for the public sector programs (FR Doc. 77-5778, 42 FR 10988, Feb. 25, 1977).

FOR FURTHER INFORMATION CONTACT:

Rrencia McGlown, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523-8031.

SUPPLEMENTARY INFORMATION: On February 25, 1977, the FEDERAL REGISTER published a notice of approval of supplements to the Vermont State plan (42 FR 10988). The description of Vermont's public sector programs supplement contained an erroneous statement. As corrected, the last sentence of paragraph 2(b) of the above notice reads as follows: "Vermont's public sector programs provide coverage of employees of State and local governments in a manner identical to that of private employees and meet all of the requirements of § 1952.11".

Signed at Washington, D.C., this 7th day of May 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 77-16936 Filed 6-13-77; 8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 205—DUMPING GROUNDS REGULATIONS

Revocation of Dumping Grounds Regulations

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: We are hereby revoking Department of the Army regulations that specify dumping grounds for the disposal of various materials in the waters of the United States and the oceans. This action is being taken since these regulations are no longer consistent with recent legislation.

EFFECTIVE DATE: This revocation will become effective June 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph T. Eppard, Office of the Chief of Engineers, (DAEN-CWO-N) Washington, D.C. 20314. (202-693-5070).

SUPPLEMENTARY INFORMATION: Since 1954, the Chief of Engineers has promulgated various regulations under Part 205 of Title 33 of the Code of Federal Regulations that establish and govern the use of dumping grounds at certain specified locations in waters of the United States and in the oceans. These dumping ground regulations were established under various authorities, including 33 U.S.C. 1, the River and Harbor Act of 1899 (33 U.S.C. 401 et seq.), and the Supervisor of the Harbors Act of 1888 (33 U.S.C. 441 et seq.). The dumping grounds have been used for the disposal of dredged material and refuse matter of various types, and were prescribed at cer-

tain locations solely in the interest of protecting navigation.

Congress enacted the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1151 et seq.) to regulate the discharge of pollutants into the waters of the United States. The discharge of pollutants into the waters of the United States is prohibited by section 301 of the FWPCA (33 U.S.C. 1311) unless a permit is issued by EPA (or a State to whom EPA has delegated the program) (33 U.S.C. 1342) or by the Secretary of the Army, acting through the Chief of Engineers, in the case of dredged or fill material under section 404 (33 U.S.C. 1344). Each permit application must be evaluated using appropriate EPA criteria and guidelines, and each permit that is issued specifies the disposal site into which the pollutants will be discharged.

In 1972, Congress also enacted the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1401 et seq.). That Act establishes a regulatory program similar to that specified in the FWPCA for the dumping of various materials into the oceans. Under the MPRSA, EPA regulates the dumping of all material, except dredged material, into the oceans through a permit program established under section 102 (33 U.S.C. 1412). Section 102 of the Act also requires the Administrator of EPA to promulgate criteria to be used in the evaluation of the various materials to be dumped into the oceans, and in the designation of recommended disposal sites for the dumping of these materials. Further criteria are specified in the Convention on the Prevention of Marine Pollution by Dumping of Waste or Other Matter, to which the U.S. is a signatory party. On 11 January 1977, EPA revised the criteria to be used to evaluate the materials to be dumped in the oceans, and to designate recommended dumping sites (42 FR 2462).

Section 103 of the MPRSA (33 U.S.C. 1413) vests responsibility in the Secretary of the Army to issue permits for the dumping of dredged materials into the oceans. (See 33 CFR 209.120). Section 103 also requires similar review procedures to be applied to Corps projects involving the ocean dumping of dredged material. (See 33 CFR 209.145). Pursuant to this section, each Federal project and each permit application are evaluated by using the aforementioned EPA criteria, and the Secretary is required to utilize EPA recommended dump sites to the maximum extent feasible. In the event that an EPA dump site cannot be so utilized, EPA criteria requires the Secretary to evaluate an alternative dump site using the same criteria that EPA uses in the designation of its recommended dump sites.

Both the FWPCA and the MPRSA vest certain veto authority in EPA over a designated disposal site for the discharge of dredged or fill material into the waters of the U.S., or the dumping of dredged material in the oceans.

The foregoing clearly indicates that the dump sites described in Part 205 have

been overtaken by other legal requirements and are no longer appropriate for use. In view of this, notice of proposed rulemaking and public procedures related thereto to rescind Part 205 of Title 33 of the Code of Federal Regulations is considered to be unnecessary. 33 CFR Part 205 is hereby revoked in its entirety as set forth below.

NOTE.—The Department of the Army has determined that this document does contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PART 205—DUMPING GROUNDS REGULATIONS—[REVOKED AND RESERVED]

(33 U.S.C. 1151 et seq., 33 U.S.C. 1401 et seq.)

Dated: June 1, 1977.

CHARLES R. FORD,
Acting Assistant Secretary of the
Army, Civil Works.

[FR Doc. 77-16806 Filed 6-13-77; 8:45 am]

Title 40—Protection of Environment

[FRL 741-8]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGA- TION OF IMPLEMENTATION PLANS

Maine Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Disapproval of a proposed implementation plan revision.

SUMMARY: EPA is disapproving a revision to the Maine State implementation plan which would exempt wood waste cone burners from the existing incinerator particulate emission limitations. Because violations of the National Ambient Air Quality Standards for particulates could occur if this revision were approved, wood waste cone burners must still comply with the existing regulation.

EFFECTIVE DATE: July 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Wallace Woo, Air Branch, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Mass. 02203 (617-223-5609).

SUPPLEMENTARY INFORMATION: On May 31, 1972 37 FR 10870), pursuant to Section 110 of the Clean Air Act and to 40 CFR Part 51, the Administrator approved with exceptions the Maine Implementation Plan for the attainment of National Ambient Air Quality Standards (NAAQS).

On February 23, 1977, there was published in the FEDERAL REGISTER (42 FR 10699) a proposal to exempt wood waste cone burners from the incinerator particulate emission limitations (Regulation 100.4 of the Maine Air Pollution Control Regulations) until June 1, 1980. This proposed revision to the Maine State Implementation Plan (SIP) was submitted by the Maine Department of Environ-

mental Protection (the Maine DEP) on August 26, 1976. EPA reviewed the technical support documentation which accompanied the revision and found that it did not provide conclusive analyses to show that the change would not interfere with the attainment and maintenance of NAAQS for particulate matter. EPA performed additional calculations which demonstrated that violations of the NAAQS for total suspended particulates (TSP) could occur if the revision were approved. EPA's evaluation included a determination of how the dispersion characteristics of wood waste cone burners differ from the more usual air pollution point sources, and estimates of where and under what meteorological conditions cone burners would have peak impacts. Downwash is believed to be a significant dispersion mechanism for cone burners. Since plume rise may be minimal and cone burners are not very high, entrainment of the plume in the burner's wake is possible. EPA's analysis showed that for a cone burner operated over a 24-hour period under downwash conditions, concentrations exceeding the secondary NAAQS might occur at distances up to 2,100 meters from the facility, depending on the specific source and meteorological conditions considered.

During the 30-day comment period, comments were received from two sawmills, a State legislator and a trade association. All commenters urged approval of the revision.

Three commenters noted that alternative disposal methods are not available. EPA is aware that the improper disposal of bark can result in a solid waste disposal problem. The State of Maine has developed and published guidelines for the disposal of wood product wastes on land. It should also be noted that because of our mounting energy problems, many firms are beginning to utilize these wastes as energy sources. EPA is optimistic that programs of this type can be implemented and be compatible with our environmental concerns as well. Such resource recovery techniques, properly operated, represent significant improvements in air pollution control over that achievable using cone burners.

Two commenters pointed out that the wood waste cone burners are located in areas away from population centers. However, since air quality standards are set to protect the health and welfare of all people, standards violations cannot be permitted. Even though the cone burners are located in sparsely populated areas, there is the possibility that people will be exposed to harmful levels of particulate matter.

One of the commenters also indicated that the cone burners at their facilities could in fact comply with the existing incinerator regulation. Upon start up of a wood waste-fired boiler now being installed at one of the facilities, the amount of wood waste to be disposed of in the cone burners will be sufficiently reduced so as to allow operation of the cone burners within the emission limitations. EPA feels that this lends further support to its position that the existing

regulation is reasonable and should continue to apply to wood waste cone burners.

Another point raised was why Maine's incinerator particulate emission standard is so much more restrictive than its standards for general process emissions. In general, emission limitations are based on the degree of control achievable by an emission source category and the degree of control necessary to attain and maintain the NAAQS. The particulate control strategy in the SIP was selected by the State as the optimal way, taking economics into account, of obtaining needed emission reductions. EPA is limited to considering SIP revisions as submitted by the States. Therefore, a broad change in the incinerator particulate emission limitations would have to be initiated by the Maine DEP and submitted as another SIP revision for EPA review.

After evaluation of the State's submittal and EPA calculations, the Administrator has determined that the Maine revision does not meet the requirements of the Clean Air Act as amended and 40 CFR Part 51. Therefore, this revision to the Maine SIP is disapproved.

(Sec. 110(a), Clean Air Act, as amended (42 U.S.C. 1857c-5(a)).)

Dated: June 7, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-16773 Filed 6-13-77;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5618; UT-0143106]

UTAH

Partial Revocation of Withdrawal for Fort Douglas Military Reservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This order revokes a prior withdrawal to make certain lands available to the State.

EFFECTIVE DATE: June 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Eldon G. Hayes (202-343-8731).

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 90 Stat. 2743, it is ordered as follows:

1. The Executive Order of September 3, 1867, withdrawing lands for military purposes, is hereby revoked insofar as it affects the following described lands:

SALT LAKE MERIDIAN

T. 1 S., R. 1 E.,

Secs. 4 and 9, Tract L, Parcels 1 and 2.

The area described contains 24.50 acres according to the official supplemental plat of survey approved December 2,

1976. The lands lie within the limits of Salt Lake City, Salt Lake County.

2. Upon promulgation of this order, parcel 1 of the above described lands will be made available to the State of Utah as a quantity grant; parcel 2 will be made available to the city of Salt Lake under the Recreation and Public Purposes Act.

GUY R. MARTIN,

Assistant Secretary of the Interior.

MAY 27, 1977.

[FR Doc.77-16930 Filed 6-13-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART O—COMMISSION ORGANIZATION

Editorial Amendments Concerning Organization of the Office of Chief Engineer

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Part O of the Commission's Rules and Regulations amended to add a new Spectrum Allocation Division to the Office of the Chief Engineer and delete from the same office the Spectrum Allocations Staff and the Spectrum Management Task Force. Implements the reorganization of the Office of Chief Engineer approved by the Commission on April 12, 1977. Completes the realignment of land mobile spectrum management responsibilities among the FCC bureaus.

EFFECTIVE DATE: June 22, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mr. Bernard I. Kahn, Management Systems Division, 632-7513.

SUPPLEMENTARY INFORMATION:

Adopted: June 6, 1977.

Released: June 9, 1977.

In the matter of Amendment of Part O, Subpart A of the Commission's Rules and Regulations concerning organization of the Office of Chief Engineer.

1. On April 12, 1977 the Commission approved the establishment of a new Spectrum Allocation Division in the Office of Chief Engineer to improve the organizational structure and strengthen the spectrum management responsibilities following the transfer of the majority of Chicago Region land mobile spectrum management functions to the Safety and Special Radio Services Bureau.

2. The existing Spectrum Allocations Staff is being abolished and a new Spectrum Allocation Division is established with expanded functions. The reorganization will enable the Chief Engineer to concentrate greater efforts in the vital area of domestic spectrum allocation and management and thus enable the Com-

mission to function more effectively in that area.

3. This Order is issued to designate and establish the new division and revise the rules accordingly.

4. Authority for this action is contained in Sections 4 (i) and (j) and 303 (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j) and 303(r) and § 0.231(d) of the Rules and Regulations, 47 CFR 0.231(d). Because the amendments are editorial and procedural in nature, the prior notice and effective date provisions of 5 U.S.C. 553 do not apply.

5. Accordingly, it is ordered, That effective June 22, 1977 Part O of the Commission's Rules and Regulations is amended as set forth below.

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

FEDERAL COMMUNICATIONS
COMMISSION,
R. D. LICHTWARDT,
Executive Director.

The functions of the Office of Chief Engineer are amended as follows:

§ 0.31 [Amended]

1. Paragraph (m) is deleted in its entirety.

§ 0.32 [Amended]

2. In § 0.32, paragraph (e) is amended to read "Spectrum Allocation Division".

§ 0.33 [Amended]

3. In § 0.33, paragraph (b) (1) through (6) is deleted in its entirety.

4. In § 0.38, the headnote and text are amended to read as follows:

§ 0.38 Spectrum Allocation Division.

The Spectrum Allocation Division has the following duties and responsibilities:

(a) Plan, develop, and recommend to the Commission the domestic allocation or re-allocation of electromagnetic spectrum to non-Government radio services.

(b) Develop and recommend to the Commission regulations and policies to promote the more efficient use of the spectrum and to minimize harmful interference between services.

(c) Identify and foster the introduction of new and innovative uses of radio and radio technology consistent with the public interest.

(d) Develop and implement, or propose for implementation, improved analytical tools and administrative procedures, including proposed legislation where necessary, to ensure more efficient allocation and administration of the radio spectrum.

(e) Conduct engineering, economic, legal, social and statistical studies and analyses, and prepare internal or published Commission reports on the results of such studies.

(f) Identify the need for and develop essential spectrum data files and computer software, in coordination with the Data Automation Division and other Offices of the Commission.