

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 78-22285 Filed 8-9-78; 8:45 am]

[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D—NATIONAL HIGHWAY INSTITUTE

PART 260—EDUCATION AND TRAINING PROGRAMS

State Education and Training Programs

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This document consolidates the existing regulations on application and approval of education and training projects using Federal-aid highway funds. This document is issued in response to the recommendations of the Federal Highway Administration Regulations Reduction Task Force. The changes deal with the elimination of form FHWA 1422 and reduce the information required for project approval. The regulations were originally published on November 17, 1976, at 41 FR 50646 and Subpart D of part 260 of Title 23, Code of Federal Regulations.

EFFECTIVE DATE: August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Jack T. Coe, National Highway Institute, 202-426-9141; Lee J. Burstyn, Attorney, Office of the Chief Counsel, 202-426-0799; Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

In consideration of the foregoing, and under the authority of 23 U.S.C. 315 and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48, chapter I of title 23 of the Code of Federal Regulations, part 260, subpart D, is amended to read as follows:

Subpart D—State Education and Training Programs

Sec.

260.401 Purpose.

260.403 Policy.

260.405 Application and approval procedures.

Sec.

260.407 Implementation and reimbursement.

AUTHORITY: 23 U.S.C. 315, 321 (b) and (c); 49 CFR 1.48(b).

Subpart D—State Education and Training Programs

§ 260.401 Purpose.

To prescribe policy and implement procedures for the administration of Federal-aid funds for education and training of State and local highway department employees.

§ 260.403 Policy.

It is the policy of the Federal Highway Administration (FHWA) to provide continuing education of State and local highway agency employees engaged or to be engaged in Federal-aid highway work. To carry out this policy, States are encouraged to fully utilize the authority contained in 23 U.S.C. 321(b) and 321(c).

§ 260.405 Application and approval procedures.

The State may apply for education and training funds by submitting a signed agreement designating the desired Federal-aid funds, not to exceed the limits in 23 U.S.C. 321(b). The FHWA's approval of the agreement will constitute obligation of funds and authorization for work to proceed.

§ 260.407 Implementation and reimbursement.

(a) After execution of the fiscal agreement, the State may make grants and contracts with public and private agencies, institutions, and individuals to provide highway-related training and education. The principal recipients of this training shall be employees who are engaged, or likely to be engaged, in Federal-aid highway work.

(b) Claims for Federal-aid reimbursement of costs incurred may be submitted following established procedures to cover 70 percent of the cost of tuition and direct educational expenses (including incidental training, equipment, and program materials) exclusive of travel, subsistence, or salary of trainees.

Issued on July 27, 1978.

H. A. LINDBERG,

Acting Associate Administrator for Engineering and Traffic Operations.

[FR Doc. 78-22357 Filed 8-9-78; 8:45 am]

[4310-53]

Title 30—Mineral Resources

CHAPTER VI—BUREAU OF MINES, DEPARTMENT OF THE INTERIOR

PART 610—COAL ANALYSIS FOR NON-FEDERAL APPLICANTS

Deletion of Regulations

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: Delete regulations on coal analysis for non-Federal applicants. This function was transferred to the Department of Energy.

DATE: Effective August 10, 1978.

FOR FURTHER INFORMATION CONTACT: Inquiries regarding the republication in the Department of Energy regulations should be directed to:

David T. Hulett (Energy Resource Analysis), Energy Information Administration, Department of Energy, Room 4426, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, telephone 202-566-9618.

SUPPLEMENTARY INFORMATION: The primary author of this document is Jennifer L. Williamson, Management Assistant, Organization and Management Staff, 2401 E Street NW., Washington, D.C. 20241, telephone 202-634-4730.

The authority for the issuance of part 610 has been transferred to the Secretary of the Department of Energy under the provisions of the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, Pub. L. 95-91).

Accordingly, 30 CFR Part 610 is deleted from the Code of Federal Regulations.

Dated: August 4, 1978.

JOAN M. DAVENPORT,
Assistant Secretary
of the Interior.

[FR Doc. 78-22283 Filed 8-9-78; 8:45 am]

[3910-01]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER C—PUBLIC RELATIONS

PART 837—SUPPORT OF NONGOVERNMENT GROUPS

Final Rule

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising its rule on support of non-Government groups. A review of this rule by the office responsible revealed a need for updating and clearer writing for better understanding by the public.

EFFECTIVE DATE: December 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Lt. Col. Terry Hemeyer, Office of the Secretary of the Air Force, Office of Information, the Pentagon, Washington, D.C. 20330, 202-695-9657.

SUPPLEMENTARY INFORMATION: Part 837 of chapter VII, title 32 of the Code of Federal Regulations is revised to group policies and instructions in separate subparts; give instructions for requesters to submit requests and tell how Air Force people handle these requests. The revision gives requesters the specific information to include in their letters to SAF/OI; and adds both policy and procedures for reimbursing the Government for the use of Air Force equipment and supplies, and for paying Air Force people who support nongovernment audiovisual productions.

This revision is issued under authority of sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

The revised part will read as follows:

Subpart A—Basic Principles

- Sec.
837.1 Purpose.
837.2 Terms explained.
837.3 Scope.
837.4 General policies.
837.5 General restrictions.
837.6 Additional restrictions on the support of commercial advertising, publicity, or promotion activity.

Subpart B—Detailed Instruction

- 837.7 Release of Air Force audiovisual material.
837.8 Help in the production of nongovernment audiovisual material.
837.9 Participation in nongovernment information events.
837.10 Reimbursement.
837.11 Pay for Air Force personnel.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: Air Force Regulation 190-16, December 20, 1977.

Subpart A—Basic Principles

§ 837.1 Purpose.

(a) This part states the Air Force policy on supporting nongovernment groups engaged in information activities. It identifies the types of audiovisual material and support provided to these nongovernment groups.

(b) For guidance on Air Force information audiovisual policies and responsibilities, see part 822 of this chapter. This part implements DOD instruction 5410.15, November 3, 1966; and DOD instruction 5410.16, January 21, 1964. It applies to all people involved in requests for Air Force support of nongovernment groups.

§ 837.2 Terms explained.

(a) **Audiovisual material.** Still photography, films, live television shows, video tapes, sound tapes, radio shows, stock film, and associated materials.

(b) **Nongovernment groups.** Groups not part of the Federal Government. This part is concerned with all nongovernment groups who make audiovisual material for public or private sale or use, as well as those who use such material in their advertising and those who want Air Force help in organizing events. Note that all print and electronic media, advertising and industrial firms, and contractors are covered by these rules.

(c) **Local.** This term refers to the area where Air Force-related audiovisual material might be used. To be local it cannot be used beyond the community or area where it originates. The local commander can approve audiovisual projects that he or she feels will not have regional or national interest. This applies to both the CONUS and overseas.

(d) **Regional.** Audiovisual material made by the Air Force or requested by a nongovernment group that is of news significance in more than one geographical area. As determined by the local commander, regional material must be of news significance only in specific geographical areas and must not be of national or international interest. This applies to the CONUS and overseas.

(e) **National.** Audiovisual material made by the Air Force or requested by a nongovernment group which, as determined by the local commander, exceeds the scope of the "local" and "regional" definitions in either geographical locale or program impact; or which features national policy, programs, and projects. This applies to the CONUS and overseas.

§ 837.3 Scope.

This part applies to all requests for Air Force support of nongovernment groups engaged in information activities. These include, but are not limited to:

(a) Requests from theatrical, film, television, and radio producers; news media representatives, advertisers, and contractors.

(b) Requests for:

(1) Release of Air Force audiovisual material.

(2) Cooperation or assistance by the Air Force in the production of nongovernment audiovisual material.

(3) Participation by the Air Force in programs, projects, or events sponsored by a nongovernment group.

§ 837.4 General policies.

(a) Air Force public information programs are performed as much as possible with Air Force resources and under Air Force sponsorship.

(b) The Air Force supports nongovernment groups within the rules of this part to the extent the national interest is served. Before approval, all requests for such support must be screened to ensure that support is in the national interest.

(c) Except as otherwise authorized, the Director of Information, HQ USAF, has approval authority within the Air Force for all cases covered by this part. The Director decides whether the support requested complies with the guidelines in this part and other regulations.

(d) Prior SAF/OI coordination is not required to release Air Force audiovisual material that is otherwise releasable under this part and other regulations if the material deals with spot news events (that is, events that take place without prior planning or knowledge) or is of local interest only.

§ 837.5 General restrictions.

Air Force support of nongovernment groups engaged in information activities is subject to these general restrictions:

(a) Before final approval, production companies, and other nongovernment groups engaged in information activities may contact Air Force personnel or organizations for information, suggestions, access for technical research, or guidance in writing the required letter of request for assistance to SAF/OI and the accompanying list of specific requirements. The Air Force organization or member involved may provide these services only with the clear understanding that no commitment for final cooperation is being made or implied.

(b) No Air Force audiovisual material is produced exclusively for, or to meet the needs of, a particular nongovernment group engaged in information activities.

(c) Help is not afforded any production that:

(1) Involves the unauthorized disclosure of classified information or equipment.

(2) Discredits or misrepresents the Air Force, its uniform, or equipment.

(d) Each member of the Air Force who produces or handles Air Force audiovisual materials (including any photography done in the line of duty) is prohibited from personally using or

releasing such material to nongovernment users.

§ 837.6 Additional restrictions on the support of commercial advertising, publicity, or promotion activity.

(a) Support is withheld from any such project if the information presented:

- (1) Is not true.
- (2) States or implies that the Air Force approves or likes one product over another. Phrases such as "Government-approved" and "Air Force-certified" are not authorized.
- (3) Compares the relative merits of current weapons or weapon systems.
- (4) Refers to the economic impact of a proposed continuation or termination of a defense contract.
- (5) Reproduces the Air Force seal or any of its parts, except as authorized by part 800 of this chapter.

(b) Each member of the Air Force is prohibited from using his or her military title or position to endorse commercial products, services, or activities; from assuming responsibility for any advertising claims; and from using his or her position in the Air Force for personal gain (refer to part 920 of this chapter).

(c) The Air Force does not bear any of the cost of advertisements, except according to section XV, Armed Services Procurement Regulation (ASPR).

Subpart B—Detailed Instructions

§ 837.7 Release of Air Force audiovisual material.

All audiovisual material held by the Air Force and requested by or for a nongovernment group is subject to the restrictions in paragraphs (a) and (b) of this section regardless of the purpose for which the material was originally made.

(a) Release of Air Force audiovisual material to a nongovernment person or group requires SAF/OI approval if it is:

- (1) Material of regional, national, or international interest.
- (2) Material that requires HQ USAF approval for release under applicable contract provisions.
- (3) Material subject to review under part 806 of this chapter; AFR 95-14, Programming and Producing Audiovisual Products and Services; AFR 190-12, Release of Unclassified Information to the Public; AFR 190-17, Review and Clearance of Department of the Air Force Information; or AFR 190-22, Release of Unclassified Public Information to Foreign Nationals.

(b) The request to SAF/OI must include:

- (1) A copy of the request from the nongovernment group and a copy or description of the material requested.

(2) The intended purpose for which the material is requested.

(3) If it is a request for support of any commercial advertising, publicity, or promotion activity, a statement that the use of any audiovisual material provided does not in any manner imply either Department of Defense or Air Force sponsorship, approval, or endorsement.

§ 837.8 Help in the production of nongovernment audiovisual material.

(a) All requests for Air Force help in the production of nongovernment audiovisual material must be submitted to SAF/OI, except:

(1) Requests for help in the production of audiovisual material for local use.

(2) Requests for help from news media representatives when the subject matter is of local interest only, or deals with spot news events that take place without prior planning or knowledge, and is releasable under existing regulations.

(3) Requests for help from commercial advertisers, when the help consists solely of advice or guidance.

(4) Requests for help from Air Force contractors when the help requested is directly related to the performance of contract requirements. Specifically restricted without SAF/OI approval is Air Force help to any contractor-sponsored photography outside the scope of the contract, even if the photography does not interfere with an official mission and is performed at no cost to the Government. Special arrangements to support contractor photography are prohibited.

(b) Any Air Force unit or personnel contacted by a representative of a nongovernment group for help in producing information audiovisual materials that have potential impact outside the local area must refer that representative to SAF/OI.

(1) Advise the representative that his or her request to SAF/OI must include this information:

- (i) A synopsis, treatment, or script of the proposed project.
- (ii) Anticipated specific support requirements; for example, military manpower, equipment, stock footage, flying hours, etc.
- (iii) A projected production schedule, including filming dates and location work at each proposed facility.
- (iv) A statement that the requested equipment and personnel services cannot be obtained from commercial or private enterprises.
- (v) A statement that the required "hold harmless" agreement and the certificate of insurance will be provided to the Air Force representative before location photography on an Air Force facility.

(vi) A statement that the requestor owns, or has the authority to submit, the material, to SAF/OI for production assistance.

(2) Advise the representative that SAF/OI considers these general conditions in its decision on approval:

- (i) The potential benefit to the Air Force, the DOD, or the Nation offered by the proposed production.
- (ii) Historical accuracy and authenticity of portrayal of Air Force operations, incidents, persons, and places.
- (iii) Compliance with accepted standards of dignity and propriety.
- (iv) The degree of interference with Air Force operations.

NOTE.—Operational readiness must not be impaired.

(v) Conformance to Air Force safety standards. This may require the production company to use military personnel as special equipment operators or in specialized duty stations.

(vi) Diversion of equipment, personnel, and material resources from normal Air Force locations and operations. This may be authorized only when the filming or recording cannot be done without it. Such diversions must be held to a minimum and must not interfere with military operations; and the production company must reimburse the Government for any expenses that result from the diversion. Special arrangements to support contractor photography are prohibited (see paragraph (a)(4) of this section).

§ 837.9 Participation in nongovernment information events.

(a) Submit to SAF/OI all requests for Air Force participation in programs, projects, or events of other than local interest sponsored by a nongovernment group. This includes, but is not limited to, contractor-sponsored events such as the public introduction of new items, rollouts, first flights, first Air Force acceptance, dedication of new facilities, anniversaries, and open houses.

(b) Specific restrictions: (1) Participation must not directly or indirectly help or appear to help any private individual, commercial venture, sect, or political or fraternal group. The participation must not be associated with the solicitation of votes in an election.

(2) Participation cannot help commercial advertising, publicity, or promotional activities, or events that help or favor a commercial venture.

(c) Exceptions to this section are authorized only to the extent and in the manner provided by part 824 of this chapter.

§ 837.10 Reimbursement.

(a) Nongovernment groups engaged in producing audiovisual projects for use as news, as differentiated from

documentary or other types of projects, do not have to pay for Air Force stock film or photographs or location photography on Air Force facilities.

(b) All other audiovisual producers must pay standard research fees and any other costs associated with providing Air Force stock film or photographs.

(c) Photography of static Air Force equipment for audiovisual productions determined by SAF/OI as complying with § 837.8(b)(2) are at no cost to the production company. Static photography for productions that do not meet those criteria, if approved, are at the nongovernment user's cost.

(d) Productions that comply with § 837.8(b)(2) are charged for consumables used in the production, including fuel costs per flying hour and replacement costs for such items as blank ammunition, flares, etc. Support of productions that do not meet those criteria, if approved, is at the full nongovernment user rate.

(e) The Air Force organization owning the resources expended or the equipment involved presents its bill(s) to the production company through the Air Force project officer, with a copy to SAF/OI.

§ 837.11 Pay for Air Force personnel.

All Air Force personnel appearing in nonnews audiovisual productions are in a volunteer status. Their on- or off-duty status requirements are based on the nature of their appearances.

(a) If the personnel are performing their normal duties, and would perform them regardless of whether the audiovisual production depicted them, the personnel are on duty and may not legally receive remuneration from the production.

(b) If the personnel are not performing their normal duties, they are in an off-duty status and remuneration for their services may be negotiated between them and the production company.

(c) The production company bears directly the costs of travel and per diem for Air Force personnel engaged in any nongovernment audiovisual production; or else their parent organization bills the production company at prevailing military or Government civilian rates (as applicable) through the Air Force project officer, with a copy to SAF/OI.

FRANKIE S. ESTEP,
Air Force Federal Register
Liaison Officer.

[FR Doc. 78-22331 Filed 8-9-78; 8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-47]

PART 110—ANCHORAGE REGULATIONS

Special Anchorage Area, Buffalo, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a special anchorage area at Buffalo, N.Y. This regulation is needed because of the large increase of pleasure craft utilizing this area. Establishing this special anchorage area will provide space for approximately 80 vessels, less than 65 feet in length, to safely anchor without having to display anchor lights.

EFFECTIVE DATE: This amendment is effective on September 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Capt. George K. Greiner, Marine Safety Council (G-CMC/81) Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: On December 5, 1977, the Coast Guard published a proposed rule (42 FR 61474), concerning this amendment. Interested persons were given until January 4, 1978, to submit comments. No comments were received.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Lt. Cmdr. H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Lt. G. S. Karavitis, Project Attorney, Office of Chief Counsel.

DISCUSSION

The proposed rule suggested that part 110 of title 33 of the Code of Federal Regulations be amended by adding § 110.57. In order to place this amendment in a more logical sequence of existing rules the final rule has been changed to amend part 110 of title 33 of the Code of Federal Regulations by adding § 110.84a. The proposed rule is further changed by establishing the point of origin using latitude and longitude in lieu of the Harbormaster's Tower because the tower is not shown on the chart of Buffalo Harbor (14833).

In consideration of the foregoing, part 110 of title 33 is amended by adding § 110.84a to read as follows:

§ 110.84a Buffalo, N.Y.

The area within the Port of Buffalo known as Port of Buffalo Small Boat Harbor commencing at a point on shore at latitude 42°51'05" N., longitude 78°51'55" W.; thence 240° to rip-rap dike thence following the dike to the shoreline; thence along the shoreline to the point of origin.

NOTE.—Permission must be obtained from the Niagara Frontier Transportation Authority, Marine Division, before any vessel is moored or anchored in this special anchorage area.

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937 (49 U.S.C. 1655(g)(1)(B)); 49 CFR 1.46(c)(2).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: August 3, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-22336 Filed 8-9-78; 8:45 am]

[3710-92]

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1110-2-1451]

PART 222—ENGINEERING AND DESIGN

Acquisition of Lands Downstream From Spillways For Hydrologic Safety Purposes

AGENCY: Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This document provides guidance and sets forth the requirements for the acquisition of lands downstream from reservoir spillways where project construction would induce hazards to human life if and when the spillway becomes operational. In the past, upon completion of reservoir projects, private development has occurred in these areas, thereby creating unsafe conditions. Acquiring these lands will provide adequate protection to the public from hazards imposed by spillway discharges.

EFFECTIVE DATE: August 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Vernon K. Hagen, Chief, Hydrologic Engineering Section, Office, Chief of Engineers, Washington, D.C. 20314, 202-693-7330.

Accordingly, 33 CFR part 222 is amended by adding a new § 222.4 as follows.

§ 222.4 Acquisition of lands downstream from spillways for hydrologic safety purposes.

(a) *Purpose.* This regulation provides guidance on the acquisition of lands downstream from spillways for the purpose of protecting the public from hazards imposed by spillway discharges. Guidance contained herein is in addition to ER 405-2-150.

(b) *Applicability.* This regulation is applicable to all OCE elements and all field operating agencies having civil works responsibilities.

(c) *Reference.* ER 405-2-150.

(d) *Discussion.* A policy of public safety awareness will be adhered to in all phases of design and operation of dam and lake projects to assure adequate security for the general public in areas downstream from spillways. A real estate interest will be required in those areas downstream of a spillway where spillway discharge could create or significantly increase a hazardous condition. The real estate interest will extend downstream to where the spillway discharge would not significantly increase hazards. A real estate interest is not required in areas where flood conditions would clearly be nonhazardous.

(e) *Hydrologic criteria.* The construction and operation of a dam and spillway may create or aggravate a potential hazard in the spillway discharge area. Therefore, an appropriate solution should be developed in a systematic manner. All pertinent facts need to be considered to assure that the risk to non-Federal interests does not exceed conditions that would prevail without the project. General hydrologic engineering considerations are as follows:

(1) *Probability of spillway use.* Pool elevation versus probability of filling relationships can change materially after initial construction. Spillway use may be more frequent than anticipated. The infrequent use of a spillway is not a basis for the lack of adequate downstream real estate interest.

(2) *Changes in project functions.* Water resource needs within river basins change and pool levels may be adjusted to provide more conservation storage, particularly when high-level limited-service spillways are provided. Such changes normally increase spillway use and are to be considered.

(3) *Volume and velocity of spillway flow.* The amount of flow and destructive force of the flow from a spillway during floods up to the spillway design flood can vary from insignificant to extremely hazardous magnitudes. The severity and area of hazard associated with spillway discharge will vary de-

pending on specific project site conditions. Therefore, the hazard is to be analyzed on a project-by-project basis.

(4) *Development within floodway.* If development within the floodway downstream from a spillway is not present at the time of project construction, the existence of the reservoir may encourage development. Adverse terrain conditions do not preclude development. Sparse present development is not a basis for lack of real estate acquisition.

(5) *Debris movement within floodway.* The availability of erodible material in a spillway flow area intensifies the hazards of spillway flow. In fact, debris may be transported to downstream areas that otherwise would not be adversely affected. Extreme erosion may result from high velocities and turbulence. Both debris and erosion must be evaluated and considered.

(6) *Flood warning and response potential.* Small projects generally have short time periods available to warn downstream inhabitants and may be unattended prior to spillway use. The ability to convince individuals to leave most of their worldly possessions to the ravages of spillway flow may be severely limited. In some cases flood warning systems may be necessary; however, this subject is beyond the scope of this regulation. Warning systems are not an adequate substitute for a real estate interest in lands downstream of spillways.

(7) *Location of spillway.* Spillways should be located to minimize the hazards associated with their discharge and the total project cost (cost of spillway structure and downstream lands). Spillways, outlet works, stilling basins, and outlet channels should be designed to minimize hazards to downstream interest insofar as is engineeringly and economically reasonable.

(f) *Real estate.* The real estate interest required downstream of spillways will be adequate to assure carrying out project purposes and to protect non-Federal interest from hazards created by spillway flows. The interest may be either fee or permanent easement. A permanent easement must exclude all overnight and/or permanent habitation, structures subject to damage by spillway flows and activities that would increase the potential hazards. No real estate interest is required for:

(1) Areas where the imposed or aggravated flood condition is non-hazardous. Affected interest should be informed of the nature of the imposed non-hazardous flood condition.

(2) Areas where the construction and operation of a dam and spillway do not increase or create a hazardous condition.

(g) *Alternative land uses.* In some cases land downstream from spillways can be effectively used for purposes

other than hydrologic safety. Therefore, the entire cost of these lands may not be an additional project cost. For example, the lands downstream of a spillway may be used for wildlife management essential to project purposes in lieu of other lands suitable for similar purposes at another location.

(h) *Procedural guidance.* Procedures regarding the application of the principles outlined in the above paragraphs are as follows:

(1) For various flood magnitudes up to the probable maximum flood determine the "with" and "without project" flood conditions downstream of a dam spillway for the following:

- (i) Flooded area.
- (ii) Flood depth.
- (iii) Flood duration.
- (iv) Velocities.
- (v) Debris and erosion.

(2) Determine the combinations of flood magnitudes and the above flood conditions that could be the most hazardous and/or result in the greatest increase in hazard from "without" to "with project" flood conditions. Designate these combinations of flood magnitude and flood conditions as the critical conditions.

(3) For the critical conditions selected above outline the areas where the project could increase and/or create (impose) one or more of the critical conditions. Areas where spillway flows do not create or increase flood conditions are excluded from further analysis.

(4) Determine where the imposed critical conditions as outlined above would be hazardous and non-hazardous. Non-hazardous areas are defined as those areas where:

- (i) Flood depths are maximum of 2 feet in urban and rural areas.
- (ii) Flood depths are essentially non-damaging to urban property.
- (iii) Flood durations are a maximum of 3 hours in urban areas and 24 hours in agricultural areas.
- (iv) Velocities do not exceed 4 feet per second.
- (v) Debris and erosion potentials are minimal.
- (vi) Imposed flood conditions would be infrequent. That is, the exceedence frequency should be less than 1 percent. Hazardous areas are those where any of the above criteria are exceeded.

(5) Based upon the information developed above and the principles outlined in paragraphs (c) through (f) of this section, decide on the extent of area and estate required for hydrologic safety purposes.

(i) *Reporting.* Lands to be acquired downstream from spillways and intended purposes will be identified and the cost included in feasibility reports and real estate design memoranda. Additional specific information in support of land acquisition should be provided in Phase I or Phase II general

design memoranda (GDM) and dam modernization reports. This information should include topographic maps, area flooded maps, velocities, erosion and debris areas "with" and "without" the project. Real estate boundaries and discussions of items in paragraph (4) are also essential in the GDM's and dam modernization reports.

(Act of Congress approved March 1, 1917, (33 U.S.C. 701) and section 2 of the act of Congress approved June 28, 1938 as amended (33 U.S.C. 701c-1).)

Dated: August 7, 1978.

THORWALD R. PETERSON,
Colonel, Corps of Engineers,
Executive Director, Engineer Staff.

[FR Doc. 78-22334 Filed 8-9-78; 8:45 am]

[4310-70]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Grand Teton National Park; Food Storage

AGENCY: National Park Service.

ACTION: Final rule.

SUMMARY: This regulation restricts food storage on federally owned lands within Grand Teton National Park. Controls are necessary to reduce the amount of property damage experienced by visitors, to insure visitor safety, and to eliminate the artificial food sources available to the native bear population. The extensive availability of human-supplied food has altered the behavior, distribution, and foraging habits of the bears and resulted in increased conflicts between man and bear.

EFFECTIVE DATE: August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert I. Kerr, Superintendent,
Grand Teton National Park, P.O.
Drawer 170, Moose, Wyo. 83012.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The purpose of this regulation is to restrict the manner in which food or similar organic materials may be stored. These restrictions will reduce the availability of artificial food sources to free-roaming black and grizzly bears. Experience has shown that

black and grizzly bear behavior, distribution, and foraging habits are modified by large concentrations of easily available human food sources. Repeated successful access to human food establishes a food-reward association between man and bear. This association has resulted in personal injuries and thousands of dollars in property damage. Present and past artificial food associations have resulted in segments of the black bear population losing their fear of man and entering campsites and cars in search of food. While there have been no reported conflicts between park visitors and grizzly bears, this regulation is designed to reduce the possibility of human/grizzly bear conflicts developing as a result of food associations.

Regulations similar to this one have been promulgated by a number of parks which have experienced difficulties with bears or other wildlife attracted to campgrounds by food. These regulations, when proposed, did not result in a significant degree of public comment and have been generally well received by park visitors who are affected by the restrictions.

In view of the fact that the summer travel season has begun and there have already been several encounters between visitors and bears resulting in property damage. It is deemed unnecessary and impractical to provide a notice of proposed rulemaking on this action or to delay its effective date for 30 days after this publication. However, interested persons who wish to make comments or suggestions on these regulations may do so by writing to the park superintendent. All comments received will be reviewed to determine if revision of these regulations is necessary.

AUTHORITY

Section 3 of the act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3); section 2 of the act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431); a proclamation (No. 658) of September 24, 1906 (34 Stat. 3236); 245 DM-1 (34 FR 13879), as amended; NPS order No. 77 (38 FR 7478).

DRAFTING INFORMATION

The primary author of this regulation is Michael Finley, Division of Ranger Activities and Protection, Washington, D.C.

IMPACT ANALYSIS

The National Park Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107; nor is it a major Federal action significantly affecting the quality of the human environment, which would require prepa-

ration of an environmental impact statement.

Dated: August 7, 1978.

ROBERT STANTON,
Acting Associate Director,
National Park Service.

In consideration of the foregoing, § 7.22 of Part 7 of Title 36, Code of Federal Regulations, is amended by the addition of a new paragraph (j) as follows:

§ 7.22 Grand Teton National Park.

(j) *Food storage.* At all campsites, picnic grounds and parking areas, food or similar organic material must be either: (1) Sealed in a vehicle or camping unit that is constructed of solid, nonpliable material; or (2) suspended at least ten (10) feet above the ground and four (4) feet horizontally from any support, tree trunk, or branch and at least 150 feet from any campsite. This restriction does not apply to food that is in the process of being transported, being eaten or is being prepared for eating.

[FR Doc. 78-22307 Filed 8-9-78; 8:45 am]

[3510-16]

Title 37—Patents, Trademarks, and Copyrights

CHAPTER I—PATENT AND TRADEMARK OFFICE, DEPARTMENT OF COMMERCE

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

Late Filed fees for Section 8 Affidavits/Declarations and Notices of Opposition in Trademark Cases

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: This notice adopts rule changes which permit the acceptance of late fees in connection with notices of opposition and affidavits or declarations under § 8 of the act of July 5, 1946, as amended. These changes eliminate the need for petitioning the Commissioner for acceptance of such late fees. Under these changed rules, the Office will notify parties of the missing or deficient fees and provide for the acceptance of the appropriate fee within a designated time period upon payment of a service charge.

EFFECTIVE DATE: September 11, 1978.

FOR FURTHER INFORMATION CONTACT:

J. Paul Williamson, Patent and Trademark Office, 703-557-2521.