

approval is discussed in the freedom of information (FOI) summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11 (e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs. Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. In § 558.95 by adding new paragraph (e)(1)(xi) to read as follows:

§ 558.95 Bambermycins.

(e) * * *

(1) * * *

(xi) Amount per ton. Bambermycins 1 to 2 grams, plus roxarsone 45.4 grams, and salinomycin 40 to 60 grams.

(a) Indications for use. For prevention of coccidiosis caused by *Eimeria necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, *E. tenella*, and *E. mivati*, including some field strains of *E. tenella* that are more susceptible to roxarsone combined with salinomycin than salinomycin alone; and for improved feed efficiency.

(b) Limitations. For broiler chickens only; do not feed to laying chickens; feed continuously as sole ration; as sole source or organic arsenic; withdraw 5 days before slaughter; not approved for use with pellet binders; may be fatal if accidentally fed to adult turkeys or horses; as roxarsone provided by No. 011801 or 017210 in § 510.600(c) of this chapter; as salinomycin sodium biomass

provided by No. 000031 in § 510.600(c) of this chapter.

2. In § 558.550 by revising paragraph (c) to read as follows:

§ 558.550 Salinomycin.

(c) Conditions of use.—(1) Broilers: It is used as follows:

(i)(a) Amount per ton. Salinomycin 40 to 60 grams.

(b) Indications for use. For the prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*.

(c) Limitations. Feed continuously as sole ration. Do not feed to layers. Not approved for use with pellet binders. May be fatal if accidentally fed to adult turkeys or horses.

(ii)(a) Amount per ton. Salinomycin 40 to 60 grams and roxarsone 45 grams.

(b) Indications for use. For the prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*, including some field strains of *E. tenella* which are more susceptible to roxarsone combined with salinomycin than to salinomycin alone.

(c) Limitations. Feed continuously as sole ration. Use as sole source of organic arsenic. Not approved for use with pellet binders. Do not feed to layers. May be fatal if accidentally fed to adult turkeys or horses. Withdraw 5 days before slaughter. Roxarsone as provided by No. 011801 or 017210 in § 510.600(c) of this chapter.

(2) Salinomycin may be used in accordance with this section in combination as follows:

(i) Bambermycins and roxarsone as in § 558.95.

(ii) [Reserved]

Effective date: December 20, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 12, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

(FR Doc. 83-33626 Filed 12-19-83; 8:45 am)

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PEACE CORPS

22 CFR Part 307

Standards of Conduct

AGENCY: Peace Corps.

ACTION: Final rule.

SUMMARY: The International Security and Development Cooperation Act of 1981 established the Peace Corps as an independent agency within the executive branch. When the Peace

Corps was part of ACTION, it was subject to ACTION's Standards of Conduct, 45 CFR Part 1201. Peace Corps is adopting many of ACTION's regulations with changes as noted in the supplementary information below.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT:

Alexander B. Cook, General Counsel and Legislative Liaison, Peace Corps, 806 Connecticut Avenue, NW., Room M-1207, Washington, D.C. 20526, Telephone 202-254-3114.

SUPPLEMENTARY INFORMATION: The following regulations, setting forth the Peace Corps Standards of Conduct, are adopted from ACTION's Standards of Conduct without substantial changes. Therefore, a notice of proposed rulemaking was not published for these final regulations.

These regulations are not subject to the review requirements of Executive Order 12291 because they relate to agency personnel.

List of Subjects in 22 CFR Part 307

Political activities, (Government employees), Conduct standards, Ethical conduct, Financial disclosure, Government employees, Conflicts of interest.

Title 22, Chapter III, is amended by adding a new Part 307 as follows:

PART 307—PEACE CORPS STANDARDS OF CONDUCT

Subpart A—General

Sec.

307.735-101 Introduction.

307.735-102 Definitions.

Subpart B—General Conduct and Responsibilities of Employees

307.735-201 Proscribed actions—Executive Order 11222.

307.735-202 General conduct prejudicial to the Government.

307.735-203 Criminal statutory prohibitions—Conflict of interest.

Subpart C—Outside Employment, Activities, and Associations.

307.735-301 In general.

307.735-302 Association with potential contractor prior to employment.

307.735-303 Association with Peace Corps contractor or potential contractor while an employee.

307.735-304 Employment after leaving Peace Corps.

307.735-305 Employment with Peace Corps contractor.

307.735-306 Association with Non-Peace Corps contractor while a Peace Corps employee.

307.735-307 Gifts, entertainment, and favors.

307.735-308 Economic and financial activities of employees abroad.

- Sec.
307.735-309 Information.
307.735-310 Speeches and participation in conferences.
307.735-311 Partisan political activity.
307.735-312 Use of government property.
307.735-313 Indebtedness.
307.735-314 Gambling, betting, and lotteries.
307.735-315 Discrimination.
307.735-316 Related statutes and regulations.

Subpart D—Procedures for Submission by Employees and Review of Statements of Employment and Financial Interests

- 307.735-401 Submission of statements.
307.735-402 Review of statements.

Authority: E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR 1964-1965, Supp. 306; 5 CFR 735.

Subpart A—General

§ 307.735-101 Introduction.

(a) Section 735.101 of Title 5 of the Code of Federal Regulations requires each agency head to issue his or her agency regulations regarding the ethical conduct and other responsibilities of all of its employees. One of the main purposes of the regulations in this part is to encourage individuals faced with questions involving subjective judgment to seek counsel and guidance. The Designated Agency Ethics Official (DAEO) and Deputy and Alternate DAEO in the Office of General Counsel and Legislative Liaison are designated to be the counselors for Peace Corps with respect to these matters. They will provide authoritative advice and guidance to any Peace Corps employee, former employee, or potential employee who seeks it.

(b) The Peace Corps Committee on Conflict of Interest will review and monitor the Agency's policies and procedures on conflict of interest. The committee shall consist of the General Counsel, the Associate Director for Management, the Director for Compliance, the Director of Contracts, the Associate Director for International Operations, and the Director's designee, who shall be a nonvoting member. The Designated Agency Ethics Official shall act as advisor to the Committee and shall record the Committee's decisions. The Committee shall have the authority to:

(1) Adopt the procedures necessary to insure the implementation of and compliance with the conflict of interest regulations found at §§ 307.735-301 through 307.735-305.

(2) Issue interpretive opinions or clarifying statements on actual or hypothetical situations involving the provisions of §§ 307.735-301 through 307.735-305.

(3) Accept and review reports filed under § 307.735-302(b).

(4) Grant specific relief from the provisions of §§ 307.735-303 through 307.735-305 by a majority vote of the committee, if after due consideration the committee finds that:

(i) No actual conflict of interest exists, and

(ii) The purpose of the rule would not be served by its strict application, and

(iii) A substantial inequity would otherwise occur. In each such case the committee shall issue a written decision setting forth its findings as required above. The committee may make any exception subject to such conditions and restrictions as it deems appropriate.

(c) Any violation of the regulations in this part may be cause for disciplinary action. Violation of those provisions of the regulations in this part which reflect legal prohibitions may also entail penalties provided by law.

(d) This part applies to all employees of Peace Corps. "Employee" as used in this part includes regular employees, Presidential appointees, "special Government employees," experts and consultants whether employed on a full-time, part-time, or intermittent basis, and Foreign Service National employees (FSNs).

§ 307.735-102 Definitions.

(a) "Special Government employee" as used herein means a person appointed or employed to perform temporary duties for Peace Corps with or without compensation, on a full-time, part-time, or intermittent basis, for not to exceed 130 days during any period of 365 days.

(b) "Regular Government employee" as used herein means any officer or employee other than a Special Government employee.

(c) "Organization" as used herein includes profit and nonprofit corporations, associations, partnerships, trusts, sole proprietorships, foundations, individuals and foreign, State and local government units.

(d) "Potential Contractor" means any organization or individual that has submitted a proposal, application, or otherwise indicated in writing its intent to apply for or seek a specific contract or other agreement.

(e) "Associated with" means:

(1) That the person is a director of the organization or is a member of a board or committee which exercises a recommending or supervisory function in connection with a Peace Corps project;

(2) That the person serves as an employee, officer, owner, trustee, partner, consultant, or paid advisor (general membership in an organization

is not included within the definition of "associated with");

(3) That the person, his or her spouse, minor child, or other member of his or her immediate household, owns, individually or collectively, 1 percent or more of the voting shares of an organization;

(4) That the person, his or her spouse, minor child, or other member of his or her immediate household, owns, individually or collectively, either beneficially or as trustee, a financial interest in an organization through stock, stock options, bonds, or other securities, or obligations, valued at \$50,000 or more; or

(5) That a person has a continuing financial interest in an organization, such as a bona fide pension plan, valued at \$5,000 or more, through an arrangement resulting from prior employment or business or professional association.

The term "associated with" does not include an indirect interest, such as ownership of shares in a mutual fund, bank or insurance company, which in turn owns an interest in an organization which has, or is seeking or is under consideration for a contract or other agreement. Such an "indirect" interest is hereby determined pursuant to 18 U.S.C. 208(b)(2) to be too remote to affect the integrity of the employee's services.

Subpart B—Conduct and Responsibilities of Employees

§ 307.735-201 Proscribed actions—Executive Order 11222.

As provided by the President in Executive Order No. 11222, whether specifically prohibited by law or in the regulations in this part, no U.S. regular or special Government employees shall take any action which might result in, or create the appearance of:

(a) Using public office or employment for private gain, whether for themselves or for another person, particularly one with whom they have family, business, or financial ties.

(b) Giving preferential treatment to any person.

(c) Impeding Government efficiency or economy.

(d) Losing complete independence or impartiality.

(e) Making a Government decision outside official channels.

(f) Affecting adversely the confidence of the public in the integrity of the Government.

(g) Using Government office or employment to coerce a person to provide financial benefit to themselves or to other persons, particularly anyone

with whom they have family, business or financial ties.

§ 307.735-202 General conduct prejudicial to the Government.

An employee may not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct prejudicial to the Government (5 CFR 735.209).

§ 307.735-203 Criminal statutory prohibitions: Conflict of interest.

(a) *Regular Government employees.* Regular employees of the Government are subject to the following major criminal prohibitions:

(1) They may not, except in the discharge of their official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies to both paid and unpaid representation of another (18 U.S.C. 205).

(2) They may not participate in their governmental capacity in any matter in which they, their spouse, minor child, outside business associate, or persons with whom they are negotiating for employment have a financial interest (18 U.S.C. 208).

(3) They may not, after Government employment has ended, represent anyone other than the United States in connection with a particular matter in which the United States is a party or has an interest and in which they participated personally and substantially for the Government (18 U.S.C. 207).

(4) They may not for 2 years after their Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of their official responsibility during their last year of Government service. This temporary restraint gives way to the permanent restraint described in subparagraph (2) of this paragraph if the matter is one in which the employee participated personally and substantially (18 U.S.C. 207).

(5) They may not receive any salary, or supplementation of their Government salary, from a private source as compensation for services to the Government (18 U.S.C. 209).

(b) *Special Government Employees.* Special Government employees are subject to the following major criminal prohibitions:

(1) They may not, except in the discharge of official duties, represent anyone else before a court or Government agency in a matter in which

the United States is a party or has an interest and in which they have at any time participated personally and substantially for the Government (18 U.S.C. 205).

(2) They may not, except in the discharge of official duties, represent anyone else in a matter pending before the agency they serve unless they have served there no more than 60 days during the past 365. They are bound by this restraint despite the fact that the matter is not one in which they have ever participated personally and substantially (18 U.S.C. 205). (See § 307.735-303(b) for additional nonstatutory Agency restrictions on a special employee representing any other person or organization in a matter pending before the Agency.) The restrictions described in subparagraphs (1) and (2) of this paragraph apply to both paid and unpaid representation of another.

(3) They may not participate in their governmental capacity in any matter in which they, their spouse, minor child, outside business associate, or persons with whom they are negotiating for employment have a financial interest (18 U.S.C. 208).

(4) They may not, after their Government employment has ended, represent anyone other than the United States in connection with a particular matter in which the United States is a party or has an interest and in which they participated personally and substantially for the Government (18 U.S.C. 207).

(5) They may not, for 2 years after their Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of their official responsibility during their last year of Government service. This temporary restraint gives way to the permanent restriction described in subparagraph (4) of this paragraph if the matter is one in which they participated personally and substantially (18 U.S.C. 207).

(c) *Senior Employees.* Employees in positions for which the basic rate of pay is specified in subchapter II of Chapter 53 of title 5, United States Code, (Executive Schedule Pay Rates), or a comparable or greater rate of pay under other authority; and employees in positions which involve significant decision-making or supervisory responsibility for which the basic rate of pay is equal to or greater than the basic rate of pay for GS-17, are Senior Employees.

(1) Within 2 years after his or her employment has ceased, no Senior

Employee may knowingly represent or aid, counsel, advise, consult, or assist in representing any other person (except the United States) by personal presence at any formal or informal appearance before:

(i) Any department, agency, or court, or any officer or employee thereof.

(ii) In connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

(iii) In which he or she participated personally and substantially as an officer or employee.

(2) No Senior Employee, other than a special Government employee who serves for less than 60 days in a calendar year, who, within one year after his or her employment has ceased, knowingly acts as an agent or attorney for, or otherwise represents, anyone other than the United States in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of anyone other than the United States, to

(i) The Peace Corps, or any of its officers or employees,

(ii) In connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, or other particular matter, and

(iii) Which is pending before the Peace Corps or in which the Peace Corps has a direct and substantial interest shall be fined not more than \$10,000, or imprisoned for not more than 2 years, or both.

Subpart C—Outside Employment, Activities, and Associations

§ 307.735-301 In general.

(a) There is no general prohibition against Peace Corps employees holding outside employment, including teaching, lecturing, or writing, but no employee may engage in outside employment or associations if they might result in a conflict or an appearance of conflict between the private interests of the employee and his or her official responsibility.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation

for his or her services to the Government (18 U.S.C. 209).

(c) An employee shall not have a direct or indirect financial interest that conflicts substantially with his or her Government duties and responsibilities. Nor may an employee engage in, directly or indirectly, a financial transaction as a result of or primarily relying on information obtained through his or her Government employment.

§ 307.735-302 Association with potential contractor prior to employment.

(a) No employee, or any person subject to his or her supervision, may participate in the decision to award a contract to an organization with which that employee has been associated in the past 2 years. When an employee becomes aware that such an organization is under consideration for or has applied for a contract with the Agency, the employee shall notify his or her immediate supervisor in writing. The supervisor shall take whatever steps are necessary to exclude the employee from all aspects of the decision processes regarding the contract or agreement.

(b) When the Director, Deputy Director, or an Associate Director becomes aware that an organization with which he or she has been associated in the past 2 years is under consideration for or has applied for a contract with the Agency, he or she shall refrain from participating in the decision process and immediately notify the Director of the Office of Compliance, who shall select an independent third party, not in any way connected or associated with the concerned official. The third party shall participate in and review the decision process to the extent he or she deems necessary to insure objectivity and the absence of favoritism. Said third party shall preferably be a person experienced in the area of government contracts. The third party shall file a report in writing with the Committee on Conflict of Interest stating his or her conclusions, observations, or objections, if any, to the decision process concerning the contract or agreement, which document shall be attached to and become a part of the official file.

§ 307.735-303 Association with Peace Corps contractor or potential contractor while an employee.

(a) No regular employee may be associated with any Peace Corps contractor or potential contractor. Any organization that is associated with a regular employee shall be suspended from consideration as a contractor.

(b) No regular or special employee, except in his or her official capacity as a

Peace Corps employee, shall either participate in any way on behalf of any organization in the preparation or development of a contract proposal involving Peace Corps or represent any other organization proposal involving Peace Corps or represent any other organization in a matter pending before Peace Corps. In the event that a regular or special employee participates while an employee of Peace Corps in any aspect of the development of a contract or agreement proposal on behalf of an organization, or represents another organization in a matter pending before Peace Corps, that organization shall be suspended from consideration for the contract or other agreement. If the employee's prohibited participation is discovered after award of the contract, appropriate disciplinary action shall be taken, including, but not limited to, the placement of a letter describing the violation in the employee's official personnel file.

(c) No regular or special employee who, prior to his or her employment at Peace Corps, participated in the development of a contract or other agreement proposal on behalf of another organization, shall participate as a Peace Corps employee in any aspect of the decision process regarding that contract or other agreement, or, if the contract or other agreement is awarded, in any oversight or management capacity in relation to that contract or other agreement. In addition, any such contract or other agreement shall only be awarded through a competitive process. In the event a regular or special employee who participated in the development of the contract or other agreement proposal prior to being employed at Peace Corps does participate as a Peace Corps employee in the decision process for such contract or other agreement, the organization shall be suspended from consideration.

(d) If a special employee participates as an employee of Peace Corps in any aspect of the development of a proposal, whether or not such participation is minimal or substantial, any organization with which he or she is associated shall be suspended from consideration for the contract or other agreement.

(e) If an organization with which a special employee is associated submits a proposal for a contract or other agreement, and the special employee did not participate either as an employee of Peace Corps or an associate of the organization in any aspect of the proposal or the application therefor, the matter shall be referred to the Committee on Conflict of Interest for determination. The Committee shall

consider the following factors and any others it deems relevant:

(1) The nature, length, and origin of the special employee's relationship with the Agency, the nature and scope of the employee's duties and responsibilities, the division or office to which the employee is assigned, and whether the employee's duties are in any way related to the proposed contract or other agreement.

(2) The nature, length, and type of the employee's relationship with the organization, whether the employee's position involves policy making or supervision of other employees and the relationship of the position with the organization to the work to be performed under the proposed contract or other agreement.

(3) Whether awarding the contract or other agreement to the organization would result in the appearance of or the potential for a conflict of interest.

(4) The process to be used in awarding the contract or other agreement.

(f) If a special employee wishes to become or remain associated with a Peace Corps contractor while he or she is an employee of Peace Corps, subject to the restrictions (b) through (e) of § 307.735-303, the matter shall be referred to the Committee on Conflict of Interest for determination. The Committee shall consider the following factors and any others it deems relevant:

(1) The nature, length, and origin of the special employee's relationship with the Agency, the nature and scope of the employee's duties and responsibilities, the division or office to which the employee is assigned, and whether the employee's duties are in any way related to the contract or other agreement.

(2) The nature, length, and type of the employee's relationship with the organization, whether the employee's position involves policymaking or supervision of other employees and the relationship of the position with the organization to the work to be performed under the proposed contract or other agreement.

(3) Whether such a relationship would result in the appearance of or the potential for a conflict of interest.

(g) Any suspension involving proposed contracts under this rule shall be in accordance with procedures set forth in the applicable Federal Procurement Regulations, 41 CFR 1-1.600 *et seq.*

§ 307.735-304 Employment after leaving Peace Corps.

(a) Employees may negotiate for prospective employment with non-Federal Government organizations only when they have no duties as Peace Corps employees which could affect the organization's interest, or after they have disqualified themselves, on the written permission of their supervisor, from such duties.

(b) For 1 year after leaving Peace Corps, no regular or special employee may serve pursuant to a personal or nonpersonal services contract or other agreement or accept employment with a Peace Corps contractor for a position in which he or she would be working in any activity supported in whole or in part by Peace Corps funds received under the Peace Corps program which was within the boundaries of the employee's official responsibility or in which he or she participated personally while employed at Peace Corps.

(c) If, within 1 year after leaving Peace Corps, an individual accepts employment in violation of this rule, Peace Corps will disallow the costs allocated under the contract or other agreement for that position. In addition, a letter describing the violation will be placed in the personnel files of the former employee and the requiring office current or former staff member(s) responsible for issuing an individual personal or nonpersonal services contract.

§ 307.735-305 Employment with Peace Corps contractor.

An employee of a Peace Corps contractor who is compensated directly or indirectly from Peace Corps funds will be ineligible to be compensated under any personal or nonpersonal services contract with this Agency which will result in the employee being paid twice for the same time or product.

§ 307.735-306 Association with non-Peace Corps contractor while a Peace Corps employee.

(a) An employee shall not engage in outside employment which tends to impair the employee's mental or physical capacity to perform his or her official responsibility in an acceptable manner.

(b) *Teaching, lecturing, and writing—*
(1) *Use of information.* An employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his or her Government employment, except when that information has been or on request will be made available to the general public or when the agency head

gives advance written authorization for the use of nonpublic information on the basis that the proposed use is in the public interest.

(2) *Compensation.* No employee may accept compensation or anything of value for any lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the Peace Corps programs or which draws substantially on official data or ideas which have not become part of the body of public information.

(3) *Clearance of publications.* No employee may submit for publication any writing, other than recruiting information, the contents of which are devoted to the Peace Corps programs or to any other matter which might be of official concern to the U.S. Government without in advance clearing the writing with the Director of Public Affairs. Before clearing any such writing, the Director of Public Affairs will consult with the appropriate Peace Corps office.

(c) *State and local government employment.* Regular employees may not hold office or engage in outside employment under a State or local government except with prior approval of the General Counsel, Peace Corps.

(d) All employees not required by § 307.735-401 to report their outside employment and financial interests shall inform their supervisors of all outside paid and unpaid employment they hold or accept.

(e) As authorized by Section 202 of Executive Order 11222, employees in positions classified at the FP-1, GS-15, and above levels may not earn outside income in excess of 15% of their salary in any calendar year.

§ 307.735-307 Gifts, entertainment, and favors.

(a) *From donors dealing with Peace Corps.* (1) No regular or special employees may solicit or accept, directly or indirectly, for themselves, for any member of their family, or for any person with whom they have business or financial ties, any gift, gratuity, favor, entertainment, or loan or any other thing of value, from any individual or organization which:

(i) Has, or is seeking to obtain, contractual or other business or financial relations with Peace Corps;

(ii) Has interests that may be substantially affected by the performance or nonperformance of the employee's official responsibility;

(iii) Is in any way attempting to affect the employee's exercise of his or her official responsibility; or

(iv) Conducts operations or activities that are regulated by Peace Corps.

(2) Subparagraph (1) of this paragraph does not prohibit, even if the donor has dealings with Peace Corps:

(i) Acceptance of things of value from parents, children, or spouse if those relationships rather than the business of the donor is the motivating factor for the gift;

(ii) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of breakfast, luncheon, or dinner meetings or other meetings;

(iii) Solicitation and acceptance of loans from banks or other financial institutions to finance proper and usual activities of employees, such as home mortgage loans, solicited and accepted on customary terms;

(iv) Acceptance on behalf of minor dependents of fellowships, scholarships, or educational loans awarded on the basis of merit and/or need;

(v) Acceptance of awards for meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

(3) Regular or special employees need not return unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other things of nominal intrinsic value.

(b) *From other Peace Corps employees.* No employees in superior official positions may accept any gifts presented as contributions from employees in lower grades. No employees shall solicit contributions from other employees for a gift to an employee in a superior official position, nor shall any employees make a donation as a gift to an employee in a superior official position. However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(c) *From foreign governments.* No regular employee may solicit or, without the consent of the Congress, receive any present, decoration, emolument, pecuniary favor, office, title, or any other gift from any foreign government. See 5 U.S.C. 7342; Executive Order 11320; and 22 CFR Part 3.

(d) *Gifts to Peace Corps.* Gifts to the United States or to Peace Corps may be accepted in accordance with Peace Corps guidelines.

(e) *Reimbursement for expenses.* Neither this section nor § 307.735-310(a) precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as

is compatible with this part and for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his or her behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits. Nor does it allow an employee to receive non-Government reimbursement of travel expenses for travel on official business under Peace Corps orders; but rather, such reimbursement, if any, should be made to Peace Corps and amounts received should be credited to its appropriation. If an employee receives accommodations, goods, or services in kind from a non-Government source, this item or items will be treated as a donation to Peace Corps and an appropriate reduction will be made in per diem or other travel expenses payable.

§ 307.735-308 Economic and financial activities of employees abroad.

(a) Prohibitions in any foreign country. A U.S. citizen employee abroad is specifically prohibited from engaging in the activities listed below in any foreign country:

- (1) Speculation in currency exchange;
- (2) Transactions at exchange rates differing from local legally available rates, unless such transactions are duly authorized in advance by the agency;
- (3) Sales to unauthorized persons whether at cost or for a profit of currency acquired at preferential rates through diplomatic or other restricted arrangements;
- (4) Transactions which entail the use, without official sanction, of the diplomatic pouch;
- (5) Transfers of funds on behalf of blocked nationals, or otherwise in violation of U.S. foreign funds and assets control;
- (6) Independent and unsanctioned private transactions which involve an employee as an individual in violation of applicable control regulations of foreign governments;
- (7) Acting as an intermediary in the transfer of private funds for persons in one country to persons in another country, including the United States;
- (8) Permitting use of one's official title in any private business transactions or in advertisements for business purposes.

(b) Prohibitions in country of assignment. (1) A U.S. citizen employee shall not transact or be interested in any business or engage for profit in any profession or undertake other gainful employment in any country or countries to which he or she is assigned or

detailed in his or her own name or through the agency of any other person.

(2) A U.S. citizen employee shall not invest in real estate or mortgages on properties located in his or her country of assignment. The purchase of a house and land for personal occupancy is not considered a violation of this subparagraph.

(3) A U.S. citizen employee shall not invest money in bonds, shares, or stocks of commercial concerns headquartered in his or her country of assignment or conducting a substantial portion of business in such country. Such investments, if made prior to knowledge of assignment or detail to such country or countries, may be retained during such assignment or detail.

(4) A U.S. citizen employee shall not sell or dispose of personal property, including automobiles, at prices producing profits which result primarily from import privileges derived from his or her official status as an employee for the U.S. Government.

§ 307.735-309 Information.

(a) Release of information to the press.

(1) Regular or special employees shall not withhold information from the press or public unless that information is classified or administratively controlled (limited official use). All responses to requests for information from the press should be referred to the Director of Public Affairs who will be responsible for all releases. Regular and special employees should be certain that information given to the press and public is accurate and complete.

(2) Any questions as to the classification or administrative control of information should be referred to the DAEO.

(3) No regular or special employee may record by electronic or other device any telephone or other conversation, or listen in on any telephone conversation without the consent of all parties thereto.

(b) Disclosure and misuse of inside information. No employee may, directly or indirectly, disclose or use for his or her own benefit, or for the private benefit of another, inside information as described in paragraph (c) of this section. The use of such information by an employee is restricted to the proper performance of his or her official duties. The disclosure of such information is restricted to official Peace Corps channels unless disclosure is authorized by the Director, the Deputy Director, the General Counsel, or an Associate Director of Peace Corps. In particular, no employee may:

(1) Engage in, directly or indirectly, a financial transaction as a result of or primarily relying on such information; or

(2) Publish any book or article, or deliver any speech or lecture, based on or using such information.

(c) *Definition.* The term "inside information" as used in this section means, generally, information obtained under Government authority which is not known by the general public and which could affect the rights or interests of the Government or of a non-Government organization or person. Such information includes information about Peace Corps operations or administration, and personnel which could influence someone's dealing with Peace Corps.

(d) This section is not intended to discourage the disclosure through proper channels of information which has been or should be made public, or which is by law to be made available to the public. Also, employees are encouraged to teach, lecture, and write, provided they do so in accordance with the provisions of this section and §§ 307.735-310 and 307.735-306.

§ 307.735-310 Speeches and participation in conferences.

(a) *Fees and expenses.* (1) Although an employee may not accept a fee for his or her own use or benefit for making a speech, delivering a lecture, or participating in a discussion if the subject is Peace Corps or Peace Corps programs or if such services are part of the employee's official Peace Corps duties, the employee may suggest that the amount otherwise payable as a fee or honorarium be contributed to Peace Corps.

(2) When a meeting, discussion, etc., to which subparagraph (1) of this paragraph refers takes place at a substantial distance from the employee's home, he or she may accept reimbursement for the actual cost of transportation and necessary subsistence, or expenses, but in no case shall he or she receive any amount for personal benefit. Such reimbursements shall be reported by the employee to his or her immediate supervisors.

(3) An employee may accept fees for speeches, etc. dealing with subjects other than Peace Corps or Peace Corps programs when no official funds have been used in connection with his or her appearance and such activities do not interfere with the efficient performance of his or her duties.

(b) *Racial segregation.* No employee may participate for Peace Corps in conferences or speak for Peace Corps before audiences where any racial group

has been segregated or excluded from the meeting, from any of the facilities or conferences, or from membership in the organization sponsoring the conference or meeting.

(1) When a request for Peace Corps speakers or participation is received under circumstances where segregation may be practiced, the Director of Communications shall make specific inquiry as to the practices of the organization before the request is filled.

(2) If the inviting organization shows a willingness to modify its practices, Peace Corps will cooperate in such efforts.

(3) Exceptions to this paragraph may be made only by the Director, Peace Corps and in his or her discretion.

§ 307.735-311 Partisan political activity.

(a) *Prohibited activities.* No employee may:

(1) Use his or her official authority or influence for the purpose of interfering with an election or affecting the result thereof; or

(2) Take any active part in partisan political management or in political campaigns, except as may be provided by or pursuant to statute, 5 U.S.C. 7324.

(b) *Intermittent employees.* Persons employed on an irregular or occasional basis are subject to paragraph (a) of this section only while in active duty status and for the 24 hours of any day of actual employment.

(c) *Excepted activities.* Paragraph (a) of this section does not apply to:

(1) Nonpartisan campaigns and elections in which none of the candidates is to be nominated by or elected as representing a national or State political party, such as most school board elections; or

(2) Political activities connected with questions of public interest which are not specifically identified with national or State political parties, such as constitutional amendments, referenda, and the like (5 U.S.C. 7326).

(d) *Excepted communities.* Paragraph (a) of this section does not apply to employees who are residents of certain communities. These communities, which have been designated by the Office of Personnel Management (5 CFR 733.301), consist of a number of communities in suburban Washington, D.C., and a few communities elsewhere in which a majority of the voters are Government employees. Employees who are residents of the designated communities may be candidates for, or campaign for others who are candidates for, local office if they or the candidates for whom they are campaigning are running as independent candidates. An employee may hold local office only in accordance

with §§ 307.735-301 through 307.735-306 relating to outside employment and associations:

(e) Special Government employees are subject to the statute for the 24 hours of each day on which they do any work for the Government.

(f) While regular employees may explain and support governmental programs that have been enacted into law, in exercising their official responsibilities they should not publicly support or oppose pending legislation, except in testimony required by the Congress.

§ 307.735-312 Use of Government property.

A regular or special employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government for other than officially approved activities. All employees have a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to them. By law, penalty envelopes may be used only for official U.S. Government mail.

§ 307.735-313 Indebtedness.

Peace Corps considers the indebtedness of its employees to be a matter of their own concern and will not function as a collection agency. Nevertheless, a regular or special employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, or one imposed by law such as Federal, State or local taxes, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as his or her employer. In the event of a dispute between an employee and an alleged creditor, this section does not require Peace Corps to determine the validity or amount of the disputed debt.

§ 307.735-314 Gambling, betting, and lotteries.

A regular or special employee shall not participate, while on Government owned or leased property or while on duty for the Government in any gambling activity, including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

§ 307.735-315 Discrimination.

No regular or special employee may make inquiry concerning the race, political affiliation, or religious beliefs of any employee or applicant in connection with any personnel action and may not practice, threaten, or promise any action against or in favor of an employee or applicant for employment because of race, color, religion, sex, age, or national origin and in the competitive service on the basis of politics, marital status, or physical handicap.

§ 307.735-316 Related statutes and regulations.

Each employee should be aware of the following related statutes and regulations:

(a) House Concurrent Resolution 175, 8th Congress, second session, 72A Stat. B12, the "Code of Ethics for Government Service."

(b) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(c) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(d) The prohibition against accepting honoraria of more than \$2,000 per speech, appearance or article or aggregating more than \$25,000 in any calendar year (2 U.S.C. 441i).

(e) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 793, 50 U.S.C. 783), and (2) the disclosure of confidential information (18 U.S.C. 1905).

(f) The provisions relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(g) The prohibition against the misuses of a Government vehicle (31 U.S.C. 638a(c)).

(h) The prohibition against the misuses of the franking privilege (18 U.S.C. 1719).

(i) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(j) The prohibitions against fraud or false statements in a Government matter and filing false claims (18 U.S.C. 1001 and 287).

(k) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(l) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(m) The prohibitions against: (1) Embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the

possession of an employee by reason of his or her employment (18 U.S.C. 654).

(n) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(o) The prohibitions against political activities in subchapter III of chapter 73 of title 5, United States Code, and 18 U.S.C. 602, 603, and 607.

(p) The prohibition against gifts to employee's superiors and the acceptance thereof (5 U.S.C. 7351).

(q) Chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest, which is specifically applicable to special Government employees as well as to regular employees.

(r) The prohibition against accepting gifts from foreign governments (50 U.S.C. 7342).

(s) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(t) The prohibition against appointing or advocating the appointment of a relative to a position within the Agency (5 U.S.C. 3110).

(u) The prohibition against postemployment conflicts of interest (18 U.S.C. 207).

Subpart D—Procedures for Submission by Employees and Review of Statements of Employment and Financial Interests

§ 307.735-401 Submission of statements.

(a)(1) Regulations of the Office of Personnel Management (5 CFR Part 735) require Peace Corps to adopt regulations providing for the submission of statements of employment and financial interests from certain regular employees and all special employees.

(2) All special employees and those regular employees designated in paragraph (b) of this section shall complete statements of employment and financial interests and submit them to the DAEO not later than 5 days after their entrance on duty. The Director of Personnel Management shall be responsible for supplying all new employees with the necessary forms either prior to or on the first day of their initial employment, extensions, or reappointments.

(3) The initial statement of employment and financial interests shall include information on organizations with which the employee was associated during the 2 years prior to his or her employment by Peace Corps, as well as information about current associations. Special employees shall

also indicate to the best of their knowledge which organizations listed currently on their forms have contracts with or are applying for contracts with the Peace Corps. If any information required to be included on the statement, including holdings placed in trust, is not known to an employee but is known to another person, he or she is required to request that other person to submit information on his or her behalf.

(4) Current employees shall file a statement within 30 days of the effective date of these regulations. Thereafter, changes in or additions to the information contained in a regular or special employee's statement must be reported in a supplementary statement as of June 30 each year. The Director of Personnel Management shall be responsible for insuring that such supplementary statements are submitted by June 30. Notwithstanding the filing of the annual report required by this paragraph each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a conflict of interest and a violation of the conflict-of-interest provisions of section 208 of Title 18, United States Code, or the conflict-of-interest provisions of this part.

(5) In the case of temporary summer employees hired at FP-7 or equivalent and below to perform duties other than those of an expert or consultant, the reporting requirement will be waived. It may also be waived by the Director of Personnel Management with respect to other appointments, except as experts or consultants, upon a finding that the duties of the position held by the special Government employee are of a nature and at such a level of responsibility that the reporting of employment and financial interests is not necessary to protect the integrity of the Government.

(6) Regular or special employees are not required to submit in a statement of employment and financial interests or supplementary statements any information about their connection with or interest in a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization not conducted as a business enterprise. For this purpose, any organizations doing work involving or potentially involving contracts with the Government are considered business enterprises and are required to be included in a regular or special employee's statement of employment and financial interests.

(7) The statements of employment and financial interests and supplementary statements required are in addition, and not in substitution for or in derogation

of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or her or any other person to participate in a matter in which his or her or other persons' participation is prohibited by law, order, or regulations.

(8) A regular employee who believes that his or her position has been improperly included under Peace Corps regulations as one requiring the submission of a statement of employment and financial interests shall be given an opportunity for review through Peace Corps' grievance procedures to determine whether the position has been improperly included.

(b) Statements shall be submitted by employees who occupy the following positions which influence or are perceived to influence the planning, design, award, monitoring, and evaluation of Peace Corps procurements of goods and services.

Office of the Director

Director of the Peace Corps
Deputy Director of the Peace Corps
Executive Assistant
Confidential Assistant

Office of Private Sector Development

Director of Private Sector Development
Peace Corps Partnership Specialist

Office of Executive Talent Search

Director, Talent Search

General Counsel

General Counsel
Associate General Counsel
Assistant General Counsel
Legislative Liaison Officer

Office of Public Affairs

Director of Public Affairs
Press Officer

Office of Associate Director Recruitment, Placement, and Staging

Associate Director
Special Assistant
Administrative Officer

Office of Placement

Director of Volunteer Placement

Office of Staging

Supervisory Staging and Orientation Specialist
Cast Coordinator
Program Management Officer

Office of Recruitment

Director of Recruitment
Special Assistant
Supervisory Communications Operations Specialist

Service Centers

Regional Service Center Director
Administrative Officer

Area Volunteer Recruitment Officer**Office of Marketing Research**

Director
Visual Information Officer
Public Information Specialist
Communications Specialist
Audio-Visual Advertising Specialist

Office of Associate Director, International Operations

Associate Director, International Operations
Administrative Officer
Contracts Control Analyst
Supervisory Budget Analyst

Multilateral Programs Section

Program Specialist

Office of Training and Program Support

Director
Chief of Operations
Associate Staff Training Specialist
Water Sanitation Planning Specialist
Agriculture Program Specialist
Associate Agriculture Program Specialist
Fisheries Program Specialist
Health Program Specialist
Associate Health Program Specialist
Coordinator, ICE
Competitive Enterprises Development Specialist
Forestry Resource Management Specialist
Supervisory Energy Program Specialist
Energy Program Specialist
Energy Survey Coordinator
Program Specialist
Training Specialist
Training Management Coordinator
Planning Policy Development Officer
Staff Training Specialist
Employee Development Specialist

Africa Operations

Regional Director
Assistant to Director
Chief of Operations
Country Desk Officer
Training Specialist
Peace Corps Country Director
Deputy Peace Corps Country Director
Special Assistant

Inter-American Operations

Regional Director
Chief of Operations
Program Specialist
Peace Corps Country Director
Deputy Peace Corps Country Director
Country Desk Officer
Administrative Liaison
Special Assistant
Training Specialist

NANEAP Operations

Regional Director
Special Assistant
Chief of Operations
Administrative Liaison
Program Specialist
Training Specialist
Peace Corps Country Director
Peace Corps Deputy Country Director
Country Desk Officer

Office of Associate Director Management

Associate Director for Management

Labor Relations Specialist
Director of Planning Evaluation
Administrative Services Specialist
Administrative Officer

Office of Special Services

Special Services Director
Deputy Director of Special Services

Office of Compliance

Compliance Office Director
Investigator
Supervisory Inspector
Auditor
Equal Employment Manager

Office of Planning, Assessment and Management Information

Planning Policy Development Officer
Program Analysis Officer
Supervisory Management Analyst
Management Analyst
Computer Programmer Analyst
Evaluation Specialist

Office of Personnel

Director of Personnel

Personnel Operations Division

Supervisory Personnel Staffing Specialist
Personnel Security Officer
Personnel Security Specialist
Employee Relations Specialist
Employee Development Specialist

Office of Financial Management

Financial Manager
Director of Budget Division
Supervisory Budget Analyst
Accounting Officer
Supervisory Operating Accountant
Systems Accountant
Certifying Officer
Contracts Director
Contracts Negotiator
Contracts Administrator
Purchasing Agent

Administrative Services Office

Administrative Services Officer
Administrative Assistant
Supervisory Computer Specialist
Director of General Services
Supervisory Management Analyst
Management Analyst
Supervisory Communications Specialist
Planning Evaluation Specialist
Traffic Manager
Chief Librarian

Office of Medical Services

Health Services Officer
Medical Officer
Supervisory Occupational Health Nurse
Supervisory Health Benefits Analyst

§ 307.735-402 Review of statements.

(a) The DAEO shall review all statements and forward the names of all listed organizations to the Director of Contracts. In addition, if the information provided in the statement indicates on its face a real, apparent, or potential conflict of interest under §§ 307.735.301 through 307.735-305 of these standards, the DAEO will review the situation with

the particular employee. If the DAEO and the employee are unable to resolve the conflict to the DAEO's satisfaction, or if the employee wishes to request an exception to any of the above enumerated rules, the case will be referred to the Committee on Conflict of Interest. The Committee is authorized to recommend appropriate remedial action to the Director, who is authorized to take such action as may include, but is not limited to, changing assigned duties, requiring the employee or special employee to divest himself of a conflicting interest, taking disciplinary action, or disqualifying or accepting the self-disqualification of the employee or special employee for a particular assignment.

(b) The Contracts Division shall maintain a list of all the organizations with which employees are or have been associated, as well as a list of all current contractors with the Agency. The list of organizations shall include the names of all employees associated with the identified organizations. When names of organizations with which new employees are or have been associated are submitted to the Contracts Office, they shall be checked against the list of current contractors. Similarly, before any new contracts are awarded, the names of the potential contractors will be checked against the master list of organizations with which employees are or have been associated. Any real, apparent, or potential conflicts which come to light as a result of these cross checks will be referred to the DAEO for review. The DAEO will proceed as in paragraph (a) of this section, referring the matter to the Committee on Conflict of Interest if necessary.

(c) Whenever an organization submits a proposal or application or otherwise indicates in writing its intent to apply for or seek a specific contract, the Peace Corps Contracts Division shall immediately forward a copy of the relevant sections of the Agency standards of conduct to that organization.

(d) Whenever a regular or special employee terminates his or her employment with Peace Corps, the Office of Personnel Management shall provide that employee with a copy of the rule which restricts a person's employment for a period of 1 year after leaving Peace Corps. Personnel shall also notify the DAEO when an employee terminates. One year after the date of termination the DAEO will instruct the Contracts Office to remove from the master list any organizations with which the terminated employee was associated unless other current employees are

associated with those organizations. Three years after the date of termination the DAEO will destroy the statement of employment and financial interests. [E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR 1964-1965, Supp. 306; 5 CFR Part 735.]

Signed at Washington, D.C. on December 13, 1983.

Loret Miller Ruppe,
Director, Peace Corps.

[FR Doc. 83-33496 Filed 12-19-83; 8:45 am]

BILLING CODE 6051-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 630

[FHWA Docket No. 83-21]

Advance Construction of Federal-Aid Projects; Revision

Correction

In FR Doc. 83-32635 beginning on page 54972 in the issue of Thursday, December 8, 1983, make the following correction:

In § 630.706, on page 54975, first column, at the bottom of the page, in the footnote, "23 CFR Part 30" should have read "23 CFR Part 630".

BILLING CODE 1505-01-M

POSTAL SERVICE

39 CFR Part 233

Inspection Service Authority; Mail Covers

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service adopts its proposal to permit postal inspectors to make the decision to record, and to use in criminal investigations and prosecutions, the information found on the covers of the mail matter reasonably believed to be the evidence of a postal crime such as mail theft, embezzlement, or depredation. The amendment eliminates the regulatory requirement in such cases to apply for and obtain a mail cover order to record such information for investigatory purposes without the consent of the sender or addressee of each stolen, rifled, embezzled, or damaged mail article. Experience has shown that the issuance of a mail cover order in these cases is clearly justified and virtually automatic.

EFFECTIVE DATE: January 20, 1983.

FOR FURTHER INFORMATION CONTACT: Charles R. Braun at (202) 245-4620.

SUPPLEMENTARY INFORMATION: The proposal was published for comment in the Federal Register on Monday, September 12, 1983, accompanied by an explanation of the reasons proposed for adopting the proposal (48 FR 40910). The Postal Service received no written comments concerning the proposal, and hereby adopts, without substantive change, the following amendment of 39 CFR. The amendment differs from the proposal only in that it embodies the following three nonsubstantive corrections: (1) The unnecessary hyphen in § 233.3(f)(2) between the word "post" and the word "office" has been deleted; (2) the unnecessary close parenthesis following the second use of the word "such" in § 233.3(f)(2) has been deleted; and, (3) the word "shall" in the amendment of § 233.3(g)(3) has been changed to the word "may" so that the provision begins: "Under no circumstances may a postmaster or postal employee* * *."

List of Subjects in 39 CFR Part 233

Crime.

Accordingly, 39 CFR Part 233 is hereby amended as follows:

PART 233—INSPECTION SERVICE AUTHORITY

In § 233.3, redesignate paragraphs (f), (g), (h), and (i) as paragraphs (g), (h), (i), and (j), respectively, add a new paragraph (f), and revise the second sentence of paragraph (g)(3) as redesignated as follows:

§ 233.3 Mail covers.

(f) A postal inspector, or a postal employee acting at the direction of a postal inspector, may record or copy the information appearing on the envelope or outer wrapping of mail, without obtaining a mail cover order, only under the following circumstances:

(1) The purpose must be to obtain evidence of a mail theft or embezzlement, or a depredation against the postal system or mail matter, constituting the commission or attempted commission of a postal crime; and,

(2) The mail must be either (i) undelivered mail found in the possession of a person reasonably believed to have stolen or embezzled such mail; or, (ii) damaged or rifled undelivered mail reasonably believed to be evidence of a postal crime against the security of the postal system (such as a post office break-in) or evidence of a

postal crime against the security of mail matter (such as mail theft).

(g) Limitations. * * *

(3) * * * Under no circumstances may a postmaster or postal employee furnish information as defined in § 233.3(c)(1) to any person, except as authorized by a mail cover order issued by the Chief Postal Inspector or a Postal Inspector in Charge or their designees, or as directed by a postal inspector only under the circumstances described in § 233.3(f).

(39 U.S.C. 401, 403, 404, 410, 411)

W. Allen Sanders,

Associate General Counsel, Office of General Law & Administration.

[FR Doc. 83-33667 Filed 12-19-83; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2492-3]

Air Programs; Approval and Promulgation of Implementation Plans; California 1982 Ozone and CO Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: This notice approves California's 1982 ozone (O₃) and carbon monoxide (CO) State Implementation Plan (SIP) revisions for the following areas: North Central Coast Air Basin (O₃); San Joaquin County (O₃ and CO); Santa Barbara County (O₃); and Stanislaus County (O₃). This action incorporates these revisions into the SIP, thereby revising the control strategy for attaining the O₃ and CO standards in these areas by December 31, 1987. This notice also takes final action removing conditions of approval of the 1979 O₃ and CO SIP revisions for San Joaquin County (O₃ and CO), Santa Barbara County (O₃) and Stanislaus County (O₃).

EFFECTIVE DATE: January 19, 1984

ADDRESS: A copy of today's revision to the California SIP is located at: The Office of Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Director, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: Wallace Woo (415) 974-7634.

SUPPLEMENTARY INFORMATION: This portion of the notice is divided into five sections. The **Background** section briefly summarizes the proposed actions on these plan revisions and discusses EPA's parallel processing rulemaking procedure. The **Supplementary Revisions** section discusses EPA's evaluation of any pertinent SIP revisions submitted to EPA after the proposed rulemaking notice. The **Public Comments** section describes public comment on the proposed rulemaking notice and contains EPA's response on substantive issues. The section on "EPA ACTIONS" details EPA's final actions on the plans. The **Regulatory Process** section contains procedures for judicial review of this action.

Background

On February 3, 1983 [48 FR 5074] EPA proposed to approve or disapprove the 1982 O₃ and CO SIP revisions for the State of California. The proposal notice identified eleven areas of the State for which draft SIP plan revisions had been received by EPA. This notice addresses four of those eleven areas, namely: the North Central Coast Air Basin, San Joaquin County, Santa Barbara County, and Stanislaus County. Final actions on the remaining seven areas will be addressed in separate **Federal Register** actions.

A correction notice which noted an error in the "Proposed Actions" section of the February 3, 1983 proposal notice was published on April 18, 1983 [48 FR 16508].

For each of the four areas addressed in this notice, EPA proposed to approve the 1982 SIP revisions. For two of the areas, the proposed approval was conditioned upon correction of the following deficiencies prior to final rulemaking:

Santa Barbara County—The attainment demonstration was not based on an adequate modeling analysis, since the tidelands portion of the inventory was excluded.

Stanislaus County—The emission inventory may not have been adequate to support the attainment demonstration, and the plan lacked documentation for the stationary source emission reduction estimates.

These deficiencies along with other minor deficiencies in each of the five plans were discussed in detail in Chapters V, VIII, IX, and XI of the Technical Support Document (TSD) for the 1982 California O₃ and CO SIP revisions.

The TSD also noted outstanding conditions to correct deficiencies in the 1979 O₃ and CO SIP revisions for these four areas. All four areas were required

to revise their New Source Review (NSR) rules to satisfy the requirements of Section 172(b)(6) of the Clean Air Act (CAA). The Santa Barbara O₃ plan did not adequately address the required stationary source control regulations for two Volatile Organic Compound (VOC) source categories addressed by a Control Techniques Guideline document. Since satisfaction of these outstanding conditions is a requirement for overall plan approval they are discussed in the **Supplementary Revisions and Public Comments** sections of this notice.

The February 3, 1983 notice also proposed to remove outstanding conditions on the 1979 SIP revisions including: (1) The condition related to a VOC rule deficiency in the Stanislaus County plan; and (2) the condition requiring schedules and commitments for the transportation control measures (TCM) in the San Joaquin County plan. EPA did not receive any adverse comments regarding these proposed actions.

EPA's February 3, 1983 proposed rulemaking for California's 1982 O₃ and CO plan revisions was based on the review of plans which had not been formally submitted as SIP revisions and which are termed here as draft plans. By processing the draft 1982 SIP revisions concurrently with State and local level action to adopt and submit the final SIPs, EPA intended to expedite the rulemaking process. Final action on the final 1982 SIPs submitted to EPA after the proposed rulemaking was made contingent upon the final plans being substantively the same as the draft plans, except where remedies to deficiencies noted in the proposal notice were included in the final plan.

The February 3, 1983 notice of proposed rulemaking provided for a 45 day comment period ending on March 21, 1983. On March 21, 1983 EPA extended the public comment period an additional 45 days to May 5, 1983 for plans proposed to be disapproved [see 48 FR 11725]. On April 8, 1983 [48 FR 15273] EPA also extended the comment period to May 5, 1983 for the 1982 California SIP revisions proposed for approval, which included the four plans which are the subject of this notice.

Supplementary Revisions

The final 1982 O₃ and CO nonattainment area plans for these four areas were submitted to EPA by the California Air Resources Board (ARB) on the following dates: (1) The North Central Coast Air Basin plan was submitted on December 31, 1982 and minor corrections were submitted on January 14, 1983; (2) the San Joaquin

County plan was submitted on December 1, 1982; (3) the Santa Barbara County plan was submitted on December 31, 1982; and (4) the Stanislaus County plan was submitted on December 1, 1982. The final plans were substantively identical to the draft plans which were reviewed for the February 3, 1983 proposal notice, except for certain changes to correct deficiencies noted in the TSD. The TSD noted both major and minor deficiencies in the 1982 SIP revisions, and the major deficiencies were noted in the proposal notice. In support of this final rulemaking action, EPA has prepared an addendum to the TSD for these four areas which notes changes between the draft and final plans and evaluates these changes relative to the requirements for 1982 O₃ and CO SIP revisions. EPA's evaluation of the final plans is summarized below.

North Central Coast Air Basin—The draft plan reviewed by EPA had no major deficiencies. The final plan was substantively the same as the draft plan, except for a few minor revisions, some of which involve minor deficiencies cited by EPA in the TSD. EPA finds the minor revisions to be acceptable; a more detailed discussion is contained in the TSD addendum.

San Joaquin County—The draft plan reviewed by EPA had no major deficiencies, but did have minor deficiencies in the VOC emission inventory and conformity procedures elements of the plan. The final plan was substantively the same as the draft plan. While the two minor deficiencies were not corrected in the final plan, they were addressed in the public comments on the plan as discussed in the next section of this notice.

Santa Barbara County—The final plan was substantively the same as the draft plan except for one change which was made to address a minor deficiency in the emission inventory which was cited by EPA in the TSD. EPA's evaluation of this change is contained in the TSD addendum. EPA finds that this revised portion of the plan is approvable and adequately addresses the minor deficiency in the emission inventory.

Stanislaus County—The final plan was substantively the same except for changes which address deficiencies cited by EPA in the TSD. The final plan addresses the two major deficiencies identified by EPA which required (1) a discussion of, and documentation for, the relationship between different inventories in the plan and (2) documentation for the stationary source emission reduction estimates. The additional documentation included in

the final plan is approvable and adequately addresses the two major deficiencies. A detailed evaluation of these changes is contained in the TSD addendum.

NSR Rules—EPA has received a revised NSR rule for the North Central Coast Air Basin (Rule 207 submitted on December 29, 1982). In addition, a revised NSR rule has been adopted by Stanislaus County, but the rule has not as yet been submitted to EPA by the State. EPA believes these rules will fully satisfy the requirements for NSR regulations, and EPA will propose action on these rules in separate **Federal Register** actions. Upon final approval of these rules, EPA will remove the outstanding conditions of approval for the 1979 O₃ SIP revisions related to New Source Review. Revised NSR rules have not been adopted for San Joaquin County or Santa Barbara County. While Santa Barbara and San Joaquin County are making progress toward the adoption of NSR rules, they have not as yet fulfilled the outstanding condition of approval. EPA will take action to address these remaining deficiencies in the San Joaquin and Santa Barbara SIPs in separate **Federal Register** actions.

Public Comments

EPA received fourteen comments which address one or more of these four 1982 SIP revisions. EPA has prepared responses to these comments as part of the support document for this rulemaking. The detailed Response to Comments for each of the four areas is incorporated by reference as part of this final rulemaking notice. The following is a summary of the comments and EPA's response to substantive issues which relate to EPA's proposed actions on these four plans.

North Central Coast Air Basin—Comments were received from the Monterey Bay Unified Air Pollution Control District (MBUAPCD) and the ARB. The MBUAPCD noted a clerical error in the Proposed Actions section of the February 3, 1983 notice, which EPA corrected in the April 18, 1983 **Federal Register** (48 FR 16508). The MBUAPCD and ARB also provided comments addressing the minor deficiencies noted in the TSD regarding (1) the VOC emission inventory, (2) selection of a design day, (3) the emission reduction monitoring program and (4) conformity procedures. As discussed in detail in the Response to Comments portion of the support document, EPA agrees that the comments adequately address the minor deficiencies noted in the TSD on the draft plan.

San Joaquin County—Comments were received from the San Joaquin County

Board of Supervisors, the ARB and the Western Oil and Gas Association (WOGA). The comments addressed minor deficiencies in the emission inventory, the procedures to ensure conformity with the SIP, and concern over the CO nonattainment area boundaries. EPA's response, as detailed in the Response to Comments document, concluded that: (1) The minor deficiencies in the emission inventory were adequately addressed by the ARB, (2) there is still a need to further describe the administrative and technical procedures for ensuring conformity with the SIP, and (3) any redesignation of the CO nonattainment area boundary will be addressed in a separate **Federal Register** action.

Santa Barbara County—Comments were received from the ARB, WOGA, the County of Santa Barbara Department of Regional Programs (the County), the City of Santa Barbara and the County Board of Supervisors.

The one major deficiency noted in the TSD was the fact that the tidelands portion of the inventory was not included in the modeling analysis. The County addressed this deficiency by submitting a revised modeling analysis which did include emissions from the tidelands area. EPA agrees with the County and ARB that the demonstration of attainment included in the final plan would not have been significantly different had the tidelands area been included. EPA no longer considers this to be a major deficiency. However, future ozone plan updates should include tidelands emissions as well as outer continental shelf emissions, where appropriate.

The County commented on the outstanding conditions of approval regarding VOC regulations for petroleum refinery valves and flanges and cutback asphalt. The County certified that there are no petroleum refineries which are major sources for VOC in the nonattainment area. Based on the County's certification, the condition of plan approval related to petroleum refinery valves and flanges will be removed as part of today's rulemaking action. The County also submitted a draft cutback asphalt regulation which would satisfy the other outstanding condition related to VOC regulations. EPA will take action to remove the outstanding condition once an approvable cutback asphalt regulation is adopted, submitted and approved for inclusion in the SIP.

The County commented that the local Air Pollution Control District was working to revise their NSR rule. As stated earlier, EPA will take action to

address this remaining deficiency in a separate **Federal Register** action.

WOGA expressed concern over the O₃ nonattainment area boundary designation. EPA will address any redesignation of the boundary in a separate **Federal Register** action.

Comments were also received which addressed minor deficiencies in the plan regarding (1) the lack of a perchloroethylene drycleaning rule, (2) the lack of a discussion of the TCMs, (3) the emissions growth allowance, and (4) the VOC emission inventory. Based on the comments received, EPA no longer considers the 1982 nonattainment area plan to be deficient in these areas. A detailed discussion of these issues is included in the Response to Comments portion of the support document.

Stanislaus County—Comments were received from the ARB and the Stanislaus Area Association of Governments. The commentators pointed out that the final plan had been amended to address the two major deficiencies as discussed in the **Supplementary Revisions** section of this notice. In addition, the comments addressed EPA's claim that the plan contained minor deficiencies in its evaluation and monitoring of TCM effectiveness. As discussed in detail in the Response to Comments portion of the support document, EPA agrees that the plan adequately addresses these requirements.

EPA Actions

Based on EPA's review of the draft and final 1982 O₃ and CO SIP revisions and consideration of public comments, EPA takes final action approving the following plans under Part D of the CAA and incorporating them into the California SIP under Section 110 of the CAA:

1. North Central Coast Air Basin O₃ Plan submitted on December 31, 1982 and January 14, 1983.

2. San Joaquin County O₃ and CO Plans submitted on December 1, 1982.

3. Santa Barbara County O₃ Plan submitted on December 31, 1982.

4. Stanislaus County O₃ Plan submitted on December 1, 1982.

EPA also takes final action to rescind the following conditions of approval for the 1979 O₃ and CO plans as set forth in 40 CFR 52.232:

Stanislaus County

—VOC rule for floating roof tanks

San Joaquin County

—TCM commitments

Santa Barbara County

—VOC rule for refinery valves and flanges

This notice also amends 40 CFR 52.238 to reflect the revised attainment date of December 31, 1987 for the ozone standard in the North Central Coast Intrastate Air Quality Control Region. While EPA had granted an extension of the attainment date to December 31, 1987 for ozone, this revised date was not reflected in 40 CFR 52.238, "Attainment dates for national standards."

Regulatory Process

This action is effective (January 19, 1984.). Under the CAA, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (February 21, 1984.). This action may not be challenged later in procedures to enforce its requirements.

The Administrator has certified that SIP actions do not have a significant economic impact on a substantial number of small entities (see 48 FR 8709). The Office of Management and Budget has exempted this rulemaking from the requirements of Section 3 of Executive Order 12291.

Authority: Sections 120, 129, 171-178 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7410, 7429, 7501 to 7508 and 7601(a)].

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter Ozone, Sulfur oxide, Nitrogen oxides, Hydrocarbons, Carbon monoxide, Incorporation by reference.

Dated: December 12, 1983.

Note.—Incorporation by reference for the State of California was approved by the Director of The Federal Register in July 1, 1982.

William D. Ruckelshaus,
Administrator.

PART 52—[AMENDED]

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(128), (129), and (130) as follows:

§ 52.220 Identification of plan.

(c) * * *

(128) The 1982 Ozone Air Quality Plan for the Monterey Bay Region was submitted on December 31, 1982 and January 14, 1983 by the Governor's designee.

(129) The 1982 Ozone Air Quality Plan for Stanislaus County and the 1982

Ozone and CO plan for San Joaquin County were submitted on December 1, 1982 by the Governor's designee.

(130) The 1982 Ozone Air Quality Plan for Santa Barbara County was submitted on December 31, 1982 by the Governor's designee.

2. Section 52.232 is amended by removing and reserving paragraphs (a)(9)(iii) and (a)(10)(iii), and revising paragraph (a)(10)(ii)(A) as follows:

§ 52.232 Part D Conditional Approvals.

- (a) * * *
- (9) * * *
- (iii) [Reserved]
- (10) * * *
- (ii) * * *

(A) For the APCDs indicated below, by September 7, 1982, the State must either (1) provide an adequate demonstration that the following regulations represent RACT, (2) amend the regulations so that they are consistent with the CTG, or (3)

demonstrate that the regulations will result in VOC emission reductions which are within 5% of the reductions which would be achieved through the implementation of the CTG recommendations.

Madera County APCD

Rule 411, "Storage of Petroleum Distillates and Light Crude Oil."

Merced County APCD

Rule 409.3, "Organic Solvent Degreasing Operations."

Tulare County APCD

Rule 410.3, "Organic Solvent Degreasing Operations."

(iii) [Reserved]

3. In § 52.238 the "North Central Coast Intrastate" line in the table is revised to read as follows:

§ 52.238 Attainment dates for national standards.

Air quality control region and nonattainment area	Pollutants					
	TSP		SO ₂		NO	CO
	Primary	Secondary	Primary	Secondary		
North Central Coast Intrastate	(e)	(e)	(e)	(e)	(e)	May 31, 1977.

[FR Doc. 83-33502 Filed 12-19-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[A-2-FRL 2492-5]

Air Programs; Connecticut Revision—Sulfur-in-Fuel Regulations Loomis Institute

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut under its Sulfur Energy Trade (SET) program. The intended effect of the rulemaking is to promulgate a change in the sulfur-in-oil SIP limit for Loomis Institute, in Windsor, Connecticut, so Loomis may burn 2.0% sulfur oil under restricted operating conditions.

EFFECTIVE DATE: December 20, 1983.

ADDRESSES: Copies of the Connecticut submittal and the EPA evaluation memorandum are available for public inspection during normal business hours at the Environmental Protection Agency,

Room 2313, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460; Office of the Federal Register, 1100 L St., NW., Room 9401, Washington, D.C.; and the Connecticut Department of Environmental Protection, Air Compliance Unit, State Office Building, Hartford, Connecticut 06106.

FOR FURTHER INFORMATION CONTACT: Sarah Simon, Air Management Division, Room 2312, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-0437.

SUPPLEMENTARY INFORMATION: The Connecticut Department of Environmental Protection (DEP) has requested approval of a sulfur-in-oil relaxation for Loomis Institute in Windsor, Connecticut. The State's revision is based on an approval under its Sulfur Energy Trade (SET) Program. The revision will allow Loomis to burn oil containing 2.0% sulfur under specified operating conditions, which include hourly and daily oil use limits. This SET revision will result in a net decrease in allowable emissions of 71 tons of sulfur dioxide (SO₂) per year.

As detailed in the SIP, the SET program provides a method for calculating a new, allowable sulfur limit each year based on oil conservation at the facility (premise) and establishes a well-defined procedure to ensure that these limits comply with Clean Air Act requirements. EPA proposed approval of the generic SET program procedures on May 1, 1981 (46 FR 24597). At that time, we also proposed to approve revised sulfur-in-oil limitations for all Connecticut sources under 250 million British Thermal Units per hour (MBTU/hr.) that would later be approved by the DEP Commissioner under the SET program. EPA approved the SET program on August 28, 1981 (46 FR 43418), and set up an expedited procedure for final federal approval of the individual revisions for these smaller sources. EPA also approved a regulation directly governing the SET program (Connecticut Regulation 19-508-19(a)(3)(i)) on November 18, 1981 (46 FR 56612). Under the approved procedures referenced above, EPA's action today is the Final Rulemaking for the Loomis revision.

The DEP reviewed the impacts of this Loomis revision by using the conservative, screening analysis methodology detailed in the Connecticut Ambient Impact Analysis Guideline (approved at 46 FR 43418, August 28, 1981). This modeling analysis indicated that the revision will not cause any violation of the sulfur dioxide or total suspended particulate (TSP) National Ambient Air Quality Standards (NAAQS). In addition, the source is at least 22 kilometers (km.) from any state border or Prevention of Significant Deterioration (PSD) baseline area and has minimal impact beyond 8 km. Thus, the revision will not violate or prevent maintenance of the NAAQS in any neighboring states. EPA has determined that the revision will not violate any PSD increments.

The DEP has complied with all procedures required by the state SIP and has determined what sulfur limit is allowable under the SET program. The public has had full opportunity to review the DEP action for this source because the DEP has notified the public of the Loomis application and DEP's proposed decision. No comments were received by the DEP on this SET action. DEP has submitted the documents and determinations required by the SET program and federal SIP approval. EPA concurs in the State's assessment that this revision is an enforceable SIP revision that will not violate NAAQS or other federal requirements.

Final action: EPA is approving the Loomis revision, which raises the Loomis sulfur-in-oil limit to 2.0 percent and restricts operating conditions, submitted on March 30 and July 13, 1983.

EPA finds good cause for making this action effective immediately, because the new sulfur limit is already in effect under state law and imposes no additional regulatory burden.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court for the appropriate circuit by February 21, 1984. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, ozone, sulfur oxides, nitrogen dioxide, lead, particulate matter, carbon monoxide, hydrocarbons, inter-governmental relations, incorporation by reference.

Note.—Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 12, 1983.

William D. Ruckelshaus,
Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart H—Connecticut

1. Section 52.370 is amended by adding paragraph (c)(30) as follows:

Section 52.370	Identification of Plan
(c) The plan revisions listed below were submitted on the dates specified.	

(30) Revision for Loomis Institute in Windsor, submitted by the Commissioner of the Connecticut Department of Environmental Protection on March 30 and July 13, 1983, allowing the facility to burn 2.0 percent sulfur oil under the Sulfur Energy Trade Program.

(Secs. 110 and 319 of the Clean Air Act, as amended (42 U.S.C. 7410, 7619))
[FR Doc. 83-33658 Filed 12-19-83; 8:45 am]

BILLING CODE 5560-50-M

40 CFR Part 81

[A-FRL 2320-4]

Air Programs; Designation of Areas for Air Quality Planning Purposes; Maine TSP Redesignations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is redesignating the Town of Lincoln, Maine, non-attainment for the primary and secondary total suspended particulate (TSP) National Ambient Air Quality Standards (NAAQS). This action, requested by the State of Maine, is required because the primary and secondary 24 hours TSP standards have been consistently exceeded. The state of Maine will take various actions to require that emissions in the area be reduced so that it will be brought into attainment.

EFFECTIVE DATE: December 20, 1983.

ADDRESSES: Copies of the submittal, comments and other relevant materials are available for public inspection in Room 2312, JFK Federal Building, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: Peter Hagerty, Air Management Division, EPA Region I, Room 2312, JFK Federal Building, Boston, Massachusetts, 02203. (617) 223-5625.

SUPPLEMENTARY INFORMATION: On September 3, 1982 EPA published a Notice of Proposed Rulemaking (NPR) for Redesignation of Lincoln, Maine to nonattainment for primary and secondary TSP standards (47 FR 38922). EPA's proposed action was based on a State submittal dated September 22, 1981, which was included as part of the publicly available rulemaking record. The basis for this redesignation is State collected data showing seventy-six violations of the 24-hour secondary TSP standard at five monitoring locations and ten violations of the primary 24-hour standard at three locations.

One letter of comment was received on the NPR. The commenter stated that: (1) The Katahdin Avenue Field and Yost property sites, which show the majority of the violations of the primary standard, are on Lincoln Pulp and Paper Company property and, therefore, do not represent "ambient air"; (2) The Katahdin Avenue Field and Yost monitors were improperly sited so that they were unduly influenced by reentrained road dust; (3) Maine recently updated its quality assurance procedures pertaining to air quality data and the redesignation data, which were collected before the new procedures

were instituted, should be disregarded; (4) The Lincoln Pulp and Paper Company is in the process of completing an emission reduction plan and the data do not reflect current air quality; and (5) The State's action is procedurally deficient because it did not make a report on health, environmental, economic, social and energy impacts of the proposed redesignation available prior to the public hearing.

As to the first comment whether the monitors at the Katahdin Avenue Field and Yost property sites are representative of "ambient air", EPA has defined "ambient air" as "that portion of the atmosphere, external to buildings, to which the general public has access." 40 CFR 50.1(e)(1982). As a matter of EPA policy, the only exemption is for air immediately above land owned and controlled by a source and to which public access is precluded. Both the Katahdin Avenue Field and Yost monitoring sites were on land that is not used for normal plant operations and to which the public has access. Thus, the monitoring data from both these sites is representative of "ambient air". In any event, at the time the data presented were monitored the Yost property was not owned by the Lincoln Pulp and Paper Company. In addition, data from a third site, the Lincoln Post Office, show a violation of the primary 24-hour standard as well as numerous violations of the secondary 24-hour standard.

As to the second comment whether the Katahdin Avenue Field and Yost property site monitors were improperly sited so that they were unduly influenced by reentrained road dust, the two sites were evaluated by the State of Maine and found to meet EPA siting criteria (40 CFR Part 58, App. E). As was made clear by State personnel responsible for the ambient air monitoring program in Lincoln, all data included in the DEP's report "Air Quality Analysis for Lincoln, Maine" (undated) were from sampling sites that met State and federal siting requirements. See Transcript of Public Hearing, *In Re: Designation of Lincoln As Non-Attainment for Total Suspended Particulates*, pps. 17-19 (Dec. 3, 1980).

The third comment concerns the fact that the State has recently updated its quality assurance procedures pertaining to air quality data, and the assertion that the data collected before the new procedures were instituted should be disregarded. It is EPA's position that so long as the data were collected in accordance with the quality assurance procedures applicable at the time of the air monitoring program, it is acceptable.

The fourth comment concerns the fact that the Lincoln Pulp and Paper Company is in the process of completing an emission reduction plan and the commentor's view that, therefore, the data do not reflect current air quality. It is EPA's position that air quality designations are based on data reflective of air quality levels not on whether emission reduction efforts have been undertaken since the data were collected. The emission reduction efforts started by the company may be helpful in reducing particulate levels in the area and can be included in the State's SIP revisions. But the fact that such efforts have been started does not bar redesignation of the area based on available air quality data.

The final comment concerns alleged procedural deficiencies in the State's redesignation action. Unlike Sections 110 and 172 of the Act, which require states to hold hearings and to follow certain other procedures before adopting state implementation plans, Section 107(d) of the Act does not specify procedural requirements for the states. Nor is EPA required to consider questions concerning state regulatory procedures in reviewing designation actions under the Act. See *Western Oil & Gas Association v. EPA*, 633 F.2d 803, 813-14 (9th Cir. 1980).

Action

EPA is redesignating Lincoln, Maine as nonattainment for primary and secondary TSP standards.

In a recent letter to EPA, the Maine Department of Environmental Protection indicated that in its opinion Lincoln should not be redesignated nonattainment for the primary TSP standard, but only the secondary TSP standard, and withdrew the State's request for redesignation. (Letter from Henry E. Warren, Commissioner of the Maine DEP, to Lee Verstandig, Acting Administrator of EPA, dated April 7, 1983.) It is EPA's view that the data support redesignation of Lincoln, Maine to nonattainment for both the primary and secondary TSP standards. This position is also supported by recent monitoring data analyzed by EPA that show continuing exceedences of both the primary and secondary TSP standards in Lincoln.

EPA has the authority pursuant to Section 107 of the Act to redesignate an area even if a state, as in this case, has withdrawn its request for redesignation. See 40 CFR 81.300 (1982).

The State of Maine has one year from the date of this final action to develop a Part D plan pursuant to Sections 171-77 of the Clean Air Act, 42 U.S.C. 171-77. To obtain EPA approval, the plan must

provide for attainment as expeditiously as practicable, but no later than five years after the date of this final action. Under 40 CFR 52.24(k), a ban on construction under Section 110(a)(2)(I) of the Clean Air Act will automatically apply eighteen months after the date of this final action unless an approved or conditionally approved Part D plan is in effect. In the interim, the Emission Offset Interpretative Ruling, 40 CFR Part 51, App. S, will govern permits to construct and operate applied for after the date of this final action and before the date the Part D plan is approved or the date the construction ban applies, whichever is earlier. See EPA's November 2, 1983 notice on "Compliance With the Statutory Provisions of Part D of the Clean Air Act, Final Rule", 48 FR 50686, 50691, 50695-96 and 50697 (Nov. 2, 1983).

In the event that this action is deemed a new action under the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, EPA hereby finds that further notice and public procedure would be unnecessary and contrary to the public interest. 5 U.S.C. 553(b)(3)(B). The fundamental substantive issue in this rulemaking action, whether the area has experienced exceedences of the primary and secondary standards based on the data provided by the State of Maine, has been properly presented in the previous rulemaking notices and the public has had an adequate opportunity to comment on the issue. Another round of comment would be pointless. Moreover, further delay of this action would be contrary to the public interest, since it would also delay application of relevant Clean Air Act remedies to Lincoln's nonattainment problem.

Under Section 307(b) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. See Section 307(b)(2) of the Clean Air Act, 42 U.S.C. 7607(b)(2).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: Secs. 107(d), 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d), 7410(a) and 7601(a)).

Dated: November 28, 1983.

William D. Ruckelshaus,
Administrator.

[FR Doc. 32436 Filed 12-19-83; 11:58 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 429

Procedure to Process and Recover the Value of Rights-of-Use and Administrative Costs Incurred in Permitting Such Use

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rule.

SUMMARY: This document contains the final rules implementing uniform procedures for the use of the Bureau of Reclamation (Reclamation) field offices in granting special use rights on lands under Reclamation jurisdiction, to collect a fair market value for the rights granted and to recover administrative costs incurred in processing and granting the requests for such rights. These rules have been designed to be as consistent as possible within Reclamation's legislative mandates and with similar rules of other Federal land managing agencies.

EFFECTIVE DATE: These rules will be effective on January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Terence Cooper, Staff Assistant for Land Resources Management, Division of O&M, Bureau of Reclamation, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343-5204.

SUPPLEMENTARY INFORMATION: In the October 1, 1982, Federal Register (FR) (Volume 47, No. 191, page 43406 ff), Reclamation published proposed rules to establish the procedure to process and recover the value of rights-of-use and administrative costs incurred in permitting such use, proposed to be codified as 43 CFR Part 429. Comments on the proposed rules were solicited, with the final date to receive such comments being November 15, 1982. However, due to distribution problems experienced with the October 1, 1982, FR, particularly in certain Western States served by Reclamation, all comments received were accepted and considered. A section-by-section analysis of comments and the adopted changes follow:

Section 429.1 Purpose.

The original purpose of this rule was to provide bureau-wide uniformity in "boilerplate" provisions of right-of-way

documents and in the recovery of the value of the right-of-way and the administrative costs incurred in issuing the right-of-way. Subsequent comments pointed out a need to recover the value of other land uses authorized by easements, leases, licenses, permits and contracts. The comments also pointed out a need to specify that these rules were in specific compliance with requirements of the Independent Offices Appropriation Act (31 U.S.C. 483a) and Departmental Manual Part 346, Chapters 1-4. This provision has been modified to cover all of these needs.

Section 429.2 Definitions.

(a), (b), and (c) No comments.

(d) During the earliest (1979) review of this proposed rule, the comments addressed the need for a clear, concise, understandable definition of rights-of-way. Lawyers generally have felt that the definition in *Black's Law Dictionary* is adequate; realty specialists who deal with this issue daily, do not. *Black's* describes a right-of-way as the right of a party to pass over the land of another, or an easement; but, it also describes it as the land occupied by a railroad (or highway), or in the case of agencies such as Reclamation, the lands acquired for project purposes such as a reservoir. This makes the precise definition completely fuzzy, and in no way addresses why an easement, lease, license or contract cannot be a right-of-way since they too may "confer a right to cross over the land of another or to use the land of another." In order to avoid contributing to the confusion, we have modified our rules to cover "right-of-use" including rights-of-way, easements, leases, licenses, permits and contracts. This is appropriate since the provisions of these rules are applicable to all of these land use authorizing instruments.

(e) and (f) No comments.

(g) The Department of the Interior Solicitor's office suggested that the word "estate" be removed from this section and that it should comport with section 429.3. has been done by inserting a phrase on appraisal at the end of (g). The heading was also changed by changing the word "way" to use.

(h) *Administrative Costs.* Several of the public utility commenters felt this section failed to take into account public benefits resulting from the use in calculating the administrative costs. The definition of administrative costs used fits the requirements of the Departmental Manual Part 346, Chapter 1, which requires Department of the Interior agencies to recover administrative costs for permitting uses from the beneficiary of the use, and the

Office of Management and Budget Circular A-25, which requires Federal agencies to charge a fair market value and to recover administrative costs from beneficiaries of a special use of Federal property. Some leeway is permitted the Regional Directors to waive some administrative costs when to do so is in the best public interest. Since the current definition meets the major intent of the rule and the controlling directives, no revision was made.

(i) and (j) No comments.

(k) *Documentation of Administrative Costs.* Comments were received pointing out that the cited Departmental Manual release had been updated to release No. 2411 of May 14, 1982, from the previous release No. 2218 of December 17, 1979. This correction is made in the final rule. The other comment on this section suggested that the documentation of administrative costs procedure, defined in the Departmental Manual release, be developed in the rules for the public's information. The section has been explained to outline the documentation procedure.

(1) No comments.

Section 429.3 Establishment of the Value of Right-of-use.

One comment suggested that appraisals of fair market value of the right to be granted be made in accordance with the statutory and regulatory appraisal provisions of the State in which the use is located. Each of Reclamation's field offices operates in several States, and the adoption of this could result in confusion over conflicting State appraisal provisions, especially when the value of similar portions of the same interstate use could be evaluated differently, as mandated by the specific State laws. We feel that the uniformity offered by utilizing Federal and departmental appraisal procedures is justified. Another comment pointed out that the language used in subsection (a) specifying that the appraisal would be of the right requested, might preclude the use of the uniform appraisal standards calling for a before and after appraisal. This is one method of determining the value, but requires an appraisal of the value of the parcel of land through or on which the use is requested without the use and another appraisal following the granting (or assuming the granting) of the use. This appraisal depends on the diminished value of the greater parcel to achieve the value of the use. Another method usable, particularly where the use is nonlinear in nature, would be a direct appraisal of the value of the highest and best use of the land desired for the use, as compared to the use