election permitted in computing the intangible drilling costs item of tax preference. Changes to the applicable tax law were made by the Tax Reform Act of 1976. These regulations provide the public with guidance needed to make the election, and affect taxpayers who are subject to the minimum tax on the intangible drilling costs item of tax preference.

EFFECTIVE DATE: April 26, 1978 with respect to taxable years beginning after December 31, 1975.

FOR FURTHER INFORMATION CONTACT:

John H. Parcell of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document amends the Temporary Income Tax Regulations under the Tax Reform Act of 1976 (26 CFR Part 7) to reflect section 57(d) of the Internal Revenue Code of 1954, as added by section 301 of the Tax Reform Act of 1976 (90 Stat. 1549). The temporary regulation provided by this document will remain in effect until superseded by final regulations on this subject.

INTANGIBLE DRILLING COSTS ITEM OF PREFERENCE

Section 57(a)(11) of the Code, as added by section 301 of the Tax Reform Act of 1976, includes intangible drilling costs as an item of tax preference for taxable years beginning after December 31, 1975. Section 57(a)(11) was amended by section 308 of the Tax Reduction and Simplification Act of 1977 (91 Stat. 153), but only for taxable years beginning in 1977.

To compute the amount of the intangible drilling costs item of tax preference for any taxable year (including taxable years beginning in 1977), it is necessary to determine the amount by which certain intangible drilling and development costs exceed the straight line recovery of these costs. Section 57(d) of the Code provides that straight line recovery of intangibles can be determined through ratable amortization or, at the election of the taxpayer, through cost depletion.

ELECTION

Section 57(d)(2) provides that the election to use cost depletion to determine straight line recovery of intangibles shall be made in the manner prescribed by regulations. Therefore, to provide immediate guidance to taxpayers, this regulation prescribes the manner in which the election is made.

The regulation provides that the election is made separately for each oil and gas well. The election is made by using cost depletion to compute straight line recovery of intangibles for purposes of determining the amount of the intangible drilling costs item of tax preference.

DRAFTING INFORMATION

The principal author of this regulation was John H. Parcell of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the Temporary Income Tax Regulations under the Tax Reform Act of 1976 (26 CFR Part 7) are amended by inserting the following temporary regulation in the appropriate place:

§ 7.57(d)-1 Election with respect to straight line recovery of intangibles.

(a) *Purpose.* This section prescribes rules for making the election permitted under section 57(d)(2), as added by the Tax Reform Act of 1976. Under this election taxpayers may use cost depletion to compute straight line recovery of intangibles.

(b) *Election.* The election under section 57(d) is subject to the following rules:

(1) The election is made within the time prescribed by law (including extensions thereof) for filing the return for the taxable year in which the intangible drilling costs are paid or incurred or, if later, by June 26, 1978.

(2) The election is made separately for each well. Thus, a taxpayer may make the election for only some of his or her wells.

(3) The election is made by using, for the well or wells to which the election applies, cost depletion to compute straight line recovery of intangibles for purposes of determining the amount of the preference under section 57(a)(11).

(4) The election may be made whether or not the taxpayer uses cost depletion in computing taxable income.

(5) The election is made by a partnership rather than by each partner.

(c) *Computation of cost depletion.* For purposes of computing straight line recovery of intangibles through cost depletion, both depletable and depreciable intangible drilling and development costs for the taxable year are taken into account. They are treated as if capitalized, added to basis, and recovered under § 1.611-2(a). Costs paid or incurred in other taxable years are not taken into account.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

This Treasury decision is issued under the authority contained in sections 57(d) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1551; 68A Stat. 917; 26 U.S.C. 57(d), 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: April 18, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-11334 Filed 4-25-78; 8:45 am]

[4830-01]

SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Miscellaneous Amendments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of Statement of Procedural Rules.

SUMMARY: This document contains miscellaneous amendments to the Statement of Procedural Rules. The Statement of Procedural Rules sets forth the procedural rules of the Internal Revenue Service for all taxes administered by the Service. These amendments are made necessary by statutory changes and miscellaneous changes of a technical nature.

DATE: The amendments are effective April 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert M. Fowler of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3458, not a toll-free number.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains amendments to the Statement of Procedural Rules (26 CFR Part 601). A discussion of the most significant amendments follows:

Paragraph (a)(3) of § 601.106 is amended to indicate that the Appel-

late Division has jurisdiction in wagering tax cases.

Paragraph (n)(1)(i) of § 601.201 is amended to provide a current list of the key Internal Revenue district offices that handle exempt organization matters.

Paragraph (n)(2) of § 601.201 is amended to indicate Service procedure with respect to issuing rulings and determination letters on private foundation status and operating foundation status.

Paragraph (n)(5) of § 601.201 is amended to indicate the general appeal procedures with respect to application for recognition of exemption from tax under section 501 or 521, and with respect to revocation or modification of certain exemption rulings and determination letters.

Paragraph (n)(6) of § 601.201 is amended to indicate the procedures of the Service with respect to revocation, modification, and reconsideration of rulings and determination letters on private foundation and operating foundation status.

Paragraph (n)(7) of § 601.201 is amended to indicate the procedure of the Service with respect to the issuance of determinations and related matters to which section 7428 of the Internal Revenue Code applies.

RELATIONSHIP TO NOTICE OF ESTABLISHMENT OF SINGLE LEVEL OF APPEALS

These amendments do not take into account the changes proposed in the notice of proposed amendments to the Statement of Procedural Rules, relating to the establishment of a single level of appeals, that was published in the FEDERAL REGISTER on April 3, 1978 (43 FR 13896).

DRAFTING INFORMATION

The principal author of these amendments to the Statement of Procedural Rules was Mr. Robert M. Fowler of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service participated in developing the amendments, both on matters of substance and style.

AMENDMENT OF THE STATEMENT OF PROCEDURAL RULES

The amendments to 26 CFR Part 601 are as follows:

§ 601.105 [Amended]

PARAGRAPH 1. Section 601.105 is amended by deleting from paragraph (b)(5)(v)(*e*) the phrases "964-4504 or 964-4505" and "964-3767 or 964-3788" and inserting in lieu thereof the phrases "566-4504 or 566-4505" and "566-3767 or 566-3788", respectively.

PAR. 2. Section 601.106 is amended as follows:

1. Paragraph (a)(3) is revised as set forth below.

2. Paragraph (d)(2)(ii) is amended by revising the first sentence as set forth below.

3. Paragraph (d)(3)(iii)(*e*) is amended by deleting the phrase "Trial Status Order" and inserting in lieu thereof the phrase "Trial Status Request".

4. Paragraph (d)(3)(iii)(*i*) is amended by deleting the phrase "Trial Status Order" in the first sentence and inserting in lieu thereof the phrase "Trial Status Request", by deleting the third sentence, and by revising the fourth sentence as set forth below.

§ 601.106 Appellate functions.

(a) *General.* * * *

(3) The authority vested in the Appellate Division does not extend to the determination of liability for any excise tax imposed by subtitle E or by subchapter D of chapter 78, to the extent it relates to subtitle E.

* * * * *

(d) *Disposition and settlement of cases before the Appellate Division.* * * *

(2) *Cases not docketed in the Tax Court.* * * *

(ii) If after consideration of the case by the Appellate Division of the region it is determined that there is a deficiency in income, profits, estate, or gift tax, or taxes under chapter 42 of the Internal Revenue Code of 1954, to which the taxpayer does not agree, a statutory notice of deficiency will be prepared and issued by the Appellate Division. * * *

* * * * *

(3) *Cases docketed in the Tax Court.* * * *

(iii) * * *

(*i*) * * * These cases are designated by the Court as small tax cases upon request of petitioners and will include letter "S" as part of the docket number. * * *

* * * * *

PAR. 3. Section 601.201 is amended as follows:

1. Paragraph (e)(2) is revised by adding immediately after the sentence reading "(Revenue Procedure 73-36 sets forth the information to be included in the request for a ruling under section 346, and its related sections, 331 and 336.)" the new sentences set forth below.

2. Paragraph (e)(15) is revised as set forth below.

3. Paragraph (n)(1)(i) is revised as set forth below.

4. Paragraph (n)(1)(iv) is revised as set forth below.

5. Paragraph (n)(2) is revised as set forth below.

6. Paragraph (n)(3)(iii) is revised as set forth below.

7. The first sentence of paragraph (n)(4) is revised as set forth below.

8. Paragraphs (n)(5) and (n)(6) are revised as set forth below.

9. Paragraph (n)(7) is redesignated as paragraph (n)(8), and a new paragraph (n)(7) is added.

§ 601.201 Rulings and determination letters.

* * * * *

(e) Instructions to taxpayers. * * *

(2) * * * If the request is for a ruling concerning the classification of an organization as a limited partnership where a corporation is the sole general partner, see Rev. Proc. 72-13, 1972-1 C.B. 735. See also Rev. Proc. 74-17, 1974-1 C.B. 438, and Rev. Proc. 75-16, 1975-1 C.B. 676. (Rev. Proc. 74-17 announces certain operating rules of the Service relating to the issuance of advance ruling letters concerning the classification of organizations formed as limited partnerships, and Rev. Proc. 75-16 sets forth a checklist outlining required information frequently omitted from requests for rulings relating to classification of organizations for Federal tax purposes.) * * *

* * * * *

(15) A taxpayer or the taxpayer's representative desiring to obtain information as to the status of the taxpayer's case may do so by contacting the following offices with respect to matters in the areas of their responsibility:

Telephone numbers (area code 202)

Official:

Director, Corporation Tax Division—566-4504 or 566-4505.

Director, Individual Tax Division—566-3767 or 566-3788.

* * * * *

(n) *Organization claiming exemption under section 501 or 521 of the Code*—(1) *Filing applications for exemption.* (i) An organization seeking recognition of exempt status under section 501 or section 521 of the Code is required to file an application with the key district director for the Internal Revenue district in which the principal place of business or principal office of the organization is located. Following are the 19 key district offices that process the applications and the Internal Revenue districts covered by each:

Key district(s) and IRS districts covered

Central Region:

Cincinnati: Cincinnati, Louisville, Indianapolis.

Cleveland: Cleveland, Parkersburg.
Detroit: Detroit.
Mid-Atlantic Region:
Baltimore: Baltimore (which includes the District of Columbia and Office of International Operations), Pittsburgh, Richmond.
Philadelphia: Philadelphia, Wilmington.
Newark: Newark.
Midwest Region:
Chicago: Chicago.
St. Paul: St. Paul, Fargo, Aberdeen, Milwaukee.
St. Louis: St. Louis, Springfield, Des Moines, Omaha.
North-Atlantic Region:
Boston: Boston, Augusta, Burlington, Providence, Hartford, Portsmouth.
Manhattan: Manhattan.
Brooklyn: Brooklyn, Albany, Buffalo.
Southeast Region:
Atlanta: Atlanta, Greensboro, Columbia, Nashville.
Jacksonville: Jacksonville, Jackson, Birmingham.
Southwest Region:
Austin: Austin, New Orleans, Albuquerque, Denver, Cheyenne.
Dallas: Dallas, Oklahoma City, Little Rock, Wichita.
Western Region:
Los Angeles: Los Angeles, Phoenix, Honolulu.
San Francisco: San Francisco, Salt Lake City, Reno.
Seattle: Seattle, Portland, Anchorage, Boise, Helena.

* * * * *

(iv) A ruling or determination letter recognizing exemption will not ordinarily be issued if an issue involving the organization's exempt status under section 501 or 521 of the Code is pending in litigation or on appeal within the Service.

(2) *Processing applications and requests for determination of foundation status.* (i) Under the general procedures outlined in paragraphs (a) through (m) of this section, key district directors are authorized to issue determination letters involving applications for exemption under sections 501 and 521 of the Code, and requests for foundation status under sections 509 and 4942 (j)(3).

(ii) A key district director will refer to the National Office those applications that present questions the answers to which are not specifically covered by statute, Treasury decision or regulation, or by a ruling, opinion, or court decision published in the Internal Revenue Bulletin. The National Office will consider each such application, issue a ruling directly to the organization, and send a copy of the ruling to the key district director. Where the issue of exemption under section 501(c)(3) of the Code is referred to the National Office for decision under this subparagraph, the foundation status issue will also be the subject of a National Office ruling. In the event of a conclusion unfavorable to the applicant, it will be informed of the basis for the conclusion and of its rights to file a protest and to a conference in the National Office. If a conference is requested, the conference procedures outlined in subdivision (v) of paragraph (b)(5) of § 601.105 will be followed except that the conference will take place in the Technical Branch of the Exempt Organizations Division of the Office of Assistant Commissioner (Employee Plans and Exempt Organizations). After reconsideration of the application in the light of the protest and any information developed in conference, the National Office will affirm, modify, or reverse the original conclusion, issue a ruling to the organization, and send a copy of the ruling to the key district director.

(iii) Key district directors will issue determination letters on foundation status. All adverse determinations issued by key district directors (including adverse determinations on the foundation status under section 509(a) of the Code of nonexempt charitable trusts described in section 4947(a)(1)) are subject to the protest and conference procedures outlined in subparagraph (5) of this paragraph. Key district directors will issue such determinations in response to applications for recognition of exempt status under section 501(c)(3). They will also issue such determinations in response to requests for determination of foundation status by organizations presumed to be private foundations under section 508(b), requests for new determinations of foundation status by organizations previously classified as other than private foundations, and, subject to the conditions set forth in subdivision (vi) of subparagraph (6) of this paragraph, requests to reconsider status. The requests described in the preceding sentence must be made in writing. For information relating to the circumstances under which an organization presumed to be a private foundation under section 508(b) may request a determination of its status as other than a private foundation, see Revenue Ruling 73-504, 1973-2 C.B. 190. All requests for determinations referred to in this paragraph should be made to the key district director for the district in which the principal place of business or principal office of the organization is located.

(3) *Effect of exemption rulings or determination letters.* * * *

(iii) (*a*) When an organization that has been listed in IRS Publication No. 78, "Cumulative List of Organizations described in section 170 (c) of the Internal Revenue Code of 1954," as an organization contributions to which are deductible under section 170 of the Code subsequently ceases to qualify as such, and the ruling or determination letter issued to it is revoked, contributions made to the organization by persons unaware of the change in the status of the organization generally will be considered allowable until (*1*) the date of publication of an announcement in the Internal Revenue Bulletin that contributions are no longer deductible, or (*2*) a date specified in such an announcement where deductibility is terminated as of a different date.

(*b*) In appropriate cases, however, this advance assurance of deductibility of contributions made to such an organization may be suspended pending verification of continuing qualification under section 170 of the Code. Notice of such suspension will be made in a public announcement by the Service. In such cases allowance of deductions for contributions made after the date of the announcement will depend upon statutory qualification of the organization under section 170.

(*c*) If an organization, whose status under section 170 (c) (2) of the Code is revoked, initiates within the statutory time limit a proceeding for declaratory judgment under section 7428, special reliance provisions apply. If the decision of the court is adverse to the organization, it shall nevertheless be treated as having been described in section 170 (c) (2) for purpose of deductibility of contributions from other organizations described in section 170 (c) (2) and individuals (up to a maximum of $1,000), for the period beginning on the date that notice of revocation was published and ending on the date the court first determines that the organization is not described in section 170 (c) (2).

(*d*) In any event, the Service is not precluded from disallowing any contributions made after an organization ceases to qualify under section 170 of the Code where the contributor (*1*) had knowledge of the revocation of the ruling or determination letter, (*2*) was aware that such revocation was imminent, or (*3*) was in part responsible for, or was aware of, the activities or deficiencies on the part of the organization which gave rise to the loss of qualification.

(4) *National Office review of determination letters.* The National Office will review determination letters on exemption issues under sections 501 and 521 of the Code and foundation status under sections 509 (a) and 4942 (j) (3) to assure uniformity in the application of the established principles and precedents of the Service. * * *

(5) *Protest of adverse determination letters.* (i) Upon the issuance of an adverse determination letter, the key district director will advise the organization of its right to protest the determination by requesting regional office consideration. To do this, the organization must submit to the key district director within 30 days from the date of the letter, a statement of the facts, law, and arguments in support of its

position. The organization must also state whether it wishes a regional office conference. Upon receipt of an organization's request for regional office consideration, the key district will, if it maintains its position, forward the request and the case file to the Office of the Assistant Regional Commissioner (Employee Plans and Exempt Organizations).

(ii) If the regional office, after considering the organization's protest and any additional information developed, disagrees with the key district director's determination, the regional office will so advise the taxpayer and the case will be returned to the key district director for appropriate action. If the regional office, after considering the organization's protest and any information developed, agrees with the key district director, it will so notify the organization in writing, explaining the reasons therefor and advising the organization that it may, within 30 days from the date of the notification, request National Office consideration (as described in subdivision (iii) of this subparagraph). If the organization does not do so within the prescribed time, the case will be returned to the key district director for issuance of a final determination letter. Organizations should make full presentation of the facts, circumstances, and arguments at the initial level of consideration, since submission of additional facts, circumstances, and arguments at any level of appeal may result in suspension of appeal procedures and referral of the case back to the key district for additional consideration.

(iii) If the organization wishes to request National Office consideration, it must submit within 30 days to the regional office a request for such consideration. The request must state, with supporting argument, the ground(s) upon which the request is based (see below) and whether a conference is desired in the National Office. Upon receipt of the request, the regional office will forward the request and the case file to the National Office in care of the Assistant Commissioner (Employee Plans and Exempt Organizations) E:EO:T (or the Assistant Commissioner (Technical) T:C:C in section 521 cases) and will notify the organization of this action. Upon receipt of the case file in the National Office, a decision will be made whether to accept the case for consideration and the organization will be advised of this decision. The National Office will not accept a case unless the organization can show that the position of the regional office is contrary to the statute, Treasury decision or regulations, or a ruling, opinion or court decision published in the Internal Revenue Bulletin; that the position of the regional office is in conflict with the determination made in a similar case in the same or another region; or that the case presents a substantial issue not covered by published precedent. If the National Office decides that the case will be accepted, and if an adverse decision is indicated, the organization will be afforded the opportunity of a conference if one was requested. After consideration by the National Office, the National Office will notify the organization of its decision, and the case file will be returned through the regional office to the key district office for issuance of a final determination letter in accordance with the National Office decision. If the National Office decides not to accept the case, the case file will be returned through the regional office to the key district director for issuance of a final determination letter.

(iv) Any determination letter that is issued on the basis of National Office technical advice may not, thereafter, be appealed to a regional office or the National Office of the Internal Revenue Service with regard to those issues that were the subject of technical advice.

(6) *Revocation of modification of rulings or determination letters on exemption and foundation status.* (i) An exemption ruling or determination letter may be revoked or modified by a ruling or determination letter addressed to the organization, or by a revenue ruling or other statement published in the Internal Revenue Bulletin. The revocation or modification may be retroactive if the organization omitted or misstated a material fact, operated in a manner materially different from that originally represented, or engaged in a prohibited transaction of the type described in subdivision (vii) of this subparagraph. In any event, revocation or modification will ordinarily take effect no later than the time at which the organization received written notice that its exemption ruling or determination letter might be revoked or modified.

(ii) If a key district director concludes, as a result of examining an information return or considering information from any other source, that a ruling or determination letter should be revoked or modified, the organization will be advised in writing of the proposed action and the reasons therefor. The key district director will also advise the organization of its right to protest the proposed action by requesting regional office consideration. To do this, the organization must submit to the key district director within 30 days from the date of the letter, a statement of the facts, law, and arguments in support of its continued exemption. The organization's protest and conference procedures are the same as set out in subparagraph (5) of this paragraph.

(iii) A ruling or determination letter respecting private foundations or operating foundation status may be revoked or modified by a ruling or determination letter addressed to the organization, or by a revenue ruling or other statement published in the Internal Revenue Bulletin. If a key district director concludes, as a result of examining an information return or considering information from any other source, that a ruling or determination letter concerning private foundation status (including foundation status under section 509(a)(3) of the Code of a nonexempt charitable trust described in section 4947(a)(1)) or operating foundation status should be modified or revoked, the procedures in subdivision (iv) or (v) of this subparagraph should be followed depending on whether the revocation or modification is adverse or non-adverse to the affected organization. Where there is a proposal by the Service to change foundation status classification from one particular paragraph of section 509(a) to another paragraph of that section, the procedures described in subdivision (iv) of this paragraph will be followed to modify the ruling or determination letter.

(iv) If a key district director concludes that a ruling or determination letter concerning private foundation or operating foundation status should be revoked or modified, the organization will be advised in writing of the proposed adverse action, the reasons therefor, and the proposed new determination of foundation status. The key district director will also advise the organization of its right to protest the proposed adverse action by requesting regional office consideration. The organization must submit to the key district director within 30 days from the date of the proposed action, a statement of the facts, law, and arguments in support of its position. See subparagraph (5) of this paragraph for the balance of the appeal and protest procedures. Unless the effective date of revocation or modification of foundation status or operating foundation status letter is expressly covered by statute or regulations, such effective date generally is the same as the effective date of revocation or modification of exemption letters delineated in subdivision (i) of this subparagraph.

(v) If the key district director concludes that a ruling or determination letter concerning private foundation or operating foundation status should be revoked or modified and that such revocation or modification will not be adverse to the organization, the key district director will issue a determination letter revoking or modifying foundation status. The determination letter will also serve to notify the organization of its foundation status as redetermined. A nonadverse revocation or modification as to private foundation or operating foundation status

will ordinarily be retroactive if the initial ruling or determination letter was incorrect.

(vi) In cases where an organization believes that it received an incorrect ruling or determination letter as to its private foundation or operating foundation status, the organization may request a key district director to reconsider such ruling or determination letter. Except in rare circumstances, the key district director will only consider such requests where the organization had not exercised any protest or conference rights with respect to the issuance of such ruling or determination letter. If a key district director decides that reconsideration is warranted, the request will be treated as an initial request for a determination of foundation status, and the key district director will issue a determination on foundation status or operating foundation status under the procedures of subparagraph (2) of this paragraph. If a nonadverse determination is issued, it will also inform the organization that the prior ruling or determination letter is revoked or modified. Adverse determinations are subject to the protest and conference procedures set out in subparagraph (5) of this paragraph. If the key district director decides that reconsideration is not warranted, the organization will be notified accordingly. The organization does not have a right to protest the key district director's decision not to reconsider.

(vii) If it is concluded that an organization that is subject to the provisions of section 503 of the Code entered into a prohibited transaction for the purpose of diverting corpus or income from its exempt purpose, and if the transaction involved a substantial part of the corpus or income of the organization, its exemption is revoked effective as of the beginning of the taxable year during which the prohibited transaction was commenced.

(viii) The provisions of this subparagraph relating to protests and conference before a revocation notice is issued are not applicable to matters where delay would be prejudicial to the interests of the Internal Revenue Service (such as in cases involving fraud, jeopardy, the imminence of the expiration of the period of limitations, or where immediate action is necessary to protect the interests of the Government).

(7) *Declaratory judgments relating to status and classification of organizations under section 501(c)(3) of the Code.* (i) An organization seeking recognition of exempt status under section 501(c)(3) of the Code must follow the procedures of subparagraph (1) of this paragraph regarding the filing of Form 1023, Application for Recognition of Exemption. The 270-day period referred to in section 7428(b)(2) will be considered by the Service to begin on the date a substantially completed Form 1023 is sent to the appropriate key district director. A substantially completed Form 1023 is one that:

(*a*) Is signed by an authorized individual;

(*b*) Includes an Employer Identification Number (EIN) or a completed Form SS-4, Application for Employer Identification Number;

(*c*) Includes a statement of receipts and expenditures and a balance sheet for the current year and the three preceding years or the years the organization was in existence, if less than four years (if the organization has not yet commenced operations, a proposed budget for two full accounting periods and a current statement of assets and liabilities will be acceptable);

(*d*) Includes a statement of proposed activities and a description of anticipated receipts and contemplated expenditures;

(*e*) Includes a copy of the organizing or enabling document that is signed by a principal officer or is accompanied by written declaration signed by an officer authorized to sign for the organization certifying that the document is a complete and accurate copy of the original; and

(*f*) If the organization is a corporation or unincorporated association and it has adopted bylaws, includes a copy that is signed or otherwise verified as current by an authorized officer.

If an application does not contain all of the above items, it will not be further processed and may be returned to the applicant for completion. The 270-day period will not be considered as starting until the date the application is remailed to the Service with the requested information, or, if a postmark is not evident, on the date the Service receives a substantially completed application.

(ii) Generally, rulings and determination letters in cases subject to declaratory judgment are issued under the procedures outlined in this paragraph. In National Office exemption application cases, proposed adverse rulings will be issued by the rulings sections in the Exempt Organizations Technical Branch. Applicants shall appeal these proposed adverse rulings to the Conference and Review Staff of the Exempt Organizations Technical Branch. In those cases where an organization is unable to describe fully its purposes and activities (see subparagraph (1)(ii) of this paragraph), a refusal to rule will be considered an adverse determination for which administrative appeal rights will be afforded. Any oral representation of additional facts or modification of the facts as represented or alleged in the application for a ruling or determination letter must be reduced to writing.

(iii) If an organization withdraws in writing its request for a ruling or determination letter, the withdrawal will not be considered by the Service as either a failure to make a determination within the meaning of section 7428(a)(2) of the Code or as an exhaustion of administrative remedies within the meaning of section 7428(b)(2).

(iv) Section 7428(b)(2) of the Code requires that an organization must exhaust its administrative remedies by taking timely, reasonable steps to secure a determination. Those steps and administrative remedies that must be exhausted within the Internal Revenue Service are:

(*a*) The filing of a substantially completed application Form 1023 pursuant to subdivision (i) of this subparagraph, or the filing of a request for a determination of foundation status pursuant to subparagraph (2) of this paragraph;

(*b*) The timely submission of all additional information requested to perfect an exemption application or request for determination of private foundation status; and

(*c*) Exhaustion of all administrative appeals available within the Service pursuant to subparagraphs (5) and (6) of this paragraph, as well as appeal of a proposed adverse ruling to the Conference and Review Staff of the Exempt Organizations Technical Branch in National Office original jurisdiction exemption application cases.

(v) An organization will in no event be deemed to have exhausted its administrative remedies prior to the completion of the steps described in subdivision (iv) of this subparagraph and the earlier of:

(*a*) The sending by certified or registered mail of a notice of final determination from a key district director, the office of the Assistant Regional Commissioner (Employee Plans and Exempt Organizations), or the Chief, Exempt Organizations Technical Branch in the National Office; or

(*b*) The expiration of the 270-day period described in section 7428(b)(2) of the Code, in a case in which the Service has not issued a notice of final determination and the organization has taken, in a timely manner, all reasonable steps to secure a ruling or determination.

(vi) The steps described in subdivision (iv) of this subparagraph will not be considered completed until the Internal Revenue Service has had a reasonable time to act upon the appeal or request for consideration, as the case may be.

(vii) A notice of final determination to which section 7428 of the Code applies is a ruling or determination letter, sent by certified or registered mail, which holds that the organization is not described in section 501(c)(3) or section 170(c)(2), is a private foundation as defined in section 509(a), or is not a private operating

foundation as defined in section 4942(j)(3).

* * * * *

PAR. 4. Section 601.601 is amended by revising paragraph (d)(2)(iii) to read as follows, and by deleting and reserving paragraph (d)(2)(iv).

§ 601.601 Rules and Regulations.

* * * * *

(d) *Publication of rules and regulations.* * * *

(2) *Objectives and standards for publication of revenue rulings and revenue procedures in the Internal Revenue Bulletin.* * * *

(iii) The purpose of publishing revenue rulings and revenue procedures in the Internal Revenue Bulletin is to promote correct and uniform application of the tax laws by Internal Revenue Service employees and to assist taxpayers in attaining maximum voluntary compliance by informing Service personnel and the public of National Office interpretations of the internal revenue laws, related statutes, treaties, regulations, and statements of Service procedures affecting the rights and duties of taxpayers. Therefore, issues and answers involving substantive tax law under the jurisdiction of the Internal Revenue Service will be published in the Internal Revenue Bulletin, except those involving:

(*a*) Issues answered by statute, treaty, or regulations;

(*b*) Issues answered by rulings, opinions, or court decisions previously published in the Bulletin;

(*c*) Issues that are of insufficient importance or interest to warrant publication;

(*d*) Determinations of fact rather than interpretations of law;

(*e*) Informers and informers' rewards; or

(*f*) Disclosure of secret formulas, processes, business practices, and similar information. Procedures affecting taxpayers' rights or duties that relate to matters under the jurisdiction of the Service will be published in the Bulletin.

(iv) [Reserved].

* * * * *

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-11333 Filed 4-25-78; 8:45 am]

[3710-08]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

[Army Reg. 340-21]

PART 505—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING PERSONAL RECORDS

Exemptions

AGENCY: Department of Defense, Department of the Army.

ACTION: Amendment and deletion of exemption rules.

SUMMARY: The Department of the Army is amending one and deleting two exemption rules pertaining to systems of records under the Privacy Act of 1974.

EFFECTIVE DATE: This action is effective April 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Cyrus H. Fraker, 202-693-0973.

SUPPLEMENTARY INFORMATION: Exemption rules for the following systems of records are deleted since the systems of records for which the exemptions were approved were deleted in 43 FR 15353 of April 12, 1978:

AO501.12DAMI, entitled: Subversion and Espionage Directed Against the U.S. Army (SAEDA) (42 FR 51504);

AO508.25bUSACIDC, entitled: Index to Case Files—Republic of Vietnam CY 70-CY 73 (42 FR 51509).

Exemption rule for system of records AO727.05OSA, entitled: Army Council of Review Boards Files (42 FR 51512) is amended to add a suffix to the identification; i.e., AO727.05aOSA. With this change, the rule agrees with the system of records to which it applies, published in 42 FR 50565 of September 28, 1977. The amended exemption rule follows:

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

APRIL 20, 1978.

§ 505.9 Exemption rules for Army systems of records.

* * * * *

EXEMPTED RECORD SYSTEMS

(Specific Exemptions)

ID—AO727.05aOSA.
SYSNAME—Army Council of Review Boards Files.
EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(k)(1) are exempt from the following provisions of Title 5 U.S.C. section 552a: (c)(d), (d), (e)(4)(G), (e)(4)(H), and (f).
AUTHORITY—5 U.S.C. 552a(k)(1).
REASONS—Disclosure of those records which are currently and properly classified in the interests of national security could cause damage to the national defense or foreign policy. The exemption from access necessarily includes exemptions from the other requirements.

[FR Doc. 78-11264 Filed 4-25-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 887-8]

PART 418—FERTILIZER MANUFACTURING POINT SOURCE CATEGORY

AGENCY: Environmental Protection Agency.

ACTION: Promulgation of amended regulations.

SUMMARY: The United States Environmental Protection Agency (EPA) is today promulgating regulations under the Federal Water Pollution Control Act which establish effluent limitations and guidelines and new source performance standards for fertilizer manufacturing plants producing urea and ammonium nitrate.

EFFECTIVE DATE: May 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Harold B. Coughlin, Effluent Guidelines Division, 401 M Street SW., Room 911 WSME (WH-552) Washington, D.C. 20460, 202-426-2560.

SUPPLEMENTARY INFORMATION: Effluent limitations and guidelines, and new source performance and pretreatment standards for the urea and ammonium nitrate subcategories (40 CFR 418, Subparts C and D, respectively) were first promulgated by EPA on April 8, 1974 (39 FR 12832). On June 23, 1975 (40 FR 26275), Subpart D—Ammonium Nitrate was suspended until further notice. On August 20, 1975 (40 FR 36337), Subpart C—Urea was amended.

On July 16, 1976 (41 FR 29429), EPA published proposed amendments to the applicability sections, effluent limitations and guidelines and new source performance standards for the suspended ammonium nitrate and amended urea subcategories (Sections 418.40, 418.42, 418.43, 418.45, 418.30, 418.32, 418.33, and 418.35) and announced its intention to reinstate the suspended sections of the ammonium nitrate subcategory upon promulga-

tion of amendments to that subcategory. Interested persons were invited to participate in the rulemaking by submitting comments on the proposed amendments. A list of the companies and organizations which submitted comments, a summary of the comments received, and the Agency's response are contained in Appendix B to this preamble.

All comments received were thoroughly evaluated by EPA. As a result of this evaluation, and the Agency's continuing review of the regulations for the two subcategories, the following changes have been made in the proposed regulations:

(1) The definition of "product" has been amended for both the urea and ammonium nitrate subcategories to clarify that product is to be determined on a 100% basis.

(2) Ammonia nitrogen data from plant 108 has been deleted from the data base used to calculate ammonia nitrogen effluent limitations for the urea subcategory.

(3) Data from plants 113 and 125 have been deleted from the data base used to calculate ammonia nitrogen and nitrate nitrogen effluent limitations for the ammonium nitrate subcategory.

(4) Data from plants 112 and 140 have been deleted from the data base used to calculate organic nitrogen and ammonia nitrogen effluent limitations for the urea subcategory.

(5) The descriptions of the urea and ammonium nitrate subcategories have been amended to exclude discharges attributable to cooling tower blowdown.

(6) The description of the ammonium nitrate subcategory has been amended to exclude discharges from plants which totally condense their overheads.

The enactment of the Clean Water Act of 1977 (Pub. L. 95-217, December 27, 1977), amending the Federal Water Pollution Control Act, has necessitated additional changes in the proposed regulations.

As proposed, § 418.33 of the urea subcategory and § 418.43 of the ammonium nitrate subcategory ("Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable" (BAT)) included effluent limitations for pH. Under the Clean Water Act of 1977, the requirement that industrial point sources achieve effluent limitations based on BAT for "conventional pollutants"—including pollutants expressly enumerated in the statute (such as pH) and such other pollutants as may be identified as "conventional pollutants" by EPA—has been amended to require application of the "best conventional pollutant control technology" (BCT). The establishment of BCT requires the consideration of several criteria. For example, the Act requires the evaluation of the reasonableness of effluent reduction benefits as compared to effluent control costs. However, in no case can the effluent limitations established as BCT be less stringent than those attainable by application of the "best practicable control technology currently available" (BPT).

For these reasons, pH limitations have been deleted from §§ 418.33 and 418.43 (BAT effluent limitations and guidelines) and added to new Sections 418.37 and 418.47 (BCT effluent limitations and guidelines). Since the pH limitations originally proposed as BAT are based on BPT technology and are identical to BPT limitations, no supplementary BCT evaluation has been performed.

The Act requires EPA to develop by March 27, 1978, and from time to time revise, a list of "conventional pollutants" other than those explicitly identified in the statute. EPA is currently determining whether pollutants regulated in the urea and ammonium nitrate subcategories (other than pH) should be placed on this "conventional pollutant" list.

The Act requires that effluent limitations for pollutants on the "conventional pollutant" list be based on BCT; it also requires that effluent limitations for pollutants on the list which were promulgated prior to the effective date of the Act be reviewed by EPA in light of the requirements of BCT and, where appropriate, revised. The Act is silent, however, concerning the effect of the new BCT provisions on regulations which, like the ones published today, are promulgated prior to development of the conventional pollutant list but after the effective date of this Act. The Agency believes, however, that it was Congress' intent in enacting the BCT provisions of the Clean Water Act of 1977 to require review, and where appropriate, revision of such effluent limitations where the pollutants regulated are subsequently included on the "conventional pollutant" list. Accordingly, if in the future a pollutant regulated under Section 418.33 or 418.43 of these regulations is identified by EPA as a "conventional pollutant", the Agency will undertake a review to determine whether any adjustment should be made in the effluent limitations for that pollutant in light of the BCT provisions of the Act.

Legal Authority

These regulations are issued pursuant to sections 301, 304 (b) and (c), 306(b) and 307(c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1311, 1314(b), 1316 (b) and (c) and 1317(c)). These sections of the Act require EPA to develop effluent limitations for existing industrial point sources which, among other things, require (1) application of the best practicable control technology currently available (BPT) by July 1, 1977, (2) for conventional pollutants, application of the best conventional pollutant control technology (BCT) by July 1, 1984, and (3) for nonconventional pollutants and for pollutants not listed in Sections 301(b)(2) (C) and (D) of the Act, application of the best available technology economically achievable (BAT) not later than three years after the date of such limitations are established, or not later than July 1, 1984, whichever is later, but in no case later than July 1, 1987. They also require EPA to establish standards of performance and pretreatment standards for new sources.

Technical Basis for Regulations

The effluent limitations and guidelines and new source performance standards published today are based on responses to a written request to industry for information and on permit compliance monitoring data.

The request to industry for information asked for process information, production rates, raw waste load data, treatment descriptions and treated effluent data. It was sent to essentially all urea and ammonium nitrate plants in the United States. Responses were received from 47 plants producing urea, ammonium nitrate, or both. These plants represent approximately 78 percent of the urea and 79 percent of the ammonium nitrate manufacturing capacity in the country.

To analyze the data received, the industry was categorized by product and process. Treatment systems and process differences were examined. Effluent data were reduced to consistent units and variability of performance was studied. To develop the effluent limitations proposed by EPA on July 15, 1976, plants with performance better than the median value for each of the controlled pollution parameters were averaged to determine the long term effluent waste load for each pollutant. These long term waste loads were then multiplied by the variability factors developed by EPA to derive the effluent limitations. As a result of comments concerning some of the plants used in calculating the proposed effluent limitations, data from some plants have been deleted and the remaining data re-averaged.

To examine pH practices and performance, permit compliance monitoring data were evaluated. In addition, a phone survey was made of those plants that continuously measure and record pH to find out what treatment methods are used and to confirm and update the data. From this evaluation the limitations for pH were established.

A summary of the data used is contained in Appendix A to this preamble.

Economic Impact Analysis

The economic impact analysis (using 1972 data) for the urea and ammonium nitrate subcategories was presented with the promulgation of the initial regulations in April 1974. (The document, Economic Analysis of Effluent Guidelines-Fertilizer Industry, PB-214-315, is available from the National Technical Information Service, Springfield, Va. 22151.) The Agency performed a supplementary economic impact analysis in 1975 (using 1974 data) in connection with revision of the regulations. (This analysis is contained in a document, No. EPA-230/2-74-010 (supp.), which is available in limited quantities from the Water Economics Staff (WH-586), EPA, Washington, D.C. 20460.)

The supplementary analysis was similar to the original in that the methodology and cost data remained the same. However, in evaluating the potential impacts, certain assumptions concerning long run prices and demand were revised due to changes in the economic situation of the fertilizer industry. The results of the analysis showed that the industry was in a much improved state as compared to 1972 when the original study was done. The oversupply situation, which had resulted in weak demand and low prices present in 1972, had been greatly alleviated.

On the basis of an in-house review, the Agency believes that the results from the supplementary analysis performed in 1975 are still valid and can be used to support the promulgation of these standards. The supplementary report was based on an analysis of the viability of investment in plants, which involves a projection of future long run prices and demand, and therefore is not affected by short term fluctuations in price.

Conditions in both the urea and ammonium nitrate markets are much less optimistic today than in 1974 to 1975, but a survey of present prices indicates that they are within the long run predictions used in the 1975 analysis. For example, the long run (1977 to 1983) price for ammonium nitrate was estimated to be around $80 per ton. For the same time period, the price of urea was estimated to be around $113 per ton. A review of early 1978 (Gulf Coast) prices for these items indicates that ammonium nitrate was getting around $95 to $105 per ton, while urea was commanding around $112 to $116 per ton. When deflated to 1975 dollars, these values are reasonably comparable. However, it should be pointed out that overall profitability for these two segments may be lower due to increases in raw material and other manufacturing (especially energy) costs.

For the promulgation of these amended regulations, the performance of the specified technologies have been reviewed. Based on this review, the regulations being promulgated are less stringent than those originally proposed. For both urea and ammonium nitrate, the less stringent requirements will mean that the costs of meeting the BPT requirements will be somewhat less than the costs associated with meeting the original regulations.

On balance, the Agency believes that the economic impact estimates should remain approximately the same. Further support for this position can be found in the fact that comments on the proposed amendments did not refer to economic concerns at all. However, EPA will continue to monitor the economic performance of the industry.

Ammonium nitrate: The supplementary analysis estimated baseline closures to be from 0 to 4 plants. An additional 2 to 4 plants were estimated to close as a result of the BPT regulations. The incremental BPT impact (of 2 to 4 plant closures) represent 3 to 6 percent of plants in this subcategory; around 1.4 percent of total capacity; and represent a potential loss of 39 to 74 jobs. No significant foreign trade impacts or community effects were indicated by the analysis. The analysis also indicated that there will not be any additional impacts due to the BAT regulations.

Urea: The supplementary analysis estimated baseline closures of from 1 to 3 plants. The analysis indicated that the BPT regulations may cause an additional 1 to 7 plant closures, which represent between 3 to 17 percent of plants in this subcategory. The 1 to 7 plants account for 1 to 2 percent of capacity and between 37 to 123 jobs. No significant foreign trade impacts or community effects were indicated by the analysis. The results also indicated that there will not be any additional impacts due to the BAT regulations.

Availability of Documents

The technical and economic reports described above, the data collected, the information received, and a summary of EPA's findings are available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street SW., Washington, D.C. 20460. The technical and economic reports are also available at all EPA Regional Offices and at State Water Pollution Control Offices. EPA public information regulations provide that a reasonable fee may be charged for copying materials at EPA offices.

Small Business Administration Loans

Section 8 of the FWPCA authorizes the Small Business Administration, through its ecomomic disaster loan program, to make loans to assist any small business concerns in effecting additions to or alterations in their equipment, facilities, or methods 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. 20460.

Statement of Promulgation

In consideration of the foregoing:

40 CFR Chapter I, Subchapter N, Part 418, Fertilizer Manufacturing Point Source Category, Subpart C—Urea Subcategory is amended as set forth below. These amendments supersede previous amendments to Subpart C—Urea Subcategory promulgated on August 20, 1975 (40 FR 36337).

40 CFR Chapter I, Subchapter N, Part 418, Fertilizer Manufacturing Point Source Category, Subpart D—Ammonium Nitrite is reinstated as amended below.

These amendments shall be effective May 26, 1978.

Dated: April 14, 1978.

Barbara Blum,
Acting Administrator.

Appendix A

The following data summarize the information used as a basis for the limitations and standards established. Original data and other information are available at the EPA Public Information Unit.

(a) Urea Subcategory (Subpart C)

Best practicable control technology currently available (BPT) for solutions producing plants is based on the performance of plants submitting applicable data tabulated as follows:

Pounds per 1,000 lb (kilograms per 1,000 kg)]

Plant	Organic nitrogen	Ammonia nitrogen
108	0.0043	—
111	.043	.319
141	.054	.231
146	.129	.102
137	.224	.079
Long-term average	.091	.183
Average of 30 days	.33	.48
Daily maximum.	.61	.95

The numbers for the average of 30 days and the daily maximum were derived from the long term average by using the variability factors listed in this appendix. Taking Organic Nitrogen as an example:

Average of 30 Days=Long Term Average × Variability Factor 0.091 × 3.6=0.33.

Daily Maximum=Long Term Average × Variability Factor 0.091 × 6.7=0.61.

BPT for plants that prill or granulate their product is based on the performance of plants submitting applicable data tabulated as follows:

[Pounds per 1,000 lb (kilograms per 1,000 kg)]

Plant	Organic nitrogen	Ammonia nitrogen
146	0.129	0.102
137	.224	.079
110	.310	.501
Long-term average	.221	.227
Average of 30 days	.80	.59
Daily maximum.	1.48	1.18

Best available technology economically achievable (BAT) for solutions producing plants is based on the average of the best two plants. The performance of the best plants used in this determination is as follows:

[Pounds per 1,000 lb (kilograms per 1,000 kg)]

Plant	Organic nitrogen	Ammonia nitrogen
108	0.0043	—
146	.129	0.102
Long-term average	.067	.102
Average of 30 days	.24	.27
Daily maximum.	.45	.53

BAT for plants that prill or granulate their products is the performance of the best plant. The performance of the best plant used in this determination is as follows:

[Pounds per lb (kilograms per 1,000 kg)]

Plant	Organic nitrogen	Ammonia nitrogen
146	0.129	0.102
Long term average	0.129	0.102
Average of 30 days	0.46	0.27
Daily maximum	0.86	0.53

The new source performance standard (NSPS) is equal to BAT since there is now a plant performing at this level.

Permit compliance monitoring data for 30 plants producing urea have been examined for pH control performance. To find out what treatment methods are used and to confirm and update the data, a phone survey was made of those plants that continuously measure and record pH. For some plants no compliance monitoring data is available because they do not have permits, have become inactive, use deep well disposal, or have only recently been issued permits. Fourteen plants continuously measure and record pH, two plants measure pH on a sample collected by a continuous compositing sampler and the remainder measure pH on a grab sample daily or less often. The grab samples are of minimal value in determining pH performance. Data are reported for the outfall containing the effluent from urea production. The outfall usually contains effluent from other operations in addition. Of fourteen plants that continuously measure and record pH, plants 123, 170 and 172 are within the pH range of 6.0 to 9.0 at all times. Of two plants that measure pH on a sample collected by a continuous compositing sampler over a 24 hour period, plants 106 and 149 are within the pH range of 6.0 to 9.0 at all times. Six plants that are not now in compliance have recently installed or plan to install pH control equipment. While the plants performing well on pH control are not the same as those used as a basis for nitrogen limitations, they are typical of plants in the subcategory in that they produce urea by the same methods and thus have the same waste control problems.

The treatment technology on which pH limits are based is two stage neutralization with acid or base followed by diversion for retreatment when needed. This technology will control pH within the range of 6.0 to 9.0 for all plants. Other technology that will reduce the control problem, or in some cases achieve control, includes leak, spill and pollutant loss control; equalization ponds; and recycle of pollutants.

Because the best performing plants are currently achieving pH limitations of from 6.0 to 9.0 utilizing best practicable technology and because EPA is unaware of any more advanced pH control technology for this industry, the pH limitation for BPT, BCT and NSPS is established at:

pH—within the range of 6.0 to 9.0.

Three plants producing urea, and continuously monitoring and recording pH, now achieve this limitation. Plants not in compliance have inadequate or non-existent pH control treatment systems.

(b) Ammonium Nitrate Subcategory (subpart D)

For ammonium nitrate, BPT is based on the average of the plants submitting applicable data. No plants using ion exchange treatment technology were included in this determination. The performance of the plants used in this determination is as follows:

[Pounds per 1,000 lb (kilograms per 1,000 kg)]

Plant	Nitrate nitrogen	Ammonia nitrogen
111	0.0607	0.201
143	0.063	0.184
116	0.0748	0.0243
130	0.178	0.260
138	0.178	0.294
135	0.198	0.096
137	0.379	0.218
131	0.408	0.352
Long term average	0.192	0.204
Average of 30 days	0.37	0.39
Daily maximum	0.67	0.73

For BAT, the average of the best three plants was used. Two of these plants use ion exchange treatment technology but the third achieves good results without its use. The performance of the best plants used in this determination is as follows:

Plant	Nitrate nitrogen lb/1000 lb kg/kkg	Ammonia nitrogen lb/1000 lb kg/kkg
108	0.0124	0.0160
109	0.0186	0.0212
116	0.0748	0.0243
Long term average	0.035	0.021
Average of 30 days	0.07	0.04
Daily maximum	0.12	0.08

NSPS is equal to BAT since there are now plants performing at this level.

Permit compliance monitoring data for 30 plants producing ammonium nitrate have been examined for pH control performance. To find out what treatment methods are used and to confirm and update the data, a phone survey was made of those plants that continuously measure and record pH. For some plants no compliance monitoring data is available because they do not have permits, have become inactive, use deep well disposal, or have only recently been issued permits. Eleven plants continuously measure and record pH, three plants measure pH on a sample collected by a continuous compositing sampler, and the remainder measure pH on a grab sample daily or less often. The grab samples are of minimal value in determining pH performance. Data is reported for the outfall containing the effluent from ammonia nitrate production and usually contains effluent from other operations. Of eleven plants that continuously measure and record pH, plants 123, 157, 170 and 172 are within the pH range of 6.0 to 9.0 at all times. Of three plants that measure pH on a sample collected by a continuous compositing sampler over a 24 hour period, all (plants 106, 143 and 149) are within the pH range of 6.0 to 9.0 at all times. Of the plants that are not presently in compliance, three plan to install pH control equipment. While the plants performing well on pH control are not the same as those used as a basis for nitrogen limitations they are typical in that they produce ammonium nitrate by the same methods and thus have the same waste control problems.

The treatment technology on which pH limits are based is two-stage neutralization with acid or base followed by diversion for retreatment when needed. This technology will control pH within the range of 6.0 to 9.0 for all plants. Other technology that will reduce the control problem, or in some cases achieve control, includes leak, spill, and pollutant loss control; equalization ponds; and recycle of pollutants.

Because the best performing plants are currently achieving pH limitations of from 6.0 to 9.0 utilizing best practicable technology and EPA is unaware of any more advanced pH control technology for this industry, the pH limitation for BPT, BCPCT and NSPS is established at: pH—within the range of 6.0 to 9.0

Four plants producing ammonium nitrate, and continuously monitoring and recording pH, achieve this limitation. Plants not in compliance have inadequate or non-existent pH control treatment systems.

Variability factors related to long-term average

Urea plants	Organic nitrogen		Ammonia nitrogen	
	Maximum average[1]	Maximum for 1 day	Maximum average[1]	Maximum for 1 day
Plant No.:				
104	2.32		2.80	
110	4.05	5.86	2.88	4.22
125	3.05	4.23	1.64	2.17
137	3.70	8.99	2.44	6.45
141	4.68	7.90	3.15	7.95
Average	3.60	6.70	2.60	5.20

Variability factors related to long-term average—Continued

Ammonium nitrate plants	Nitrate nitrogen		Ammonia nitrogen	
	Maximum average[1]	Maximum for 1 day	Maximum average[1]	Maximum for 1 day
Plant No.:				
104	2.07	.....	2.51	.....
125	2.06	2.56	1.64	2.17
132	1.56	.....	1.64	.....
137	2.01	4.25	2.44	6.45
138	2.05	.....	1.86	.....
139	1.78	3.70	1.40	2.13
Average	1.90	3.50	1.90	3.60

[1]For 30 consecutive days.

Appendix B—Summary of Public Participation

The following responded to EPA's request for written comments on the proposed regulations: Agrico Chemical Co., American Cyanamid Co., CF Industries, Inc., Cleary, Gottlieb, Steen and Hamilton, Department of Health, Education, and Welfare, E.I. DuPont De Nemours & Co., The Fertilizer Institute, Hawkeye Chemical Co., Mississippi Chemical Corp., Olin Corp., Phillips Petroleum Co., The Standard Oil Co. (Vistron Corp.).

The following is a summary of significant comments and the Agency's response:

(1) One commenter stated that the regulations for solutions plants do not contain any reference to product concentration.

All data used in developing the regulations were based on (or converted to) 100 percent product concentration, and the regulations accordingly apply to product on a 100 percent basis. Sections 418.31 and 418.41 have been amended to clarify this point.

(2) Several commenters suggested that the sections of the regulation concerning discharges from shipping losses and precipitation runoff be clarified.

The effluent limitations do not include allowances for discharges due to shipping losses or precipitation runoff from outside the battery limits area. The data received were not sufficient to relate these losses to a unit of production. The permiting authority should determine the amount of additional allowance should such an allowance be considered appropriate. Losses occurring within the battery limits, such as leaks, spills and washdown water are being limited by the guidelines even if carried to the plant outfall by rainwater.

(3) A number of commenters requested that the regulations be clarified concerning the coverage of cooling tower blowdown.

The effluent limitations promulgated today do not include an allowance for cooling tower blowdown. Because contamination in cooling tower water is due primarily to airborne pickup, it is not feasible to establish limitations for cooling tower discharge on a production basis. The permitting authority should determine on a case-by-case basis the amount of additional allowance for cooling tower blowdown, should such an allowance be considered appropriate.

(4) Several comenters questioned the feasibility of maintaining pH between 6.0 to 9.0, 100 percent of the time.

In response to this comment, permit compliance monitoring data for urea and ammonium nitrate plants were reviewed. In addition a phone survey was made of those plants that continuously measure and record pH to find out what treatment methods are used and to confirm and update the data. The data (summarized in Appendix A) indicate that 3 of 14 urea plants and 4 of 11 ammonium nitrate plants that continuously measure and record pH are in compliance with the pH 6.0 to 9.0 requirement. The best performing plants do achieve pH of 6.0 to 9.0 at all times and that is the basis for limitations for best practicable control technology currently available, best conventional pollution control technology and new source performance standards.

(5) Several commenters suggested that new source performance standards should be less stringent than best available technology limitations.

Both best available technology limitations and new source performance standards are based on plants presently performing at those levels. Thus, the technology is demonstrated and meets the requirements for new source performance standards.

(6) One commenter requested that operations in which urea is manufactured as an intermediate product and inseparably combined with another operation, such as melamine, be excluded from the regulations.

The commenter did not provide sufficient information to EPA to enable it to determine whether its integrated operation should be excluded from the effluent limitations or treated as a separate category. The effect of such integrated operations on waste water discharges may, however, be considered at the time a permit is issued, and a determination made as to whether such an operation is included in the urea subcategory, or whether a special provision should be incorporated in the permit.

(7) One commenter requested that a distinction be made between old and new urea plants.

The age of plants was considered but does not provide a basis for subdivision. Some of the older plants are among the best performers.

(8) One commenter suggested that organic nitrogen and ammonia nitrogen be considered as a single pollutant parameter since urea can convert to ammonia.

Use or organic nitrogen and ammonia nitrogen as a single pollutant is one possible approach to establishing pollutant limitations for urea. However, the two parameter approach is the one that has been used and it is also satisfactory. Most of the data is submitted in this form and the analysis has been done on that basis. Performance data from operating plants fits the two parameter approach without complications.

(9) Several commenters stated that plants using ion exchange should not be used in determining limitations for urea manufacturing, since EPA has not suggested that ion exchange is an appropriate treatment technology for urea plants.

The ion exchange equipment in use at fertilizer plants reduces the amount of ammonia and nitrate in the effluent but has no significant effect on organic nitrogen. In the urea regulations now promulgated, only the data for organic nitrogen from plants using ion exchange has been used. Data for ammonia nitrogen from these plants have been deleted.

(10) Several commenters requested that data from plant number 140 be deleted from the data base for urea regulations.

Data from plant number 140 have been deleted from the data base. While this plant is performing better than the other plants in the industry, it is doing so partially because it has a source of energy (waste steam from another process) that is not available to other plants in the industry.

(11) Some commenters suggested that plant 112 should not be used in developing the urea regulation because a portion of the waste stream generated in the urea plant is sent to the adjacent ammonium nitrate plant.

It is recognized that the interconnection between the urea and ammonium nitrate operations at plant 112 could result in lower than expected discharges from the urea plant. Plant 112 has been deleted from the determination of the final urea limitation.

(12) Two commenters stated that although ion exchange is an acceptable method of pollution control, the best available technology limitations for ammonium nitrate are too stringent and allow no operating margin.

The best available technology limitations for ammonium nitrate have been revised for other reasons (see comments 16 and 17) resulting in less stringent limitations.

(13) Some commenters said that ion exchange is practical only at ammonium nitrate plants which make solutions.

Ion exchange treatment of waste streams from ammonium nitrate manufacture results in two streams, one of which is acceptable for discharge under the new source performance standards and the best available technology economically achievable limitations. The second stream is a 16 to 22 percent solution of ammonium nitrate. This is a concentration of ammonium nitrate that has value as a fertilizer. Although it may be easier to dispose of this valuable stream in plants that produce and market a solution product, the stream from plants producing solids only can still be upgraded and sold or otherwise directed to a useful fertilizer ap-

plication. Plant 179 which produces solids only, for example, has succeeded in disposing of the dilute regenerate waste stream from its ion exchange treatment system. It is inappropriate to discharge this quantity of ammonium nitrate to the waterways as a pollutant, when it can be used for fertilizer and provide economic credits to pollution control costs or to the economy generally.

(14) Two commenters stated that ion exchange should not be used as a basis for best available and new source technology because it is dangerous, costly and still experimental.

According to a manufacturer's report in January, 1976, eleven major ammonium nitrate producers have selected the Chem-Seps ion exchange system for pollution control. Five of these systems are currently in operation. This indicates that ion exchange is a demonstrated ammonium nitrate waste treatment technology which has been accepted by a significant part of the industry.

In August, 1976, an explosion occurred in one ion exchange unit. EPA discussed both the causes and effects of the explosion with personnel of the affected company. The causes and effects of the explosion were known to the extent that design modifications were made to minimize the possibility of a recurrence and to protect equipment and personnel from an explosion should it occur. The unit was subsequently returned to service and has been operating satisfactorily since that time.

Industry's experience with and commitment to the ion exchange process indicates that it is available and demonstrated technology suitable as a basis for best available technology and new source performance standards.

(15) Several commenters stated that an additional allowance should be made for plants that totally condense neutralizer overheads in the best available technology regulation for ammonium nitrate.

Total condensation of neutralizer overheads is not now being practiced in the industry, although a number of plants condense or collect 15 to 20 percent of the overheads. Some plants that partially condense their overheads are included in the data base. There is no federal air regulation at present that requires total condensation of overheads. Because there is no data available now, the description of the ammonium nitrate subcategory has been amended to exclude discharges from plants that totally condense their neutralizer overheads. When data becomes available the Agency may amend the regulation on this point.

(16) Comments were received suggesting that plant 113 be dropped from the determination of ammonium nitrate guidelines.

Additional information has been received concerning plant 113. This information indicates that the treatment technique employed requires a source of solid fertilizer to concentrate the liquid wastes. For this reason, plant 113 was not used in determining the final ammonium nitrate limitations.

(17) Several comments stated that plant 125 should not be used in determining the ammonium nitrate guidelines because of limitations in the 30 day sampling study on which the data was based.

EPA recognizes the limitations in the data from the 30 day sampling study and has deleted plant 125 from the determination of the final ammonium nitrate limitations.

(18) A number of comments were received concerning the derivation of the variability factors. One comment suggested that EPA had discarded some data because it seemed excessively high. Other comments stated that it appeared that EPA had chosen one set of plants for their low average discharges while a second set of plants had been chosen because of their low variability. One commenter stated that EPA should have used all 12 months of data from plant 138 in calculating the variability factor for that plant.

EPA received comparatively little data which could be used in determining the variability. A number of reports contained only a single figure representing the average discharge over a period of one month and provided no information which could be used to determine variability. Some reports contained monthly averages and could be used for computing only a monthly variability factor. A few reports contained day by day data which could be used for calculating both a monthly and a daily variability factor. In order to use the maximum number of plants in computing the variability factors, no attempt was made to select only those plants which had a lower than average variability. All available data was used to derive the variability factors. The report received by EPA from plant 138 contained complete data for only 11 months. All months for which complete data were received were used in computing the variability factor of this plant.

(19) Several comments stated that the variability factors for plant 125 should not be used in determining the overall variability factors. One comment suggested that EPA had derived the urea variability factor for plant 125 using data for a 30 day sampling study during which the urea units were down 22 of the 60 stream days.

In computing variability factors, EPA used at least 7 months of data and in no case were the results of a brief sampling study used. In deriving the variability factor for urea production at plant 125, figures for organic nitrogen appearing in the total plant effluent from December 1974 to November 1975 were examined. This examination indicated that the discharges during the last 7 months were generally lower than in the first 5 months. Probability plots of the data suggested that the lower discharges were caused by some factor other than ordinary variability. A telephone conversation with the plant revealed that some operational changes had been instituted. Catch basins had been installed and spills to the ground were being collected. The ammonium nitrate neutralizer had been modified to reduce losses to the atmosphere. Since the purpose of a variability factor is to allow for typical variations in the operation of a process, but not to allow for changes in equipment or operation, the variability factors for plant 125 were calculated using the last 7 months of data.

1. § 418.30 is amended to read as follows:

§ 418.30 Applicability; description of the urea subcategory.

The provisions of this subpart are applicable to the manufacture of urea. Discharges attributable to shipping losses and precipitation runoff from outside the battery limits of the urea manufacturing operations, and cooling tower blowdown are excluded.

2. § 418.31 is amended to read as follows:

§ 418.31 Specialized definitions.

For the purposes of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean the 100 percent urea content of the material manufactured.

3. In § 418.32, paragraphs (a) and (b) are amended to read as follows:

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

* * * * *

(a) The following limitations constitute the maximum permissible discharge for urea manufacturing operations in which urea is produced as a solution product:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Ammonia (as N)	0.95	0.48
Organic nitrogen (as N)	0.61	0.33
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

NOTE.—Metric units: Kilogram/1,000 kg of product; English units: Pound/1,000 lb of product.

(b) The following limitations constitute the maximum permissible discharge for urea manufacturing operations in which urea is prilled or granulated:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Ammonia (as N)	1.18	0.59
Organic nitrogen (as N)	1.48	0.80
pH	(1)	(1)

[1] Within the range 6.0 to 9.0

NOTE.—Metric units: Kilogram/1,000 kg of product; English units: Pound/1,000 lb of product.

4. § 418.33 is amended to read as follows:

§ 418.33 Effluent limitations and 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 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:

(a) The following limitations constitute the maximum permissible discharge for urea manufacturing operations in which urea is produced as a solution product:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Ammonia (as N)	0.53	0.27
Organic nitrogen (as N)	0.45	0.24

NOTE.—Metric units: Kilogram/1,000 kg of product; English units: Pound/1,000 lb of product.

(b) The following limitations constitute the maximum permissible discharge for urea manufacturing operations in which urea is prilled or granulated:

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Ammonia (as N)	0.53	0.27
Organic nitrogen (as N)	.86	.46

NOTE.—Metric units: Kilogram/1,000 kg of product; English units: pound/1,000 lb of product.

5. In § 418.35, paragraph (a) and (b) are amended to read as follows:

§ 418.35 Standards of Performance for New Sources

* * * * *

(a) The following limitations constitute the maximum permissible discharge for urea manufacturing operations in which urea is produced as a solution product:

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Ammonia (as N)	0.53	0.27
Organic nitrogen (as N)	.45	.24
pH	(1)	(1)

[1]Within the range 6.0 to 9.0.

NOTE.—Metric units: Kilogram/1,000 kg of product; English units: pound/1,000 lb of product.

(b) The following limitations constitute the maximum permissible discharge for urea manufacturing operations in which urea is prilled or granulated:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Ammonia (as N)	0.53	0.27
Organic nitrogen (as N)	.86	.46
pH	(1)	(1)

[1]Within the range 6.0 to 9.0.

NOTE.—Metric units: Kilogram/1,000 kg of product; English units: pound/1,000 lb of product.

6. The following new § 418.37 is added to Subpart C:

§ 418.37 Effluent limitations and guidelines for conventional pollutants representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Effluent characteristic	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

7. § 418.40 is amended to read as follows:

§ 418.40 Applicability; description of the ammonium nitrate subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of ammonium nitrate. Discharges attributable to shipping losses, precipitation runoff from outside the battery limits of the ammonium nitrate manufacturing operations, cooling tower blowdown, and discharges from plants which totally condense their neutralizer overheads are excluded.

8. § 418.41 is amended to read as follows:

§ 418.41 Specialized definitions.

For the purposes of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean the 100 percent ammonium nitrate content of the material manufactured.

9. § 418.42 of the ammonium nitrate subcategory is amended to read as follows:

§ 418.42 Effluent limitations and 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 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 day	Average of daily values for 30 consecutive days shall not exceed—
Ammonia (as N)	0.73	0.39
Nitrate (as N)	.67	.37
pH	(1)	(1)

[1]Within the range 6.0 to 9.0.

NOTE.—Metric units: kilogram/1,000 kg of products; English units: pound/1,000 lb of product.

10. § 418.43 of the ammonium nitrate subcategory is amended to read as follows:

§ 418.43 Effluent limitations and 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 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 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Ammonia (as N)	0.08	0.04
Nitrate (as N)	.12	.07

NOTE.—Metric units: kilogram/1,000 kg of products; English units: pound/1,000 lb of product.

11. § 418.45 of the ammonium nitrate subcategory is amended to read as follows:

§ 418.45 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Ammonia (as N)	0.08	0.04
Nitrate (as N)	.12	.07
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

NOTE.—Metric units: kilogram/1,000 kg of product; English units: pound/1,000 lb of product.

12. The following new § 418.47 is added to Subpart D:

§ 418.47 Effluent limitations and guidelines for conventional pollutants representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Effluent characteristic	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

[FR Doc. 78-11082 Filed 4-25-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURES

PART 1130—APPLICATIONS FOR MOTOR CARRIER CERTIFICATES AND PERMITS

Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction of rules.

SUMMARY: Interstate Commerce Commission regulations provide generally that applications for motor carrier certificates or permits shall be filed in accordance with instructions contained in Form OP-OR-9. Although the instructions accompanying that form require that the original and one copy of the application be mailed to the Commission, this requirement is not reflected in the regulation, which provides only that the verified original of each application be filed with the Commission. This amendment is intended to eliminate the disparity between the regulations and the instructions accompanying Form OP-OR-9.

EFFECTIVE DATE: This correction will become effective April 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, telephone: 202-275-7292.

SUPPLEMENTARY INFORMATION: The first sentence of § 1130.1(b) of title 49 of the Code of Federal Regulations will be revised to read as follows:

§ 1130.1 Applications.

* * * * *

(b) *Filing and service.* The verified original and one copy of each application shall be filed with this Commission, one copy thereof shall be furnished the Regional Operations Director of the Bureau of Operations located in the region wherein applicant is domiciled and one copy shall be delivered, upon written request, by first-class mail, to the Board, Commission, or official (or Governor if there is no Board, Commission or official) having authority to regulate the business of transportation by motor vehicle, of each State in or through which applicant operates or proposes to operate.

* * *

In all other respects the language of part 1130 of title 49 of the Code of Federal Regulations remains unchanged.

This document is promulgated under the authority contained in 49 U.S.C. 304 and 5 U.S.C. 553 and 559. Prior public notice and opportunity for hearing have been dispensed with for the reason that this document deals with matters of agency practice and procedure and comment upon the notice of correction is unnecessary. The correction is made effective immediately to eliminate further confusion.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-11273 Filed 4-25-78; 8:45 am]

[7035-01]

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Ex Parte No. MC-77 (Sub-No. 2)]

PART 1310—FREIGHT RATE TARIFFS, SCHEDULES AND CLASSIFICATIONS OF MOTOR CARRIERS

Regulation Governing Restrictions on Service By Motor Common Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Interstate Commerce Commission, in its Notice of Proposed Rulemaking and Order, published September 17, 1974 (39 FR 33379), set forth proposed regulations governing the cancellation of joint routes. It provided that when a tariff proposing the cancellation of a joint route was tendered to the Commission, it should be accompanied by a clear statement of the justfication relied upon to warrant the closing of the route and an affirmation that other carriers in the joint route have been informed of the cancellation. The Commission in its report in this proceeding served found that the proposed rule was warranted. However, certain modifications were made to clarify when the statement or justification would be required and to specify what information should be contained in the notice to the connecting carriers.

DATE: The effective date of the prescribed rule is May 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Martin E. Foley, Director, Bureau of traffic, 202-275-7348, Janice M. Rosenak, Deputy Director, Section of Rates, 202-275-7693, Interstate Commerce Commission, Washington, D.C. 20423.

SUPPLEMENTARY INFORMATION: The Commission has issued a report and order in this proceeding served April 21, 1978, in which it discusses the issues raised by interested parties