July 1, 1983—Publish draft regulations in the Kentucky administrative Register
July 26, 1983—Submit a draft application for Component C
August 1, 1983—Hold public hearing on proposed regulations
December 7, 1983—Regulations approved by full Legislative Research Committee
December 23, 1983—Submit a final application to EPA for Phase II, Component C
April, 1984—Submit draft Final Authorization application

Decision

On June 9, 1983, in consideration of the State's efforts to obtain the necessary regulations and Kentucky's past performance in managing and implementing a hazardous waste management program in a timely fashion, I found there was good cause to grant the State's request for an extension of one hundred and fifty (150) days beyond the deadline for applying for Phase II, Component C. Therefore, Kentucky must officially submit a complete application for this component to EPA on or before December 23, 1983, or approval of the State program will terminate automatically and administration of the hazardous waste management program will revert to EPA.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926 and 6974(B).

Dated: June 9, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-16542 Filed 6-20-83; 8:45 am]

BILLING CODE 6560-50-M

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41 CFR Part 15-1

[OA-FRL 2383-4]

Procurement Regulations; Organizational Conflicts of Interest

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is issuing this amendment to its procurement regulation to strengthen the Agency's ability to identify, evaluate, and resolve contractors' organizational conflicts of interest. The rule requires prospective EPA contractors to either disclose information describing any relationships which could reasonably be considered organizational conflicts of interest or to certify that they are not aware of any such information. The rule also describes EPA's procedures for acting on this information.

EFFECTIVE DATE: July 25, 1983.

FOR FURTHER INFORMATION CONTACT: Pamela John, Procurement and Contracts Management Division (PM-214), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-5026.

SUPPLEMENTARY INFORMATION: (a) This rule provides EPA policy and procedures for avoiding, neutralizing, or mitigating organizational conflicts of interest. These are situations where the nature of the work to be performed under an EPA contract and a prospective contractor's organizational, financial, contractual, or other interests are such that the award of the contract may result in an unfair competitive advantage or the contractor's objectivity in performing the contract work may be impaired.

(b) The regulation will enhance EPA's ability to identify and resolve organizational conflict of interest situations. Among its provisions, the regulation:

(1) Provides a formal definition and examples of organizational conflicts of interest. This material will help all involved parties decide if a particular situation may involve an organizational conflict of interest.

(2) Places the responsibility for determining the existence of an organizational conflict of interest with the EPA contracting officer.

(3) Requires that all prospective EPA contractors provide information for the contracting officer to use in identifying or resolving organizational conflicts of interest.

List of Subjects in 41 CFR Part 15-1

Conflict of interest, Environmental protection, Government procurement.

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

Dated: June 8, 1983.

Seymour D. Greenstone,

Deputy Assistant Administrator for Administration.

PART 15-1—[AMENDED]

For the reasons set out in the preamble, 41 CFR Part 15-1 is amended as follows:

1. Part 15-1, table of contents, is amended by removing section 15-1.5301 from Subpart 15-1.53.

2. Part 15-1, table of contents, is amended by adding Subpart 15-1.54 to read as follows:

Subpart 15-1.54 Organizational Conflicts of Interest

Sec.

§ 15-1.53 [Removed]

3. Subpart 15-1.53 is amended by removing § 15-1.5301.

4. Subpart 15-1.54 is added to read as follows:

Subpart 15-1.54 Organizational Conflicts of Interest

§ 15-1.5400 Scope.

This subpart establishes EPA policy and procedures for identifying, evaluating, and resolving organizational conflicts of interest. EPA's policy is to avoid, neutralize, or mitigate organizational conflicts of interest. If EPA is unable to neutralize or mitigate the effects of a potential conflict of interest, EPA will disqualify the prospective contractor or will terminate the contract, when potential or actual conflicts are identified after award.

§ 15-1.5401 Definition.

An "organizational conflict of interest" exists when the nature of the work to be performed under a proposed Government contract and a prospective contractor's organizational, financial, contractual, or other interests (including the interests of its chief executives, directors, consultants, or subcontractors) are such that (a) award of the contract may result in an unfair competitive advantage or (b) the contractor's objectivity in performing the contract work may be impaired.

§ 15-1.5402 Applicability.

This subpart applies to all EPA contracts except agreements with other Federal agencies and contracts with State and local governments.

§ 15-1.5403 Waiver.

The Assistant Administrator for Administration may waive any general rule or procedure of this subpart by determining that its application in a particular situation would not be in the

Government's interest. Any request for waiver must be in writing and shall set forth the extent of the conflict. The Assistant General Counsel for Contracts and Information Law must be consulted on such waiver requests.

§ 15-1.5404 Contracting officer responsibilities.

(a) EPA contracting officers are responsible for:

(1) Identifying and evaluating potential organizational conflicts of interest as early in the acquisition process as possible; and

(2) Avoiding, neutralizing, or mitigating significant potential or actual organizational conflicts of interest.

(b) Contracting officers must seek the advice of legal counsel and should seek technical assistance from appropriate program specialists in evaluating potential conflicts and in developing any necessary solicitation provisions or contract clauses.

(c) Contracting officers shall apply this subpart's principles to potential or actual conflicts before award, as well as to potential or actual conflicts that may arise or be discovered after award.

§ 15-1.5405 General rules.

(a) The general rules in paragraphs (b) through (e) of this section prescribe limitations on contracting as the means of avoiding, neutralizing, or mitigating organizational conflicts of interest. Each individual contracting situation should be examined on the basis of its particular facts and the nature of the proposed contract. The two underlying principles to be considered are: (1) Preventing the existence of conflicting roles that might bias a contractor's judgment; and

(2) Preventing unfair competitive advantage.

(b) A contractor that provides systems engineering and technical direction for a system, but does not have overall contractual responsibility for its development, integration, assembly, or production, shall not (1) be awarded a contract to supply the system or any of its major components or (2) be a subcontractor or consultant to a supplier of the system or any of its major components. Systems engineering includes a combination of substantially all of the following activities: determining specifications, identifying and resolving interface problems, developing test requirements, evaluating test data, and supervising design. Technical direction includes a combination of substantially all of the following activities: developing work statements, determining parameters, directing other contractors' operations, and resolving technical controversies.

(c) If a contractor prepares and furnishes complete specifications covering nondevelopmental items, for use in a competitive procurement, that contractor shall not be allowed to furnish these items either as a prime contractor or a subcontractor. This prohibition shall be for a reasonable period of time, including, at least, the duration of the contract containing the furnished specification. This rule shall not apply to:

(1) Contractors that furnish at Government request specifications or data regarding a product they regularly provide, even though the specifications or data may have been paid for separately or in the price of the product; or

(2) Situations in which contractors, acting as industry representatives, help the Government prepare, refine, or coordinate specifications, regardless of source, provided this assistance is supervised and controlled by Government representatives.

(d) If a contractor prepares or assists in preparing a work statement to be used in competitively acquiring services or a system, or if the contractor provides material leading directly, predictably, and without delay to such a work statement, then that contractor shall not supply the services, system, or major components of the system unless:

(1) The contractor is the sole source; or

(2) More than one contractor has been significantly involved in preparing the work statement.

(e) Contracts involving (1) technical evaluations of other contractors' products or (2) consulting services shall not be awarded to a contractor that would evaluate or advise the Government concerning its own products or activities, those of a competitor, or those of other organizations in which it has a substantial interest.

(f) A contractor that gains access to confidential business information of other companies in performing advisory services for the Agency must protect the information from unauthorized use or disclosure, must refrain from using the information for any purpose other than that for which it was furnished, and must otherwise comply with the special requirements of 40 CFR Part 2 and the provisions of its contract relating to the treatment of confidential business information. This rule does not apply to information available to the Government or the contractor from other sources without restriction.

§ 15-1.5406 Information sources.

(a) *Disclosure*. Prospective EPA contractors responding to solicitations or submitting unsolicited proposals shall provide information for the contracting officer to use in identifying, evaluating, or resolving potential organizational conflicts of interest. The submittal may be a certification or a disclosure, pursuant to paragraph (a) (1) or (2), of this section.

(1) If the prospective contractor is not aware of any information bearing on the existence of any organizational conflict of interest, it may so certify.

(2) Prospective contractors not certifying to 15-1.5406(a)(1) must provide a disclosure statement which describes concisely all relevant facts concerning any past, present, or planned interests relating to the work to be performed and bearing on whether they, including their chief executives, directors, or any proposed consultant or subcontractor may have a potential organizational conflict of interest.

(b) *Failure to disclose information*. Any prospective contractor failing to provide full disclosure, certification, or other required information will not be eligible for award. Nondisclosure or misrepresentation of any relevant information may also result in disqualification from award or termination of the contract for default, debarment from Government contracts, as well as other legal action or prosecution. In response to solicitations, EPA will consider any inadvertent failure to provide disclosure certification a "minor informality" (as explained in FPR 1-2.405); however, the prospective contractor must correct the omission promptly.

(c) *Exception*. Where the contractor has previously submitted a conflict of interest certification or disclosure for a contract, only an update of such statement is required when the contract is modified.

§ 15-1.5407 Procedures.

(a) If the contracting officer initially decides that a particular acquisition involves a significant potential organizational conflict of interest, the contracting officer shall, before issuing the solicitation, submit to the chief officer responsible for procurement at the contracting activity:

(1) A written analysis, including a recommended course of action for avoiding, neutralizing, or mitigating the conflict, based on the general rules in 15-1.5405 or on another basis not expressly stated in that section;

(2) A draft solicitation provision; and

(3) If appropriate, a proposed contract clause.

(b) The chief officer responsible for procurement at the contracting activity shall:

(1) Review the contracting officer's analysis and recommended course of action, including the draft solicitation provision and any proposed clause;

(2) Consider the benefits and detriments to the Government and prospective contractors; and

(3) Approve, modify, or reject the recommendation in writing.

(c) The contracting officer shall:

(1) Include the approved provision and any approved clause in the solicitation;

(2) Consider additional information provided by prospective contractors in response to the solicitation or during negotiations, as well as other information;

(3) Before awarding the contract, resolve the actual or potential conflict in a manner consistent with the approval or other direction by the chief officer responsible for procurement at the contracting activity;

(4) If the organizational conflict of interest cannot be resolved by other appropriate means, disqualify the prospective contractor from receiving the contract award;

(5) Document in writing the resolution of any potential or actual conflicts identified. The documentation shall be reviewed and approved by the chief officer responsible for procurement at the contracting activity prior to award; and

(6) If the prospective contractor disagrees and requests higher level review, provide the decision and the contractor's position to the head of the procuring activity for review and final decision.

§ 15-1.5408 Solicitation provision and contract clause.

(a) *Advance notice of limitations.* The contracting officer shall alert prospective contractors by placing a notice in the solicitation whenever a particular acquisition might create an organizational conflict of interest. The notice will:

(1) Refer prospective contractors to this subpart;

(2) Indicate the nature of the potential conflict;

(3) State the basis for denying award to the contractor or restraining the contractor's future activities;

(4) Describe the terms of any proposed contract clause designed to neutralize or mitigate the conflict;

(5) Indicate that the terms of the proposed clause and the application of this subpart to the contract are subject to negotiation between the Government and the contractor; and

(6) Require proposers to disclose relevant facts concerning any past, present, or currently planned interests relating to the work described in the solicitation.

(b) *Required solicitation provision.* The contracting officer shall include in all solicitations a provision that:

(1) Requires the prospective contractor to certify it is not aware of any information bearing on the existence of a potential organizational conflict of interest or it has disclosed such information;

(2) Refers prospective contractors to this subpart; and

(3) Provides that if the contracting officer finds a potential conflict exists, the prospective contractor will not receive an award unless the conflict can be avoided or otherwise resolved.

(c) *Required contract clause.* The contracting officer shall include in all contracts over $10,000 and may include in small purchases, a clause that requires the contractor:

(1) To warrant that there are no relevant facts or circumstances which could give rise to an organizational conflict of interest or that it has disclosed such information;

(2) To disclose information about potential or actual conflicts discovered after award and to take steps in consultation with the contracting officer to avoid, mitigate, or neutralize the conflicts; and

(3) To include organizational conflict of interest provisions in subcontracts and consultant agreements.

§ 15-1.5409 Examples.

The examples in the following paragraphs (a) through (g) of this section illustrate situations concerning organizational conflicts of interest (OCI). While more than one type of OCI may exist in the situations described in the examples, the discussion is limited so as to demonstrate a specific conflict. The examples are not all inclusive but are intended to help in applying the general rules in 15-1.5405.

(a) Company A, in response to a request for proposals (RFP), proposes to undertake certain analyses of an air emission control device. In response to the inquiry in the RFP, Company A advises that it is currently performing similar analyses for the manufacturer of the device. Normally this would constitute an OCI and a contract for that particular work would not be awarded to Company A. The company would be placed in a position in which its judgment could be biased in relation to its work for EPA. Since other well qualified sources are available, there would be no basis for granting a waiver of the policy.

(b) Company A, in response to an RFP, proposes to undertake an economic analysis of one segment of the chemical industry. Company A advises that it derives a substantial portion of its income from the industry to be studied. Normally this would constitute an OCI and a contract would not be awarded to Company A. It would be placed in a position in which its judgment could be biased in relation to its work for EPA. Should award be made to Company A, the appearance of an OCI could undermine the credibility of the data generated under the contract and render such data useless for its intended purpose, regardless of whether any bias is actually reflected in the data.

(c) Before an ADP equipment acquisition is conducted, Company A is awarded a contract to prepare data system specifications and equipment performance criteria to be used as the basis for the equipment competition. Since the specifications are the basis for selection of commercial hardware, a potential conflict of interest exists. Company A should be excluded from the initial follow-on ADP hardware acquisition.

(d) Company A receives a contract to define the detailed performance characteristics EPA will require for the purchase of automobile emission analysis equipment. Company A has not developed the particular equipment. At the time the contract is awarded, it is clear to both parties that the performance characteristics defined will be used by EPA to choose competitively a contractor to develop or produce the equipment. Normally this would constitute an OCI and Company A should not be permitted to propose on the follow-on procurement.

(e) Company A is selected to study possible methods for disposal of toxic substances. The Agency intends to ask that firms doing research in the field make proprietary information available to Company A. The contract must require Company A to protect any proprietary information it receives, to refrain from using the information for any purpose other than that for which it was intended, and to otherwise comply with the requirements of 40 CFR Part 2 and the provisions of its contract relating to the treatment of confidential business information.

(f) The EPA in its regulatory process wishes to develop a system for evaluating and processing license applications. Contractor A is awarded a contract to help develop the system and process the applications. As part of the agreement to perform this work, Contractor A should be prohibited from acting as a consultant to any of the applicants during the contract period of performance and for a reasonable period thereafter (such as one year).

(g) Company A, in response to an RFP, proposes to perform inspections for EPA. The inspections are to determine if companies are meeting Federal requirements for limiting discharge of pollutants into the air. Company A plans to act as a consultant to the companies to be inspected. Company A should be prohibited in the contract from acting as a consultant to any of the companies being inspected during the contract period of performance and for a reasonable period thereafter.

[FR Doc. 83-16546 Filed 6-20-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3200

Geothermal Leasing Program; Form Modification

AGENCY: Bureau of Land Management, Interior.

ACTION: Rule Related Notice.

SUMMARY: The Department of the Interior published final regulations concerning corporate qualification statements for the Bureau of Land Management's Geothermal Leasing Program (43 CFR Part 3200) in the Federal Register on June 1, 1983 (48 FR 24367), to be effective July 1, 1983. As a result of this final rulemaking, the existing lease form and assignment form are being modified to reflect changes in the information required of parties wishing to obtain a geothermal lease. Until the new forms are issued by the Bureau, the sections of the present lease form requesting separate qualifications statements may be disregarded. Instead, parties should include the following statement above their required signature on the appropriate form: "The undersigned hereby certifies compliance with 43 CFR Part 3200 and the Geothermal Steam Act of 1970."

FOR FURTHER INFORMATION CONTACT: Karl F. Duscher, Division of Fluid Mineral Leasing (620), U.S. Bureau of Land Management, Washington, D.C. 20240, PH: (202) 343-7753.

Dated: June 15, 1983.

James M. Parker,

Acting Director.

[FR Doc. 83-16524 Filed 6-20-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6378

[U-0139388]

Utah; Revocation of Reservoir Site No. 9

Correction

In FR Doc. 83-13177, beginning on page 22150, in the issue of Tuesday, May 17, 1983, make the following correction:

In the middle column of page 22150, under the **SUPPLEMENTARY INFORMATION,** the first complete paragraph, line 2, "1982" should read "1892".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 64, 65, and 70

[Docket No. FEMA 6486]

National Flood Insurance Program; Elimination of Documents

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This regulation makes final a proposed regulation published on January 31, 1983, at 48 FR 4296-98. In finalizing the proposed rule, it amends, revises and removes portions of 44 CFR Parts 64, 65 and 70. It allows for the elimination of certain documents published in the Federal Register for the National Flood Insurance Program (NFIP). These documents contain listings of communities with regard to their flood hazard identification, eligibility for regular program insurance and descriptions of properties, inadvertently included within FEMA delineations of Special Flood Hazard Areas. This action is taken in order to decrease the costs of implementing the NFIP while maintaining the effectiveness of its administrative actions.

EFFECTIVE DATE: June 21, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0270.

SUPPLEMENTARY INFORMATION: Due to budgetary restraints, FEMA has been examining its administrative procedures to determine means of decreasing the cost of implementing the National Flood Insurance Program (NFIP) while maintaining the effectiveness of its administrative actions. During this examination, the extent, costs and effectiveness of Federal Register publications were reviewed. This review covered all phases of public notification of FEMA's actions under the NFIP. FEMA determined that many of its Federal Register publications could be eliminated since other, more direct means of notification assure knowledge of these actions by the concerned public. Elimination of these publications requires the amendment, revision or removal of some of the sections in Chapter I of Title 44 of the Code of Federal Regulations.

In the course of its administrative procedures which affect the actions listed in the publications being eliminated, FEMA directly notifies the affected community or individual and provides copies of notifications to States, lenders, insurance agents, and affected Federal and private agencies. In addition, FEMA publishes bimonthly its National Flood Insurance Program Community Status Book which contains updated hazard identification and eligibility information. These notifications and publications, along with FEMA's response capabilities to direct inquiry, obviate the need for nationwide information dissemination, through Federal Register publication, of listings and property descriptions.

On August 4, 1982, at 47 FR 33721-22, FEMA published in the Federal Register, a Notice of Intent regarding the above actions and requested comments. The comments received and FEMA's responses were provided with the publication of the proposed rule on January 31, 1983, at 48 FR 4296-98. One comment was received on the proposed rule from a private organization. The organization felt that the Federal Register is the only source of keeping current on flood hazard matters in the communities within its area of concern, particularly with regard to NFIP eligibility, and requested another means for keeping informed.

FEMA will continue Federal Register publication of suspension of, withdrawal from and initial eligibility for communities in the NFIP. Further, the publications being eliminated, with the exception of Part 70, Letters of Map Amendment, are all generated by mapping activities. These maps have, in nearly all cases, been distributed prior to Federal Register publication. Also, FEMA responds to requests for map copies and information on communities and provides bimonthly copies of the Community Status Book to any requestor. FEMA also employs letter notification of its actions to the communities or individuals, States and the related organizations involved. These resources provide the means by which private organizations can be informed of NFIP actions regarding communities.

The final rule differs from the proposed rule only in order to correct typographical errors and to remove a paragraph (§ 70.7(b)) inadvertently placed in the rule section instead of the supplementary information section. Thus, in § 64.1(a)(1), the qualifier in parentheses is changed from, "(i.e. and flood)," to "(i.e. mudflow)," and in § 70.7, only paragraph (a) is amended by the final rule.

Each of the changes to 44 CFR are at the end of this final rule and are numbered. As a guide to the effect of each of the changes is the following:

Change 1 (paragraph a) will eliminate publication in the **Federal Register** of lists of communities eligible for increased insurance coverage under the Regular Program.

Change 2 is necessitated for conformance of § 64.3(c) with the changes to Part 65.

Change 3 is necessitated for conformance of 65.1 with the changes to the remainder of Part 65.

Change 4 will eliminate publication in the **Federal Register** of lists of FHBM's.

Change 5 will eliminate publication in the **Federal Register** of lists of effective FIRM's.

Change 7 will eliminate publication in the **Federal Register** of lists of withdrawn FHBM's.

Change 8 will eliminate publication in the **Federal Register** of lists of minimally flood prone communities.

Change 9 will eliminate publication in the **Federal Register** of lists of nonflood prone communities.

Change 10 will eliminate a duplication.

Change 11 will eliminate publication in the **Federal Register** of descriptions of properties inadvertently shown within Special Flood Hazard Areas on FIRM's.

In addition, FEMA will eliminate publication in the **Federal Register** of cumulative listings of suspended or sanctioned communities under the NFIP. No change to 44 CFR is required for this action. Suspension, new eligibility and NFIP withdrawal actions will continue to be published under § 64.6.

An environmental assessment is not necessary because this rule change is procedural and has no effect on the quality of the human environment. This rule change is not a "major rule" within the context of Executive Order 12291. This rule does not have a significant economic impact on a substantial number of small entities because it does not affect actual notifications received by communities and individuals regarding the actions discussed in this rule. The proposed rule changes do not involve the collection of information under 44 U.S.C. 3504(h).

List of Subjects in 44 CFR Parts 64, 65 and 70

Flood insurance, Flood plains.

Accordingly, Parts 64, 65 and 70 of Chapter I, of Title 44, Code of Federal Regulations are amended, revised or removed as follows:

PART 64—COMMUNITIES ELIGIBLE FOR SALE OF INSURANCE

1. Section 64.1 is revised to read as follows:

§ 64.1 Purpose of Part.

(a) 42 U.S.C. 4012(c), 4022 and 4102 require that flood insurance in the maximum limits of coverage under the regular program shall be offered in communities only after the Associate Director, State and Local Programs and Support (herein the Associate Director) has: (1) Identified the areas of special flood, mudslide (i.e., mudflow) or flood-related erosion hazards within the community; and/or (2) completed a risk study for the applicant community. The priorities for conducting such risk studies are set forth in §§ 59.23 and 60.25 of this subchapter. The purpose of this part is to define the types of zones which the Agency will use for identifying the hazard areas on maps.

(b) 42 U.S.C. 4056 authorizes an emergency implementation of the National Flood Insurance Program whereby the Associate Director may make subsidized coverage available to eligible communities prior to the completion of detailed risk studies for such areas. This part also describes procedures under the emergency program and lists communities which become eligible under the NFIP.

2. Section 64.3(c) (1) and (2) are revised as follows:

§ 64.3 Flood insurance maps.

* * * * *

(c) * * *

(1) The information office of the State agency or agencies designated by statute or the respective Governors to cooperate with the Associate Director in implementing the Program whenever a community becomes eligible for Program participation and the sale of insurance pursuant to this section or is identified as flood prone.

(2) One or more official locations within the community in which flood insurance is offered.

* * * * *

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

3. Section 65.1 is revised to read as follows:

§ 65.1 Purpose of part.

42 U.S.C. 4104 authorizes the Director to identify and publish information with respect to all areas within the United States having special flood, mudslide (i.e., mudflow) and flood-related erosion hazards. The purpose of this part is to outline the steps a community needs to take in order to assist the Agency's effort in providing up-to-date identification and publication, in the form of the maps described in Part 64, on special flood, mudslide (i.e., mudflow) and flood-related erosion hazards.

§ 65.3 [Removed]

4. Section 65.3 is removed.

§ 65.4 [Removed]

5. Section 65.4 is removed.

§ 65.5 [Redesignated as 65.3]

6. Section 65.5 is redesignated as 65.3.

§ 65.6 [Removed].

7. Section 65.6 is removed.

§ 65.7 [Removed]

8. Section 65.7 is removed.

§ 65.8 [Removed]

9. Section 65.8 is removed.

§ 65.9 [Removed]

10. Section 65.9 is removed.

PART 70—PROCEDURE FOR MAP CORRECTION

1. Section 70.7(a) is revised to read as follows:

§ 70.7 Notice of letter of map amendment.

(a) The Associate Director, State and Local Programs and Support, shall not publish a notice in the Federal Register that the FIRM for a particular community has been amended by letter determination pursuant to this part unless such amendment includes alteration or change of base flood elevations established pursuant to Part 67. Where no change of base flood elevations has occurred, the Letter of Map Amendment provided under §§ 70.5

and 70.6 serves to inform the parties affected.

* * * * *

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Louis O. Giuffrida,

Director, Federal Emergency Management Agency.

[FR Doc. 83-16501 Filed 6-20-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 82-618; RM-4106; FCC 83-246]

Private Land Mobile Radio Services; Authorize Frequencies for Wildlife Tracking Telemetry in the Forestry-Conservation Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The FCC is adopting rule changes that permit wildlife tracking telemetry on Forestry-Conservation Radio Service frequencies. Such operations are now authorized only in the Experimental Service (Research). The new rules will benefit licensees by maximizing their options in obtaining necessary communications in an economical, efficient, and effective manner.

DATE: Effective July 21, 1983.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, (202) 634-2443.

List of Subjects in 47 CFR Part 90

Private Land Mobile Radio Services.

Report and Order (Proceeding Terminated)

In the matter of amendment of Part 90 of the Commission's rules and regulations to authorize frequencies for wildlife tracking telemetry in the Forestry-Conservation Radio Service, PR Docket No. 82-618, RM-4016.

Adopted: May 26, 1983.
Released: June 14, 1983.

By the Commission: Commissioner Fogarty not participating; Commissioner Sharp absent.

Background

1. On August 30, 1982, the Commission adopted a Notice of Proposed Rule Making (NPRM) which proposed to amend Part 90 of the Rules and Regulations to allow the use of Forestry-Conservation Radio Service frequency bands for wildlife tracking telemetry.[1]

2. The NPRM was issued in response to a Petition for Rule Making filed by the State of Oregon Department of Forestry (Oregon).[2] Oregon is presently using Forestry-Conservation Radio Service frequencies for wildlife tracking telemetry under a Part 5, Experimental Service (Research) authorization. In the Experimental Service, license renewals are required every two years.[3] In its petition, Oregon requested to be allowed to utilize the same frequencies under a Forestry-Conservation Radio Service authorization, where renewals are required only every five years. Oregon stated that the longer license term would result in a reduction in paperwork and administrative effort by both the licensee and the Commission.

3. In the NPRM, we indicated that there appeared to be merit to Oregon's request, and proposed to permit the use of low-power telemetry in the Forestry-Conservation Radio Service in conjunction with wildlife tracking and official forestry conservation activities. The use of these frequencies was to be on a secondary non-interference basis.

Summary of Comments

4. Comments on the NPRM were received from those parties listed in Appendix A. All of the comments were in favor of the proposed rule changes. Some commenters suggested that other frequency bands for animal tracking telemetry programs, in addition to those proposed, were needed. As an example, the Nevada Department of Wildlife requested that the carrier frequencies be extended to include 159.000 MHz to 159.224 MHz, and 159.466 MHz to 159.995 MHz, stating that they have used these frequencies in the past and expect to use them again in the future. They indicate that to change their equipment to the newly proposed frequencies would be costly and probably not possible because of their limited budget.

5. It is apparent that the proposed rule changes were somewhat misunderstood by some of the commenters. At present, agencies engaged in animal telemetry programs are authorized in the Experimental Service (Research) under Part 5 of the Commission's Rules, and they utilize a wide range of VHF frequencies on a secondary, non-interference basis. Many of these same frequencies are also allocated on a primary basis to various land mobile radio services. As an example, the band 159.466 MHz to 159.995 MHz that was requested by the Nevada Department of Wildlife as mentioned above, is allocated on a primary basis to the Motor Carrier Radio Service. Use of frequencies in that band for animal tracking telemetry is allowed only under an Experimental Service (Research) authorization. There is nothing proposed in the NPRM that would change this arrangement. Agencies presently using any authorized frequencies under an Experimental Service authorization may continue to do so, but are required to renew their licenses every two years. The NPRM simply proposed that anyone eligible for Forestry-Conservation Radio Service frequencies may utilize certain Forestry-Conservation frequency bands for animal tracking telemetry purposes with the attendant benefit of having to renew their authorizations every five years instead of every two years. We wish to emphasize again that all *authorized* animal telemetry operations in the Experimental Service (Research) may continue to use their present frequencies under Experimental Service rules, and are not affected by rules adopted in this proceeding.

6. The Washington State Department of Game questioned the need for license renewals of these transmitters at all. Telonics, Inc. also addressed this subject, stating:

> We request that the Commission consider the underlying fact that some 40,000 to 50,000 such transmitters and 5,000 receivers are in operation 24 hours per day within the lower 48 states alone, with a twenty (20) year history of non-interference. The cost of attempting to administrate these units has been staggering over the years, with little or no resolution. It therefore seems reasonable to consider some means of a simple notification process and "logging" procedure in lieu of formal licensing, whereby the users would simply notify the Commission regarding the actual frequencies in use, and the applicable operating parameters of the hardware. The process would involve most of the work being conducted and would likely be well received. There will doubtless remain those who will fabricate their own hardware, and for various reasons, fail to comply, however, we would expect the number to be a very small percentage of the total community.

7. We have considered the comments suggesting that we replace the present separate licensing procedures with a notification process that would inform us of frequencies and operating

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[1] *Notice of Proposed Rule Making*, PR Docket No. 82-618, 47 FR 40194, September 13, 1982.

[2] Petition for Rule Making, RM-4016, filed November 30, 1981.

[3] Section 5.203 of the Rules states that stations operating in the Experimental Service (Research) may be authorized to use any government or non-government frequency designated in the Table of Frequency Allocations set forth in Part 2 of the Rules. These authorizations, in accordance with § 5.63, must be renewed every two years.

parameters of the equipment. In Docket 82–183 (47 FR 54450, December 3, 1982), we eliminated the requirement for agencies in the public safety radio services to obtain separate licenses for the operation of doppler speed radar units if they already were authorized to operate land mobile stations. Additionally, in a Notice of Proposed Rule Making in Docket 82–326, we are proposing to eliminate the separate licensing requirement for self-powered vehicle detectors to be used for traffic control purposes. It appears that the same approach is appropriate for low powered wildlife tracking telemetry transmitters, which share a number of characteristics of the doppler radar and self-powered vehicle detectors—low likelihood of interference, large numbers of units to be used, and controlled operation only by experienced and qualified agencies.

Decision

8. After reviewing the record in this proceeding, we are adopting our proposal to allow the authorization of frequencies for wildlife tracking telemetry in the Forestry-Conservation Radio Service. We are also adopting the technical standards proposed for such equipment. We conclude that these rule changes will benefit licensees by maximizing licensee options in securing necessary communications in an economical, effective, and efficient manner, without adversely affecting our ability to manage this portion of the spectrum.

9. Proper management of the frequency spectrum requires that some record be maintained of the use of radio frequencies. We are therefore adopting a procedure by which Forestry-Conservation Radio Service licensees will be required to register, rather than separately license, their wildlife tracking transmitters. Licensees will be required to state the number of such transmitters and frequencies in use on their application for renewal of their base/mobile radio system authorization. Licensees operating wildlife tracking telemetry systems on other than Forestry-Conservation frequencies under Part 5 Experimental Service authorizations may continue to do so under the rules which govern operations in the Experimental (Research) Service.

10. This rule making permits Forestry-Conservation Radio Service licensees to operate wildlife tracking telemetry systems on Forestry-Conservation Radio Service frequencies under the authorization issued to them for their base/mobile radio systems and should reduce the paper work and other administrative burdens now associated with the operation of those transmitters. Thus the rule making should have a salutary effect on the small entities affected. These rules impose no additional burdens on licensees. Accordingly, the Commission certifies that Sections 603 and 604 of the Regulatory Flexibility Act do not apply to this proceeding.

11. Accordingly, it is ordered, that pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 90 of the Commission's Rules is amended effective July 21, 1983, as set forth in the attached Appendix B. It is further ordered that this proceeding is terminated.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—Parties Submitting Comments on PR Docket 82-618, RM-4016

State of Illinois, Division of Communications
Ohio Department of Natural Resources
Oklahoma Department of Wildlife Conservation
Pennsylvania Game Commission
State of Washington, Department of Game
State of Oregon, Department of Fish and Wildlife
State of Michigan, Department of Natural Resources
State of California, Department of Fish and Game
Forestry Conservation Communications Association
Montana Department of Fish, Wildlife, and Parks
University of Idaho, College of Forestry, Wildlife and Range Services
State of Hawaii, Department of Land and Natural Resources
North Carolina Wildlife Resources Commission
State of Utah, Division of Wildlife Resources
Idaho Department of Fish and Game
State of New Mexico, Department of Game and Fish
Arizona Game and Fish Department
Texas Parks and Wildlife Department
Telonics, Inc.
Illinois APCO
Massachusetts Division of Fisheries and Wildlife
New York State Department of Environmental Conservation
Florida Game and Fresh Water Fish Commission
Larry L. Irvin, University of Wyoming
Montana State University Department of Biology
USDA Forest Service, Arizona State University Campus

Appendix B

Part 90 of the Commission's Rules and Regulations is amended as follows:

1. In § 90.25, a new subparagraph (f) is added to read:

§ 90.25 Forestry-Conservation Radio Service.

* * * * *

(f) A licensee in the Forestry-Conservation Radio Service may use, without a specific authorization from the Commission, transmitters on the frequencies indicated below in connection with wildlife tracking and/or telemetry and in connection with official forestry-conservation activities, provided that such use shall be on a secondary basis and shall not cause harmful interference to services of other licensees operating on regularly assigned frequencies. The provisions of § 90.203, § 90.425, and § 90.429 of this part shall not apply to transmitters complying with this subparagraph. To be eligible for operations in this manner, the transmitter must comply with all of the following requirements.

(1) The carrier frequency shall be within the bands of:

(MHz)

31.17 to 31.19	31.85 to 31.87
31.21 to 31.23	31.89 to 31.91
31.25 to 31.27	31.93 to 31.95
31.29 to 31.31	31.97 to 31.99
31.33 to 31.35	44.63 to 44.65
31.37 to 31.39	44.67 to 44.69
31.41 to 31.43	44.71 to 44.73
31.45 to 31.47	44.75 to 44.77
31.49 to 31.51	44.79 to 44.81
31.53 to 31.55	44.83 to 44.85
31.57 to 31.59	44.87 to 44.89
31.61 to 31.63	44.91 to 44.93
31.65 to 31.67	44.95 to 44.97
31.69 to 31.71	44.99 to 45.01
31.73 to 31.75	45.03 to 45.05
31.77 to 31.79	151.145 to 151.475
31.81 to 31.83	159.225 to 159.465

The carrier frequency must be maintained within 0.005 percent of the frequency of operation. Use on assigned channel center frequencies is not required.

(2) The emitted signal shall be non-voice modulation (A9 or F9 emission).

(3) The maximum occupied bandwidth, containing 99 percent of the radiated power, shall not exceed 0.25 kHz.

(4) The transmitter output power shall not exceed a mean power of 5 mW nor shall any peak exceed 100 mW peak power, as measured into a permanently attached antenna; or if the transmitter and antenna combination are contained in a sealed unit, the field strength of the fundamental signal of the transmitter and antenna combination shall not exceed 0.29 V/m mean or 1.28 V/m peak when measured at a distance of 3 meters.

(5) The requirements of § 90.175 regarding frequency coordination apply.

2. Section 90.129 (n) is revised to read as follows:

§ 90.129 Supplemental information to be routinely submitted with application.

* * * * *

(n) All applications for renewal of base/mobile station licenses by licensees who also operate radiolocation transmitters, or wildlife tracking telemetry transmitters as described in Section 90.25(f), must include a statement detailing the number of units in service, by frequency, on Radiolocation or Forestry-Conservation Radio Service frequencies at the time the renewal application is filed.

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INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1175 and 1176

[Ex Parte No. 429]

Elimination and Modification of Certain Securities Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Final rules and application requirements and issuance of final policy statement; correction.

SUMMARY: At 48 FR 26317, June 7, 1983, the Commission adopted its proposal to eliminate certain securities regulations and modify others. One aspect of the rules adopted, relieved motor carriers of the regulations in Part 1175. The amendatory language for that change contained an error which this notice corrects.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245 or John J. Mattras, (202) 275-7677.

SUPPLEMENTARY INFORMATION:

PART 1175—[CORRECTED]

On page 26318, amendatory instruction 1. is corrected by changing the heading given for Part 1175. As corrected the amendatory instruction reads as follows:

1. 49 CFR Part 1175, *Issuance of Securities and Assumption of Obligations and Liabilities*, will be amended by revising §§ 1175.2, 1175.3, 1175.5, 1175.6, 1175.7, and 1175.10 to read as follows:

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-16506 Filed 6-20-83; 8:45 am]

BILLING CODE 7035-01-M