(before any adjustment for carry-over from the first program year). This amount may be added to the allowable pay-rate increase for the employee unit.

Q3. Under the second-year pay standard employee units with average straight-time hourly rates of $5.35 or less (including incentive pay) during the third quarter of 1979 were exempt. In addition, individuals in other employee units who were earning $4.00 or less in straight-time hourly wage rates (including incentive pay) October 1, 1978, were exempt from the pay standard. Are the employee units and individuals that were exempt in the second program year still exempt?

A. Yes.

[FR Doc. 80-32544 Filed 10-17-80; 8:45 a.m.]

BILLING CODE 3175-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Expenses of the Raisin Administrative Committee and Rate of Assessment for the 1980-81 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1980-81 crop year, to be collected from handlers to support activities of the Raisin Administrative Committee which locally administers the Federal marketing order covering raisins produced from grapes grown in California.

DATES: Effective August 1, 1980 through July 31, 1981.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-5053.

SUPPLEMENTARY INFORMATION: Findings: Pursuant to Marketing Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Committee, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking, and that good cause exists for not postponing the effective time of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553), as the order requires that the rate of assessment for a particular crop year shall apply to all assessable raisins handled from the beginning of such year which began August 1, 1980. To enable the Committee to meet crop year obligations, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the Committee. To effectuate the declared purposes of the act, it is necessary to make these provisions effective as specified.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication, without opportunity for further comments. The regulation has not been classified significant under USDA criteria for implementing the executive order. An Impact Analysis is available from J. S. Miller (202) 447-5053.

§ 989.331 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Committee during the 1980-81 crop year will amount to $236,100.

(b) The rate of assessment for said period payable by each handler in accordance with § 989.80 is fixed at $1.20 per ton for: (1) Free tonnage raisins acquired by the handler during the crop year, exclusive of such quantity thereof as represents the assessable portions of other handlers' raisins under paragraph (b)(3) of this section; (2) reserve tonnage raisins released or sold to the handler for use as free tonnage during that crop year; and (3) standard raisins (which he does not acquire) recovered by the handler by the reconditioning of off-grade raisins, but only to the extent of the aggregate quantity of the free tonnage portions of these standard raisins that are acquired by other handlers during the crop year.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: October 15, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 80-32617 Filed 10-17-80; 8:45 am]

BILLING CODE 34120-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Air Tungaru Corp.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This amendment to the regulation of the Immigration and Naturalization Service adds a carrier to the list of transportation lines which have entered into agreement with the Commissioner of Immigration and Naturalization to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. This amendment is necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: September 22, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat.1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1 Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment contained in this order adds a transportation line to the listing and is editorial in nature.

The Commissioner of Immigration and Naturalization Service entered into agreement with the following named carrier on the date indicated to guarantee the passage through the United States of aliens in immediate and continuous transit destined to foreign countries under section 238(d) of the Immigration and Nationality Act and 8 CFR Part 238: Air Tungaru Corp. Effective date: September 22, 1980.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

In § 238.3 *Aliens in immediate and continuous transit,* the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence, "Air Tungaru Corp."

* * * * *

(Secs. 103 and 238(d), (8 U.S.C. 1103 and 1228(d)))

This amendment is effective September 22, 1980 as to Air Tungaru Corp.

Dated: October 10, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-32560 Filed 10-17-80; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF ENERGY

10 CFR Ch. II

Clarification of the Definition of Operational Applicable to Transitional Facilities Implementing the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Department of Energy.

ACTION: Ruling.

SUMMARY: The appended Ruling is issued by the Department of Energy (DOE) Office of General Counsel pursuant to 10 CFR 501.140 to clarify the meaning of the definition of "operational" set forth in 10 CFR 515.20(c)(23) applicable to 10 CFR Part 515, Transitional Facilities, implementing the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, Pub. L. No. 95-620 (November 9, 1978). A written comment of objection to the appended Ruling may be filed at any time with the DOE Office of General Counsel pursuant to the provisions of 10 CFR 501.143.

FOR FURTHER INFORMATION CONTACT: Dennis M. Moore, Office of General Counsel, Department of Energy, 1000 Independence Ave. SW., Room 5E052, Forrestal Building, Washington, D.C. 20585, (202) 252-2931.

Issued in Washington, D.C.

Dated: October 6, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

10 CFR is amended by adding to the Rulings appearing at the end of Chapter II, the following Ruling—1980-4 to read as follows:

[Ruling 1980-4]

Clarification of the Definition of "Operational"

The Department of Energy (DOE) seeks to clarify the definition of "operational" set forth in 10 CFR 515.20(c)(23), applicable to transitional facilities under the Powerplant and Industrial Fuel Use Act of 1978 (FUA), Pub. L. 95-620 (November 9, 1978).[1] A "transitional facility" is defined in § 515.20(c)(30) as "a facility which was not *operational* on April 20, 1977, but for which a contract for the construction or acquisition was signed prior to November 9, 1978." (Emphasis added.) *See* § 515.1(a). The regulatory term "operational" is one that aids in distinguishing between "existing" and "new" facilities for the purpose of determining the FUA prohibitions applicable to an electric powerplant or major fuel-burning installation (MFBI).

Under the FUA an electric powerplant or a MFBI is classified as either an "existing" unit subject to the prohibitions of Title III, or a "new" unit subject to the prohibitions of Title II. An existing electric powerplant and an existing MFBI are defined in the FUA [2] and in the implementing regulations [3] as any powerplant or MFBI other than a "new" powerplant or a "new" MFBI. A new electric powerplant and a new MFBI are defined in the FUA [4] and in the implementing regulations [5] as any electric powerplant or MFBI for which construction or acquisition began on or after the date of the FUA's enactment, November 9, 1978. A "new" unit is also one for which construction or acquisition began after April 20, 1977, and before November 9, 1978. The FUA presumes that all transitional units are "new" unless the DOE classifies such a unit as "existing" for the reasons set forth in section 103(a) (8) and (11) of the FUA, as implemented by 10 CFR Part 515, Transitional Facilities.

"New" electric powerplants or MFBIs may be absolutely prohibited under Title II of the FUA from using natural gas or petroleum as a primary energy source unless granted an exemption from the prohibition. However "existing" units are subject to less stringent prohibitions under Title III of the FUA. Part 515 of 10 CFR specifies the criteria by which the DOE will classify electric powerplants or MFBI's as existing units subject to the prohibitions of Title III rather than continuing to subject the units to the prohibitions of Title II of the FUA as "new" units.

One such distinguishing criterion is whether the unit is "operational." For an electric powerplant as well as a MFBI, § 515.20(c)(23) defines "operational" as follows:

> "Operational" means that a unit is used and useful, has completed its testing phase and is capable of producing a product or providing a service on a continuing basis.

The definition of an "operational" unit set forth in § 515.20(c)(23) has two requirements. The first is that the unit is "used and useful." The second is that the unit "has completed its testing phase and is capable of producing a product or providing a service on a continuing bases." This standard was established to distinguish between those "new" MFBI's and electric powerplants that are subject to reclassification as "existing" units pursuant to the regulations governing transitional facilities and those units that will still be classified as "new" units. A unit that was operational on April 20, 1977, is clearly an "existing" unit. However, a unit that "was not operational on April 20, 1977, but for which a contract for the construction or acquisition was signed prior to November 9, 1978," is a transitional facility which may be either a new unit or an existing unit depending upon whether the construction or acquisition could be cancelled, rescheduled or modified without substantial financial penalty or significant operational detriment. The two-part definition of "operational" performs a single differentiation between "existing" and "new" facilities. In the performance of this function, the requirement that a unit be "used and useful" has the same meaning as the requirement that a unit "has completed its testing phase and is capable of producing a product or providing a service on a continuing basis." Only when employed in relation to a unit in this unified manner does the definition of "operational" in 10 CFR Part 515 properly and uniformly differentiate between "existing" units and "new" units.

Accordingly, an electric powerplant may be considered "operational" if it is capable of providing the service of producing "electric power for purposes of sale or exchange" [6] and has completed its testing phase. Such a powerplant would be "used and useful."

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[1] 42 U.S.C. 8301 *et seq.* (November 9, 1978).

[2] FUA section 103(a) (9) and (12).

[3] 10 CFR 500.2; *see also* 10 CFR Part 504, Existing Electric Powerplants, and Part 506, Existing Major Fuel-Burning Installations.

[4] FUA section 103(a) (8) and (11).

[5] 10 CFR 500.2; *see also* 10 CFR Part 503, New Electric Powerplants, and Part 505, New Major Fuel-Burning Installations.

[6] *See* the definition of "electric powerplant" in section 103(a)(7) of the FUA.

A MFBI may be considered "operational" when a boiler, gas turbine unit, combined cycle unit, or internal combustion engine [7] is capable of producing a product or providing a service on a continuing basis and has completed its testing phase as performed by the manufacturer and/or supplier of the particular MFBI. Such a MFBI would be "used and useful." In the case of a package boiler purchased for use as a MFBI, for example, the applicable DOE regulations permit a unit to qualify as "operational" as of a specific date for the purposes of implementing 10 CFR Part 515 even if the particular MFBI had not been installed or tested by the purchaser, so long as the purchaser had acquired a unit that the manufacturer had tested.

Issued in Washington, D.C., October 6, 1980.

Lynn R. Coleman,

General Counsel.

[FR Doc. 80-32612 Filed 10-17-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 80-AAL-11]

Alteration of Transition Area, Kenai, Alaska and Revocation of Transition Area, Soldotna, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a Final Rule published in the **Federal Register** on September 11, 1980, Volume 45, Page 59839, under Adoption of the Amendment on Page 59840, the Kenai Airport coordinates incorrectly stated the longitude as "115°14'44"W." It should have read "151°14'44"W." This correction reflects the correct coordinates in the Adoption of the Amendment.

EFFECTIVE DATE: October 20, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry M. Wylie, Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513, telephone (907) 271-5903.

SUPPLEMENTARY INFORMATION: **Federal Register** Document 80-27761 was published on September 11, 1980, (45 FR 59839) and altered the Kenai transition area. The longitude of the Kenai Municipal Airport was incorrectly stated as 115°14'44"W. The longitude should have read "151°14'44"W." Action is taken herein to correct this error.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the description of the Kenai transition area contained in the **Federal Register** Document 80-27761, appearing on Page 59839 in the **Federal Register** of September 11, 1980, under the heading "Adoption of the Amendment," second paragraph, sixth line, is corrected by deleting "115°" and substituting "151°" therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Issued in Anchorage, Alaska, on October 2, 1980.

Robert L. Faith,

Alaskan Region Director.

[FR Doc. 80-32340 Filed 10-17-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-CE-17]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Designation of Transition Area—Atchison, Kans.

Correction

In FR Doc. 80-30180, appearing at page 65193, in the issue of Thursday, October 2, 1980, on page 65194, in the first column, under the heading **"Atchison, Kans.",** the first paragraph in the fourth line and in the sixth line, correct "Latitude 30°" to read "Latitude 39°".

BILLING CODE 1505-01-M

14 CFR Part 97

[Docket No. 20844; Amdt. No. 1175]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA for documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

[7] *See* the definition of "major fuel-burning installation" in section 103(a)(10) of the FUA.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing the SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

** * * Effective November 27, 1980*

Lancaster, CA—General Wm. J. Fox Airfield, VOR-A, Amdt. 5
Lancaster, CA—General Wm. J. Fox Airfield, VOR-B, Original
Peoria, IL—Mount Hawley Auxiliary, VOR-A, Amdt. 1
Peoria, IL—Greater Peoria, VOR Rwy 12 (TAC), Amdt. 16
Gary, IN—Gary Muni, VOR/DME Rwy 2, Amdt. 3
Frederick, MD—Frederick Muni, VOR Rwy 23, Amdt. 7
Ann Arbor, MI—Ann Arbor Muni, VOR Rwy 6, Amdt. 9
Ann Arbor, MI—Ann Arbor Muni, VOR Rwy 24, Amdt. 8
Allegan, MI—Padgham Field, VOR Rwy 28, Amdt. 8
Woodward, OK—West Woodward, VOR/DME-A, Amdt. 4
Gallatin, TN—Gallatin Muni, VOR/DME-A, Amdt. 3
Chesapeake, VA—Chesapeake Muni, VOR/DME Rwy 4, Amdt. 2
Chesapeake, VA—Chesapeake Muni, VOR/DME Rwy 22, Original

** * * Effective October 30, 1980*

Ames, IA—Ames Muni, VOR Rwy 31, Amdt. 4

** * * Effective October 3, 1980*

Napoleon, OH—Henry County, VOR Rwy 28, Amdt. 2

Note:—The FAA published an amendment in Docket No. 20668, Amdt. No. 1172 to Part 97 of the Federal Aviation Regulations (Vol. 45 FR No. 175 page 59142; dated September 8, 1980) under section 97.23 effective October 30, 1980, which is hereby amended as follows: Naples, FL—Naples Muni, VOR Rwy 4, original is rescinded. Naples, FL—Naples Muni, VOR Rwy 22, original is rescinded.

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

** * * Effective November 27, 1980*

Beverly, MA—Beverly Muni, SDF Rwy 16, Amdt. 1, cancelled
Jackson, MS—Allen C. Thompson Field, LOC BC Rwy 15R, Amdt. 2
Cincinnati, OH—Cincinnati Muni Airport Lunken Field, LOC BC Rwy 2R, Amdt. 4

** * * Effective October 30, 1980*

Ames, IA—Ames Muni, LOC Rwy 31, Original

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

** * * Effective November 27, 1980*

Gary, IN—Gary Muni, NDB Rwy 30, Amdt. 4
Lafayette, IN—Purdue University, NDB Rwy 10, Amdt. 9
Jackson, MS—Allen C. Thompson Field, NDB Rwy 15L, Amdt. 2
Smithfield, NC—Johnston County, NDB Rwy 21, Amdt. 2
Southport, NC—Brunswick County, NDB-A, Amdt. 1
Batavia, OH—Clermont County, NDB-A, Amdt. 2
Cincinnati, OH—Cincinnati Muni Airport Lunken Field, NDB Rwy 20L, Amdt. 8
Cincinnati, OH—Cincinnati Muni Airport Lunken Field, NDB Rwy 24, Amdt. 3
Woodward, OK—West Woodward, NDB Rwy 17, Original
Moncks Corner, SC—Berkeley County, NDB Rwy 5, Original
Newport News, VA—Patrick Henry Intl, NDB Rwy 2, Original
Newport News, VA—Patrick Henry Intl, NDB Rwy 20, Original

** * * Effective October 30, 1980*

Ames, IA—Ames Muni, NDB Rwy 13, Original
Ames, IA—Ames Muni, NDB Rwy 31, Amdt. 6

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

** * * Effective November 27, 1980*

Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 32L, Amdt. 20
Gary, IN—Gary Muni, ILS Rwy 30, Amdt. 1
Lafayette, IN—Purdue University, ILS Rwy 10, Amdt. 7
Jackson, MS—Allen C. Thompson Field, ILS Rwy 15L, Amdt. 2
Jackson, MS—Allen C. Thompson Field, ILS Rwy 33L, Amdt. 2
Cincinnati, OH—Cincinnati Muni Arpt Lunken Field, ILS Rwy 20L, Amdt. 10

** * * Effective October 30, 1980*

Tucson, AZ—Ryan Field, ILS/DME Rwy 6R, Original
New York, NY—LaGuardia, ILS Rwy 4, Amdt. 32

5. By amending § 97.31 RADAR SIAPs identified as follows:

** * * Effective November 27, 1980*

Peoria, IL—Greater Peoria, RADAR-1, Amdt. 5

6. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective November 27, 1980*

Gainesville, GA—Lee Gilmer Memorial, RNAV Rwy 4, Original
Peoria, IL—Greater Peoria, RNAV Rwy 12, Original

** * * Effective October 30, 1980*

Ames, IA—Ames Muni, RNAV Rwy 13, Amdt. 1
Ames, IA—Ames Muni, RNAV Rwy 31, Amdt. 1

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

Issued in Washington, D.C. on October 10, 1980.

John S. Kern,

Acting Chief, Aircraft Programs Division.

[FR Doc. 80-32337 Filed 10-17-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[T.D. 7726]

Manufacturers and Retailers Excise Taxes; Excise Tax on Coal

Correction

In FR Doc. 80-31055 appearing on page 66452 in the issue of Tuesday, October 7, 1980 make the following correction:

In § 48.4121-1, paragraph (b) was adopted from the proposed rule and should have been included as follows:

(b) *Rate of tax.*—(1) *Underground mines; surface mines.* The rate of tax imposed on coal from underground mines located in the United States is the lower of 50 cents per ton (2,000 pounds), or 2 percent of the sale price. The rate of tax imposed on coal from surface mines located in the United States is the lower of 25 cents per ton (2,000 pounds) or 2 percent of the sale price. If a sale or use includes a portion of a ton, the tax is applied proportionately. Thus, if 1,200 pounds of coal from an underground mine are sold for $35.00, the tax is 30 cents.

(2) *Combination.* If a single mine yields coal from both surface and underground mining, the producer must determine the rate (50 cents or 25 cents per ton) for each ton of coal mined: It is presumed that coal is mined from underground mines (50 cents per ton) unless the producer keeps sufficient records to establish to the satisfaction of the Secretary that the coal was mined from a surface mine.

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 50

[Order No. 914-80]

Open Judicial Proceedings; Policy

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order, revised on the basis of comments received pursuant to the notice published in the **Federal Register** on August 6, 1980, establishes guidelines for the Government on consenting to, or moving for, closure of judicial proceedings. It adopts, as policy, a strong presumption that judicial proceedings should be open to the public unless closure is plainly essential to the interests of justice. Under the policy, the Government has a general overriding affirmative duty to oppose the closure of judicial proceedings. Experience under these guidelines will be carefully documented and evaluated to ensure that, in practice, they achieve their goal of ensuring maximum openness in judicial proceedings in which the Government appears.

EFFECTIVE DATE: October 14, 1980.

FOR FURTHER INFORMATION CONTACT: T. Alexander Aleinikoff, Office of the Associate Attorney General, Department of Justice, Washington, D.C. 20530. (202) 633-4552.

By virtue of the authority vested in me as Attorney General by 5 U.S.C. 301 and 28 U.S.C. 516, 519 it is hereby ordered as follows:

1. A new section, § 50.9, to read as follows is added to Part 50 of Chapter I of Title 28, Code of Federal Regulations:

§ 50.9 Policy with regard to open judicial proceedings.

Because of the vital public interest in open judicial proceedings, the Government has a general overriding affirmative duty to oppose their closure. There is, moreover, a strong presumption against closing proceedings or portions thereof, and the Department of Justice foresees very few cases in which closure would be warranted. The Government should take a position on any motion to close a judicial proceeding, and should ordinarily oppose closure; it should move for or consent to closed proceedings only when closure is plainly essential to the interests of justice. In furtherance of the Department's concern for the right of the public to attend judicial proceedings and the Department's obligation to the fair administration of justice, the following guidelines shall be adhered to by all attorneys for the United States.

(a) These guidelines apply to all federal trials, pre- and post-trial evidentiary hearings, plea proceedings, sentencing proceedings, or portions thereof, except as indicated in paragraph (e) of this section.

(b) A Government attorney has a compelling duty to protect the societal interest in open proceedings.

(c) A Government attorney shall not move for or consent to closure of a proceeding covered by these guidelines unless:

(1) No reasonable alternative exists for protecting the interests at stake;

(2) Closure is clearly likely to prevent the harm sought to be avoided;

(3) The degree of closure is minimized to the greatest extent possible

(4) The public is given adequate notice of the proposed closure; and, in addition, the motion for closure is made on the record, except where the disclosure of the details of the motion papers would clearly defeat the reason for closure specified under paragraph (c)(6) of this section;

(5) Transcripts of the closed proceedings will be unsealed as soon as the interests requiring closure no longer obtain; and

(6) Failure to close the proceedings will produce

(i) A substantial likelihood of denial of the right of any person to a fair trial, or

(ii) A substantial likelihood of imminent danger to the safety of parties, witnesses, or other persons, or

(iii) A substantial likelihood that ongoing investigations will be seriously jeopardized.

(d) A Government attorney shall not move for or consent to the closure of:

(1) A civil proceeding except with the express authorization of the Associate Attorney General, based on articulated findings which meet the requirements of paragraph (c) of this section; or

(2) A criminal proceeding except with the express authorization of the Deputy Attorney General, based on articulated findings which meet the requirements of paragraph (c) of this section.

(e) These guidelines do not apply to:

(1) The closure of part of a judicial proceeding where necessary to protect national security information or classified documents; or

(2) *In camera* inspection, consideration or sealing of documents, including documents provided to the Government under a promise of confidentiality, where permitted by statute, rule of evidence or privilege; or

(3) Grand jury proceedings or proceedings ancillary thereto; or

(4) Conferences traditionally held at the bench or in chambers during the course of an open proceeding.

(f) The principles set forth in this section are intended to provide guidance to attorneys for the Government and are not intended to create or recognize any legally enforceable right in any person.

2. A new section heading to read as follows is added, in proper numerical sequence, to the table of contents of Part

50 of Chapter I of Title 28, Code of Federal Regulations:

Sec.
50.9 Policy with regard to open judicial proceedings.

Dated: October 14, 1980.

Benjamin R. Civiletti,
Attorney General.

[FR Doc. 80-32559 Filed 10-17-80; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Parts 650, 651

Environmental Quality; Environmental Effects of Army Actions, (AR 200-2)

AGENCY: Department of the Army, DOD.
ACTION: Final rule.

SUMMARY: This is final action by the Department of the Army to add a new part to Subchapter K of 32 CFR. This new part provides policy and guidance for considering environmental effects in the Army decision-making process both in the United States and abroad. It implements the Council on Environmental Quality (CEQ) Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (43 FR 55990–56007, November 29, 1978, 40 CFR Parts 1500–1508); Executive Order (E.O.) 12114, Environmental Effects Abroad of Major Federal Actions, January 4, 1979; and supersedes Army Regulation 200–1, Subpart B—Environmental Considerations in DA Actions, January 20, 1978.

EFFECTIVE DATE: November 3, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Bickley, Army Environmental Office, Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310 (202–694–3434).

SUPPLEMENTARY INFORMATION:

General

In accordance with the CEQ regulation, 40 CFR Parts 1500–1508, and Department of Defense Directive 6050.1 and E.O. 12114 and Department of Defense Directive 6050.7, the Department of the Army implementing procedures were provided for public review and comment in the **Federal Register**, 45 FR 1086–1108, January 4, 1980. Comments were received from private citizens, national organizations, State and other Federal agencies. Except as noted below, the comments provided were incorporated into this regulation.

Response to Comments

1. Some commentors inquired concerning the relationship between this regulation and the regulation published for civil works activities of the Corps of Engineers. This regulation applies to the military activities of the Department of the Army and implements directives from the Office of the Secretary of Defense. Separate guidance is provided for Army civil works activities for which the Secretary of the Army has direct statutory authority. This civil works guidance is provided in Engineer Regulation 200–2–2, "Environmental Quality: Policy and Procedures for Implementing NEPA." Refer to § 651.3(d) (§ 651.3(a)(1) of the previously published draft regulation) which excludes civil works activities with this regulation.

2. One comment concerned the published list of types of actions normally requiring an EIS and implied that an environmental assessment should be prepared to preclude doing unnecessary EISs. The CEQ regulation (40 CFR 1507.3(b)) expressly requires that agency implementing procedures include specific critieria and typical classes of actions normally requiring EAs, normally requiring EISs and not normally requiring an EA or EIS. The list of actions is meant to be general guidance and is not to be used as rigid direction to prepare an EIS. Use of this list is expected to be tempered by experience. It is not expected that unnecessary EISs will be generated from the listing.

3. Several comments requested that the regulation place more stress on other environmental legislation such as the Coastal Zone Management Act and the National Historic Preservation Act, as amended. This regulation implements NEPA; attention is called to actions involving the coastal zone and historic places, as well as endangered species, prime and unique farmland and wetlands. However, specific implementing procedures are the subject of other Army regulations. Specifically, AR 420–74 implements the Coastal Zone Management Act and AR 200–1, Chapter 8, the National Historic Preservation Act.

4. One organization requested that the role of newspapers be stressed in the public notification process. The use of the OMB Circular A–95 process and **Federal Register** has been stressed in this regulation. The use of the public affairs officer (PAO) has been further emphasized in this final version of the regulation. It is the role of the public affairs officer, in coordination with the proponent of the action, to determine which news media will be used in each particular circumstance. Certainly newspapers should be used quite extensively for local public notices and news releases.

5. It was requested that the economic interests of small businesses be stressed during the NEPA review process. NEPA is basically concerned with the physical and biological environment rather than socio-economic impacts. The procedures for the preparation of environmental documents direct the inclusion of socio-economic impacts in the overall environmental impact analysis. The level of socio-economic impact analysis (including impacts on small businesses) must be predicated on the expected magnitude of the potential impacts. To require that a detailed small business economic analysis accompany every environmental document, even though the potential for impact is slight, would be unreasonable and contrary to the CEQ regulations to concentrate on significant impacts.

Implementation

This rulemaking will be provided for planning purposes by letter guidance to all Army agencies and takes precedence over AR 200–1, Chapter 2 until final publication and distribution of AR 200–2 is accomplished.

Accordingly, the Department of the Army amends 32 CFR Part 650 by revising and redesignating §§ 650.21 through 650.39 as Part 651 as set forth below:

1. Sections 650.21 through 650.39 deleted and reserved.

2. Addition of a new Part 651 to read as follows:

Dated: October 14, 1980.

For the Chief of Engineers.

Forrest T. Gay III,
Colonel, Corps of Engineers, Executive Director, Engineer Staff.

PART 650—ENVIRONMENTAL PROTECTION AND ENHANCEMENT

§§ 650.21–650.39 [Deleted and Reserved]

Sections 650.21 through 650.39 are deleted and reserved.

A new Part 651 is to be added as follows:

PART 651—ENVIRONMENTAL EFFECTS OF ARMY ACTIONS (AR 200–2)

Subpart A—General

Sec.
651.1 Purpose.
651.2 Background.
651.3 Applicability.
651.4 Policies.
651.5 Responsibilities.