required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

These modified elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The changes in the base (100-year) flood elevations listed below are in accordance with 24 CFR 1916.8:

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
California	Riverside	City of San Jacinto	The Valley Register, Nov. 18, 1977, Nov. 25, 1977.	Hon. William E. Wilson, mayor of the city of San Jacinto, City Hall, P.O. Box 488, San Jacinto, Calif. 92383.	Nov. 25, 1977	065056 0001B
Indiana	Brown	Town of Nashville	Brown County Democrat, Sept. 28, 1977, Oct. 5, 1977.	Miss Margorie Tissot, president of the town board, Box 446, Nashville, Ind. 47448.	Sept. 23, 1977	180018 0001B
Kansas	Shawnee	City of Topeka	The Topeka Capital Journal, Dec. 15, 1977, Dec. 16, 1977.	Hon. Bill McCormick, mayor of the city of Topeka, City Hall, 215 East 7th St., Topeka, Kans. 66603.	Dec. 16, 1977	205187B
New Jersey	Camden	Borough of Haddonfield	The Town Crier Herald, Dec. 14, 1977, Dec. 21, 1977.	Hon. William W. Reynolds, mayor of the borough of Haddonfield, Borough Hall, 242 Kings Hwy. East, Haddonfield, N.J. 08033.	Dec. 23, 1977	340501 0001C
Do	Middlesex	Borough of Highland Park.	The Home News, Sept. 15, 1977, Sept. 16, 1977.	Hon. Harold Berman, mayor of the borough of Highland Park, 21 South 9th Ave., Highland Park, N.J. 08904.	Sept. 16, 1977	340263A
Texas	Calhoun		Port Lavaca Wave, Dec. 9, 1977, Dec. 16, 1977.	Mr. Donald W. Ragin, Calhoun County building inspector, 211 South Ann, Port Lavaca, Tex. 77977.	Dec. 2, 1977	480097 0001-0014A
Pennsylvania	Delaware	Borough of Clifton Heights.	Daily Times, Oct. 7, 1977, Oct. 14, 1977.	Hon. E. Jack Ippoliti, mayor of Clifton Heights, 7 South Springfield Rd., Clifton Heights, Pa. 19018.	May 16, 1977	420407A

(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) and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-35262 Filed 12-9-77;8:45 am]

[8320-01]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 8—NATIONAL SERVICE LIFE INSURANCE

Service Disabled Veterans Insurance Application on Behalf of Incompetent Veteran

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: This amendment will revoke the present portion of the regulation which allows a third party, other than a guardian, to apply on behalf of a mentally incompetent veteran for Service Disabled Veterans Insurance. It has been determined that the present regulation exceeds the scope of the enabling statute and the intended effect of this action is to bring the regulation within the prescribed limits.

EFFECTIVE DATE: December 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Murray J. Zuckerman, Veterans Administration Center (290B), P.O. Box 8079, Philadelphia, Pa. 19101, 215-951-5733.

SUPPLEMENTARY INFORMATION: On page 40452 of the FEDERAL REGISTER of August 10, 1977, there was published a notice of proposed regulatory development to amend § 8.0 which allows a third party, other than a guardian, to apply on behalf of a mentally incompetent veteran for Service Disabled Veterans Insurance.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation. Two written comments have been received. Both writers asked that the proposed amendment not be adopted. The first commentator indicated that since 1968, it has been the practice of the VA under the regulation being amended to allow third parties besides the veteran's guardian to apply for RH Insurance, provided the evidence showed the veteran mentally incompetent and would qualify for waiver of premiums. The writer was concerned that the proposed regulation change would severely restrict accredited representatives from aiding mentally incompetent veterans in obtaining RH Insurance and thereby result in many qualified veterans not being able to obtain it. The second commentator also pointed out that the regulation had been in effect since 1968 and had been quite successful in enabling incompetent veterans to obtain RH Insurance. The writer also indicated the time delay in having a guardian appointed and the problems that such a time delay would have in the veteran obtaining this insurance, especially where a veteran dies before one is appointed and the benefit of insurance would be lost.

Neither of these requests can be adopted since it has been determined that the present regulation exceeds statutory authority and should never have been promulgated. The proposed regulation is hereby adopted without change and is set forth below.

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

Approved: December 5, 1977.

RUFUS H. WILSON,
Deputy Administrator.

In § 8.0, paragraph (b)(2) is revised to read as follows:

§ 8.0 Eligibility.

* * * * *

(b) * * *

(2) An application for insurance under this paragraph should be made on the form prescribed therefor, but any written statement which in substance meets the requirements of this paragraph may be considered an application. If the applicant is mentally incompetent, the application may be made by a guardian, and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

* * * * *

[FR Doc.77-35389 Filed 12-9-77;8:45 am]

[7710-12]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 601—PROCUREMENT OF PROPERTY AND SERVICES

Miscellaneous Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby announces numerous miscellaneous revisions of the Postal Contracting Manual.

EFFECTIVE DATE: November 11, 1977.

FOR FURTHER INFORMATION CONTACT:

William J. Jones, 202-245-4603.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which has been incorporated by reference in the FEDERAL REGISTER (see 39 CFR 601.100), has been amended by the issuance of Transmittal Letter 26, dated November 11, 1977.

In accordance with 39 CFR 601.105 notice of these changes is hereby published in the FEDERAL REGISTER as an amendment to that section and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the basic Manual will receive these amendments from the Government Printing Office. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

Description of these amendments to the Postal Contracting Manual follows:

SECTION 1—GENERAL PROVISIONS

1. Paragraph 1-601(a) has been revised to correct the definition of "Department Head."

2. Paragraph 1-704.2(d) has been revised to delete the requirement to obtain approval of the General Manager, Plans and Management Division, prior to soliciting minority enterprises other than those supplied by SBA.

3. Paragraph 1-706(b) has been added to incorporate a new clause, Reporting Small Business and Minority Enterprise Participation, and incorporate a reporting requirement for Heads of Procuring Activity.

4. Paragraph 1-1001(b) has been revised in consonance with informal purchase dollar limitations.

5. Paragraph 1-1005 has been revised to update classification codes to be used in synopses.

SECTION 2—PURCHASE BY FORMAL ADVERTISING

6. Paragraph 2-406.4(c) has been revised to correct a reference to "the contractor" where "the contracting officer" was intended.

7. Paragraph 2-407.8 has been revised to establish policy regarding timeliness of protests submitted to agencies or offices other than Postal Service contracting officers or the General Counsel.

SECTION 6—INFORMAL PURCHASES

8. Paragraphs 6-115 through 6-115.10 have been added to establish policy relating to Vehicle Repair and Maintenance Agreements.

SECTION 7—CONTRACT CLAUSES

9. Paragraph 7-104.24(b), the Postal Service Property (Fixed Price) clause to be used in negotiated contracts has been revised to correct an erroneous reference.

10. Paragraph 7-107(d), the Fair Labor Standards Act and Service Contract Act–Price Adjustment clause has been revised.

11. Paragraph 7-603 has been added to incorporate small business and minority enterprise clauses for use in construction contracts.

SECTION 9—PATENTS, DATA AND COPYRIGHTS

12. Paragraph 9-105.6(d) has been revised with regard to the designation of the Chairman of the Patent Rights Board.

SECTION 12—LABOR

13. Section 12, Part 3, Contract Work Hours and Safety Standards Act, and Section 12, Part 9, Service Contract Act, have been rewritten for clarity and greater depth of coverage.

SECTION 18—LEASING, CONSTRUCTION AND ARCHITECT-ENGINEER SERVICES

14. Paragraph 18-305 has been revised to indicate the appropriate small business and minority enterprise clauses to be included in construction contracts for minor repairs and improvements.

15. Paragraph 18-507 has been revised to require the preparation of a Postal Service estimate of construction costs for each proposed construction contract and each modification to an existing contract which affects cost.

16. Paragraph 18-518.5 has been revised to reflect an expanded small business and minority enterprise requirement for construction contracts.

SECTION 19—MAIL TRANSPORTATION CONTRACTING

17. Paragraphs 19-135 through 19-135.-325 have been added and 19-903.3 has been revised to more adequately apply the requirement of the Service Contract Act to mail transportation contracts.

SECTION 20—ADMINISTRATIVE MATTERS

18. Paragraph 20-202.3 has been revised to establish a code in the uniform contract number for administrative vehicles.

SECTION 22—SERVICE CONTRACTS BY CONTRACT

19. Paragraph 22-702.3 has been revised to reflect current requirements for obtaining wage rate determinations.

20. Paragraph 22-703.3 has been revised to require the inclusion of Contract Work Hours and Safety Standards Act provisions in contract job cleaner solicitations in excess of $2,500, but less than $5,000.

APPENDIX B

21. Rules of Practice in Proceedings Relative to Debarment and Suspension from Contracting have been revised to conform with the Rules as codified at Part 957 of Title 39, Code of Federal Regulations, as amended.

FORMS

22. The following new, revised, or replacement forms have been included in section 16 and shall be used immediately, where applicable:

(1) Form 7322-A, Dec. 1976, Labor Standards Provisions Applicable Contracts in Excess of $2,000.
(2) Form 7330, Mar. 1977, Amendment-Modification.
(3) Form 7361-A, May 1977, Area Wide Vehicle Contract Modification.
(4) Form 7365, Aug. 1977, Transit Agreement.
(5) Form 7382, Aug. 1977, Additional General Provisions for Service Contracts.
(6) Form 7394, June 1977, Vehicle Maintenance Pricing Proposal.
(7) Form 7395, June 1977, Vehicle Repair and Maintenance Agreement.

23. The remainder of the changes are minor, editorial or technical in nature.

In consideration of the foregoing, 39 CFR 601.105 is amended by adding the following to § 601.105:

§ 601.105 Amendment to the Postal Contracting Manual.

* * * * *

Amendments to postal contracting manual

Transmittal letter	Dated	Federal Register publication
* *	*	* *
26	Nov. 11, 1977	42 FR 62368

(5 U.S.C. 552(a) (39 U.S.C. 401, 404, 410, 411, 2008))

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77-35405 Filed 12-9-77;8:45 am]

[6560-01]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 828-2]

PART 406—GRAIN MILLS POINT SOURCE CATEGORY

Corn Wet Milling Portion

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This document amends §§ 406.12 and 406.13 of 40 CFR Part 406. These sections represent the degree of effluent reduction attainable by the application of (1) the best practicable control technology currently available and (2) the best available technology economically achievable to the corn wet milling portion of the Grain Mills industry. This industry uses a wet milling process to convert corn into various starches and syrup products. Upon consideration of presently available information, EPA has concluded that §§ 406.12 and 406.13 should be amended to impose less stringent total suspended solids limitations on the corn wet milling industry

and to include in the regulations an additional allowance for those plants which produce a certain percentage of modified starch as part of their total production.

EFFECTIVE DATE: December 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Harold B. Coughlin, Effluent Guidelines Division, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-2560.

SUPPLEMENTARY INFORMATION:

LEGAL AUTHORITY

On March 20, 1974 effluent limitations guidelines, new source performance standards and new source pretreatment standards were promulgated pursuant to section 301, 304(b), and 306 of the Federal Water Pollution Control Act (the Act), 33 U.S.C. 1311, 1314(b), 1316, for the Grain Mills Point Source Category. (40 CFR Part 406). Subpart A of the regulations applied to the Corn Wet Milling Subcategory, which is one of six subcategories within the Grain Mills Category. Under the same authorities, the corn wet milling regulations are here being amended.

BACKGROUND

The corn wet milling regulations have been the subject of litigation since the time of promulgation. In 1974 members of the corn wet milling industry challenged the effluent limitations required to be met by existing facilities in the United States Court of Appeals for the Eighth Circuit. On May 5, 1975 that Court entered its decision in "CPC International Inc. v. Train," 515 F. 2d 1032 (8th Cir. 1975), ruling that jurisdiction to review the regulations applicable to existing sources was not in the Court of Appeals but probably lay in the appropriate United States District Court.

The Section 306 new source standards of performance and new source pretreatment standards were reviewed by the Eighth Circuit in May, 1975, and the Court ordered a remand of those regulations, but finally approved of the Administrator's action concerning new sources, except for the suspended solids limitations in "CPC International Inc. v. Train, (CPC II)," 540 F. 2d 1329 (8th Cir. 1976). The Administrator thereafter revised the suspended solids limitations on November 18, 1976 to comport with the Court's decision (40 CFR 406.15).

After the Eighth Circuit declined in its May, 1975 decision to review the existing source regulations providing for best practicable technology (the requirements to be met on or before July 1, 1977) and for best available technology (the requirements to be met on or before July 1, 1983), certain members of the corn wet milling industry brought suit on May 22, 1975 in the United States District Court for the Southern District of Iowa. On January 20, 1976, the District Court issued its opinion in "Grain Processing Corp. v. Train," 407 F. Supp. 96, concluding that the regulations were defective in that they did not set out a required range of effluent numbers for the corn wet milling industry, did not specify factors to be used by the permit writer in setting permit conditions and also concluded that the single-number limitations established by EPA were not supported by the administrative record.

On March 19, 1976, EPA appealed the District Court decision to the United States Court of Appeals for the Eighth Circuit. However, during the pendency of that appeal, the Supreme Court agreed to decide a related case, "E. I. duPont de Nemours & Co. v. Train," 528 F.2d 1136 (4th Cir. 1975), cert. granted, 44 U.S.L.W. 3585 (S.Ct. No. 75-978). In that case, the Supreme Court was to interpret many of the sections of the Act which were also involved in the "Grain Processing" District Court decision. Thus, the appeal in the Eighth Circuit was held in abeyance pending the outcome of the Supreme Court's decision in "duPont." However, in determining to hold the case in abeyance in December 1976, the Eighth Circuit ordered that during the interim period before the Supreme Court acted, EPA was to receive any new information the industry had to offer relevant to certain questions raised about the corn wet milling regulations.

Since December of 1976, the Agency has continued to review and assess all information it has received relating to this industry, in particular, that data most recently received from industry. The Eighth Circuit ordered EPA to act on this new information by September 22, 1977. Consistent with the Eighth Circuit's requirements, EPA has entered into a settlement agreement in this case by which EPA will amend the regulations by November 12, 1977.

FINAL DETERMINATION

EPA's re-analysis has resulted in the Administrator's determining that the regulations should be modified in certain respects. In sum, he has concluded that the original 1977 and 1983 BOD limitations are still valid, but that increasing the suspended solids limitations would better reflect the situation at existing corn wet milling treatment facilities. The suspended solids levels in effluents from these facilities are generally somewhat higher than BOD levels.

He also concluded that a single-day BOD limit three times the maximum 30-day limit is appropriate for 1977 and 1983. A single-day suspended solids limit four times the 30-day limit was determined to be appropriate for the 1977 limitations. A factor of three is applied to the 1983 TSS limitation, however, reflecting improved solids control through deep bed filtration and in-plant measures. It has also been concluded that provisions in the regulations for excursions beyond the 30-day and single-day limits are not necessary.

In addition, recent information submitted by the industry shows that increased raw waste loads may result from production of modified starches. Significant production of modified starches may affect waste treatment plant performance and cause increased BOD and suspended solids effluent levels. For these reasons, the Administrator has concluded that an allowance in the corn wet milling effluent limitations for modified starch production above a specified level is warranted.

DISCUSSION OF MAJOR ISSUES

CURRENT STUDY

At the time of the original effluent guidelines study for the corn wet milling industry in 1973, there were 12 companies operating 17 mills in the country. Only four of these mills have direct discharges of all of their concentrated process waste waters following on-site treatment. These four mills are American Maize at Hammond, Ind.; Clinton Corn at Clinton, Iowa; CPC at Corpus Christi, Tex.; and CPC at Pekin, Ill. The situation at each of these four plants has been updated with new information as described below.

In response to the Eighth Circuit's order of December 1976, EPA made a request for new data to the industry on January 26, 1977. The industry submitted information on February 28, 1977, that included proposals for revised effluent limitations specifying ranges of numbers and allowances for factors such as barometric condensers, wet scrubbers, and old plants and new data on wet scrubber waste loads, and data on product mix and raw waste loads at CPC's Pekin and Corpus Christi plants.

Cost information was submitted by the industry on March 22, 1977, including industry revenues information (prices of various products) and costs of waste treatment at Hubinger's Keokuk plant and CPC's Corpus Christi and Pekin plants. Also, a questionnaire was sent to all of the direct dischargers and most of the indirect discharges for purposes of updating economic and financial data.

Again on May 2, industry submitted the following technical data: Waste treatment performance data for CPC's Corpus Christi and Pekin plants, a summary of effluent results and variability at CPC-Corpus Christi, and raw waste load data for Hubinger. In addition, data on raw waste loads from modified starch production were submitted on June 3, 1977.

EPA and its contractor visited the American Maize corn wet mill at Hammond, Ind., and CPC corn wet mill at Pekin, Ill. in May, 1977. Both of these mills have waste water treatment facilities and direct discharges to navigable waterways.

Current waste load data were received for several mills, including American Maize, Clinton Corn, CPC-Corpus Christi, and CPC-Pekin. These data were computerized and evaluated in terms of pollutant discharge (BOD and TSS) per unit of raw material processed.

APPPLICABLE TECHNOLOGY

EPA's review of the available data on raw waste loads and waste treatment within the corn wet milling industry has led to the conclusion that the technologies originally recommended for the industry are still appropriate. For 1977, these technologies include (1) certain in-plant controls such as elimination of once-through barometric cooling water, (2) recirculating these cooling waters over cooling towers with the blowndown directed to the treatment plant, or (3) replacing the barometric condensers with surface condensers, with the undiluted contaminated condensate directed to the treatment plant. End-of-pipe technology includes biological treatment. It should be noted that none of the corn mills employs all of the recommended 1977 technology. All corn mills discharge varying amounts of contaminated cooling water from barometric condensers without treatment. For example, all of the evaporators at CPC's Pekin plant use once-through cooling for barometric condensers. American Maize and Clinton Corn have made significant replacements of barometric condensers with surface condensers.

The recommended 1983 technology includes more stringent in-plant control and improved solids separation such as deep bed filtration following biological treatment.

BASIS FOR LIMITATIONS FOR 1977

The 1977 BOD limits in the regulation published today are the same as the limits originally promulgated in 1974, 0.89 kg/kkg (50 lb/MSBu). The limitation is supported by data from three existing corn wet mills as detailed in the Supplement to the Development Document for Existing Sources in Chapter V.

The 30-day TSS limit has been increased from 0.89 kg/kkg (50 MSBu) to 1.08 kg/kkg (60 lb/MSBu) to reflect data from existing treatment plants indicating normal TSS:BOD ratios greater than 1.0.

BASIS FOR LIMITATIONS FOR 1983

The BOD limit for 1983 is identical to the original limitation promulgated in 1974. The TSS limit has been increased to reflect recent data on waste treatment performance within the industry. These data have shown that effluent TSS levels are generally somewhat higher than BOD levels.

Deep bed filtration, the recommended 1983 technology, is currently in use at one corn wet milling plant, Clinton Corn in Clinton, Iowa.

The 1983 BOD limit is supported by data from several corn wet milling plants, as discussed in Chapter VI of the technical Supplement to the Development Document. At American Maize, the treatment system consists of activated sludge followed by lagoons. Tests with chemical coagulation indicate that greater BOD removal will be effected after treatment with alum and polymer. The Clinton Corn treatment facility consists of activated sludge followed by filtration. The CPC-Pekin treatment system has biological treatment followed by chemical coagulation and dissolved air flotation. CPC's Corpus Christi plant, with a poorly operating activated sludge system and no effluent polishing, achieved an average effluent BOD level of 0.36 kg/kkg (20.1 lb/MSBu). This value will improve when the polishing lagoon and clarifier are in operation. It should be noted that none of the above plants has installed all of the recommended 1977 and 1983 technologies. The plants rely to varying degrees on once-through barometric condensers for cooling.

The revised 1983 TSS limit is also amply supported, as reported in Chapter VI of the technical Supplement to the Development Document. For example, current maximum 30-day values for treated wastes at American Maize are less than 0.38 kg/kkg (21 lb/MSBu), and effluent TSS levels will decrease when chemical coagulation is added. The current maximum 30-day TSS level at CPC Pekin treatment plant is 0.09 kg/kkg (5.0 lb/MSBu) following activated sludge coagultaion, and dissolved air flotation. The maximum 30-day TSS value at Clinton Corn's treatment plant in 1975 was 0.55 (30.5 lb/MSBu). These last two figures reflect only treatment plant discharges.

ECONOMIC ANALYSIS

Although the recommended technology is the same as was recommended in the original promulgation of these regulations, the Agency has reviewed and updated the economic impact analysis because of significant changes in the economic environment of the corn wet milling industry. There are four corn wet milling plants subject to these BPT and BAT regulations. The waste treatment facilities now in place for the four plants represent best practicable control technology. Of the four plants, one was designed with primarily surface condensers, and two others have made significant replacements of barometric condensers with surface condensers. For this reason, the Agency has determined that the economic impacts due to revised BPCTCA regulations will be small.

Economic costs and impacts due to BATEA are expected to be insignificant. The economic analysis projects that the incremental annual costs will result in a decrease in after-tax return on capital and return on sales of 0.1 percent. Three plants of the four already have BAT technology in place, or its equivalent, and the other should be able to meet BAT with minimal investments. Therefore, due to the minor impacts of BATEA regulation, no plant closures are expected. The international trade effects and community impacts of these regulations are expected to be minimal.

VARIABILITY FACTORS FOR 1977 AND 1983

To set single-day effluent limits for 1977, factors of three for BOD and four for TTS were applied to the 30-day values. The TSS factor was increased to accommodate the higher variation in effluent TSS values experienced at several corn wet mills. These factors find extensive support in data from existing treatment plants. The rationale for the factors used in the 1977 limits is discussed in Section V of the Supplemental Development Document.

To determine single-day limits for 1983, a factor of three was applied to the 30-day limits. The factor of three used for the 1983 TSS limit reflects improved effluent control through a polishing step such as filtration and more stringent in-plant control.

MODIFIED STARCH ALLOWANCE

The original EPA study of this industry noted that waste waters from modified starch production represent the largest single source of organic load from many corn wet mills. It was also noted that production of modified starches varies not only from plant to plant, but also from day to day and week to week at a given plant. Also, the organic strength of the waste waters depends on the degree of starch modification.

Although EPA was aware that higher raw waste loads could result from modified starch production, no correlation could be established between the types and amounts of starches being produced and the resulting waste loads. EPA had requested data on product mix and raw waste loads so that such a correlation could be attempted. Furthermore, there was no evidence indicating that waste waters from any specific process (such as modified starch production) so affected the total plant waste stream as to reduce the ability of a mill to implement the best practicable control technology currently available. For this reason, no additional allowances for modified starch production were included in the originally promulgated effluent regulations.

On the basis of the recently supplied industry data, it has been determined that an effluent allowance for modified starch production might be needed for certain plants. An allowance is provided for plants producing modified starches at a rate at least 15 percent by dry-basis weight of total sweetener and starch products. This figure of 15 percent was based on industry comments and on waste treatment experience at CPC's Corpus Christi corn wet mill.

To arrive at the BOD allowance, an additional raw waste load for modified starch production was used. This was based on an average of the data submitted by industry. The allowance was determined by applying the same degree of BOD reduction to the modified starch waste load as that obtained through treatment of the standard raw waste load.

The recommended allowance for suspended solids is higher than the BOD figure, since the data indicate that modified starch wastes cause more problems with effluent TSS than BOD.

To determine the modified starch allowance for the 1983 effluent limitations, a BOD reduction of 95 percent was used, based on the reduction required by the basic 1983 BOD limitation. A TSS:BOD ratio of 1.5 was used to establish the TSS allowance, reflecting better solids control through use of deep bed filtration, part of the recommended 1983 control technology.

The factors used to convert 30-day limits to single-day maximums are identical to the factors used for the basic 1977 and 1983 limitations. For 1977, the single-day BOD allowance is three times the 30-day value. A factor of four was used for the TSS limits. For both the 1983 BOD and TSS single-day limits, a factor of three was used.

EXCURSIONS

Industry claims that certain factors causing excursions are unique to corn wet milling plants and exist in the course of normal operations and must be reflected in EPA's regulations by a special provision for a select number of permissible violations. The following were cited as examples of such factors:

1. Influent quality changes reflecting intermittent production of specialty products and changes in raw materials used.
2. Extraordinary additions to the raw waste load.
3. Exceptional production of finished products at plants where finishing capacity exceeds normal grind capacity.
4. Difficulty at older plants of continuously monitoring and controlling raw waste flows.

The effluent data reviewed in this study generally reflect long-term performance of treatment plants within the industry, including the excursions industry claims are unique to its operation. In most cases, all of the available data were analyzed. Only in cases where extreme values or anomalies were noted were data points excluded. For example, treated effluent levels at one plant were extremely higher than normal during a labor strike, and these data were omitted. In another case, a huge spill of corn syrup to a mill's waste treatment plant occurred, causing an upset that lasted several weeks. Because this occurrence was deemed preventable, the treatment data for that period were not included in the analysis. Thus, the effluent limitations set forth in these regulations reflect all ranges of normal operation but not preventable upsets.

EPA has thus determined that an "excursion provision" is not a necessary component of a corn wet milling discharge permit. Regarding events that may occur in the course of normal operations in the industry, EPA is bound by the rationale of the Decision of the General Counsel on Matters of Law Pursuant to 40 CFR § 125(m), No. 57 (March 16, 1977). That decision essentially states that a permit-issuer may consider including an excursion or upset provision in a permit only if the particular events giving rise to the upset conditions have not been taken into account in establishing the effluent limitation guidelines. After reexamining all available information, EPA has determined that the kinds of events which the industry proposes should be accorded exceptional consideration by the permit-issuer have already been incorporated into the data base from which the guidelines were derived.

The industry also has asserted that even if the effluent limitations accurately reflect daily and 30-day fluctuations in effluent quality from a well-run treatment facility, there will be times when the limitations are exceeded. The industry argues, for example, that if variability factors based on 99 percent probability are used to determine effluent limitations, then an additional allowance should be made to take care of excursions occurring the remaining one percent of the time. They claim that even the best-operated facility will occasionally be subject to excessive discharges because of factors such as (a) influent quality changes, (b) plant start-up or shut-down conditions, (c) equipment malfunction, (d) catastrophic conditions, or (e) other circumstances.

Factors beyond the control of a plant that may cause upsets or excursions, such as mechanical failure, accidental spills, or catastrophic conditions, can be handled informally by the permit-issuer. EPA's "Guidelines for Water Pollution Enforcement", 8 (July 23, 1974), provide direction. Such uncontrollable events can be handled either through a force majeure clause in a permit or by enforcement discretion. We also note that if a plant is found to be affected by factors "fundamentally different" from those considered in establishing the guidelines, the current regulations allow for a "variance provision" relative to the limitations based on application of the "best practicable control technology currently available" 40 CFR 406.12(a). Similarily, according to Section 301(c) of the Act, the Administrator is authorized to modify the requirements pertaining to the "best available technology economically achievable" for an individual point source upon a sufficient showing by the point source operator under the conditions specifically set forth in 301(e).

COMMENT PERIOD

In view of deadlines imposed by the United States Court of Appeals for the Eighth Circuit, and the settlement agreement entered into by the parties in that litigation, the Agency is dispensing with a comment period prior to this amendment. The July 1, 1977 date when the best practicable control technology currently available is to take effect has already passed. In addition, these regulations have been subjected to protracted controversy and litigation since initially issued in 1974. A significant number of industry members have participated in the litigation and have already had an opportunity as a result of that litigation to submit new data to EPA and to comment on the issues reflected in the present amendment of the regulations.

PUBLICATION OF INFORMATION

In conformance with Section 304(e) of the Act, the manual supporting this amendment titled "Supplement to the Development Document for Effluent Limitations Guidelines for Existing Sources for the Corn Wet Milling Subcategory, Grain Processing Segment of the Grain Mills Point Source Category" will be published and will be available for purchase from the Government Printing Office, Washington, D.C. 20402, for a nominal fee.

Copies of the economic analysis document supporting the regulation titled "Economic Analysis of the Effluent Limitations Guidelines for Existing Sources for the Corn Wet Milling Subcategory, Grain Processing Segment of the Grain Mills Point Source Category" will be available from the National Technical Information Service, Springfield, Va. 22151.

SMALL BUSINESS ADMINISTRATION

Section 8 of the FWPCA authorizes the Small Business Administration, through its economic disaster loan program, to make loans to assist any small business concerns in effecting additions to or alterations in their equipment, facilities, or method of operation so as to meet water pollution control requirements under the FWPCA, if the concern is likely to suffer a substantial economic injury without such assistance.

For further details on this Federal loan program, write to EPA, Office of Analysis and Evaluation, WH-586, 401 M Street SW., Washington, D.C. 24060.

DECISION

In accordance with the above findings, the effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available and by the application of the best available technology economically achievable for the corn wet milling subcategory of the grain mills point source category (40 CFR 406.12 and 406.13) (Subpart A), are amended as set forth below and are effective on December 12, 1977.

Dated: November 23, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart A—Corn Wet Milling Subcategory

1. Section 406.12(b) is revised and § 406.12(c) is added to read as follows:

§ 406.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

* * * * *

(b) Subject to the provisions in paragraph (c) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 d	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of corn)		
BOD5	2.67	0.89
TSS	4.32	1.08
pH	Within the range 6.0 to 9.0.	------
English units (pounds per 1,000 stdbu of corn)		
BOD5	150	50
TSS	240	60
pH	Within the range 6.0 to 9.0.	------

(c) The limitations given in paragraph (b) of this section for BOD5 and TSS are derived for a point source producing products standards to the corn wet milling industry. For those plants producing modified starches at a rate of at least 15 percent by dry-basis weight of total sweetener and starch products per month for 12 consecutive months, the following limitations should be used to derive an additive adjustment to the discharge allowed by paragraph (b) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 d	Average of daily values for 30 consecutive days shall not exceed
Metric units (kilograms per 1,000 kg of corn)		
BOD5	0.81	0.27
TSS	2.16	.54
English units (pounds per 1,000 stdbu of corn)		
BOD5	45	15
TSS	120	30

2. Section 406.13 is revised to read as follows:

§ 406.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions in paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 d	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of corn)		
BOD5	1.08	0.36
TSS	1.62	.54
pH	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 stdbu of corn)		
BOD5	60	20
TSS	90	30
pH	Within the range 6.0 to 9.0.	

(b) The limitations given in paragraph (a) of this section for BOD5 and TSS are derived for a point source producing products standard to the corn wet milling industry. For those plants producing modified starches at a rate of at least 15 percent by dry-basis weight of total sweetener and starch products per month for 12 consecutive months, the following limitations should be used to derive an additive adjustment to the discharge allowed by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 d	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of corn)		
BOD5	0.43	0.14
TSS	.66	.22
English units (pounds per 1,000 stdbu of corn)		
BOD5	24	8
TSS	36	12

[FR Doc.77-35292 Filed 12-9-77;8:45 am]

[6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND REGULATED ACTIVITIES

[Docket No. 72-19; General Order No. 13]

PART 536—PUBLISHING AND FILING TARIFFS BY COMMON CARRIERS IN THE FOREIGN COMMERCE OF THE UNITED STATES

Exemptions and Exclusions; Correction

AGENCY: Federal Maritime Commission.

ACTION: Correction to General Order 13.

SUMMARY: This document corrects typographical and editorial errors in two previously published documents on General Order No. 13. General Order No. 13 was published at 42 FR 59265, November 16, 1977 and was corrected at 42 FR 61047, December 1, 1977.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTARY INFORMATION: The Commission's Order in Docket No. 72-19 (as it appeared in 42 FR 59265, November 16, 1977 and 42 FR 61047, December 1, 1977) is being corrected to include a further exemption from Shipping Act section 18(b) which was inadvertently omitted from § 536.1(a) and to correct a typographical error in § 536.1(a)(4). The omitted provision pertains to the activities of Foss Launch & Tug Co., (and similarly situated carriers), which were exempted by Commission Order effective January 7, 1977 (42 FR 1473).

Therefore, it is ordered, That General Order 13 (46 CFR Part 536) is corrected by adding a § 536.1(a)(5) which reads as follows:

(a) * * *

(5) Transportation by water of cargo moving in rail cars between British Columbia, Canada and United States ports on Puget Sound, and between British Columbia, Canada and ports or points in Alaska: *Provided,* That (i) the through rates are filed with the Interstate Commerce Commission and/or the Canadian Transport Commission; (ii) certified true copies of the rate divisions and of all agreements, arrangements, or concurrences entered into in connection with the transportation of such cargo are filed with the Commission within 30 days of the effectiveness of such rate divisions, agreements, arrangements or concurrences: *And, provided, further,* That this exemption is inapplicable to cargo originating in or destined to foreign countries other than Canada.

It is further ordered, That § 536.1(a)(4) is corrected by inserting the words "are filed with the Commission" immediately following the words "such cargo" at 42 FR 61047, column 3, line 12.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-35391 Filed 12-9-77;8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21311; FCC 77-796]

PART 73—RADIO BROADCAST SERVICES

Repeal of Movie Restrictions on Subscription Television

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action deletes an FCC rule that restricts which movies can be presented on subscription television ("STV"). The rule deleted is identical to a pay cable rule, which has been vacated by the Courts.

EFFECTIVE DATE: January 9, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Carol P. Foelak, Policy and Rules Division, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: November 22, 1977.

Released: December 1, 1977.

In the matter of repeal of movie restrictions on subscription television.

By the Commission: Commissioner Brown not participating.

1. We have before us our Notice of Proposed Rule Making, released June 29, 1977, which proposes repeal of 47 CFR Sec. 73.643(a) which restricts the presentation of certain feature films on subscription television ("STV").

2. The Commission's Rules and Regulations contained similar sections which restricted the presentation of certain feature movies on subscription television and pay cable.[1] On March 25, 1977, the U.S. Court of Appeals, D.C. Circuit, vacated the pay cable restrictions but not the parallel subscription television restrictions. *Home Box Office* v. *F.C.C.*, Case No. 75-1280 et al. Several parties filed petitions for certiorari, which the Supreme Court denied on October 3, 1977.[2]

3. Earlier, at the Commission's request, the Court of Appeals remanded by Order of May 4, 1977, the STV movie restrictions, contained in 47 CFR Section 73.643(a), for consideration of repeal of that section. The Notice of Proposed Rule Making proposed such repeal and invited comments on any justification for retaining the subscription television restrictions on feature movies, now that the cable rule has been vacated.

4. Comments supporting the proposal were filed by Blonder-Tongue Broadcasting Corp., Pioneer International Corp., and Channel 100, Inc., Motion Picture Association of America, and National Subscription Television. Comments opposing it were filed by the American Broadcasting Companies, Inc. and the National Association of Broadcasters. Reply comments were filed by the National Association of Broadcasters and National Subscription Television.

5. Those favoring deletion of the rule argue that there is no reason to differentiate STV from pay cable and that if the STV rule is not deleted, STV will be at a disadvantage in competing with pay cable in bargaining for films and in attracting audiences.

6. Those favoring retention of the rule argue that no basis has been shown for deleting it. They also refer to their (then) pending petitions for certiorari of the Home Box Office decision and note that while the FCC decided to seek review of parts of that decision, it did not seek review of the court's decision vacating the pay cable movie rules. Therefore, they argue, the FCC in effect has amended its pay cable rules without proper administrative procedures and is piggybacking the otherwise unexplained proposal in this proceeding to delete the STV movie rule on its unexplained decision not to seek review in the Supreme Court of the court decision invalidating the analagous pay cable rule.

7. We cannot agree that the Commission's decision not to appeal the motion picture anti-siphoning pay cable portion of the Home Box Office decision constitutes a Commission rule deletion in contravention of the Administrative Procedure Act or a prejudgment of the matters set out for comment in the instant proceeding. When a court of competent jurisdiction issues a reasoned opinion vacating a Commission rule on the ground that no basis existed for the rule's enactment, no further administrative action need be taken by an agency declining to seek a judicial appeal. Insofar as the STV motion picture anti-siphoning rules here are concerned, the Commission has considered the arguments presented by the parties and has decided that the better course would be the deletion of these rule provisions. While the Commission's specific regulatory postures toward subscription television licensees and cable television operators are not totally parallel, it is clear that the two communications activities may be viewed as directly competitive and that they should be given equal treatment insofar as program availability is concerned. We do not believe that any useful or public interest purpose would be served by any other conclusion. Therefore, we will delete § 73.643(a) of the Commission's Rules, as proposed.

8. *It is ordered*, That § 73.643 of the Commission's Rules and Regulations, 47 CFR 73.643 be amended by deletion of paragraph (a) and by redesignating paragraphs (b) through (f) as paragraphs (a) through (e), effective January 9, 1978.

9. Authority for the actions taken herein is contained in Sections 2, 4(i), 301 and 303 of the Communications Act of 1934, as amended.

10. *It is further ordered*, That this proceeding is terminated.

(Secs. 2, 4, 301, 303; 48 Stat., as amended, 1064, 1066, 1081, 1082; 47 U.S.C. 152, 154, 301, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Acting Secretary.

[FR Doc.77-35318 Filed 12-9-77;8:45 am]

[1] Our rules also contained restrictions on the presentation of certain sports events and commercial advertising, and limited sports and movies combined to 90% of programming on pay cable or on subscription television. As with feature films, the Court of Appeals struck down these pay cable rules.

[2] A petition for rehearing of the denial of certiorari is now pending before the Supreme Court.

[6712-01]

SUBCHAPTER D—SAFETY AND SPECIAL RADIO SERVICES

[Docket No. 21349; FCC 77-785]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICE AND ALASKA—PUBLIC FIXED STATIONS

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICE

Maritime Mobile Services; Changes in Frequencies; Correction

AGENCY: Federal Communications Commission.

ACTION: Erratum.

SUMMARY: This document corrects certain errors contained in Order implementing temporary assignment of new High Frequency (HF) radiotelephone frequencies for use in the maritime mobile service. (42 FR 60145, November 25, 1977.)

EFFECTIVE DATE: January 1, 1978 for adoption of temporary frequency assignment plan.

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

FOR FURTHER INFORMATION CONTACT:

Nicholas G. Bagnato, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Released: December 2, 1977.

Amendment of Parts 81 and 83 to implement changes in frequencies, operating procedures and other criteria relating to radio-telephony in the band 4000 to 27500 kHz in the maritime mobile services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974.

The Appendix to the Order in the above-captioned matter, FCC 77-785, released November 16, 1977, contained errors and should be amended as follows:

1. In paragraph 1, channel 829 was inadvertently omitted from the temporary assignment plan for station WLO, Alabama and should be added between channel 824 and channel 830.