(f) A description of the effect of the facility in terms of type and quantity of pollutants, contaminants, wastes, or heat, removed, altered, stored, disposed of, or prevented by the facility.

(g) If the facility performs a function other than removal, alteration, storage, prevention, or disposal of pollutants, contaminants, wastes, or heat, a description of all functions performed by the facility, including a reasonable identification of the costs of the facility allocable to removal, alteration, storage, prevention, or disposal of pollutants, contaminants, wastes, or heat and a description of the reasoning and accounting method or methods used to arrive at the allocation.

* * * * *

(n) The percentage (if any, and if the taxpayer claims that the percentage is 5 percent or less) by which the facility (1) increases the output or capacity, (2) extends the useful life, or (3) reduces the total operating costs of the operating unit of the plant or other property most directly associated with the pollution control facility and a description of the reasoning and accounting method or methods used to arrive at this percentage.

(o) Such other information as the Administrator deems necessary for certification.

(5) By revising subparagraphs (2) and (3) of paragraph (a); subparagraphs (1), (2), and (3) of paragraph (B); paragraph (d); and paragraph (e) of § 20.8 to read as follows:

§ 20.8 Requirements of certification

(a) * * *

(2) That the facility: (i) Removes, alters, disposes of, stores, or prevents the creation of pollutants, contaminants, wastes, or heat, which, but for the facility, would be released into the environment;

(ii) Does not by a factor or more than 5 percent: (A) Increase the output or capacity, (B) extend the useful life, or (C) reduce the total operating costs of the operating unit (of the plant or other property) most directly associated with the pollution control facility; and

(iii) Does not significantly alter the nature of the manufacturing or production process or facility.

(3) The applicant is in compliance with all regulations of Federal agencies applicable to use of the facility, including conditions specified in any NPDES permit issued to the applicant under section 402 of the Act.

(b) * * *

(1) All applicable water quality standards, including water quality criteria and plans of implementation and enforcement established pursuant to section 303 of the Act or State laws or regulations;

(2) Decisions issued pursuant to section 310 of the Act;

(3) Water pollution control programs required pursuant to any one or more of the following sections of the Act: Section 306, section 307, section 311, section 318, or section 405; or in order to be consistent with a plan under section 208.

(d) A facility that removes elements or compounds from fuels that would be released as pollutants when such fuels are burned is eligible for certification if the facility is—

(1) Used in connection with a plant or other property in operation before January 1, 1976 (whether located and used at a particular plant or as a centralized facility for one or more plants), and

(3) Is otherwise eligible for certification.

(e) Where a facility is used in connection with more than one plant or other property, one or more of which were not in operation before January 1, 1976, or where a facility will perform a function other than the removal, alteration, storage, disposal, or prevention of pollutants, contaminants, wastes, or heat, the Regional Administrator will so indicate on the notice of certification and will approve or disapprove the applicant's suggested method of allocating costs. If the Regional Administrator disapproves the applicant's suggested method, he shall identify the proportion of costs allocable to each such plant, or to the removal, alteration, storage, disposal, or prevention of pollutants, contaminants, wastes, or heat.

(90 Stat. 1905 (Sec. 2112 of Pub. L. 94-455, Oct. 4, 1976), 80 Stat. 379; (26 U.S.C. 169, 5 U.S.C. 301).)

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

Dated: December 28, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-324 Filed 1-6-78; 8:45 am]

[6560-01]

[FRL 823-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Air Pollution Control, State Regulations, State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to approve, with exceptions, amendments to the Nevada Air Quality Regulations (NAQR) submitted to EPA by the Governor on February 20, June 14, and November 12, 1974; and October 31, 1975 as revisions to the Air Quality Implementation Plan for the State of Nevada. The amendments pertain to motor vehicle inspection and testing, power plants, public availability of emission data, and other miscellaneous items. Action was proposed in the FEDERAL REGISTER on August 15, 1975 and May 20, 1977.

EFFECTIVE DATE: February 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, Attn.: Morris I. Goldberg, Air Programs Branch, EPA Region IX, 215 Fremont Street, San Francisco, Calif. 94105, telephone 415-445-7473.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On November 12, 1974 the Governor of Nevada submitted amendments to the NAQR as revisions to the State implementation plan (SIP). On August 15, 1975 (40 FR 34408) EPA proposed approval of four regulations of this submittal. Final action has been taken on all other items except as noted in this rulemaking.

Also on February 20 and June 14, 1974; and October 31, 1975 the Governor of Nevada submitted amendments to the NAQR as revisions to the SIP. On May 20, 1977 (42 FR 25878) EPA proposed approval, with exceptions, of the items submitted in these revisions.

Both of the proposed rulemaking notices provided for a 30-day public comment period. Copies of the regulations proposed for approval and disapproval, the EPA evaluation reports and the proposed rulemaking notices were made available during the public comment periods at Carson City, Nev. and at the EPA offices in San Francisco, Calif. and Washington, D.C. In addition, the information for the May 20, 1977 notice was also made available in Reno and Las Vegas, Nev.

DISCUSSION OF ACTION

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP.

Differences from the proposed actions. Final rulemaking differs from that proposed on August 15, 1975 and May 20, 1977 because of public comment. Two comments were received on the State regulations, each attributing to a change from the actions proposed. The comments addressed particulate emission limitations applicable to Basic, Inc. and the State's odor regulation. As a result of the comments no final action is being taken on the three regulations.

PUBLIC COMMENTS

1. *Particulate Matter Emission Limitations Applicable to Basic, Inc.* In response to the August 15, 1975 proposed approval of NAQR, Articles 7.2.5 and 7.2.6, the commentor recommended that the proposed approval of the subject regulations be rescinded. The proposed approval was based on air quality diffusion modeling performed by the State which intended to show that the National Ambient Air Quality Standards (NAAQS) for particulate matter would be attained and maintained as a result of compliance with the new emission limitations. The commentor providied data showing that violations of the applicable NAAQS have continued even after control equipment was installed for the purpose of meeting the new emission limitations. The commentor also pointed out that the emission limitations are not sufficiently stringent to require the installation of reasonably available control technology (RACT).

2. *Odor Regulations.* In response to the May 20, 1977 proposed approval of the revision to NAQR, Article 10.1, one commentor recommended that no action be taken on the revision and that the previous approval be rescinded. The regulations do not relate to the control of pollutants for which NAAQS have been promulgated, no demonstration of the effect of this regulation is possible, and the regulation is unenforceable.

As a result of the public comments no action is being taken on NAQR, Articles 7.2.5 and 7.2.6 applicable to Basic, Inc. and NAQR, Article 10.1 regarding odors. EPA will address Articles 7.2.5 and 7.2.6 in a separate FEDERAL REGISTER notice. EPA is also retracting its proposed approval of revisions to Article 10.1 and will propose to rescind the previous approval in a separate FEDERAL REGISTER notice.

Approvals, disapprovals, non-actions and rescissions, as proposed. Final rulemaking on State regulations is identical to that proposed on August 15, 1975 and May 20, 1977 with the exception of those items discussed above. Approval is being promulgated for all items except those discussed in response to public comments and those proposed for disapproval or non-action.

1. *Disapproval Actions*—(a) *State Regulations.* Disapproval is being promulgated for NAQR, Article 2.11.4.2 on public hearings on the renewal of variances.

(b) *Control Strategy Portions of the SIP.* Disapproval is being promulgated for the control strategy for carbon monoxide and hydrocarbons/photochemical oxidants in the Nevada portion of the Clark-Mohave Interstate Air Quality Control Region (Las Vegas area).

2. *Non-Actions*—(a) *Plan Revisions.* No action is being taken through this notice on any portion of the February 20 and June 14, 1974 revisions because they have been superseded by the October 31, 1975 revision.

(b) *State Regulations.* No action is being taken on the following regulations from the November 12, 1974 and October 31, 1975 revisions.

i. NAQR, Articles 1.14 and 13 on complex sources,

ii. NAQR, Articles 7.2.5 and 7.2.6 on particulate emissions applicable to Basic, Inc.,

iii. NAQR, Article 8.1.3 on sulfur emissions from existing copper smelters,

iv. NAQR, Article 10.1 on odors, and

v. NAQR, Article 14 on supplementary control systems.

3. *Rescission Actions.* Action is being taken to rescind previous disapproval actions promulgated by EPA. In each instance the State has revised the disapproved element of the SIP. EPA is approving the applicable regulations. The following are affected:

(a) *State Regulations.* The May 31, 1972 (37 FR 10878) and September 26, 1974 (39 FR 34537) disapproval of NAQR, Article 2.7.1 on the public availability of emission data is being rescinded because the October 31, 1975 revision to this regulation is being approved. EPA is therefore rescinding the disapproval of NAQR, Article 2.7.1 at 40 CFR 52.1473(a), as it affects portions of the State other than Washoe County, and at 40 CFR 52.1473(c).

(b) *State Regulations.* The May 14, 1974 (38 FR 12708) disapproval of the emergency episode portion of the SIP relating to open burning is being rescinded because the November 12, 1974 revision to NAQR, Articles 5.2.3 and 5.2.4 on open burning are being approved. EPA is therefore rescinding the disapproval at 40 CFR 52.1477(a) relating to open burning during emergency episodes.

Miscellaneous clarifying changes to the Code of Federal Regulations (CFR). The Identification of plan section (40 CFR 52.1470) applicable to Nevada is being revised through this notice for the following reasons. Revisions are being made to 40 CFR 52.1470 at (c)(6) through (c)(9) for clarification purposes. These changes correct the name of the State's regulations and the nomenclature of regulations in same, and insert numerical identifications for the various regulations already included in the various subparagraphs. Also, a revision at (c)(8) and an addition at (c)(11) are being made as dictated by this final rulemaking.

(Secs. 110, 301(a), Clean Air Act as amended (42 U.S.C. 1857c-5, 1857g(a)), respectively.)

Dated: December 28, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart DD of Part 52 of Chapter 1, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart DD—Nevada

1. In § 52.1470, paragraph (c) is amended by the revision of subparagraphs (6), (7), (8), and (9) and by the addition of subparagraph (11) as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(6) Amendments to the Nevada Air Quality Regulations (NAQR), to regulate the construction of complex sources (Article 13), submitted on April 1, 1974, by the Governor.

(7) Amendments to the NAQR to regulate sulfur emissions from nonferrous smelters (Article 8.1); to regulate and monitor visible emissions from stationary sources (Article 4); and to allow supplementary control systems (Article 14), submitted on June 14, 1974, by the Governor.

(8) Amendments to the NAQR to regulate open burning (Article 5.2.3 and 5.2.4), and to regulate the construction of complex sources (Article 13), submitted on November 12, 1974, by the Governor.

(9) Administrative procedures for the review of complex sources submitted on December 11, 1974, by the Governor's representative.

(11) Amendments to the NAQR, as amended through September 18, 1975, submitted on October 31, 1975, by the Governor, as follows:

Article 1—Definitions: 1.6-1.13, 1.15-1.33, 1.35-1.69;

Article 2—General Provisions: 2.4.1-2.4.4, 2.5.1, 2.5.2, 2.5.4, 2.6.1-2.6.4, 2.7.1, 2.8.1, 2.8.4, 2.8.5.1, 2.9.1-2.9.3, 2.9.5-2.9.7, 2.10.1.2, 2.10.2-2.10.4, 2.11.4.2;

Article 3—Registration Certificates and Operating Permits: 3.1.3, 3.1.5, 3.1.6, 3.1.8a & d-i, 3.1.9, 3.2.2-3.2.6, 3.3.2, 3.3.5, 3.4.1, 3.4.6-3.4.14;

Article 4—Visible Emissions From Stationary Sources: 4.1, 4.2, 4.3.5, 4.4-4.4.2;

Article 5—Open Burning: 5.2.3, 5.2.4;

Article 6—Incinerator Burning: 6.3-6.6.2;

Article 7—Particulate Matter: 7.1.3, 7.2.1-7.2.3, 7.3.1-7.3.3;

Article 8—Sulfur Emissions: 8.1.1, 8.1.2, 8.1.4, 8.2.2.1, 8.3-8.4;

Article 9—Organic Solvent, Other Volatile Compounds: 9.1, 9.2-9.2.1.1, 9.2.2, 9.2.3;

Article 10—Odors: 10.2.1.1, 10.2.1.2;

Article 11—Mobile Equipment: 11.3-11.7.1, 11.7.4-11.7.5, 11.10, 11.10.1, 11.11-11.14.17.

2. In § 52.1473, the first sentence of paragraph (a) is revised and paragraph (c) is revoked as follows:

§ 52.1473 General requirements.

(a) The requirements of § 51.10(e) of this chapter are not met in Washoe County, since the plan does not provide procedures for making emission data, as correlated with allowable emissions, available to the public. * * *

(b) * * *

(c) [Revoked]

3. Section 52.1477 and paragraph (a) of that section are revoked as follows:

§ 52.1477 [Revoked]

(a) [Revoked]

4. Section 52.1484 and paragraph (a) of that section are added as follows:

§ 52.1484 Control strategy: Carbon monoxide.

(a) The requirements of § 51.14 of this chapter are not met since the plan does not provide for the attainment and maintenance of the national standards for carbon monoxide in the Nevada (Las Vegas area), portion of the Clark-Mohave Interstate Region (§ 81.80 of this chapter).

5. Section 52.1486 and paragraph (a) of that section are added as follows:

§ 52.1486 Control strategy: Hydrocarbons and photochemical oxidants.

(a) The requirements of § 51.14 of this chapter are not met since the plan does not provide for the attainment and maintenance of the national standard for photochemical oxidants in the Nevada (Las Vegas area), portion of the Clark-Mohave Interstate Region (§ 81.80 of this chapter).

6. Section 52.1487 and paragraph (a) of that section are added as follows:

§ 52.1487 Public hearings.

(a) The requirements of § 51.4(a)(2) of this chapter are not met since NAQR, Article 2.11.4.2 allows variances (compliance schedules), to be renewed without a public hearing, thus allowing further postponement of the final compliance date for sources whose emissions contribute to violations of the national standards. Therefore, NAQR, Article 2.11.4.2 is disapproved.

[FR Doc. 78-326 Filed 1-6-78; 8:45 am]

[6560-01]

SUBCHAPTER N—EFFLUENT LIMITATIONS, GUIDELINES, AND STANDARDS

[FRL 839-4]

PART 458—CARBON BLACK MANUFACTURING POINT SOURCE CATEGORY

Effluent Limitations Guidelines, New Source Performance Standards, and Pretreatment Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On May 18, 1976, the Environmental Protection Agency promulgated, in interim final form, effluent limitations guidelines for the Carbon Black Manufacturing Point Source Category, 40 CFR Part 458. In addition, on that date it proposed other effluent limitations guidelines, new source performance standards, and pretreatment standards for new sources.

With the exception of effluent limitations guidelines for the furnace black process subcategory (subpart A), the interim final regulations and proposed regulations are today promulgated in the identical form as they were proposed or promulgated on May 18, 1976. The effluent limitations guidelines based upon the use of the best practicable control technology currently available for the furnace process subcategory (subpart A), have been withdrawn.

The effluent limitations guidelines and new source performance standards issued today, when applicable, will be incorporated in National Pollutant Discharge Elimination System permits issued by Federal EPA or by States with approved programs.

DATE: January 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Harold B. Coughlin, Effluent Guidelines Division, (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-2560.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency today promulgates regulations pursuant to sections 301, 304, 306, and 307 of the Federal Water Pollution Control Act, as amended, Pub. L. 92-500, for four subcategories of the 40 CFR Part 458, Carbon Black Manufacturing Point Source Category. These subcategories are the carbon black furnace process (subpart A), the carbon black thermal process (subpart B), the carbon black channel process (subpart C), and the carbon black lamp black process (subpart D). With respect to subparts B-D (thermal process, channel process, and lamp process), the regulations are being promulgated in forms unchanged from the regulations proposed or published in interim final form for these subparts on May 18, 1976 (41 FR 20496 et seq. and 41 FR 20502 et seq.). The Agency received only one comment with respect to subpart B and no comments with respect to subparts C or D.

The focus of criticism of the effluent limitations guidelines, announced in interim final form on May 18, was with respect to the carbon black furnace process (subpart A). The major change announced today is with respect to those regulations. The effluent limitations guidelines based upon the application of best practicable control technology currently available for the carbon black furnace process, subpart A, is being withdrawn. Furthermore, the effluent limitations guidelines based upon the use of best available technology economically achievable for the carbon black furnace process is being promulgated in final form as no discharge of process waste water, as defined below. The new source performance standards and pretreatment standards for new sources are unchanged from the forms proposed on May 18.

SUMMARY AND BASIS OF REGULATIONS

Following the May 18 promulgations of interim final effluent limitations guidelines based on the use of best practicable technology currently available (BPT), petitions for review were filed in the United States Court of Appeals for the Fifth Circuit (No. 76-3051), by Ashland Oil, Inc., Cabot Corp., Cities Service Co., Continental Carbon Co., and Phillips Petroleum Co. After the filing of this action on July 28, 1976, the petitioners submitted a substantial amount of new information to the Agency, and both parties to the action conducted several meetings to discuss factual contentions with respect to the BPT regulations. The Agency also reviewed all outstanding National Pollutant Discharge Elimination System (NPDES), permits to determine the present extent of discharges from the facilities which fall within subpart A of part 458. This review indicated that there was only one manufacturing facility with a point source discharge which did not possess an NPDES permit. It was determined that for all other point sources covered by subpart A, the NPDES permits would expire at the earliest in 1978, and that the BPT regulations would, in effect, apply to only one facility.

After carefully reviewing recent monitoring information submitted by the companies and by EPA Region VI (Dallas, Tex.), the Agency determined that little environmental degradation would occur if the BPT regulations were withdrawn and the effluent limitations guidelines based on the use of best available technology economically achievable (1983 level technology), were promulgated, as proposed, to require zero discharge by the date set forth in section 301(b)(2)(A) of the act. Today's announcement executes an agreement which resolves the litigation in the Fifth Circuit and which, in effect, means that when dischargers apply for renewal of NPDES permits they will be placed on a schedule which will result in zero discharge of process waste waters by the date set forth in section 301(b)(2)(A) of the act. Of course, dischargers which are presently achieving zero discharge or which discharge small amounts of process waste water pollutants will not be allowed to initiate a discharge or to increase the quantities or concentration of pollutants discharged without appropriate issuance of NPDES permits. The one facility which does not have a final NPDES permit will be considered by EPA Region VI on an ad hoc basis in the absence of national regulations, and be issued a section 402 permit.

The comments submitted by manufacturers of furnace black indicated that there was some confusion over the meaning of "process waste water" as that phrase is used in the regulations.

To clarify that definition with respect to the furnace black subcategory, section 458.11 has been modified to indicate that the BAT effluent limitations guidelines, standards of performance for new sources, and pretreatment standards for new sources for the furnace black subcategory are intended to apply to waters that come from baghouse operations and all integral parts of the product collection system. Waters included in this definition are washout waters, reaction quench waters or condensate, and storm waters falling directly on the production process and collection units. Uncontaminated storm water runoff, as such, is not intended to be covered by these regulations and will be addressed, if at all, by the appropriate EPA Regional Office in an NPDES permit. However, where process waste water and storm water intermingle, the regulations do apply to any resultant discharge into the navigable waters of the United States, except that these regulations do not address discharges from containment facilities that result from unusually large rainfall events. This definition applies equally well to § 458.21 for the carbon black thermal process (subpart B).

SUMMARY OF PUBLIC PARTICIPATION

Upon publication of interim final regulations, public comments were solicited. Comments with respect to the carbon black furnace process were submitted only by the parties to the litigation in the petition to review 40 CFR Part 458. The summary of public comments with respect to carbon black furnace process (subpart A), appears above in the summary and basis for the regulations.

On November 5, 1976, the Agency received comments from the International Minerals and Chemical Corp., Thermatomic Carbon Operations, suggesting that its facility in Sterlington, La., producing carbon black by the thermal process (subpart B), is different from the facilities relied upon by the Agency to establish thermal black effluent limitations guidelines (subpart B). Those comments indicate that the Thermatomic facility is a net water discharger and that it uses a process which is different from other processes employed by thermal carbon black manufacturers. The information submitted by this commenter is insufficient to provide the basis for the creation of a separate subcategory in the regulations. However, it may be appropriate for this discharger to submit this information, perhaps in more detailed form, to the EPA Regional Office with jurisdiction over the discharge. The discharger has the opportunity to seek a variance from the nationally applicable BPT effluent limitations guidelines pursuant to § 458.22 of title 40. The evaluation of the variance request, which is conducted by the EPA Region, is not a proper subject of this final rulemaking.

No comments were submitted on either the channel process (subpart C), or the lamp process (subpart D), carbon black subcategories.

A copy of all public comments are on file in the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street SW., Washington, D.C. 20460. The EPA information regulations, 40 CFR Part 2, provide that a reasonable fee may be charged for copying.

In consideration of the foregoing, 40 CFR Part 458 is revised to read as follows:

Dated: December 29, 1977.

DOUGLAS M. COSTLE,
Administrator.

AUTHORITY: Secs. 301, 304 (b) and (c), 306(b), 307 (b) and (c), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316(b) and 1317 (b) and (c), 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act).

Subpart A—Carbon Black Furnace Process Subcategory

§ 458.10 Applicability; description of the carbon black furnace process subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of carbon black by the furnace process.

§ 458.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean carbon black manufactured by the furnace process.

(c) The term "process waste water" shall mean waters which result from baghouse operations or thermal quench operations.

§ 458.12 [Reserved]

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

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black furnace process by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.14 [Reserved]

§ 458.15 Standards of performance for new sources

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black furnace process by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.16 Pretreatment standards for new sources

The pretreatment standard under section 307(c) of the Act for a new source within the carbon black furnace process subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property.—Oil and grease.
Pretreatment standard.—100 mg/l.

Subpart B—Carbon Black Thermal Process Subcategory

§ 458.20 Applicability: description of the carbon black thermal process subcategory

The provisions of this subpart are applicable to discharges resulting from the production of carbon black by the thermal process.

§ 458.21 Specialized definitions

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean carbon black manufactured by the thermal process.

(c) The term "process waste water" shall mean waters which result from baghouse operations or thermal quench operations.

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

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of carbon black by the thermal process from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants into navigable waters.

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

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph which may be discharged from the carbon black thermal process by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.24 [Reserved]

§ 458.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black thermal process by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.26 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the carbon black thermal process subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property.—Oil and grease.
Pretreatment standard.—100 mg/l.

Subpart C—Carbon Black Channel Process Subcategory

§ 458.30 Applicability; description of the carbon black channel process subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of carbon black by the channel process.

§ 458.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean carbon black manufactured by the channel process.

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

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop, and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available, and as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of carbon black by the channel process from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants into navigable waters.

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

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black channel process by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.34 [Reserved]

§ 458.35 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black channel process by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.36 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the carbon black channel process subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property.—Oil and grease.
Pretreatment standard.—100 mg/l.

Subpart D—Carbon Black Lamp Process Subcategory

§ 458.40 Applicability; description of the carbon black lamp process subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of carbon black by the lamp process.

§ 458.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean carbon black manufactured by the lamp process.

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

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of carbon black by the lamp process from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants into navigable waters.

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

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black lamp process by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.44 [Reserved]

§ 458.45 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black lamp process by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.46 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the carbon black lamp process subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property.—Oil and grease.
Pretreatment standard.—100 mg/l.

[FR Doc. 78-325 Filed 1-6-78; 8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

[FSS P 2800.8B CHGES 15-18]

MISCELLANEOUS AMENDMENTS

AGENCY: Federal Supply Service, General Services Administration.

ACTION: Final Rule.

SUMMARY: This amendment of the General Services Administration Procurement Regulations (GSPR 5A) adds or revises contract clauses to clarify Government requirements and contract administration procedures, revises or adds instructions to contracting officers to standardize operational practices, and updates procurement forms containing contract clauses. The purpose of this regulation is to improve Federal Supply Service contract clauses and procurement procedures.

EFFECTIVE DATE: January 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Einar Windingland, Director, Policy and Procedures Division, Office of Procurement, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-8344.

SUPPLEMENTARY INFORMATION: 1. The following changes were made to clauses applicable to Federal Supply Schedule contracts. The Urgent Requirements clause was revised to require contractors to confirm in writing telephonic agreements to accelerate deliveries. The Blanket Purchase Arrangements clause was revised to indicate that the total amount of a blanket purchase arrangement (BPA) may exceed the maximum order limitation (MOL) of the contract, provided no single order placed under the BPA exceeds the MOL. The Preference for Small Business Concerns and Labor Surplus Area Concerns clause was revised to reference both the FPR and the ASPR provisions concerning the processing of equal low bids. The Procurement of Foreign Products clause was revised to include a reference to the balance of Payments evaluation procedures in both the FPR and the ASPR. A new Payments clause provides more flexibility in making payments under the Federal Supply Schedule Program. 2. A new subpart sets forth revised procedures which limit the application of priority ratings to contracts for stock items.

PART 5A-1—GENERAL

Subpart 5A-1.3—General Policies

1. Section 5A-1.305-50(c) is revised as follows:

§ 5A-1.305-50 Use and availability of specifications and standards.

* * * * *

(c) When formal specifications or standards are referenced in the solicitation for offers, the following clause (included in GSA Form 1424) shall be included in the solicitation:

COPIES OF GOVERNMENT SPECIFICATIONS AND STANDARDS

The Government specification(s) or standard(s), if any, applicable to each article is stated in the Solicitation for Offers in connection with the general description of the article. A single copy of the referenced Federal or Interim Federal Specification or Standard is available without charge from the General Services Administration Business Service Centers in Boston; New York; Atlanta; Chicago; Kansas City, Mo.; Ft. Worth; Houston; Denver; San Francisco; Los Angeles; and Seattle; or from Specification Sales, GSA, Bldg. 197, Washington Navy Yard, Washington, D.C. 20407. Additional copies may be purchased from the Specification Sales Office, Washington, D.C. Military Specifications, Standards, and Qualified Products Lists may be obtained from Commanding Officer, Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120. If other specifications or standards are applicable, the Solicitation for Offers will state where copies of such specifications may be obtained.

* * * * *

2. Section 5A-1.311 is revised as follows:

§ 5A-1.311 Priorities, allocations, and allotments.

See Subpart 5A-72.7 for instructions regarding application of priority ratings to contracts for stock items.

PART 5A-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 5A-2.2—Solicitation of Bids

Section 5A-2.201-70(e)(1) is revised as follows:

§ 5A-2.201-70 Forms to be used.

* * * * *

(e) GSA forms containing standardized supplemental provisions.

(1) GSA Form 1424, GSA Supplemental Provisions, June 1977, shall be incorporated by reference in each solicitation for offers, except solicitations for offers under the AID buying program, by using the following provision:

GSA Form 1424, GSA Supplemental Provisions, June 1977, receipt of which is acknowledged by the bidder, is hereby incorporated by reference. A copy of GSA Form 1424, if not enclosed, is available upon request.

* * * * *

PART 5A-16—PROCUREMENT FORMS

The table of contents for Part 5A-16 is amended to revise the following entries:

Subpart 5A-16.9—Illustrations of Forms

§§ 5A-16.950-1424 and 5A-16.950-2891 [Revised]

Sections 5A-16.950-1424 and 5A-16.950-2891 are revised to illustrate new editions of GSA Form 1424 and GSA Form 2891, respectively.

PART 5A-72—PROCUREMENT OF STOCK ITEMS

The table of contents for Part 5A-72 is amended to add the following new entries:

Subpart 5A-72.7—Priority Ratings

Part 5A-72 is amended to add the following new subpart:

Subpart 5A—72.7—Priority Ratings

§ 5A-72.701 Authority.

The U.S. Department of Commerce (BDC), Domestic and International Business Administration, issued a revised delegation of authority effective March 26, 1976, to the Administrator of General Services. This delegation of authority, "BDC Del. 3", authorizes GSA to place DO rated orders bearing the program identificaion K-1 to meet certain GSA supply distribution program needs for DOD, CIA, FAA, NASA, and ERDA. This authority is limited to those FSC's and the dollar volume in each of such classes approved by the Bureau of Domestic Commerce as specified in the Statement of Conditions to BDC Del. 3 (see § 5A-76.312).

§ 5A-72.702 Federal supply classes excluded from priority rating.

DO K-1 priority ratings shall not be used for procurement of the groups and classes listed in § 5A-76.312.

§ 5A-72.703 Priority eligibility.

BDC has established priority eligibility criteria. Before an FSC class or national stock number(s) is eligible for priority rating it must meet both a "use" and "availability" criteria as follows:

(a) The item(s) is stocked for predominant use by DOD, CIA, FAA, NASA, and ERDA. "Predominant use" is defined as at least 97 percent of total demand for stock item; and

(b) In connection with the availability of item(s), DO K-1 rating shall not be used for procurement of FSC classes or items when the following three conditions exist:

(1) The items are the types commonly available in commercial markets for general consumption;

(2) The items do not require major modifications when purchased for military or other ratable Government use; and

(3) The items are in sufficient supply as to cause no hindrance to the accomplishment of military or other national defense objectives.

§ 5A-72.704 Quantity limitations.

The use of this delegation of authority shall be limited to the quantities of current procurement of each class or item based upon and not exceeding the ratio of rated purchases to the total purchases for that class or item that was consumed during the same period of the previous year.

§ 5A-72.705 Procedures.

(a) When the contract or any delivery order thereunder is to be priority rated, the rating symbol DO K-1 or notation "see delivery order" shall be entered in block 3 of SF 33, Solicitation, Offer, and Award, and the following clause shall be included in the solicitation:

PRIORITIES, ALLOCATIONS, AND CONTROLLED MATERIALS

If this contract or any delivery order thereunder is rated and certified for national defense use (see block 3 on the face of Standard Form 33), the Contractor shall follow the provisions of DPS Regulation 1 and/or DMS Regulation 1 in obtaining controlled materials and other products and materials needed to fulfill the requirements of this contract.

NOTE.—The Contractor shall fill unrated delivery orders in the same sequence in which they are received or as otherwise directed by the Contracting Officer.

(b) Criteria and procedures for requesting assistance from the U.S. Department of Commerce, Bureau of Domestic Commerce (BDC), under the Defense Materials System, are set forth in GSA Order, Assistance under the Defense Priorities System and the Defense Materials System (FSS 2800.21B), dated September 7, 1977.

§ 5A-72.706 Reports.

A report shall be submitted to Bureau of Domestic Commerce by the Office of Procurement (FPX) twice a year showing (a) the value of shipments made to the Department of Defense and its associated agencies and the Energy Research and Development Administration, and (b) the value of stores replenishments rated by General Services Administration for the preceding 6-month period. The report is due within 60 days after the close of each 6-month period.

PART 5A-73—FEDERAL SUPPLY SCHEDULE PROGRAM

The table of contents for Part 5A-73 is amended to revise or add the following entries:

Subpart 5A-73.2—Preparation and Issuance of Solicitations

1. Section 5A-73.205-3 is revised as follows:

§ 5A-73.205-3 Urgent Requirements clause.

The following Urgent Requirements clause shall be included in each schedule solicitation and resulting schedule (included in GSA Form 2891).

URGENT REQUIREMENTS

When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering agency, use of the Federal Supply Schedule is not mandatory. However, agencies shall, if time permits, contact the Contractor for the purpose of obtaining accelerated delivery in the case of urgent requirements. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the ordering agency, any order(s) placed pursuant to this offer shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract.

2. Section 5A-73.205-5(e) is amended as follows:

§ 5A-73.205-5 Maximum order limitation.

* * * * *

(e) Whenever a maximum order limitation is used, the applicable clauses prescribed in paragraphs (1) through (4), below, with the monetary limitations inserted, shall be included in the solicitation. These clauses may be revised to express the maximum order limitation as a quantity rather than as a dollar value. Other situations require approval of the procuring director. In addition, the provision below shall be included in the solicitation immediately following the Maximum Order Limitation clause:

CONSOLIDATION OF REQUIREMENTS

For the information of offerors, agencies will, in accordance with FPMR 101-26.106, consolidate their requirements whenever feasible so as to take advantage of price savings available through separate procurement of quantities which exceed the maximum order limitation.

(1) When the maximum order limitations, both as to total value of orders and single items, will apply uniformly to all items in the schedule, the following clause shall be used:

MAXIMUM ORDER LIMITATION

(All dollar amounts are exclusive of any discount for prompt payment.) The total dollar value of any order placed under this contract shall not exceed $———: *Provided*, That the dollar value for any single item ordered, whether ordered separately or in combination with other items, shall not exceed $———. The Contractor agrees not to accept or fulfill any order in violation of this clause. Violation may result in termination of the contract pursuant to the clause of the General Provisions entitled "Default."

* * * * *

3. Section 5A-73.205-6 is revised as follows:

§ 5A-73.205-6 Requirements in Excess of Maximum Order Limitations clause.

Except as noted below, schedules resulting from solicitations containing a Maximum Order Limitation clause shall include the clause shown below (included in GSA Form 2891). See § 5A-73.508 for procedures for processing requisitions for requirements in excess, or below, a schedule's maximum order limitation.

REQUIREMENTS IN EXCESS OF MAXIMUM ORDER LIMITATIONS

Agencies required to use Federal Supply Schedules as a mandatory source shall forward purchase requests for items included therein which exceed the applicable maximum order limitation to the GSA regional office serving the consignee. Non-mandatory users may, at their option, forward such purchase requests to the above office for purchase action in accordance with appropriate FEDSTRIP/MILSTRIP procedures.

NOTE.—The above clause shall be modified when included in schedules covering FSC Group 58, Part V, Section C; FSC Group 70, Part XI; or FSC Group 75, Part VIII, to require submission of excess MOL requirements to the "office issuing the schedule" in lieu of the "GSA regional office servicing the consignee." (See FPMR 101-26.508-2 and 101-26.509-2(a).)

4. Section 5A-73.205-7 is revised as follows:

§ 5A-73.205-7 Procurement of similar articles or services.

The following clause shall be included in each solicitation and resulting schedule (included in GSA Form 2891).

PROCUREMENT OF SIMILAR ARTICLES OR SERVICES

When an agency required to use this Federal Supply Schedule as a mandatory source determines that an article or service contained in the schedule will not serve the functional end-use purpose required by the agency, procurement of a similar article or service having the same general characteristics of the schedule article or service is authorized: *Provided*, That a prior written waiver of the requirement for using the schedule is obtained from the Commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20406, in accordance with FPMR 101-26.401-3 and any implementing regulations of the requesting agency.

5. Section 5A-73.213 is revised as follows:

§ 5A-73.213 Blanket purchase arrangements.

The following clause shall be included in each schedule solicitation and resulting schedule (included in GSA Form 2891).

BLANKET PURCHASE ARRANGEMENTS

The Contractor agrees to enter into blanket purchase arrangements with ordering activities: *Provided*, That:

(a) Only items covered by the contract are ordered under such arrangements;

(b) The period of time covered by such arrangements shall not exceed the period of the contract; and

(c) Orders placed under such arrangements shall be issued in accordance with all applicable regulations and the terms and conditions of the contract.

NOTE.—The maximum order limitation of the contract applies solely to individual orders placed against the blanket purchase arrangement and has no bearing on the cumulative or total value of these orders.

6. Section 5A-73.217-5(b) is revised as follows:

§ 5A-73.217-5 Price Reductions clause.

* * * * *

(b) Whenever the above Price Reductions clause is contained in a solicitation, the resulting schedule shall include the following notice (included in GSA Form 2891).

NOTICE OF PURCHASE AT REDUCED PRICE

If any article or service available from multiple award Federal Supply Schedule contracts has been ordered from the schedule Contractor at a price lower than the schedule contract price, the agency shall, within 10 calendar days, notify the GSA Contracting Officer of this purchase.

7. Section 5A-73.217-7 is revised as follows:

§ 5A-73.217-7 Preference for Small Business Concerns and Labor Surplus Area Concerns clause.

The following clause shall be included in each multiple award schedule solicitation and resulting schedule (included in GSA Form 2891).

PREFERENCE FOR SMALL BUSINESS CONCERNS AND LABOR SURPLUS AREA CONCERNS

Offerors are advised that the following statement will be included in the resulting Federal Supply Schedule:

Where two or more items at the same delivered price will meet the ordering agency's needs equally well, selection should be based on preference for the item of a labor surplus area concern or a small business concern. In making a selection on that basis, the same order of priority shall be used as that established for processing equal low bids in FPR 1-2.407-6 or ASPR 2-407.6. In making such a selection, the information in the Federal Supply Schedule as to the business size status or points of production of Contractors may be used for preliminary, but not conclusive, determination as to whether small business or labor surplus area policies might be furthered through preferential award of the order. The extent to which additional and current information is obtained by an ordering agency is left to the discretion of the agency which should take into account the size of the order and other factors which the agency considers pertinent.

8. Section 5A-73.217-8 is revised as follows:

§ 5A-73.217-8 Foreign Products clause.

The following clause shall be included in each multiple award schedule solicitation and resulting schedule (included in GSA Form 2891).

PROCUREMENT OF FOREIGN PRODUCTS

If awards are made to concerns offering foreign items, ordering agencies will be subject to the following instructions:

When two or more items listed in the Federal Supply Schedule will meet the requirements of an agency for a particular job and both foreign and domestic items are involved, the ordering agency must apply the Buy American Act or the Balance of Payments evaluation procedures in FPR 1-6.1 or 1-6.8 and ASPR 6-1 or 6-8, as appropriate.

9. Section 5A-73.218 is added as follows:

§ 5A-73.218 Payments clause.

The following provision shall be included in all Federal Supply Schedule solicitations and resultant schedules (included in GSA Form 2891).

PAYMENTS

Offerors are advised that the following provision will be included in any resultant schedule:

(a) Timely payment by the Government is essential to avoid loss of prompt payment discounts and the imposition of a financing burden on the Contractor. Article 7, Payments, of Standard Form 32 provides that the Government has an obligation to pay Contractors promptly. Accordingly, nothing shall limit or restrict agencies placing orders under this Federal Supply Schedule from paying Contractors promptly in accordance with their own internal regulations and applicable laws; e.g., when specifically authorized by agency regulations or procedures, payment may be made upon receipt of evidence of delivery to port of embarkation; upon receipt of evidence of shipment in accordance with Comptroller General Decision B-158487 dated April 4, 1966; on the basis of an invoice and a certificate of conformance; or, in accordance with a fast-pay procedure such as that provided in ASPR 3-606. In the absence of applicable internal regulations covering payment by an ordering agency, payment shall be made in accordance with the contract terms.

(b) When prices cover delivery to destination, the Government assumes title upon delivery and acceptance at destination, and payment should be made upon the Contractor's submission of proper invoices or vouchers. When the delivery order specifies delivery to a port within the U.S.A. and the contract provides only for the delivery to destination within the conterminous United States, payment should be made promptly upon receipt of evidence of delivery to port notwithstanding the fact that the ultimate destination of the supplies may be abroad, provided earlier payment is not otherwise authorized in accordance with (a), above.

(c) When supplies are purchased f.o.b. shipping point/origin, the Government assumes title upon acceptance by the common carrier, and payment should be made upon the Contractor's submission of proper invoices and proof of shipment without regard as to whether supplies have reached their ultimate destination. If the Contractor is prepaying for the freight to destination, payment for the material, excluding freight charges, should not be delayed pending receipt of proof of the exact amount for the freight charges. Payment for the actual freight charges should be made upon receipt of acceptable proof of the amount; e.g., carrier's freight bill. Such payment may be made at the time of shipment if proof of freight charges has been received by that time; or it may be made subsequently, notwithstanding the fact that payment for the materials (less freight charges) may have been made earlier.

Subpart 5A-73.4—Composition of Federal Supply Schedules

Section 5A-73.404-1 is revised as follows:

§ 5A-73.404-1 General provisions.

Specify in the general provisions (a) prescribed use of the schedule; e.g., geographic coverage, mandatory users, etc., and (b) the forms applicable to the schedule; e.g., SF 32, General Provisions (Supply Contract), GSA Form 1424, GSA Supplemental Provisions, and GSA Form 2891, Instructions to Users of Federal Supply Schedules. GSA Form 2891 is exhibited in § 5A-16.950-2891, and contains provisions applicable to all advertised and multiple award schedules.

PART 5A-76—EXHIBITS

The table of contents for Part 5A-76 is amended to add the following new entry:

Subpart 5A-76.3—Miscellaneous Exhibits

Section 5A-76.312 is added to set forth Bureau of Domestic Commerce (BDC) Delegation 3 as revised March 26, 1976.

Subpart 5A-76.4—Procurement Assignments

Subpart 5A-76.4 is revised to reflect current procurement assignments.

NOTE.—Copies of the forms illustrated in Part 5A-16 and copies of the exhibits shown in Part 5A-76 are filed with the original document.

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

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: November 30, 1977.

ROBERT P. GRAHAM,
Commissioner,
Federal Supply Service.

[FR Doc. 78-270 Filed 1-6-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1464]

TOBACCO

Tobacco Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corporation (USDA) is considering changes in the tobacco price support regulations which will modify the limitation on the acreage which as a condition of price support eligibility may be planted to flue-cured tobacco. This document invites all interested parties to submit views and recommendations with respect to the proposed changes.

DATE: Written comments must be received by February 8, 1978, in order to be sure of consideration.

ADDRESS: Send comments to Director, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Robert P. Hieronymus, 202-447-7601.

SUPPLEMENTARY INFORMATION: Under present regulations set forth in §1464.7 of this part, a flue-cured tobacco producer to be eligible for price support must, among other things, have not planted flue-cured tobacco on acreage in excess of 110 percent of the acreage allotment established for his farm. Price support is available to eligible producers on 110 percent of the farm marketing quota which is expressed in pounds.

Flue-cured tobacco, which grows on the lower stalk positions, is generally lacking in certain characteristics desired by buyers, particularly export buyers. There is a substantial surplus of the lower stalk grades which constitute about 30 percent of a normal flue-cured tobacco crop. Large portions of the lower stalk marketings of recent years are under price support loans.

Consideration is being given to changing the conditions of price support eligibility to (1) increase the limitation of the acreage, which as a condition of price support eligibility may be planted to flue-cured tobacco, from 110 to 120 percent of the farm acreage allotments of producers who agree not to harvest and do not harvest the 4 lower leaves produced on each stalk of flue-cured tobacco grown on the farm, and (2) decrease such acreage limitation to 100% of the farm acreage allotment of producers who do not enter into or do not comply with such agreements. The larger acreage will enable the producer who does not harvest the 4 lower leaves to increase his production and marketings of upper stalk grades in substitution for lower stalk grades for which demand and prices are expected to be lower.

To the extent producers agree not to harvest the 4 lower leaves, the anticipated grade percentages of the crop will change. There will be larger percentages of the upper stalk grades and correspondingly smaller percentages of the lower stalk grades. The level of support is provided by grade loan rates which, weighted by the respective grade percentages, average the level of support. Because the grade loan rates are higher for the upper stalk grades than for the lower stalk grades, any increase in the anticipated percentage of the upper stalk grades will lower the grade loan rates required to average the level of support. This is demonstrated in the table below, which shows examples of the average grade loan rates which may be applied to provide a level of support of $1.22 a pound, if the anticipated percentage distributions of the upper and lower stalk grades are as shown.

	Anticipated percent	Average Grade Loan Rates	Anticipated percent	Average Grade Loan Rates
		(cents per lb.)		(cents per lb.)
Lower Stalk Grades	30	101	24	99.53
Upper Stalk Grades	70	131	76	129.10
All Grades	100	122.00	100	122.00

Proposed Rule: Accordingly, it is proposed that 7 CFR 1464.7(a) be amended to read as follows:

§ 1464.7 Eligible producers.

(a) All producers of Puerto Rican tobacco are eligible producers, since Puerto Rican tobacco is not under U.S. marketing quotas. All producers of any kind of tobacco for which marketing quotas have been terminated are eligible producers during the periods for which the terminations are effective. Any producer of another kind of tobacco is an eligible producer if:

(1) An acreage allotment or marketing quota has been established for his farm under the applicable regulations issued by the Secretary of Agriculture with respect to marketing quota and acreage allotments (Parts 724, 725, and 726 of this title) for the applicable marketing year;

(2) All the tobacco produced on his farm is produced on acreage which does not exceed the acreage allotment, or if flue-cured tobacco, does not exceed:

(i) The acreage allotment established for his farm, or

(ii) 120 percent of the acreage allotment established for his farm in instances where the producer has left unharvested the 4 lower leaves on each stalk of tobacco produced on his farm and has entered into an agreement to do so with the local ASC county committee in accordance with procedures to be established by the Deputy Administrator, State and County Operations, ASCS; and

(3) If acreage allotments and marketing quotas are in effect for a kind of tobacco, the producer has reported the acreage planted to tobacco on his farm to the local ASC county committee in accordance with regulations issued by the Secretary of Agriculture with respect to determinations of acreage and compliance (Part 718 of this title) for the applicable year, and has complied with any agreement which he may have entered into with the local ASC county committee with respect to not harvesting certain lower stalk leaves of flue-cured tobacco; and

(4) Pesticides containing DDT, TDE, toxaphene and endrin have not been used on the tobacco in the field or after being harvested and the absence of such use of the pesticides has been reported to the local ASC county committee in accordance with applicable

regulations issued under Parts 724, 725, and 726 of this title.

* * * * *

Prior to making any determination, the Department will give consideration to comments, views, and recommendations submitted in writing to the Director, Price Support and Loan Division.

All written submission will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday in Room 3741-South Building, USDA, 14th and Independence Avenue SW., Washington, D.C. 20013.

Signed at Washington, D.C., on December 30, 1977.

STEWART N. SMITH,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-322 Filed 1-6-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-NW-31-AD]

AIRWORTHINESS DIRECTIVE

Boeing 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed amendment would supersede an existing Airworthiness Directive, to require repetitive inspections and eventual modification of the two gates of each pressurization system outflow valve assembly on Boeing B-747 airplanes by adding mechanical fasteners to secure the gates to the outflow valve gate hinge. The modification will prevent the loss of the gate due to delamination of the gate-to-hinge bond and prevent the resulting rapid decompression of the airplane in flight.

DATES: Comments must be received on or before February 21, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 77-NW-31-AD, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION, CONTACT:

Weston B. Slifer, Systems and Equipment Section, ANW-213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108 (206-767-2500).

SUPPLEMENTARY INFORMATION: On November 3, 1977, a B-747 airplane, while cruising at 31,000 feet, suffered a rapid depressurization that resulted in a cabin pressure altitude of 19,000 feet. The incident was caused by delamination of a gate-to-hinge bond on one pressurization system outflow valve assembly. On December 8, 1977, Airworthiness Directive, 77-25-06, Amendment 39-3098, (42 FR 63637) was issued to require visual inspection of the gate-to-hinge bond. At that time, it was indicated that an amendment would be issued to require modification by adding mechanical fasteners to secure the gate to the gate hinge, because of the inherent difficulty in performing adequate visual inspections. This Notice proposes such an amendment.

DRAFTING INFORMATION

The principal authors of this document are Weston B. Slifer, Engineering and Manufacturing Branch, Northwest Region, and Jonathan Howe, Regional Counsel, Northwest Region.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) superseding 77-25-06, Amendment 39-3098 (42 FR 63637) as follows:

BOEING: Applies to Model 747 Series airplanes certificated in all categories and equipped with pressurization system outflow valve assemblies, Boeing P/N 60B00025-3, -11, -12, and -17 (Hamilton Standard P/N 719201-2, -3, -4, -5, -6, -7, -8, and -9). Compliance required as indicated.

To prevent rapid loss of pressurization in flight accomplish the following:

A. Within 350 hours time in service after the effective date of this Airworthiness Directive, unless already accomplished, and thereafter at intervals not to exceed 350 hours time in service until modified in accordance with part B or C of this AD, as applicable, inspect forward and aft gates of each outllow valve assembly in accordance with the instructions contained in Boeing Service Bulletin No. 747-21-2139 dated November 23, 1977, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Gates found with delamination or cracks in the hinge-to-gate bonds must be removed and replaced with a part free of delamination or cracks. Removed gates may be forwarded to Hamilton Standard for further evaluation or modified in accordance with part B or C of this AD, as applicable, prior to being returned to service.

B. Within 1800 hours time in service after the effective date of this Airworthiness Directive modify the outflow valve assemblies, Hamilton Standard P/N 719201-2, -3, -4, and -5, as applicable, in accordance with the instructions contained in Hamilton Standard Service Bulletin H.S. Code 747 AC-16, AC-83, and AC-114 or by an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA NW Region.

C. Within 2500 hours time in service after the effective date of this Airworthiness Directive, modify the outflow valve assemblies, Hamilton Standard P/N 719201-6, -7, -8, and -9, as applicable, in accordance with the instructions contained in Hamilton Standard Service Bulletins H.S. Code 747 AC-114 or by an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Northwest Region.

D. Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, may adjust the inspection compliance time and/or modification compliance time specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

Amendment 39-3098 (42 FR 63637) is hereby superseded.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

NOTE.—The Federal Aviation 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.

Issued in Seattle, Wash., on December 28, 1977.

J. H. TANNER,
Acting Director, Northwest Region.

[FR Doc. 78-226 Filed 1-6-78; 8:45 am]

[4910-13]

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 17531]

AIRWORTHINESS DIRECTIVES

British Aircraft Corp. BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspection for cracks and repair as necessary of the windshield glazing frame on British Aircraft Corp. Model BAC 1-11 200 and 400 Series airplanes. The proposed AD is needed to detect cracks in the frame which if left undetected and not repaired could result in failure of the adjacent fuselage frame and loss of cabin pressurization.

DATE: Comments must be received on or before February 24, 1978.